CITY AND COUNTY OF SAN FRANCISCO
LONDON N. BREED, MAYOR

MISSION ROCK MASTER LEASE

LEASE NO. L-16417

BETWEEN THE

THE CITY AND COUNTY OF SAN FRANCISCO
OPERATING BY AND THROUGH THE
SAN FRANCISCO PORT COMMISSION

AS LANDLORD

AND

SEAWALL LOT 337 ASSOCIATES, LLC,
A DELAWARE LIMITED LIABILITY COMPANY

AS TENANT

DATED AS OF AUGUST 15, 2018

ELAINE FORBES
EXECUTIVE DIRECTOR

SAN FRANCISCO PORT COMMISSION

KIMBERLY BRANDON, PRESIDENT
WILLIE ADAMS, VICE- PRESIDENT
GAIL GILMAN, COMMISSIONER
VICTOR MAKRAS, COMMISSIONER
DOREEN WOO HO, COMMISSIONER

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EXHIBITS AND SCHEDULES:

BASIC LEASE INFORMATION

Lease Date:	August 15, 2018
Lease Number:	**L-16417**
Landlord or Port:	**CITY AND COUNTY OF SAN FRANCISCO,** a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**
Landlord's Address:	Port of San Francisco Pier 1 San Francisco, California 94111 Attention: Director of Real Estate Telephone: (415) 274-0400 Facsimile: (415) 274-0494
Tenant:	Seawall Lot 337 Associates, LLC, a Delaware limited liability company
Tenant's Contact Person:	Jack Bair
Tenant's Address:	24 Willie Mays Plaza San Francisco, CA 94107 Attention: General Counsel Telephone: (415) 972-2000 Facsimile: (415) 972-2317 Email: jbair@sfgiants.com
Tenant's Billing Address:	24 Willie Mays Plaza San Francisco, CA 94107 Attention: General Counsel Telephone: (415) 972-2000 Facsimile: (415) 972-2317 Email: jbair@sfgiants.com
Premises:	As of the Commencement Date, the Premises consists of: A portion of that certain real property known as Seawall Lot 337, consisting of approximately 617,014 square feet of paved land generally bounded by Terry A. Francois Boulevard, Mission Rock Street, and Third Street located in the City and County of San Francisco, State of California, together with any and all Improvements existing thereon (the "**Initial Premises**"). The Initial Premises is more particularly described in ***Exhibit A*** attached

	hereto and depicted on ***Exhibit B*** attached hereto. The Premises is subject to adjustment as provided in ***Section 1.4*** and expansion as provided in ***Section 1.5*** from time to time. The Premises is further subject to Port's reservation of rights as provided in ***Section 1.3***, including rights related to the Outfall Infrastructure and the Outfall Infrastructure Area, as depicted on ***Exhibit C*** attached hereto. The term "**Premises**" refers to the property that is subject to this Lease from time to time, as adjusted and expanded as provided in ***Sections 1.4*** and ***1.5***, subject to Port's reservation of rights in ***Section 1.3***, and will include Horizontal Improvements and Subsequent Construction as and when constructed thereon.
Parking License Areas:	(a) In connection with this Lease, Port hereby grants to Tenant a revocable license (the "**Parking License**") for that certain area (i) between Piers 48 and 50 and between the eastern end of TFB and portions of the western edge of the Piers 48-50 basin and generally known as Channel Wharf, totaling approximately 17,430 square feet of paved land (the "**Channel Wharf License Area**"), and (ii) a strip adjacent to TFB running along the eastern length of the Initial Premises totaling approximately 52,712 square feet of paved land ("**Eastern Parking Strip**"), all as depicted on ***Exhibit B*** attached hereto. The Channel Wharf License Area and the Eastern Parking Strip are collectively referred to as the "**Parking License Areas.**" Port's right to revoke the Parking License is subject to paragraph (d) below in this "Parking License Areas" section of the Basic Lease Information. (b) The Parking License Areas may only be used for parking. Other than during Ballpark Events and Special Events, the Parking License Areas will remain open and unobstructed for parking uses. Port has no responsibility for towing any vehicles within the Parking License Areas or the Premises, however, Tenant will have the right to tow any unauthorized parked vehicles in compliance with applicable Laws. Tenant may, in its sole discretion, designate the particular users and types of vehicles that are permitted to use the Parking License Areas on Ballpark Event and Special Event days. All Gross Revenues generated from the Parking License Areas will be deemed to be Gross Revenues from Parking Operations. (c) Except as set forth in this "**Parking License Areas**" section of the Basic Lease Information, Tenant's rights to use the Parking License Areas are the same as Tenant's rights to use the Premises, and the Parking License rights are for the same purposes and are subject to all of the terms and conditions of this Lease as if the Parking License Areas is part of the Premises. (d) Without limiting Port's rights under ***Article 24***, or the immediately following paragraph (e) of this "Parking License Areas" of the Basic Lease Information, Port's right to revoke the Parking License is subject only to the following conditions:

	(i) only those portions of the Parking License Areas which are within the TFB right-of-way, if any, may be revoked;(ii) Port may not revoke the Parking License for a Special Event that is described in a Special Event calendar for either Pier 48 or the Premises that is received by Port; or (iii) if Port revokes the License such that the permission for parking for Ballpark Events is revoked, such revocation will not be effective earlier than the earlier of the week after the last day of the Giants baseball season or November 15 of the calendar year in which the License is revoked. (e) The applicable Parking License will automatically terminate when the applicable Parking License Area is needed for the TFB License Work or upon the addition of the applicable portion of the Parking License Area to the Premises in accordance with ***Section 1.5***; provided however, if after the TFB License Work on an applicable portion of the Parking License Area is completed and such area is not added to the Premise in accordance with ***Section 1.5***, then upon request from Tenant, Port may grant a Parking License for such area, which approval will not be unreasonably withheld. The Parties must memorialize such reinstatement for such reinstatement to be effective.
Commencement Date:	The Lease Date, as set forth above.
Expiration Date:	Unless earlier terminated or extended in accordance with this Lease, the Expiration Date will be the earlier of: (1) the date that is thirty (30) years after the effective date of the DDA, as extended by Excusable Delay for any reason other than Down Market Delay, unless terminated under ***DDA Article 11*** (Material Breaches and Termination); and (2) when the Port has issued the Final Certificate of Occupancy for the Project and accepted the Final Audit. For purposes of this provision, "**Excusable Delay**," "**Down Market Delay**," "**Final Certificate of Occupancy**," and "**Final Audit**" have the meanings ascribed to them in the DDA.
Permitted Use:	The Premises will be used solely for the Primary Permitted Uses and Ancillary Permitted Uses described below; provided that throughout the Term, Tenant will, in good faith, balance the various Permitted Uses, as may be required in Tenant's reasonable discretion, taking into account the overall development of the Project, the Horizontal Improvements, the Vertical Improvements and the other revenue producing Permitted Uses. Tenant will primarily use the Premises for the following two (2) uses (collectively, the "**Primary Permitted Uses**"): (i) development of the Horizontal Improvements, including necessary construction staging, temporary streets in locations determined by Tenant, and a temporary project management office(s); and (ii) so long as development of the Horizontal Improvements is not materially and adversely impacted, parking for bicycles and motor

	vehicles. The Premises may also be used for the following ancillary uses (collectively, the "**Ancillary Permitted Uses**"): (i) construction staging in connection with the development of the Vertical Improvements, subject to ***Section 4.3(b)***; (ii) Special Events, subject to the conditions set forth in ***Section 10.2;*** (iii) Activation Uses; (iv) auxiliary uses in connection with Ballpark Events and Special Events, such as temporary wireless and media communication equipment and sale of merchandise, food, and beverages; (v) installation and maintenance of signage, subject to ***Section 4.2***; (vi) model units and sales/leasing offices relating to the Vertical Improvements; and (vii) any other uses authorized by the Port in writing, which authorization may be withheld in Port's sole discretion.
Rent:	As set forth in ***Exhibit D*** attached hereto.
Security Deposit:	An amount equal to two (2) months Base Rent.
Termination of Existing Lease:	Port and China Basin Ballpark, LLC, a Delaware limited liability company ("**CBBC**"), entered into that certain Lease No. L-14980 dated as of January 1, 2012 (as may have been amended or supplemented, the "**Existing Parking Lot Lease**"). Other than the provisions that survive the expiration or earlier termination of the Existing Parking Lot Lease, the Existing Parking Lot Lease is hereby terminated as of the Commencement Date.

MASTER LEASE

THIS MASTER LEASE NO. L-16417 (this "**Lease**" or "**Master Lease**") dated for reference purposes as of the Lease Date set forth in the Basic Lease Information, is by and between **THE CITY AND COUNTY OF SAN FRANCISCO** (the "**City**"), operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), as landlord, and **SEAWALL LOT 337 ASSOCIATES, LLC**, a Delaware limited liability company, as tenant ("**Tenant**"). The Basic Lease Information that appears on the preceding pages and all Exhibits and Schedules attached hereto are hereby incorporated by reference into this Lease and will be construed as a single instrument and referred to herein as this "**Lease**." In the event of any conflict or inconsistency between the Basic Lease Information and the Lease provisions, the Basic Lease Information will control. All initially capitalized terms used herein are defined in ***Article 43*** or have the meanings given them when first defined.

THIS LEASE IS MADE WITH REFERENCE TO THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. Port is an agency of the City, exercising its functions and powers over property under its jurisdiction and organized and existing under the Burton Act and the City's Charter. The Waterfront Plan is Port's adopted land use document for property within Port jurisdiction, which provides the policy foundation for waterfront development and improvement projects.

B. Port and Seawall Lot 337 Associates, LLC, a Delaware limited liability company ("**Master Developer**"), are parties to that certain Disposition and Development Agreement dated as of August 15, 2018 (the "**DDA**") that governs the mixed-use development of an approximately 28-acre site, known as "**Mission Rock**", as more particularly described in the DDA as the "**Project Site**."

C. A portion of the parcel known as "**Parcel P20**" was formerly a portion of a separate parcel, known as Trust Parcel 5 (as described in Patent, recorded July 19, 1999, as Document Number 99-G622166-00, in Reel H429, Image 0518), which was conveyed to the Port, in trust, in connection with the Mission Bay South redevelopment plan. In Chapter 529 of Statutes of 2016 ("**AB 2797**"), the Legislature recognized that as part of the Mission Bay South redevelopment, Mission Rock Street has been realigned such that a portion of Parcel P20 and the former Mission Rock Street right of way now lie north of the northerly line of Mission Rock Street, as generally depicted on ***Exhibit B*** (the "**Additional Area**"), and that the proposed development of the Project includes the Additional Area.

D. A description of the material entitlements and approvals for Mission Rock are described in ***Exhibit E*** attached hereto (collectively, the "**Project Approvals**").

E. The DDA sets forth a parcel disposition process under which Port will enter into ground leases for each of the Development Parcels within the Project Site with a Vertical Developer. The Vertical Developer may be Master Developer, on behalf of itself or through its Affiliates, or, if Master Developer fails to exercise its option to lease such Development Parcel, to third parties selected in accordance with the requirements of the DDA.

F. Master Developer has an obligation under the DDA to construct new and upgraded Horizontal Improvements on the Premises in accordance with the Project Approvals, and to create Development Parcels that will be served by the necessary infrastructure for their intended use. In order to provide Master Developer with access to and possession of the Project Site through the completion of the Horizontal Improvements, the Parties wish to enter into this Master Lease, setting for the terms and conditions under which Master Developer will lease the Premises. As provided hereunder, upon conveyance of a Development Parcel, the description of the Premises hereunder will be adjusted to remove the applicable Development Parcel from this Master Lease.

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. PREMISES; DEMISE; LICENSE.

1.1. ***Premises.***

(a) **Lease of Premises; Description**. For the Rent and subject to the terms and conditions of this Lease, Port hereby leases to Tenant, and Tenant hereby leases from Port, the "**Premises**" described in the Basic Lease Information as of the Commencement Date hereof.

(b) **Accessibility Inspection Disclosure**. California law requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("**CASp**") to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is hereby advised that the Premises has not been inspected by a CASp and Port will have no liability or responsibility to make any repairs or modifications to the Premises in order to comply with accessibility standards. The following disclosure is required by law:

"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 will 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."

(c) **San Francisco Disability Access Disclosures**. Tenant is hereby advised that the Premises may not currently meet all applicable construction-related accessibility standards, including standards for public restrooms and ground floor entrances and exits. Tenant understands and agrees that Tenant may be subject to legal and financial liabilities if the Premises does not comply with applicable federal and state disability access Laws. As further set forth in ***Article 8*** (Compliance with Laws and Other Requirements), Tenant further understands and agrees that it is Tenant's obligation, at no cost to Port, to cause the Premises and Tenant's use thereof to be conducted in compliance with federal or state disability access Laws. Tenant will notify Port if it is making any alterations, Improvements, or Horizontal Improvements to the Premises that might impact accessibility standards required under federal and state disability access Laws.

(d) **No Right to Encroach**.

(i) If Tenant (including, its Agents, Invitees, successors and assigns) uses or occupies space outside the Premises without the prior written consent of Port (the "**Encroachment Area**"), then upon written notice from Port ("**Notice to Vacate**"), Tenant will immediately vacate such Encroachment Area and if such Encroachment Area is controlled by Port, pay as Additional Rent for each day Tenant used, occupied, uses or occupies such Encroachment Area, an amount equal to the rentable square footage of the Encroachment Area, multiplied by the then current fair market rent for such Encroachment Area, as reasonably determined by Port (the "**Encroachment Area Charge**"). If Tenant uses or occupies such Encroachment Area for a fractional month, then the Encroachment Area Charge for such period will be prorated based on a thirty (30) day month. In no event will acceptance by Port of the Encroachment Area Charge be deemed a consent by Port to the use or occupancy of the Encroachment Area by Tenant, its Agents, Invitees, successors or assigns, or a waiver (or be deemed as a waiver) by Port of any and all other rights and remedies of Port under this Lease.

(ii) In addition, Tenant will pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300.00), which amount will be increased by One Hundred Dollars ($100.00) on the tenth (10th) Anniversary Date and every ten (10) years thereafter, upon delivery of the initial Notice to Vacate plus the actual cost associated with a survey of the Encroachment Area. In the event Port determines during subsequent inspection(s) that Tenant has failed to vacate the Encroachment Area, then Tenant will pay to Port, as Additional Rent, an amount equaling Four Hundred Dollars ($400.00), which amount will be increased by One Hundred Dollars ($100.00) on the tenth (10th) Anniversary Date and every ten (10) years thereafter, for each additional Notice to Vacate, if applicable, delivered by Port to Tenant following each inspection. The Parties agree that the charges associated with each inspection of the Encroachment Area, delivery of each Notice to Vacate and survey of the Encroachment Area represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises, issuance of each Notice to Vacate and survey of the Encroachment Area. Tenant's failure to comply with the applicable Notice to Vacate and Port's right to impose the foregoing charges will be in addition to and not in lieu of any and all other rights and remedies of Port under this Lease.

(iii) In addition to Port's rights and remedies under this ***Section 1.1(d)***, the terms and conditions of the Indemnity and waiver provision set forth in ***Article 19*** (Indemnification of Port) will also apply to Tenant's (including, its Agents, Invitees, successors and assigns) use and occupancy of the Encroachment Area as if the Premises originally included the Encroachment Area, and Tenant will additionally Indemnify Port from and against any and all Losses resulting from delay by Tenant in surrendering the Encroachment Area including, without limitation, any Losses resulting from any Claims against Port made by any tenant or prospective tenant founded on or resulting from such delay and Losses to Port due to lost opportunities to lease any portion of the Encroachment Area to any such tenant or prospective tenant.

(iv) All amounts set forth in this ***Section 1.1(d)*** will be due within three (3) business days following the applicable Notice to Vacate and/or separate invoice relating to the actual cost associated with a survey of the Encroachment Area. By signing this Lease, each Party specifically confirms the accuracy of the statements made in this ***Section 1.1(d)*** and the reasonableness of the amount of the charges described in this ***Section 1.1(d)***.

1.2. ***Limitations.***

(a) **Permitted Encumbrances**. The interests granted by Port to Tenant pursuant to ***Section 1.1(a)*** are subject to (i) the matters reflected in ***Exhibit F*** (the "**Permitted Title Exceptions**"), (ii) the matters to be reflected in ***Exhibit G*** (CFD and Assessment Matters) that will be attached hereto after the Commencement Date; (iii) the existing infrastructure related to the thirty (30) inch and twelve (12) inch outfalls for stormwater drainage (collectively, the "**Outfall Infrastructure**"), as further described in ***Section 1.3(a)***; (iv) the rights of the owner and/or operator of any utility (whether or not such rights are memorialized in any written and/or recorded agreement with the applicable utility owner/operator) located within the Premises, to access, maintain, repair or replace, as applicable, its utility infrastructure; and (v) such other matters as Tenant will cause or suffer to arise subject to the terms and conditions of this Lease (collectively, the "**Permitted Encumbrances**").

(b) **Subsurface Mineral Rights**. Under the terms and conditions of Article 2 of the Burton Act, the State has reserved all subsurface mineral deposits, including oil and gas deposits, on or underlying the Premises. In accordance with the provisions of Sections 2 and 3.5(c) of the Burton Act, Tenant and Port hereby acknowledge that the State has reserved the right to explore, drill for and extract such subsurface minerals, including oil and gas deposits, solely from a single point of entry outside of the Premises, provided that such right will not be exercised so as to disturb or otherwise interfere with the Leasehold Estate or the use of the Premises, including the ability of the Premises to support the Improvements, but provided further

that, without limiting any remedies the Parties may have against the State or other parties, any such disturbance or interference that causes damage or destruction to the Premises will be governed by ***Article 15***. Port will have no liability under this Lease arising out of any exercise by the State of such mineral rights (unless the State has succeeded to Port's interest under this Lease, in which case such successor owner may have such liability).

(c) "AS IS WITH ALL FAULTS". TENANT AGREES THAT PORT IS LEASING THE PREMISES TO TENANT, AND THE PREMISES ARE HEREBY ACCEPTED BY TENANT, IN THEIR EXISTING STATE AND CONDITION, "**AS IS, WITH ALL FAULTS**," SUBJECT TO THE TERMS OF THIS LEASE. TENANT ACKNOWLEDGES AND AGREES THAT NEITHER PORT NOR ANY OF THE OTHER INDEMNIFIED PARTIES HAS MADE, AND THERE IS HEREBY DISCLAIMED, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND, WITH RESPECT TO THE CONDITION IN, ON, UNDER, ABOVE, OR ABOUT THE PREMISES, TITLE TO THE PREMISES, THE SUITABILITY OR FITNESS OF THE PREMISES OR ANY APPURTENANCES THERETO FOR THE DEVELOPMENT, USE, OR OPERATION OF THE IMPROVEMENTS, THE COMPLIANCE OF THE PREMISES WITH ANY LAWS, ANY MATTER AFFECTING THE USE, VALUE, OCCUPANCY OR ENJOYMENT OF THE PREMISES, OR ANY OTHER MATTER PERTAINING TO THE PREMISES, ANY APPURTENANCES THERETO OR THE IMPROVEMENTS, AND AS FURTHER DESCRIBED HEREIN.

Tenant further acknowledges and agrees that it has been afforded a full opportunity to inspect Port's records relating to conditions in, on, around, under, and pertaining to the Premises. Port makes no representation or warranty as to the accuracy or completeness of any matters contained in such records. Tenant is not relying on any such information. All information contained in such records is subject to the limitations set forth in this ***Section 1.2(c)***. Tenant represents and warrants to Port that Tenant has performed a diligent and thorough inspection and investigation in, on, around, under, and pertaining to the Premises, either independently or through its own experts including (i) the quality, nature, adequacy and physical condition in, on, around, under, and pertaining to the Premises including the structural elements, foundation, and all other physical and functional aspects in, on, around, under, and pertaining to the Premises; (ii) the quality, nature, adequacy, and physical, geotechnical and environmental condition in, on, around, under, and pertaining to the Premises, including the soil and any groundwater (including Hazardous Materials Conditions (including the presence of asbestos or lead) with regard to the building, soils and any groundwater); (iii) the suitability in, on, around, under, and pertaining to the Premises for the Improvements and the Horizontal Improvements and Tenant's planned use of the Premises; (iv) title matters, the zoning, land use regulations, and other Laws governing use of or construction in, on, around, under, and pertaining to on the Premises; and (v) all other matters of material significance affecting in, on, around, under, and pertaining to the Premises and its development and use under this Lease.

As part of its agreement to accept the Premises in their "**As Is With All Faults**" condition, but without impacting any right to reimbursement of Horizontal Development Costs and Developer Return (as such terms are defined in the Appendix) to which the Master Developer is otherwise entitled under the Financing Plan, Tenant, on behalf of itself and its successors and assigns, will be deemed to waive any right to recover from, and forever release, acquit and discharge, Port, the City, and their respective Agents of and from any and all Losses, whether direct or indirect, known or unknown, foreseen or unforeseen, that Tenant may now have or that may arise on account of or in any way be connected with (i) the physical, geotechnical or environmental condition in, on, under, above, or about the Premises, (ii) the suitability of the Premises for the development of the Improvements and the Horizontal Improvements, the Permitted Uses, value, occupancy or enjoyment of the Premises, title matters, (iii) any Laws, including Environmental Laws or any similar matter applicable to the Premises, any appurtenances thereto or the Improvements thereon; provided, however, the foregoing waiver

does not apply to Hazardous Material Claims made by any third party for which Tenant is not required to Indemnify the Indemnified Parties under ***Sections 19.2 and 19.4***.

In connection with the foregoing release, Tenant acknowledges that it is familiar with California Civil Code Section 1542, which provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED THE SETTLEMENT WITH THE DEBTOR.

Tenant agrees that the release contemplated by this ***Section 1.2(c)*** includes unknown Claims pertaining to the subject matter of this release. Accordingly, Tenant hereby waives the benefits of Civil Code Section 1542, or any other statute or common law principle of similar effect, in connection with the release contained in this ***Section 1.2(c)***.

Tenant Initials: LMB

(d) **Title Defect**. Port will have no liability to Tenant in the event any defect exists in Port's title to the Premises as of the Commencement Date and no such defect will be grounds for a termination of this Lease by Tenant. Tenant's sole remedy with respect to any such existing title defect will be to obtain compensation by pursuing its rights against any title insurance company or companies issuing title insurance policies to Tenant.

(e) **No Light, Air or View Easement**. This Lease does not include an air, light, or view easement. Any diminution or shutting off of light, air or view by any structure which may be erected on lands near or adjacent to the Premises or by any vessels berthed near the Premises will in no way affect this Lease or impose any liability on Port, entitle Tenant to any reduction of Rent, or affect this Lease in any way or Tenant's obligations hereunder.

(f) **Unique Nature of Premises**. Tenant acknowledges that: (i) Port's regular maintenance may involve activities, such as pile driving, that create noise and other effects not normally encountered in locations elsewhere in San Francisco due to the unique nature of the Premises; (ii) there is a risk that all or a portion of the Premises will be inundated with water due to floods or sea level rise; and (iii) there is a risk that sea level rise will increase the cost of operations, maintenance, and repair of the Premises.

1.3. ***Reservation of Rights***. Without limiting anything else in this Lease, Port hereby reserves, and Tenant accepts the Premises subject to, the following reservation of rights:

(a) Access for Maintenance and Repair Easement of Outfall Infrastructure. The Outfall Infrastructure drains stormwater from the Premises and other nearby Port property. Portions of the Outfall Infrastructure are located within the Premises and will be removed, replaced and/or relocated in connection with the development of the Project. Accordingly, Port hereby reserves for itself and its Agents during the Term, rights of access over and under the areas where the Outfall Infrastructure is located, as more particularly depicted on ***Exhibit C*** including a reasonable buffer zone around the Outfall Infrastructure to access, maintain, and repair such infrastructure, and those areas where stormwater is discharged into the San Francisco Bay, which are labeled as Outfall Area #1 and Outfall Area #2 on ***Exhibit C*** (collectively, the "**Outfall Infrastructure Area**") for purposes of locating, maintaining, repairing, removing and replacing the Outfall Infrastructure (collectively the "**Outfall Work**"). Port will use commercially reasonable efforts during performance of any Outfall Work not to unreasonably interfere with the Permitted Uses. The Outfall Work will be performed only after at least ten (10) business days' prior written notice to Tenant (except in the case of emergencies) and Port will use commercially reasonable efforts to adjust the scheduled period of the Outfall Work if it would materially and adversely interfere with the Permitted Uses. In connection with the development of each Phase of the Project, Master Developer will be removing, replacing and/or relocating portions of the

Outfall Infrastructure (as applicable, the "**Relocated Outfall Infrastructure**"). Upon commencement of Master Developer's work on a portion of the Relocated Outfall Infrastructure until the applicable Relocated Outfall Infrastructure is Accepted by Port or other City Agency, as applicable, Port will not perform, nor will it have, any maintenance and repair responsibilities for such portion of such Relocated Outfall Infrastructure. Throughout the Term, Port, or other City agency or department, will maintain coverage under the State Water Resources Control Board, Water Quality Order No. 2013-0001-DWQ, National Pollution Discharge Elimination System (NPDES), General Permit No. CAS000004, Waste Discharge Requirements (WDRs) for Storm Water Dischargers From Small Municipal Separate Storm Sewer Systems (MS4s) (General Permit) (aka the MS4 Permit) issued by the State Water Resources Control Board covering Port property (WDID # 2 38M2000169) and any other Regulatory Approvals that can only be maintained or issued to municipalities related to the discharge of stormwater through the Outfall Infrastructure (collectively, the "**Outfall Permit**"). The Parties agree, however, that any Port obligation to maintain the Outfall Permit does not impact or negate any Tenant obligation in this Lease or any other agreement, to maintain and repair the Outfall Infrastructure or responsibility or liability with regard to illegal discharge from the applicable Outfall Infrastructure or Outfall Infrastructure Area.

1.4. ***Adjustment of Premises for Development***. From time to time during the Term, the legal description of the Premises will be modified in accordance with this ***Section 1.4***.

(a) **Development Parcels**.

(i) As provided under each Vertical DDA, Port will convey a leasehold interest in each Development Parcel to the Vertical Developer. In order to convey such leasehold interest in a Development Parcel to a Vertical Developer, Port and Tenant must execute, acknowledge, and record a DDA and Master Lease Partial Release in the form attached hereto as ***Exhibit H*** ("**DDA and Master Lease Partial Release**").

(ii) Port will provide Tenant at least ten (10) business days' prior notice of the anticipated conveyance date for each Development Parcel ("**Anticipated Conveyance Date**") and the Escrow Agent with whom Tenant should deposit the executed and acknowledged DDA and Master Lease Partial Release and those additional documents set forth in ***Section 5.3***.

(iii) Once the DDA and Master Lease Partial Release for the applicable Development Parcel is recorded in the Official Records, Tenant's Leasehold Estate in such applicable Development Parcel will be terminated, and other than the obligations that survive the expiration or termination of this Lease, this Lease will be terminated as it applies to such Development Parcel.

(b) **Horizontal Improvement Parcels**. Upon Acceptance by the City of each work of Horizontal Improvement constructed in accordance with the DDA, Port and Tenant must execute, acknowledge, and record a DDA and Master Lease Partial Release for the parcels where the Horizontal Improvements are Accepted (each a "**Horizontal Improvement Parcel**"). Once the DDA and Master Lease Partial Release for the applicable Horizontal Improvement Parcel is recorded in the Official Records, then Tenant's Leasehold Estate in such applicable Horizontal Improvement Parcel will be terminated and other than the obligations that survive the expiration or termination of the Lease, this Lease will be terminated as it applies to such applicable Horizontal Improvement Parcel.

1.5. ***Premises Expansion***. The Premises will be expanded from time to time in accordance with this ***Section 1.5*** to include the following areas (each an "**Expansion Area**"):

(a) **China Basin Park**. The area immediately north of Terry A. Francois Boulevard ("**TFB**") to the edge of Mission Creek, generally known as China Basin Park ("**Expansion Area A**"), as further depicted on ***Exhibit I***, is currently licensed by China Basin Ballpark Company LLC, a Delaware limited liability company ("**CBBC**") pursuant to that certain Permit to Enter and Use Property Permit No. 13214 between Port and China Basin Ballpark,

LLC , dated as of November 26, 1997 (as amended, the "**CBP License**"). Expansion Area A will be added to the Premises upon satisfaction of all the following conditions:

(i) Master Developer has obtained all Regulatory Approvals necessary to support planned Site Preparation activities on or around Expansion Area A, including, but not limited to, grading and soil compaction;

(ii) Port has terminated the CBP License as of the date the Premises is expanded to include Expansion Area A; and

(iii) All of the conditions of **Section 14.3 (Other Horizontal Improvements) of the DDA** have been satisfied as they relate to Expansion Area A.

(b) **Portions of Terry A. Francois Boulevard**. Portions of TFB along the entire northern boundary of the Initial Premises continuing along the northern portion of TFB immediately east of the Initial Premises (each, an "**Expansion Area B**"), as further depicted on ***Exhibit I***, will be added to the Premises from time to time during the Term. The number, location and date upon which each Expansion Area B will be added to the Premises will be determined by the Parties. The parties may add an Expansion Area B to the Premises upon satisfaction of all the following conditions:

(i) Master Developer has obtained all applicable Regulatory Approvals required to permanently close an Expansion Area B to vehicular and/or pedestrian traffic, as applicable, and, if required, the City has vacated the same;

(ii) Tenant has made available to Port tenants, staff, and other users or visitors of the area immediately east of TFB, such as Piers 48, 48½ and 50, Atwater Tavern, and the Piers 48-50 basin, (collectively, the "**East TFB Users**") throughout the Term, an alternate route whether via TFB or other areas of the Premises for continuous vehicular and pedestrian access (other than temporary traffic closures consistent with SFMTA's latest edition of Regulations for Working in San Francisco Streets, if applicable, or as otherwise required by the Port's Chief Harbor Engineer (consistent with the exercise of any applicable regulatory authority), or such other reasonable standards agreed to by the Parties if the Port's Chief Harbor Engineer (consistent with the exercise of any applicable regulatory authority), has not provided any guidance on traffic closures or if such regulations are not applicable, or in connection with an emergency necessary to protect the safety and welfare of the public);

(iii) Master Developer has made presentations to the Ballpark Transportation Coordinating Committee ("**BTCC**") and Interdepartmental Staff Committee on Traffic and Transportation ("**ISCOTT**"); and

(iv) All of the conditions of **Section 14.3 (Other Horizontal Improvements) of the DDA** have been satisfied as they relate to the applicable Expansion Area B.

(c) **Northern Strip of SWL 337**. The strip of SWL 337 that is approximately four (4) feet wide along the entire northern boundary of the Initial Premises and immediately adjacent to the east—west direction of TFB ("**Expansion Area C**"), as further depicted on ***Exhibit I***, will be added to the Premises upon satisfaction of all the following conditions:

(i) All the conditions set forth in ***Sections 1.5(a)*** have been satisfied, and, to the extent relating to areas of Expansion Area B which are adjacent to Expansion Area C, all the conditions set forth in ***Section 1.5(b)*** have been satisfied;

(ii) Master Developer has obtained all applicable Regulatory Approvals necessary to commence construction of the Horizontal Development work on Expansion Area C; and

(iii) All of the conditions of **Section 14.3 (Other Horizontal Improvements) of the DDA** have been satisfied as they relate to Expansion Area C.

(d) **Eastern Parking Strip**. The Eastern Parking Strip ("**Expansion Area D**"), as further depicted on ***Exhibit I***, will be added to the Premises upon satisfaction of all the following conditions or as otherwise agreed to by the Parties:

(i) Master Developer has obtained all applicable Regulatory Approvals necessary to commence construction of the Horizontal Development work on Expansion Area D;

(ii) To the extent relating to areas of Expansion Area B which are adjacent to Expansion Area D, all the conditions set forth in ***Section 1.5(b)*** have been satisfied; and

(iii) All of the conditions of **Section 14.3 (Other Horizontal Improvements) of the DDA** have been satisfied as they relate to Expansion Area D.

(e) **Channel Wharf**. The area between Piers 48 and 50 and immediately east of TFB to the edge of the Piers 48-50 basin and generally known as Channel Wharf ("**Expansion Area E**"), as further depicted on ***Exhibit I***, will be added to the Premises upon satisfaction of all the following conditions or as otherwise agreed to by the Parties:

(i) Master Developer has obtained all applicable Regulatory Approvals necessary to commence construction of the Horizontal Development work on Expansion Area E;

(ii) All of the conditions of **Section 14.3 (Other Horizontal Improvements) of the DDA** have been satisfied as they relate to Expansion Area E; and

(iii) Port has terminated all leases, if any, for use of all or a portion of Expansion Area E. Not less than sixty (60) days prior to the commencement of Tenant's construction of the Horizontal Improvements in Expansion Area E, Tenant will deliver to Port notice of such proposed commencement date. Tenant will provide Port prompt notice of any delays in the proposed commencement date. Port will deliver a notice to each tenant of Expansion Area E, if any, terminating each such tenant's lease not less than thirty (30) days prior to the commencement of Tenant's construction of the Horizontal Improvements in Expansion Area E, and following the effective date of such termination Port shall use commercially reasonable efforts to deliver exclusive possession of Expansion Area E to Tenant.

(f) **Pier 48 Parking and Access Area**. The area directly in front of Pier 48 and immediately east of TFB ("**Expansion Area F**"), as further depicted on ***Exhibit I***, will be added to the Premises upon satisfaction of all the following conditions or as otherwise agreed to by the Parties:

(i) Master Developer has obtained all applicable Regulatory Approvals necessary to commence construction of the Horizontal Development work on Expansion Area F;

(ii) Port has terminated the license to use Expansion Area F held by CBBC as part of the lease of Pier 48 as of the date the Premises is expanded to include Expansion Area F;

(iii) Tenant makes available to the tenants, licensees, and other users of Pier 48 continued access (subject to temporary traffic closures permitted under the Regulatory Approvals and reasonably necessary to commence construction of the Horizontal Development work on Expansion Area F) through Expansion Area F to and from the main doors to Shed A, Shed B and the valley between such two sheds throughout the Term when Expansion Area F is part of the Premises; and

(iv) All of the conditions of **Section 14.3 (Other Horizontal Improvements) of the DDA** have been satisfied as they relate to Expansion Area F.

1.6. ***Construction License of Terry Francois A. Boulevard.*** From time to time during the Term, Port will grant Tenant temporary, non-exclusive and non-possessory, revocable licenses (each, a "**TFB License**") over portions of TFB depicted on ***Exhibit I-A*** (each, a "**TFB License Area**") for Site Preparation work or temporary interim improvements in accordance with this ***Section 1.6***. Tenant's use of the TFB License Area will be on all other applicable terms and conditions of this Lease, subject to the further restrictions set forth below:

(a) **License Use**. During the term of each TFB License, Tenant may grant Master Developer use of the applicable TFB License Area for Site Preparation work or temporary interim improvements ("**TFB License Work**"). All of the following conditions must be satisfied before commencement of any TFB License Work:

(i) Port has approved Master Developer's submission of all documents and evidence required to satisfy the conditions of **Section 14.2 (Site Preparation) of the DDA** as it relates to the applicable TFB License Area;

(ii) Tenant has provided Port at least ten (10) business days prior notice of commencement of the TFB License Work;

(iii) Master Developer has obtained all applicable Regulatory Approvals necessary to support planned TFB License Work on the applicable TFB License Area, including closure of the applicable TFB License Area to vehicular and/or pedestrian traffic, as applicable;

(iv) Tenant has made available to East TFB Users as of the effective date of the TFB License until completion of the TFB Work, an alternate route whether via TFB or other areas of the Premises for continuous vehicular and pedestrian access (other than temporary traffic closures consistent with SFMTA's latest edition of Regulations for Working in San Francisco Streets, if applicable, or as otherwise required by the Port's Chief Harbor Engineer (consistent with the exercise of any applicable regulatory authority), or such other reasonable standards agreed to by the Parties if the Port's Chief Harbor Engineer (consistent with the exercise of any applicable regulatory authority), has not provided any guidance on traffic closures or if such regulations are not applicable, or in connection with an emergency necessary to protect the safety and welfare of the public); and

(v) Tenant has communicated the closure of the TFB License Area to vehicles and pedestrians during performance of the TFB License Work, the duration of closure and estimated commencement and completion dates of the TFB License Work to local community stakeholders including, but not limited to, the East TFB Users.

(b) **Reopening of TFB License Area**. Following completion of the TFB License Work within an applicable TFB License Area, Tenant, in consultation with Port, will determine whether to remove all equipment and re-open the TFB License Area to vehicular and pedestrian traffic. Tenant will provide periodic updates to CWAG and the East TFB Users on the progress of the TFB License Work and estimated completion date.

(c) **Termination of TFB License**. The TFB License will terminate upon the earlier of (i) completion of the TFB License Work on the applicable TFB License Area; (ii) Tenant's failure to diligently pursue completion of the TFB License Work, after reasonable notice and an opportunity to cure; or (iii) the expiration or earlier termination of this Lease.

1.7. ***Liquidated Damages for Failure to Provide Access to East TFB Users.*** In addition to the other remedies available to Port under this Lease for an Event of Default under ***Sections 1.5(b)(ii), 1.5(f)(iii), or 1.6(a)(iv)***, if Tenant violates ***Sections 1.5(b)(ii), 1.5(f)(iii), or 1.6(a)(iv)*** regarding access for East TFB Users, then from and after the second notice of violation of ***Sections 1.5(b), 1.5(f)(iii), or 1.6(a)***, Tenant will pay Port an amount equal to Five

Thousand Dollars ($5,000.00) (as adjusted periodically, the "**No Access Charge**") for each such violation as liquidated damages, which Five Thousand Dollars ($5,000.00) will be increased by fifteen percent (15%) on the fifth (5th) anniversary of the Commencement Date and every five (5) years thereafter.

THE PARTIES HAVE AGREED THAT PORT'S ACTUAL DAMAGES, IN THE EVENT TENANT VIOLATES ***SECTIONS 1.5(b)(ii), 1.5(f)(iii), or 1.6(a)(iv)*** WITH REGARD TO EAST TFB USERS ACCESS, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. AFTER NEGOTIATION, THE PARTIES HAVE AGREED THAT, CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS LEASE, THE AMOUNT OF THE NO ACCESS CHARGE IS A REASONABLE ESTIMATE OF THE DAMAGES THAT PORT WOULD INCUR IN SUCH AN EVENT. BY PLACING THEIR RESPECTIVE INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS LEASE WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

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Port Initials	Tenant Initials

1.8. ***Construction License of Pier 48 Parking Area and Channel Wharf.***

(a) **Waterfront Area License**. From time to time during the Term, Port will grant Tenant temporary, non-exclusive and non-possessory license(s) (each, a "**Waterfront Area License**") over Expansion Area D and Expansion Area E, which areas are depicted on ***Exhibit I*** (collectively, the "**Waterfront Area**") to the extent reasonably necessary for Tenant to perform Site Preparation work and temporary interim improvements in and around the Waterfront Area (the ("**Waterfront License Work**") in accordance with this ***Section 1.8***. Tenant's use of the Waterfront Area will be on all other applicable terms and conditions of this Lease. All of the following conditions must be satisfied before commencement of any Waterfront License Work:

(i) Master Developer has obtained all applicable Regulatory Approvals necessary to commence the applicable portion of the Waterfront License Work;

(ii) If there are any Port tenants within the Waterfront Area, the applicable Waterfront License Work will not unreasonably interfere with such tenants' rights under their applicable leases; and

(iii) All of the conditions of **Sections 14.2 (Site Preparation) and/or 14.3 (Other Horizontal Improvements) of the DDA**, as applicable, have been satisfied as they relate to the commencement of the Waterfront License Work in the Waterfront License Area.

(b) **Termination of the Waterfront Area License**. The applicable Waterfront Area License will terminate upon the earlier of (i) completion of the applicable portion of the Waterfront License Work, or (ii) Tenant's failure to diligently pursue completion of the Waterfront License Work, after reasonable notice and an opportunity to cure; or (iii) the expiration or earlier termination of this Lease.

1.9. ***Third Street Bridge Project***. Tenant and Port acknowledge that San Francisco Public Works ("**SFPW**") will use certain portions of TFB as a staging area in connection with the rehabilitation of the 3rd Street Bridge (the "**3rd Street Bridge Project**"), which work is expected to be complete on or before December 31, 2019. If SFPW's use of TFB for the 3rd Street Bridge Project will reasonably interfere with or delay the expansion of the Premises

pursuant to ***Sections 1.5(a), 1.5(b), 1.5(c) or 1.5(e)***, the use of a TFB License Area pursuant to ***Section 1.6***, or a P48 Access Area pursuant to ***Section 1.8***, Tenant reserves the right to relocate SFPW after October 1, 2019 to the approximately 14,000 square feet area located in the Eastern Parking Strip, as depicted on ***Exhibit I-B***, upon not less than sixty (60) days' notice to SFPW, which area may be utilized by SFPW until March 15, 2020. In connection with such relocation, Tenant and SFPW shall enter into an agreement reasonably acceptable to both Tenant and SFPW relating to the use of such portion of the Eastern Parking Strip (which agreement shall not be subject to the approval of Port and shall not be considered a Transfer pursuant to this Lease) (the "**SFPW License**"). Any license fee for such relocated area will not exceed Port's then published parameter rent for paved yard area, and any such license fees collected shall be included in Gross Revenues from Parking Operations. Any use by SFPW of such portion of the Eastern Parking Strip beyond March 15, 2020 shall be subject to the approval of Tenant; provided however, if necessary, Tenant shall work with SFPW in good faith to extend the use of such portion of the Eastern Parking Strip or identify an alternative space for SFPW's use until the completion of the 3rd Street Bridge Project.

1.10. ***Memorandum of Technical Corrections***. The Parties acknowledge and agree to enter into a memoranda of technical corrections hereto to reflect certain non-material changes in the actual legal description and square footages of the Premises as shall be reasonably determined by Port's Executive Director and Tenant following the Commencement Date, and upon full execution thereof, such memoranda will be deemed to become a part of this Lease.

2. TERM.

2.1. ***Term***. The effectiveness of this Lease will commence on the Commencement Date as shown in the Basic Lease Information. The Lease will expire at 11:59 p.m. on the Expiration Date set forth in the Basic Lease Information, unless earlier terminated or extended in accordance with the terms of this Lease. The period from the Commencement Date until the expiration of this Lease is referred to as the "**Term**."

2.2. ***Port's Early Termination Right***.

(a) **Generally**. At any time following DDA termination, Port may, in its sole discretion, terminate this Lease even in the absence of an Event of Default in accordance with this ***Section 2.2*** ("**Termination Option**"). If Port elects to exercise its Termination Option, then Port will provide Tenant prior notice of its election ("**Termination Notice**"). If Port exercises its Termination Option, the termination of this Lease will be effective upon the later of (i) the date set forth in the Termination Notice (which will not be less than thirty (30) days following the delivery of the Termination Notice), or (ii) the last Ballpark Event or Special Event that is scheduled (including any notice or advertisement to the public of such event and date) as of the date the Termination Notice is delivered and which is scheduled within the ninety (90) day period following the last Major League Baseball ("**MLB**") game played in the Ballpark during the MLB season in which the Termination Notice is delivered. The termination of the Lease in connection with this ***Section 2.2*** is further conditioned on satisfaction of the following conditions:

(i) If any portion of the Entitlement Sum is outstanding, payment by Port to Master Developer of the outstanding amount on or prior to the termination date; and

(ii) If any portion of the Alternative Rent Credit is outstanding, payment by Port to Master Developer of the outstanding amount on or prior to the termination date.

(b) **Effect of Termination**. Upon the effective date of termination of this Lease in accordance with this ***Section 2.2***, other than the provisions that survive expiration or earlier termination of this Lease, this Lease will terminate.

Thousand Dollars ($5,000.00) (as adjusted periodically, the "**No Access Charge**") for each such violation as liquidated damages, which Five Thousand Dollars ($5,000.00) will be increased by fifteen percent (15%) on the fifth (5th) anniversary of the Commencement Date and every five (5) years thereafter.

THE PARTIES HAVE AGREED THAT PORT'S ACTUAL DAMAGES, IN THE EVENT TENANT VIOLATES ***SECTIONS 1.5(b)(ii), 1.5(f)(iii), or 1.6(a)(iv)*** WITH REGARD TO EAST TFB USERS ACCESS, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. AFTER NEGOTIATION, THE PARTIES HAVE AGREED THAT, CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS LEASE, THE AMOUNT OF THE NO ACCESS CHARGE IS A REASONABLE ESTIMATE OF THE DAMAGES THAT PORT WOULD INCUR IN SUCH AN EVENT. BY PLACING THEIR RESPECTIVE INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS LEASE WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

Port Initials	Tenant Initials

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(i) Master Developer has obtained all applicable Regulatory Approvals necessary to commence the applicable portion of the Waterfront License Work;

(ii) If there are any Port tenants within the Waterfront Area, the applicable Waterfront License Work will not unreasonably interfere with such tenants' rights under their applicable leases; and

(iii) All of the conditions of **Sections 14.2 (Site Preparation) and/or 14.3 (Other Horizontal Improvements) of the DDA**, as applicable, have been satisfied as they relate to the commencement of the Waterfront License Work in the Waterfront License Area.

(b) **Termination of the Waterfront Area License**. The applicable Waterfront Area License will terminate upon the earlier of (i) completion of the applicable portion of the Waterfront License Work, or (ii) Tenant's failure to diligently pursue completion of the Waterfront License Work, after reasonable notice and an opportunity to cure; or (iii) the expiration or earlier termination of this Lease.

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pursuant to ***Sections 1.5(a), 1.5(b), 1.5(c) or 1.5(e)***, the use of a TFB License Area pursuant to ***Section 1.6***, or a P48 Access Area pursuant to ***Section 1.8***, Tenant reserves the right to relocate SFPW after October 1, 2019 to the approximately 14,000 square feet area located in the Eastern Parking Strip, as depicted on ***Exhibit I-B***, upon not less than sixty (60) days' notice to SFPW, which area may be utilized by SFPW until March 15, 2020. In connection with such relocation, Tenant and SFPW shall enter into an agreement reasonably acceptable to both Tenant and SFPW relating to the use of such portion of the Eastern Parking Strip (which agreement shall not be subject to the approval of Port and shall not be considered a Transfer pursuant to this Lease) (the "**SFPW License**"). Any license fee for such relocated area will not exceed Port's then published parameter rent for paved yard area, and any such license fees collected shall be included in Gross Revenues from Parking Operations. Any use by SFPW of such portion of the Eastern Parking Strip beyond March 15, 2020 shall be subject to the approval of Tenant; provided however, if necessary, Tenant shall work with SFPW in good faith to extend the use of such portion of the Eastern Parking Strip or identify an alternative space for SFPW's use until the completion of the 3rd Street Bridge Project.

1.10. ***Memorandum of Technical Corrections***. The Parties acknowledge and agree to enter into a memoranda of technical corrections hereto to reflect certain non-material changes in the actual legal description and square footages of the Premises as shall be reasonably determined by Port's Executive Director and Tenant following the Commencement Date, and upon full execution thereof, such memoranda will be deemed to become a part of this Lease.

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2.2. ***Port's Early Termination Right.***

(a) **Generally**. At any time following DDA termination, Port may, in its sole discretion, terminate this Lease even in the absence of an Event of Default in accordance with this ***Section 2.2*** ("**Termination Option**"). If Port elects to exercise its Termination Option, then Port will provide Tenant prior notice of its election ("**Termination Notice**"). If Port exercises its Termination Option, the termination of this Lease will be effective upon the later of (i) the date set forth in the Termination Notice (which will not be less than thirty (30) days following the delivery of the Termination Notice), or (ii) the last Ballpark Event or Special Event that is scheduled (including any notice or advertisement to the public of such event and date) as of the date the Termination Notice is delivered and which is scheduled within the ninety (90) day period following the last Major League Baseball ("**MLB**") game played in the Ballpark during the MLB season in which the Termination Notice is delivered. The termination of the Lease in connection with this ***Section 2.2*** is further conditioned on satisfaction of the following conditions:

(i) If any portion of the Entitlement Sum is outstanding, payment by Port to Master Developer of the outstanding amount on or prior to the termination date; and

(ii) If any portion of the Alternative Rent Credit is outstanding, payment by Port to Master Developer of the outstanding amount on or prior to the termination date.

(b) **Effect of Termination**. Upon the effective date of termination of this Lease in accordance with this ***Section 2.2***, other than the provisions that survive expiration or earlier termination of this Lease, this Lease will terminate.

3. RENT

During the Term, Tenant will pay Rent for the Premises to Port at the times and in the manner provided in ***Exhibit D*** attached hereto and incorporated herein by this reference.

4. USES.

4.1. ***Uses within Premises***. The Premises will be used and occupied only for the Permitted Uses specified in the Basic Lease Information and for no other purpose.

4.2. ***Advertising and Signs***. Subject to the prohibition on tobacco and alcohol advertising provided in ***Exhibit X***, Tenant has the right to install (i) any "business sign" (as defined in Planning Code Section 602.3) in connection with any Permitted Use, (ii) any signage relating to the promotion and advertising of the Project ("**Project Signage**") and (iii) Promotional Signage, in each case without the prior written consent of Port acting in its proprietary capacity. Any such signage will comply with all applicable Laws relating thereto and the requirements of the SUD, Design Controls and the requirements of any applicable building permits. Tenant must obtain all Regulatory Approvals required by applicable Laws. Port makes no representation with respect to Tenant's ability to obtain such Regulatory Approval. All rents, fees, or other charges from all signs will be included as part of Rent and paid in accordance with ***Exhibit D***. Tenant, at its sole cost and expense, must remove all signs placed by it on the Premises at the expiration or earlier termination of this Lease. Tenant may enter into agreements with other parties for purposes of placing Promotional Signage or Project Signage, and provided that such use complies with all the terms and conditions of this Lease, such use will not be considered a Transfer for purposes of this Lease, but any and all rent, fees, or other charges from Promotional Signage or Project Signage will be included as part of Gross Revenues.

4.3. ***Construction Staging***.

(a) **Construction Staging for Horizontal Development**.

(i) Subject to ***Section 4.3(a)(iii)***, Tenant has the right to use (and to allow its Agents and Invitees to use) portions of the Premises for construction staging, including, without limitation, storage of soil stockpiles, construction materials and equipment, fencing, temporary construction offices as may be reasonably necessary or convenient in connection with the development of Horizontal Improvements.

(ii) It is expressly acknowledged and agreed that Staging Rent will not be payable on account of construction staging activities solely in connection with the development of Horizontal Improvements, and that the provisions of ***Section 3.4*** of ***Exhibit D***, which require payment of Staging Rent in conjunction with the lease or license of construction staging areas to Vertical Developers, are not applicable to construction staging activities solely in connection with the development of Horizontal Improvements.

(iii) Tenant will include in each Phase Submittal the proposed boundary of the area outside the applicable Phase Area that Tenant proposes to use for construction staging for the Horizontal Improvements. Tenant must obtain Port's prior consent, which will not be unreasonably withheld, before using portions of the Premises outside the boundary approved by Port for construction staging of the Horizontal Improvements.

(b) **Construction Staging for Vertical Development**. Subject to the provisions of ***Section 3.4*** of ***Exhibit D*** regarding payment of Staging Rent, Tenant has the right to Sublease to Vertical Developers, portions of the Premises for construction staging, including, without limitation, storage of soil stockpiles, construction materials and equipment, fencing, and temporary construction offices in connection with the development of the applicable Vertical Improvements.

(c) **Comply with Laws**. All construction staging must be performed in accordance with applicable Laws, including any Operations Plan approved by Port and applicable provisions of the Mitigation Monitoring and Reporting Program.

4.4. ***Activation Uses***. Subject to the provisions of ***Section 3.5*** of ***Exhibit D*** regarding payment of Activation Use Rent, in addition to the Yard, up to an additional Twenty Thousand (20,000) square feet of the Premises may be designated from time to time by Tenant, by notice to Port, as Activation Area(s) and used for Activation Uses. Such Activation Areas may include up to Five Thousand (5,000) square feet of enclosed interior spaces, such as repurposed shipping containers. No Activation Use Rent will be due on the Yard at its existing location of approximately 35,869 square feet and depicted on ***Exhibit B***. Activation Use Rent will be due on the Yard if it is relocated to other areas of the Premises.

4.5. ***Limitations on Uses by Tenant***.

(a) **Prohibited Activities**. Tenant will not conduct or permit on the Premises any of the following activities (in each instance, a "**Prohibited Use**" and collectively, "**Prohibited Uses**"):

(i) any activity, or maintaining of any object, which is not within the Permitted Use or not previously approved by Port in writing, in its sole discretion;

(ii) any construction (other than any construction related to Tenant's replacement of the existing Outfall Infrastructure in connection with the Horizontal Improvements), planting of trees or shrubs, or installation of any structures or buildings on, over, under, or within the Outfall Infrastructure Area;

(iii) any activity which constitutes waste or nuisance to owners or occupants of adjacent properties, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any unusually objectionable odors, noises or lights onto adjacent properties, or the use of loudspeakers or sound apparatus which can be heard outside the Premises in violation of applicable Law, provided, that the Construction Impacts reasonably expected for the construction of the Horizontal Improvements will not be considered or deemed a nuisance;

(iv) subject to the provisions of ***Sections 1.5(b)(ii), 1.5(f)(iii),*** and ***1.6(a)(iv)***, any activity which will in any way injure, obstruct or interfere with the rights of ingress and egress of other owners, tenants, or occupants of adjacent properties who are not East TFB Users;

(v) with respect to any East TFB Users, any activity that prevents East TFB Users' access to the areas east of TFB in violation of ***Sections 1.5(b)(ii), 1.5(f)(iii),*** and ***1.6(a)(iv),*** except to the extent that such activities are conducted within the Permitted Uses hereunder and in accordance with all laws and Regulatory Approvals;

(vi) use of the Premises for residential, sleeping or personal living quarters and/or "**Live/Work**" space;

(vii) the placement of any sign on or near the Premises related to any auction, distress, fire, bankruptcy or going out of business sale on the Premises without the prior written consent of Port, which consent may be granted, conditioned, or withheld in the sole and absolute discretion of Port;

(viii) any vehicle and equipment maintenance, including but not limited to fueling, changing oil, transmission or other automotive fluids provided, however, the foregoing prohibition does not apply to standard equipment maintenance for office equipment (such as printers, computer, and copiers), equipment used in connection with Tenant's Parking Operations (including pay stations used for collecting parking fees or to the charging of electric vehicles and equipment);

(ix) except in connection with the construction of the Horizontal Improvements and the Vertical Improvements, the storage of any and all excavated materials, including but not limited to, dirt, concrete, sand, asphalt, and pipes;

(x) except in connection with the construction of the Horizontal Improvements and the Vertical Improvements, the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials; or

(xi) the washing of any vehicles or equipment, unless such use is reasonably required on a temporary basis to comply with the Mitigation Monitoring and Reporting Program or the Soil Management Plan during construction of the Horizontal Improvements or otherwise done in accordance with an approved Operations Plan.

(b) Restrictions on Encumbering Port's Reversionary Interest. Tenant may not enter into agreements granting licenses, easements or access rights over the Premises (collectively, "**Access Rights**") if the same would be binding on Port's reversionary interest in the Premises without Port's prior written consent, which consent may be withheld in Port's sole discretion. Notwithstanding the foregoing, the Parties acknowledge that Master Developer's obligations to deliver the Horizontal Improvements under the DDA (including the Infrastructure Plan), and the requirements of the Master Utilities Plan, any Tentative Map and associated conditions of approval will require the dedication or granting of certain Access Rights that may be binding on Port's reversionary interest in the Premises. Port will not withhold its consent to any Access Rights that are consistent with matters previously approved by Port (including the DDA, Infrastructure Plan and any Tentative Map) or in the Master Utilities Plan; and will not unreasonably withhold its consent to Access Rights to private parties that are reasonably required for the functioning of the Horizontal Improvements or Vertical Improvements (e.g., private gas easements and private telecommunications easements).

4.6. ***Liquidated Damages for Repeat Prohibited Uses and Special Event Violations.*** In addition to the other remedies available to Port under this Lease for an Event of Default under ***Section 23.1(f)***, if Tenant uses the Premises in violation of this Lease for a Special Event or for the same type of Prohibited Use and Port has delivered a notice of such violations more than three (3) times within the prior twelve (12) month period, then Tenant will pay Port an amount equal to Two Thousand Five Hundred Dollars ($2,500.00) (as adjusted periodically, the "**Prohibited Use Charge**") for such Prohibited Use or Special Event violation as liquidated damages, which Two Thousand Five Hundred Dollars ($2,500.00) will be increased by fifteen percent (15%) on the fifth (5th) anniversary of the Commencement Date and every five (5) years thereafter.

THE PARTIES HAVE AGREED THAT PORT'S ACTUAL DAMAGES, IN THE EVENT TENANT USES THE PREMISES IN VIOLATION OF THIS LEASE FOR A SPECIAL EVENT OR FOR THE SAME TYPE OF PROHIBITED USE MORE THAN THREE (3) TIMES WITHIN A TWELVE (12) MONTH PERIOD, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. AFTER NEGOTIATION, THE PARTIES HAVE AGREED THAT, CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS LEASE, THE AMOUNT OF THE PROHIBITED USE CHARGE IS A REASONABLE ESTIMATE OF THE DAMAGES THAT PORT WOULD INCUR IN SUCH AN EVENT. BY PLACING THEIR RESPECTIVE INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS LEASE WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

Port Initials: _____	Tenant Initials: CMB

5. DEVELOPMENT PROJECTS.

5.1. ***Generally***. Tenant acknowledges that during the Term, other development projects will be developed or constructed on or near Port property in the vicinity of the Premises, such as the development projects at Pier 48, the individual development on the Development Parcels at the Project Site, the Chase Center, development at Mission Bay, the rehabilitation of the 3rd Street Bridge, Pier 70, and the proposed development of over 5 million square feet on the 29-acre Central Waterfront site at or around 1201 Illinois Street (bounded by Illinois, the Bay, 22nd and 23rd Streets) (collectively, "**Development Projects**"). Tenant is aware that construction of the Development Projects and other construction projects of Port tenants, licensees or occupants or projects of third parties in the vicinity of the Premises and the activities associated with such construction may generate adverse impacts on construction of the Horizontal Improvements, use and/or operation of the Premises after construction, or may result in inconvenience to or disturbance of Tenant and its Agents and Invitees. Said impacts may include increased vehicle and truck traffic, closure of traffic lanes, re-routing of traffic, traffic delays, loss of street and public parking, dust, dirt, construction noise, and visual obstructions (collectively, "**Construction Impacts**").

Tenant hereby waives any and all Losses against the Indemnified Parties arising out of any inconvenience or disturbance to Tenant, its Agents or Invitees, from Construction Impacts. The Parties will each use reasonable efforts to coordinate its construction efforts with each other and with others engaged in construction on such other projects in a manner that will seek, to the extent reasonably possible, to reduce construction conflicts.

5.2. ***Cooperation***. Tenant acknowledges and agrees that it will reasonably cooperate with Port, each tenant or developer of the Development Parcels in the Project Site and Pier 48 and any future tenants or occupants of the Project Site (collectively, the "**Mission Rock Parties**") in the development of Mission Rock and Pier 48, at no material out-of-pocket cost to Tenant. In furtherance of the development of Project Site, Tenant will enter into licenses with Vertical Developers that provide Vertical Developers access to (i) applicable Development Parcels under the control of Tenant if the applicable Vertical Developer desires to conduct due diligence on such parcel before close of escrow on such parcel, the form of which is attached hereto as ***Exhibit J***, or (ii) portions of the Premises that are outside the applicable Development Parcel in order for Vertical Developer to construct any Deferred Infrastructure.

5.3. ***Tenant Deliveries Related to Vertical Development***. Subject to satisfaction of all conditions precedent for release of a Development Parcel from the Premises, as set forth in the DDA, no less than five (5) business days prior to the Anticipated Conveyance Date of each Development Parcel, Tenant will deliver into Escrow, the following documents:

(a) a duly executed and acknowledged DDA and Master Lease Partial Release;

(b) a duly executed estoppel certificate for the benefit of Port, the Vertical Developer and Vertical Developer's lenders, in the form attached hereto as ***Exhibit K-1***;

(c) a duly executed ground lessee's affidavit and, if required by the title insurance company, a mechanic's lien indemnity (excluding any work performed by Port) reasonably acceptable to Tenant and the title insurance company issuing title insurance on the applicable Development Parcel;

(d) a duly executed Coordination Agreement reasonably acceptable to both Master Developer and Vertical Developer; and

(e) such other documents reasonably requested by Port, or Vertical Developer, to consummate the delivery of the applicable Development Parcel to Vertical Developer.

(ix) except in connection with the construction of the Horizontal Improvements and the Vertical Improvements, the storage of any and all excavated materials, including but not limited to, dirt, concrete, sand, asphalt, and pipes;

(x) except in connection with the construction of the Horizontal Improvements and the Vertical Improvements, the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials; or

(xi) the washing of any vehicles or equipment, unless such use is reasonably required on a temporary basis to comply with the Mitigation Monitoring and Reporting Program or the Soil Management Plan during construction of the Horizontal Improvements or otherwise done in accordance with an approved Operations Plan.

(b) Restrictions on Encumbering Port's Reversionary Interest. Tenant may not enter into agreements granting licenses, easements or access rights over the Premises (collectively, "**Access Rights**") if the same would be binding on Port's reversionary interest in the Premises without Port's prior written consent, which consent may be withheld in Port's sole discretion. Notwithstanding the foregoing, the Parties acknowledge that Master Developer's obligations to deliver the Horizontal Improvements under the DDA (including the Infrastructure Plan), and the requirements of the Master Utilities Plan, any Tentative Map and associated conditions of approval will require the dedication or granting of certain Access Rights that may be binding on Port's reversionary interest in the Premises. Port will not withhold its consent to any Access Rights that are consistent with matters previously approved by Port (including the DDA, Infrastructure Plan and any Tentative Map) or in the Master Utilities Plan; and will not unreasonably withhold its consent to Access Rights to private parties that are reasonably required for the functioning of the Horizontal Improvements or Vertical Improvements (e.g., private gas easements and private telecommunications easements).

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Port Initials: ED	Tenant Initials: _____

5. DEVELOPMENT PROJECTS.

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Tenant hereby waives any and all Losses against the Indemnified Parties arising out of any inconvenience or disturbance to Tenant, its Agents or Invitees, from Construction Impacts. The Parties will each use reasonable efforts to coordinate its construction efforts with each other and with others engaged in construction on such other projects in a manner that will seek, to the extent reasonably possible, to reduce construction conflicts.

5.2. ***Cooperation***. Tenant acknowledges and agrees that it will reasonably cooperate with Port, each tenant or developer of the Development Parcels in the Project Site and Pier 48 and any future tenants or occupants of the Project Site (collectively, the "**Mission Rock Parties**") in the development of Mission Rock and Pier 48, at no material out-of-pocket cost to Tenant. In furtherance of the development of Project Site, Tenant will enter into licenses with Vertical Developers that provide Vertical Developers access to (i) applicable Development Parcels under the control of Tenant if the applicable Vertical Developer desires to conduct due diligence on such parcel before close of escrow on such parcel, the form of which is attached hereto as ***Exhibit J***, or (ii) portions of the Premises that are outside the applicable Development Parcel in order for Vertical Developer to construct any Deferred Infrastructure.

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(b) a duly executed estoppel certificate for the benefit of Port, the Vertical Developer and Vertical Developer's lenders, in the form attached hereto as ***Exhibit K-1***;

(c) a duly executed ground lessee's affidavit and, if required by the title insurance company, a mechanic's lien indemnity (excluding any work performed by Port) reasonably acceptable to Tenant and the title insurance company issuing title insurance on the applicable Development Parcel;

(d) a duly executed Coordination Agreement reasonably acceptable to both Master Developer and Vertical Developer; and

(e) such other documents reasonably requested by Port, or Vertical Developer, to consummate the delivery of the applicable Development Parcel to Vertical Developer.

Upon request from each Vertical Developer, Tenant will also enter into a license in the form attached hereto as ***Exhibit J*** to provide Vertical Developer access to the applicable Development Parcel for such Vertical Developer to perform due diligence and site investigation prior to the Anticipated Conveyance Date.

6. TAXES AND ASSESSMENTS.

6.1. *Payment of Taxes and Other Impositions*.

(a) Payment of Taxes. Tenant will pay or cause to be paid to the proper authority prior to delinquency, all Impositions assessed, levied, confirmed or imposed on the Premises or any of the Improvements, Horizontal Improvements, or Personal Property (excluding the personal property of any Subtenant whose interest is separately assessed) located on the Premises or on its Leasehold Estate (but excluding any such taxes separately assessed, levied or imposed on any Subtenant), or on any use or occupancy of the Premises hereunder, to the full extent of installments or amounts payable or arising during the Term, whether in effect at the Commencement Date or which become effective thereafter. Tenant further recognizes and agrees that the Leasehold Estate may be subject to the payment of special taxes, including without limitation a levy of special taxes to finance energy efficiency, water conservation, water pollution control and similar improvements under the Special Tax Financing Law in Chapter 43 Article X of the Administrative Code. Tenant will not permit any such Impositions to become a defaulted lien on the Premises or the Improvements (including the Horizontal Improvements) thereon. All such taxes must be paid directly to the City's Office of the Treasurer & Tax Collector or other charging authority prior to delinquency, provided that if applicable Law permits Tenant to pay such taxes in installments, Tenant may elect to do so. In addition, Tenant will pay any fine, penalty, interest or cost as may be charged or assessed for nonpayment or delinquent payment of such taxes. Subject to ***Section 6.2***, Tenant will have the right to contest the validity, applicability or amount of any taxes in accordance with ***Article 7***. In the event of any dispute, Tenant will Indemnify the Indemnified Parties from and against all Losses resulting therefrom.

(i) *Acknowledgment of Possessory Interest*. Tenant specifically recognizes and agrees that this Lease creates a possessory interest that is subject to taxation, and that this Lease requires Tenant to pay any and all possessory interest taxes levied upon Tenant's Leasehold Estate pursuant to an assessment lawfully made by the Assessor-Recorder. Tenant further acknowledges that any Sublease, Transfer or any exercise of any option to renew or extend this Lease may constitute a change in ownership, within the meaning of the California Revenue and Taxation Code, and therefore may result in a reassessment of any possessory interest created hereunder in accordance with applicable Law.

(ii) *Reporting Requirements*. San Francisco Administrative Code Sections 23.38 and 23.39 (or any successor Law) requires that Port provide certain information relating to this Lease, and the creation, renewal, extension, assignment, sublease, or other transfer of this Lease or any interest granted hereunder, to the Assessor-Recorder within sixty (60) days after any such transaction, and that upon Port's request, Tenant will report certain information to Port within thirty (30) days of any transaction that is subject to the reporting requirements of Administrative Code Section 23.39. Tenant agrees to timely provide such information as may be requested by Port to enable Port to comply with this requirement.

(b) Other Impositions. Without limiting the provisions of ***Section 6.1(a)***, and except as otherwise provided in this ***Section 6.1(b)***, Tenant will pay or cause to be paid all Impositions, to the full extent of installments or amounts payable or arising during the Term, which may be assessed, levied, confirmed or imposed on or in respect of or be a lien upon the Premises, any Horizontal Improvements or other Improvements now or hereafter located thereon, any Personal Property now or hereafter located thereon (but excluding the personal property of any Subtenant whose interest is separately assessed), the Leasehold Estate, or any subleasehold estate permitted hereunder, including any taxable possessory interest which Tenant,

any Subtenant or any other Person may have acquired pursuant to this Lease (but excluding any such Impositions separately assessed, levied or imposed on any Subtenant). Subject to the provisions of ***Article 7***, Tenant will pay all Impositions directly to the taxing authority, prior to delinquency, provided that if any applicable Law permits Tenant to pay any such Imposition in installments, Tenant may elect to do so. In addition, Tenant will pay any fine, penalty, interest or cost as may be assessed for nonpayment or delinquent payment of any Imposition. As used herein, "**Impositions**" means all taxes (including possessory interest, real, personal and Mello-Roos Taxes), assessments, liens, levies, fees, charges, or expenses of every description, levied, assessed, confirmed, or imposed by a governmental or quasi-governmental entity on the Premises, any of the Horizontal Improvements, Improvements or Personal Property located on the Premises, the Leasehold Estate, any subleasehold estate, or any use or occupancy of the Premises hereunder. Impositions includes all such taxes, assessments, liens, levies, fees charged or expenses of every description, whether general or special, ordinary or extraordinary, foreseen or unforeseen, or hereinafter levied or assessed in lieu of or in substitution of any of the foregoing of every character, including, without limitation, Mello-Roos Taxes under the Mission Rock CFD. The foregoing or subsequent provisions notwithstanding, Tenant will not be responsible for any Impositions arising from or related to, Port's fee ownership interest in the Premises, Port's interest as landlord under this Lease, or any transfer thereof, including but not limited to, Impositions relating to the fee, transfer taxes associated with the conveyance of the fee, or business or gross rental taxes attributable to Port's fee interest or transfer thereof.

(c) Proof of Compliance. Within a reasonable time following Port's written request, which Port may give at any time, Tenant will deliver to Port copies of official receipts of the appropriate taxing authorities, or other proof reasonably satisfactory to Port, evidencing the timely payment of such Impositions.

6.2. ***CFD Matters and Shortfall Provisions.***.

(a) Section 53341.5 Acknowledgment. After the CFD proceedings are final, Tenant will deliver to Port an acknowledgment (the "**Notice of Special Tax**") in a form reasonably approved by Port confirming that Tenant has been advised of the terms and conditions of the Mission Rock CFD, including that the Premises is subject to the Mello-Roos Taxes (as defined in the DDA).

(b) Facilities and Maintenance CFD. As material consideration for Port entering into this Lease, once finalized, Tenant will comply with all of the covenants and acknowledgements relating to the Mission Rock CFD, which shall be set forth in ***Exhibit G*** (CFD and Assessment Matters) that will be attached hereto after the Commencement Date, which covenants and acknowledgements will be recorded against title to the Premises and survive the expiration or earlier termination of this Lease.

(c) Shortfall Provisions.

(i) *Tenant Waiver and Covenant*. Tenant may initiate a Reassessment to reduce a Baseline Assessed Value of the Premises, but may not initiate, and waives any right to initiate, a Reassessment of the Subsequent Assessed Value of the Premises until the IFD Termination Date. In addition, Tenant covenants that should Tenant initiate a Reassessment in violation of this ***Section 6.2(c)***, Tenant and Port will take the following measures to avoid shortfalls:

(1) For each year during the period provided in ***Section 6.2(c)(i)(2)***, Tenant will pay Port the Assessment Shortfall within 20 days after Port delivers its payment demand. Amounts not paid when due will bear interest at the rate of 10%, compounded annually, until paid.

(2) The obligation to pay the Assessment Shortfall will begin in the City Fiscal Year following the Reassessment and continue until the earlier to occur of the

following dates: (A) the IFD Termination Date; and (B) when the Assessment Shortfall is reduced to zero.

(ii) *Payment of the Assessment Shortfall*. Payment of the Assessment Shortfall will constitute a cure of any Event of Default with respect to any breach by Tenant of the covenant and waiver in ***Section 6.2(c)(i)*** (Tenant Waiver and Covenant).

(iii) *Tax Exemption*. Tenant and Port do not intend for this ***Section 6.2(c)*** to affect the tax-exempt status of any Bonds. Should the Tax Code change, or the Internal Revenue Service or a court of competent jurisdiction issue a ruling that might cause any tax-exempt Bonds to be deemed taxable due to the requirements under this ***Section 6.2(c)***, Port will release the obligations under this ***Section 6.2(c)*** and it will be deemed severed from this Lease.

(iv) *Mutual Expectations as to Shortfall Measures*. Neither Tenant nor Port expects Port to make demand for payment under this ***Section 6.2(c)***. In light of the Parties' mutual expectations, Tenant has agreed to the waiver in ***Section 6.2(c)(i)*** (Tenant Waiver and Covenant).

(v) *No Negotiation*. Tenant understands that Port would not be willing to enter into this Lease without this ***Section 6.2(c)***.

6.3. ***Port's Right to Pay***. Unless Tenant is exercising its right to contest in accordance with the provisions of ***Article 7***, Tenant fails to pay and discharge any Imposition (including fines, penalties and interest) prior to delinquency, Port, at its sole option, may (but is not obligated to) pay or discharge the same; provided that prior to paying any such delinquent Imposition, Port will give Tenant written notice specifying a date that is at least ten (10) days following the date such notice is given after which Port intends to pay such Impositions. If Tenant fails, on or before the date specified in such notice, either to pay the delinquent Imposition or to notify Port that it is currently contesting such Impositions pursuant to ***Article 7***, then Port may thereafter pay such Imposition, and the amount so paid by Port (including any interest and penalties thereon paid by Port), together with interest at the Default Rate computed from the date Port makes such payment, will be payable by Tenant as Additional Rent.

6.4. ***Information Required by the Assessor-Recorder*** .

(a) The Assessor-Recorder has notified Port that pursuant to Revenue and Taxation Code Section 441(d) (or any successor or otherwise applicable Law), it requires certain information, in order to facilitate completion of Assessor Block Maps, updates to ownership records, imposition of transfer tax, and assessment of in-progress construction, completed new construction, sales and other assessable transfers of property (each a "**Potential Assessment**"). ***Exhibit L*** lists the information that the Assessor-Recorder expects to need in order to perform the foregoing tasks (the "**Assessor Information**").

(b) With respect to a Potential Assessment, Tenant will provide to the Assessor-Recorder in accordance with Revenue and Taxation Code Section 441(d) (or any successor or otherwise applicable Law), any Assessor Information requested in writing by the Assessor-Recorder in the format reasonably required by the Assessor-Recorder (the "**Requested Information**") within ninety (90) days (or within such other period as required or permitted by Law) of Tenant's receipt of a written request for such Requested Information ("**Initial Response Period**"). Tenant is not required to provide to Port information submitted to the Assessor-Recorder pursuant to this ***Section 6.4*** if such information is not required to be provided under Administrative Code Sections 23.38 or 23.39, or any other applicable Law or contractual requirement, but Tenant shall copy Port on the transmittal to the Assessor-Recorder which shall only list, but not include, such Requested Information provided to the Assessor-Recorder. Tenant waives any right to confidentiality under applicable Law only to the extent necessary for the Assessor-Recorder to notify Port of Tenant's failure to provide the Requested Information on a timely basis and Port to exercise its right as set forth in ***Section 6.4(d)***. Except as specifically

provided in the preceding sentence, neither the provisions of this Lease, nor the submission by Tenant to the Assessor-Recorder of any information pursuant to this ***Section 6.4*** will be considered a waiver of or limitation on Tenant's rights under applicable Law of taxpayer confidentiality, attorney-client or other applicable privilege, the Assessor-Recorder's duty to prevent the disclosure of taxpayer information, and exemptions from the California Public Records Act and San Francisco Sunshine Ordinance applicable to information provided to the Assessor-Recorder.

(c) If Tenant does not provide all of the Requested Information to the Assessor-Recorder within the Initial Response Period and has not provided notice to Port and the Assessor-Recorder that it is contesting in good faith, the Assessor-Recorder's right to all or any portion of the Requested Information, Port or the Assessor-Recorder will deliver to Tenant notice that the Assessor-Recorder has not yet received the Requested Information ("**Notice for Information**"). Within thirty (30) days of Port's or the Assessor-Recorder's delivery of the Notice for Information ("**Response Period**"), Tenant must provide to the Assessor-Recorder the Requested Information or deliver notice to Port and the Assessor-Recorder that Tenant is contesting in good faith the Assessor-Recorder's right under applicable Law to the Requested Information that has not been provided by Tenant ("**Contest Notice**"). If the Assessor-Recorder does not receive the Requested Information within the Response Period, or Port and the Assessor-Recorder do not receive the Contest Notice within the Response Period, then Port or the Assessor-Recorder may deliver to Tenant additional Notice(s) for Information until the Requested Information or Contest Notice, as applicable, is received.

(d) Tenant will have the same Response Period to provide the Requested Information or Contest Notice, as applicable, for each Notice for Information delivered to Tenant. There is no fee for Tenant's failure to timely respond to the first Notice for Information delivered to Tenant with respect to each Potential Assessment. If Tenant fails to provide either the Requested Information or a Contest Notice within the Response Period following any subsequent Notice for Information with respect to the same Potential Assessment, Tenant must pay to Port a fee equal to $5000 for the second Notice for Information delivered to Tenant; $10,000 for the third Notice for Information delivered to Tenant; and $25,000 for the fourth Notice for Information delivered to Tenant (each fee an "**Information Charge**"), which Information Charge will increase by $1,000 in 2023 and every five (5) years thereafter. Each Information Charge is due and payable to Port the day immediately following the expiration of the applicable Response Period. If Port has not received the Requested Information within the Response Period following delivery of the fourth (4th) Notice for Information, then Port will have the right to exercise all rights and remedies available at law or in equity to enforce Tenant's obligation to provide Requested Information on a timely basis, including specific performance; provided, however, Port will not exercise any remedy for Tenant's failure to provide such Requested Information so long as Tenant is challenging in good faith, its obligation to turn over the Requested Information.

(e) Promptly following the Assessor-Recorder's request, Port may, from time to time, update the information requirements set forth in the most current Assessor Information to reference different or additional information requirements to which the Assessor-Recorder is entitled by Law, by providing Tenant no less than five (5) business days' prior notice and a replacement copy of the updated Assessor Information.

6.5. ***Survival***. The provisions of this ***Article 6*** will survive the expiration or earlier termination of this Lease.

7. CONTESTS.

Subject to ***Section 6.2***, Tenant has the right to contest the amount, validity or applicability, in whole or in part, of any Impositions, mechanics' lien or encumbrance (including any arising from work performed or materials provided to Tenant or any Subtenant to improve all or a portion of the Premises) by appropriate proceedings conducted in good faith and with due

diligence, at no cost to Port, provided that, prior to commencement of such contest, Tenant notifies Port of such contest. Tenant must notify Port of the final determination of such contest within fifteen (15) days after such determination. Subject to ***Section 6.2,*** nothing in this Lease requires Tenant to pay any Impositions, mechanics' lien, or encumbrance so long as Tenant contests the validity, applicability or amount of such Impositions, mechanics' lien or encumbrance in good faith, and so long as it does not allow the portion of the Premises affected by such Impositions, mechanics' lien or encumbrance to be forfeited to the entity levying such Impositions, mechanics' lien or encumbrance as a result of its nonpayment. If any Law requires as a condition to such contest, that the disputed amount be paid under protest, or that a bond or similar security be provided, Tenant must comply with such condition as a condition to its right to contest. Tenant is responsible for the payment of any interest, penalties or other charges that may accrue as a result of any contest, and Tenant must provide a statutory lien release bond or other security reasonably satisfactory to Port in any instance where Port's interest in the Premises may be subjected to such lien or claim. Tenant is not required to pay any Impositions, mechanics' lien or encumbrance being so contested during the pendency of any such proceedings unless payment is required by the court or agency conducting such proceedings. Port, at its own expense and at its sole option, may elect to join in any such proceeding whether or not any Law requires that such proceedings be brought by or in the name of Port or any owner of the Premises. Port will not be subjected to any liability for the payment of any fines or penalties, and except as provided in the precedent sentence, costs, expenses, or fees, including Attorneys' Fees and Costs, in connection with any such proceeding. Without limiting ***Article 28***, Tenant will Indemnify the Indemnified Parties for all Losses resulting from Tenant's contest of any Imposition, mechanics' lien or encumbrance.

8. COMPLIANCE WITH LAWS AND OTHER REQUIREMENTS.

8.1. ***Tenant's Obligation to Comply***. Subject to ***Section 8.2***, during the Term, Tenant will comply with, at no cost to Port, (i) all applicable Laws (taking into account any variances or other deviations properly approved), (ii) the Soil Management Plan, (iii) the DDA, (iv) the Mitigation Monitoring and Reporting Program, and (v) the Environmental Covenants. The foregoing sentence will not be deemed to limit Port's ability to act in its legislative or regulatory capacity, including the exercise of its police powers. In particular, Tenant acknowledges that the Permitted Uses do not limit Tenant's responsibility to obtain Regulatory Approvals for such Permitted Uses, nor do such Permitted Uses limit Port's responsibility in the issuance of any such Regulatory Approvals to comply with applicable Laws. Subject to ***Section 8.2***, it is understood and agreed that Tenant's obligation to comply with Laws includes the obligation to make, at no cost to Port, all additions to, modifications of, and installations on the Premises that may be required by any Laws relating to or affecting the Premises.

8.2. ***Unforeseen Requirements***.

(a) The Parties acknowledge and agree that Tenant's obligation under this ***Section 8.2*** to comply with all Laws and the other requirements set forth in ***Section 8.1*** is a material part of the bargained-for consideration under this Lease.

(b) Notwithstanding ***Section 8.2(a)***, the Parties acknowledge that the primary purpose of this Lease is for the implementation of the Project under the DDA, including construction of the Horizontal Improvements, not for the occupancy, use, repair or maintenance of Improvements existing as of the Commencement Date, except as expressly required under the DDA or required or permitted hereunder. Therefore, except as set forth in ***Section 8.2(c)***, no occurrence or situation arising during the Term, or any Law, whether foreseen or unforeseen, and however extraordinary, relieves Tenant from its liability to pay all of the sums required by any of the provisions of this Lease, or otherwise relieves Tenant from any of its obligations under this Lease or the DDA, or gives Tenant any right to terminate this Lease in whole or in part.

(c) Tenant will have no obligation to comply with a change in Law occurring after the Commencement Date that requires substantial improvements to the Premises to

continue Parking Operations or hold Special Events, the cost of which is economically infeasible based on the projected revenues from such uses and recognizing the future development of the Project, if, as an alternative, Tenant can take reasonable measures to obviate the applicability of such change in Laws or cease Parking Operations or holding Special Events; provided, however, Tenant shall Indemnify Port for any Losses suffered by Port as a result of Tenant's failure to comply with such change in Laws.

(d) Tenant waives any rights now or hereafter conferred upon it by any Law to terminate this Lease or to receive any abatement, diminution, reduction or suspension of payment of such sums, on account of any such occurrence or situation, provided that such waiver will not affect or impair any right or remedy expressly provided Tenant under this Lease.

9. REGULATORY APPROVALS.

9.1. ***Port Acting as Owner of Property.*** Tenant understands and agrees that Port is entering into this Lease in its proprietary capacity as the holder of fee title to the Premises and not as a Regulatory Agency with certain police powers. By entering into this Lease, Port is in no way modifying or limiting the obligation of Tenant to obtain any required Regulatory Approvals from Regulatory Agencies, and to cause the Premises to be used and occupied in accordance with all Laws and required Regulatory Approvals. Tenant acknowledges and agrees that Port has made no representation or warranty that the necessary Regulatory Approvals to allow for the development of the Horizontal Improvements or other Improvements can be obtained. Tenant further acknowledges and agrees that although Port is an agency of the City, Port staff and executives have no authority or influence over officials or Regulatory Agencies responsible for the issuance of any Regulatory Approvals, including Port and/or City officials acting in a regulatory capacity. Accordingly, there is no guarantee, nor a presumption, that any of the Regulatory Approvals required for the approval or development of the Horizontal Improvements or other Improvements will be issued by the appropriate Regulatory Agencies, and Tenant understands and agrees that neither entry by Port into this Lease nor any approvals given by Port under this Lease will be deemed to imply that Tenant will obtain any required approvals from Regulatory Agencies which have jurisdiction over the Horizontal Improvements, other Improvements and/or the Premises, including Port itself in its regulatory capacity. Port's status as an agency of the City in no way limits the obligation of Tenant, at Tenant's own cost and initiative, to obtain Regulatory Approvals from Regulatory Agencies that have jurisdiction over the Horizontal Improvements or other Improvements. By entering into this Lease, Port is in no way modifying or limiting Tenant's obligations to cause the Premises to be developed, Restored, used and occupied in accordance with all Laws. Tenant further acknowledges and agrees that any time limitations on Port review or approval within this Lease applies only to Port in its proprietary capacity, not in its regulatory capacity. Without limiting the foregoing, Tenant understands and agrees that Port staff have no obligation to advocate, promote or lobby any Regulatory Agency and/or any local, regional, state or federal official for any Regulatory Approval, for approval of the Horizontal Improvements or other Improvements or other matters related to this Lease, and any such advocacy, promotion or lobbying will be done by Tenant at Tenant's sole cost and expense. Tenant hereby waives any Claims against the Indemnified Parties, and fully releases and discharges the Indemnified Parties to the fullest extent permitted by Law, from any Losses relating to the failure of Port (in its regulatory capacity), the City or any Regulatory Agency from issuing any required Regulatory Approval or from issuing any approval of the Horizontal Improvements or other Improvements; provided, however, such waiver does not include a waiver of any administrative or other remedy that a third-party permittee would otherwise have under applicable Law against such Regulatory Agency for its election not to issue the applicable Regulatory Approval.

9.2. ***Regulatory Approval; Conditions.*** The provisions of this ***Section 9.2*** do not apply to Regulatory Approvals required for development of the Horizontal Improvements pursuant to the DDA, which are governed by the DDA. Tenant understands that Tenant's use of and operations on the Premises for the Ancillary Permitted Uses may require Regulatory

Approvals from Regulatory Agencies, which may include the City, Port, the RWQCB, SFPUC, and other Regulatory Agencies. Tenant is solely responsible for obtaining any such Regulatory Approvals, as further provided in this ***Section 9.2***.

Port, at no cost to Port, will cooperate reasonably with Tenant in its efforts to obtain such Regulatory Approvals, including submitting letters of authorization for submittal of applications consistent with applicable Laws and to further terms and conditions of this Lease, including without limitation, being a co-permittee with respect to any such Regulatory Approvals. However, if Port is required to be a co-permittee under any such permit, then Port will not be subject to any conditions and/or restrictions under such permit that could (a) encumber, restrict or adversely change the use of any Port property other than the Premises, unless in each instance Port has previously approved, in Port's sole and absolute discretion, such conditions or restrictions and Tenant has assumed all obligations and liabilities related to such conditions and/or restrictions; (b) restrict or change the use of the Premises in a manner not otherwise permitted under this Lease; or (c) subject Port to unreimbursed costs or fees, unless in each instance Port has previously approved, in Port's reasonable discretion, such conditions and/or restrictions and Tenant has assumed all obligations and liabilities related to such conditions, restrictions, and/or Port's unreimbursed costs or fees.

Port will provide Tenant with its approval or disapproval thereof in writing to Tenant within ten (10) business days after receipt of Tenant's written request, or if Port's Executive Director reasonably determines that Port Commission or Board of Supervisors action is required under applicable Laws, at the first Port and subsequent Board of Supervisors hearings after receipt of Tenant's written request subject to notice requirements and reasonable staff preparation time, not to exceed forty-five (45) days for Port Commission action alone and seventy-five (75) days if both Port Commission and Board of Supervisors action is required, provided such period may be extended to account for any recess or cancellation of board or commission meetings. Port will join in any application by Tenant for any required Regulatory Approval and execute such permit where required, provided that Port has no obligation to join in any such application or sign the permit if Port does not approve the conditions or restrictions imposed by the Regulatory Agency under such permit as set forth above in this ***Section 9.2***. Tenant further acknowledges and agrees that any time limitations on Port review or approval within this Lease apply only to Port in its proprietary capacity, not in its regulatory capacity.

Tenant will bear all costs associated with (1) applying for and obtaining any necessary Regulatory Approvals, and (2) complying with any and all conditions or restrictions imposed by Regulatory Agencies as part of any Regulatory Approval, including the economic costs of any development concessions, waivers, or other impositions, and whether such conditions or restrictions are on-Premises or require off-Premises improvements, removal, or other measures. Tenant in its sole discretion has the right to appeal or contest any condition in any manner permitted by Law imposed by any such Regulatory Approval; provided, however, if Port is a co-permittee, then Tenant will have first obtained Port's prior consent, not to be unreasonably withheld, prior to commencing any such appeal or contest. Tenant will provide Port with prior notice of any such appeal or contest and keep Port informed of such proceedings. Tenant will pay or discharge any fines, penalties or corrective actions imposed as a result of the failure of Tenant to comply with the terms and conditions of any Regulatory Approval. No Port approval will limit Tenant's obligation to pay all the costs of complying with any conditions or restrictions.

Without limiting any other Indemnification provisions of this Lease, Tenant will Indemnify the Indemnified Parties from and against any and all Losses which may arise in connection with Tenant's failure to obtain or seek to obtain in good faith, or to comply with the terms and conditions of any Regulatory Approval which will be necessary to operate the Premises in accordance with the terms hereof except to the extent that such Losses arise from the gross negligence or willful acts or omissions of an Indemnified Party acting in its proprietary (and not its regulatory) capacity.

10. TENANT'S MANAGEMENT AND OPERATING COVENANTS.

10.1. ***Mitigation Monitoring and Reporting Program.*** In order to mitigate any potential significant environmental impacts of the Project and operation of the Premises, Tenant agrees that the development and operation of the Project will be in accordance with the applicable mitigation measures set forth in the Mitigation Monitoring and Reporting Program attached as ***Exhibit M***. As appropriate, Tenant will incorporate applicable provisions of the Mitigation Monitoring and Reporting Program into any contract for the development of the Horizontal Improvements and/or operation of the Horizontal Improvements and the Premises.

10.2. ***Special Events.*** All Special Events must be conducted and comply with all the conditions set forth in ***Exhibit N***; provided, however, if the City's Entertainment Commission issues to Tenant a Place of Entertainment Permit for Special Events at the Premises (the "**PEP Permit**"), and the terms and conditions of such PEP Permit conflict with the conditions set forth in ***Exhibit N***, then such terms and conditions of the PEP Permit will control over the applicable terms of ***Exhibit N.***

10.3. ***Parking Operations.***

(a) **Generally**. Tenant may operate the Premises as a parking lot, including, without limitation, for parking in connection with Ballpark Events and Special Events, parking for Project tenants and residents, and general public parking. Tenant (or CBBC) may retain a Parking Operator and enter into an agreement with such Parking Operator for the Parking - Operations on the Premises or any portion thereof, either as a Subtenant or as an Agent of Tenant ("**Parking Operator Agreement**"). Tenant or its Parking Operator may enter into use agreements or licenses with third parties for parking on an hourly, daily, weekly or monthly basis that are not inconsistent with the terms and conditions of this Lease (collectively, "**Parking Use Agreements**;" together with Parking Operator Agreement, "**Parking Agreements**").

(b) **Non-Exclusive; Market Rates**. Other than the discounted parking rates that may be offered by Tenant to certain parkers and reserving certain areas for certain parkers, both in accordance with ***Section 10.3(c)***, all parking spaces will be available to the general public at least 8 consecutive hours daily on a non-exclusive basis only and offered at fair market rates on either a daily basis or a monthly basis.

(c) **Limitation on Discounted Parking Spaces and Rates**. Tenant may provide discounted rates at the Premises to individuals involved in Ballpark operations, Ballpark tenants, or to Giants season ticket holders, and Tenant may also reserve sections of the Premises from time to time for certain parkers (i.e. ticket holders for suites at the Ballpark), all consistent with CBBC's historical practice, as described in ***Exhibit O*** attached hereto and with the following limitations:

(i) The number of parking spaces that may be discounted for individuals involved in Ballpark operations and Ballpark tenants may not exceed twenty-five percent (25%) of the total number of parking spaces on the Premises and Pier 48 at any given time; and

(ii) The discounted parking rate for

(1) individuals involved in Ballpark operations on Ballpark Event or Special Event days cannot be less than twenty percent (20%) of the fair market parking rate for such Ballpark Event and Special Event, as applicable;

(2) Ballpark tenants cannot be less than sixty-two percent (62%) of the fair market daily rate; and

(3) Giants season ticket holders cannot be less than sixty-two and one-half percent (62.5%) of the fair market parking rate for Ballpark Events.

(d) **Parking Revenues**. All parking revenues will be applied in accordance with ***Exhibit D***.

(e) **Prevailing Rate of Wages and Displaced Work Protection Required for Workers**. Tenant will comply fully and be bound by all the requirements of Sections 21C.3 and 21C.7 of the City's Administrative Code. In general, the ordinance requires operators of public off-street parking lots, garages, or storage facilities for automobiles on property owned or leased by Port to pay employees working in such facilities not less than the Prevailing Rate of Wages, as defined by ordinance, including fringe benefits or the matching equivalents thereof, paid in private employment for similar work. The ordinance also requires the operator of such facilities to retain for a 90-day transition employment period, the Employees, as defined by the ordinance, who have worked at least 15 hours per week and have been employed by the immediately preceding operator or its subcontractors, if any, for the preceding twelve months or longer at the facility or facilities covered by the agreement with the Port, provided that just cause does not exist to terminate any Employee. The predecessor operator's Employees who worked at least 15 hours per week will be employed in order of their seniority with the predecessor.

(f) **Revenue Control Equipment**. Tenant will comply with Article 22 of the San Francisco Business and Tax Regulations Code, including, without limitation the requirement to install, maintain and use Revenue Control Equipment at the Premises. Tenant will immediately notify Port in writing of any audit, inspection, alleged violation, violation or penalty action taken under such Article by any Enforcing Agency, as defined by Article 22. In addition to any other requirements under this Lease, upon Port's request, Tenant will provide Port a copy of all information submitted to the Treasurer-Tax Collector and any other City department or official to demonstrate Tenant's compliance with Article 22.

(g) **Parking Agreements**. The Parking Operator Agreement must comply with ***Sections 10.3(e)*** and ***10.3(f)*** and contain each of the provisions set forth in ***Section 18.4*** as if the Parking Operator Agreement was a Pre-Approved Sublease except that all references to "Subtenant" in such section refers to the Parking Operator. Tenant may enter into Parking Use Agreements without Port's prior consent, but each Parking Operator Agreement must include a full release and waiver of all Claims against the Indemnified Parties and must comply with ***Section 10.3(a)*** and ***10.3(b)***. For purposes of this ***Section 10.3(g)***, any obligation to include such full release or waiver applies only to Parking Use Agreements where the user executes such agreement (as opposed to such user receiving a parking use ticket or parking stub); provided further, if the Parking Use Agreement contains a release waiver of Claims against the Parking Operator and/or Tenant, then Tenant will be deemed to have satisfied such obligation if the Indemnified Parties are also released and the user's waiver of Claims also includes the Indemnified Parties

10.4. ***Soil Management Plan***. Once the Soil Management Plan is approved by Port, DPH, and DTSC, Tenant will comply, and will cause its Agents to comply, with all applicable provisions of the Soil Management Plan. Any and all Subleases will require Subtenants (including its Agents) to comply with all applicable provisions of the Soil Management Plan.

11. REPAIR AND MAINTENANCE.

11.1. *Covenants to Repair and Maintain the Premises.*

(a) Tenant is obligated at its sole cost and expense to maintain, repair and replace any Improvements constructed by Tenant on the Premises, reasonable wear and tear excepted and subject further to all Regulatory Approvals.

(b) For purposes of this Lease, the term "**reasonable wear and tear**" will not include any deterioration in the condition or diminution of the value of any portion of the Premises in any manner whatsoever related directly or indirectly to Tenant's failure to comply with the terms and conditions of this Lease. Port is not obligated to make any repairs, replacement or renewals of any kind, nature or description whatsoever to the Premises nor to any

Horizontal Improvements, other Improvements or Subsequent Construction. Tenant hereby waives all rights to make repairs at Port's expense under Sections 1932(1), 1941 and 1942 of the California Civil Code or under any similar Law now or hereafter in effect.

(c) Tenant will have no repair and maintenance obligations with respect to the Outfall Infrastructure; provided, however, the foregoing will not reduce any obligation of Tenant to connect the Outfall Infrastructure with the Horizontal Improvements; and provided further that Tenant will promptly repair, at its sole cost, any damage to the Outfall Infrastructure caused by the development of the Horizontal Improvements.

11.2. ***Port's Right to Inspect.*** Port or the City may make periodic inspections of the Premises to inspect the construction and development of the Horizontal Improvements or as otherwise required or reasonably necessary to determine Tenant's compliance with this Lease, in all cases upon reasonable prior notice to Tenant during regular business hours. During an inspection, Port will comply with Master Developer's onsite safety measures and act reasonably to minimize any interference with Master Developer's construction activities. Port will provide a copy of any inspection reports prepared by Port or its Agents promptly following Master Developer's request, subject to Port's right to withhold documents otherwise privileged or confidential. Port disclaims any warranties, representations, and statements made in any reports, will have no liability or responsibility with respect to any warranties, representations, and statements, and will not be estopped from taking any action (including later claiming that the construction of the Horizontal Improvements is defective, unauthorized, or incomplete) or be required to take any action as a result of any inspection.

11.3. ***Right to Repair.*** In the event Tenant fails to maintain, repair, and replace the Premises, Horizontal Improvements, or the other Improvements, as applicable, in accordance with ***Section 11.1*** and such failure is likely to cause imminent physical harm to any Person or constitutes a violation of applicable Law, Port or the City may repair the same at Tenant's cost and expense and Tenant will reimburse Port or the City, as applicable, as provided in this ***Section 11.3***; provided, however, with respect to Tenant's failure to maintain and repair the Horizontal Improvements only, Port will call on the Maintenance and Repair Security first, if any, in lieu of expending its own funds for such repairs; provided however, if funds from the Maintenance and Repair Security are not available in a commercially reasonable timeframe, then Port may use its own funds for such repairs. Except in the event of an emergency, Port or the City, as applicable, will first provide no less than fifteen (15) days prior notice to Tenant before commencing any maintenance to or repair of any of the foregoing. If Tenant does not commence maintenance or repair of the affected Horizontal Improvements or provide assurances reasonably satisfactory to Port or the City, as applicable, that Tenant will commence maintenance or repair of the same within such fifteen (15) day period, then Port or the City, as applicable, may proceed to take the required action. If Port or the City, as applicable, elects to proceed with such repair or maintenance, then promptly following completion of any work taken by Port or the City, as applicable, pursuant to this ***Section 11.3***, Port or the City, as applicable, will deliver a detailed invoice of the work completed, the materials used and the costs relating thereto. Tenant also will pay to Port or the City, as applicable, an administrative fee equal to ten percent (10%) of the total "hard costs" of the work. "**Hard costs**" include the cost of materials and installation, but exclude any costs associated with design, such as architectural fees. Tenant will pay to Port or the City, as applicable, the amount set forth in the invoice within thirty (30) days after delivery of the invoice.

11.4. ***Maintenance Notice.*** In the event Port notifies Tenant of a failure to maintain and repair in accordance with ***Section 11.1*** ("**Maintenance Notice**"), Tenant will pay to Port, as Additional Rent, an amount equaling Three Hundred Dollars ($300), which amount will be increased by one hundred dollars on the tenth (10^{th}) Anniversary Date and every ten (10) years thereafter, upon delivery of the Maintenance Notice. In the event Port determines during subsequent inspection(s) that Tenant has failed to so maintain the Premises in accordance with Section ***11.1***, then Tenant will pay to Port, as Additional Rent, an amount equaling Four

Hundred Dollars ($400), which amount will be increased by One Hundred Dollars ($100.00) on the tenth (10th) Anniversary Date and every ten (10) years thereafter, for each additional Maintenance Notice, if applicable, delivered by Port to Tenant following each inspection. The Parties agree that the charges associated with each inspection of the Premises and delivery of each Maintenance Notice represent a fair and reasonable estimate of the administrative cost and expense which Port will incur by reason of Port's inspection of the Premises and issuance of each Maintenance Notice. Tenant's failure to comply with the applicable Maintenance Notice and Port's right to impose the foregoing charges is in addition to and not in lieu of any and all other rights and remedies of Port under this Lease. The amounts set forth in this ***Section 11.4*** are due within five (5) days following delivery of the applicable Maintenance Notice.

Tenant's Initials: CMB

12. HORIZONTAL IMPROVEMENTS.

12.1. ***Construction of the Horizontal Improvements***. The DDA will govern the construction of the Horizontal Improvements.

12.2. ***Tenant's Obligation to Make Horizontal Improvements Available for Use Prior to Acceptance***. Before Acceptance of the applicable Horizontal Improvements by the City, subject to the immediately following sentence, Tenant will have the right, but not the obligation, to make the Horizontal Improvements that (a) will be operated by the SFPUC, available for SFPUC's use without charge or any fee, and (b) would generally be available for the public's use, such as streets, sidewalks, parks and open space, available for use by all parties, including Vertical Developers, the general public, the City and Port, without charge or any fee. Notwithstanding the foregoing, Tenant will make available for use without charge, all Horizontal Improvements necessary for any Vertical Improvements to obtain a temporary certificate of occupancy.

12.3. ***Title to Improvements***. Tenant will own all Horizontal Improvements until they are Accepted by the City. Tenant will own during the Term all Subsequent Construction located on the Premises and all appurtenant fixtures, machinery and equipment installed therein (except for subtenant improvements to the extent owned by any subtenant pursuant to such sublease, trade fixtures and other personal property of Subtenants). Upon release of the applicable Horizontal Improvement Parcels that contain parks and open space that are Accepted by Port, title to the Improvements and Horizontal Improvements related to such parks and open space, including appurtenant fixtures (but excluding trade fixtures and other personal property of Tenant and its Subtenants), will vest in Port without further action of any Party, and without compensation or payment to Tenant. Tenant and its Subtenants have the right at any time, or from time to time, including, without limitation, at the expiration or upon the earlier termination of the Term, to remove Personal Property from the Premises; provided, however, that if the removal of Personal Property causes damage to the Premises, Tenant will promptly cause the repair of such damage at no cost to Port.

13. SUBSEQUENT CONSTRUCTION.

13.1. ***Port Approval.***

(a) **Generally**. Tenant will have the right, from time to time during the Term, to construct Subsequent Construction in accordance with the provisions of this ***Article 13***.

(b) **Subsequent Construction Requiring Port's Approval in Port's Sole Discretion**. Tenant has the right during the Term to perform Subsequent Construction in accordance with the provisions of this ***Article 13***, provided that Tenant cannot:

(i) Construct additional buildings or other additional above ground structures on Development Parcels prior to the applicable parcel's release from the Premises other than temporary buildings, and structures necessary to advance the Permitted Uses without

Port's prior approval, which approval may be withheld by Port in its sole discretion. Such temporary buildings and structures must be Demolished and Removed by Tenant prior to the applicable parcel's release from the Premises:

(ii) Other than as reasonably necessary during Subsequent Construction and only on a temporary basis, if there are any public access areas within the Premises, perform Subsequent Construction to the public access areas that would adversely affect the public access to, or the use or appearance of such public access areas; provided however, any closure of public access areas not necessary to protect the public or property or to reduce the risk of injury to person or the public during Subsequent Construction will require Port's prior consent.

13.2. ***Construction Schedule.***

(a) **Performance**. Once commenced, Tenant will prosecute all Subsequent Construction with reasonable diligence, subject to Force Majeure.

(b) **Reports and Information**. During periods of construction, Tenant will submit to Port written progress reports when and as reasonably requested by Port.

13.3. ***Construction.***

(a) **Commencement of Construction**. Tenant will not commence any Subsequent Construction until Tenant has obtained all building permits, other Regulatory Approvals and Port approvals to the extent required. Additionally, if any performance and/or payment bond, sub-guard insurance (or other insurance product), guaranty, or other security is obtained by or for the benefit of Tenant with respect to the payment of any funds or performance obligations associated with any Subsequent Construction, Tenant will cause to have (1) Port named as a co-obligee to any performance and/or payment bond, and (2) Port named as an additional insured with respect to any sub-guard or other insurance product; provided, however, Port's rights under such bond or insurance product will not be effective, and shall remain subordinate to the rights of Tenant, until the termination of this Lease.

(b) **Construction Standards**. All Subsequent Construction must be performed by duly licensed and bonded contractors or mechanics and must be accomplished expeditiously, diligently and in accordance with good construction and engineering practices and applicable Laws.

(c) **Reports and Information**. During periods of Subsequent Construction, Tenant will submit to Port written progress reports or other reports for the benefit of or requested by the Assessor-Recorder when and as reasonably requested by the Assessor-Recorder.

(d) **Costs of Construction**. Port will have no responsibility for costs of any Subsequent Construction and Tenant will pay (or cause to be paid) all such costs.

(e) **Construction Rights of Access**. During any period of Subsequent Construction, Port and its Agents have the right to enter areas in which Subsequent Construction is being performed, on reasonable prior written notice during customary construction hours, subject to the rights of Subtenants and to Tenant's right of quiet enjoyment under this Lease, to inspect the progress of the work; provided, however, that Port and its Agents will conduct their activities in such a way to minimize interference with Tenant and its operations to the extent feasible. Nothing in this Lease, however, will be interpreted to impose an obligation upon Port to conduct such inspections or any liability in connection therewith.

(f) **Prevailing Wages**. Any construction, alteration, demolition, installation, maintenance, repair, or laying of carpet at, or hauling of refuse from, the Premises comprise a public work if paid for in whole or part out of public funds. The terms "**public work**" and "**paid for in whole or part out of public funds**" as used in this Section are defined in California Labor Code Section 1720 et seq., as amended. Tenant agrees that any person performing labor for

Tenant on any public work at the Premises will be paid not less than the highest prevailing rate of wages consistent with the requirements of Section 6.22(E) of the San Francisco Administrative Code, and will be subject to the same hours and working conditions, and will receive the same benefits as in each case are provided for similar work performed in San Francisco County. Tenant will include in any contract for such labor a requirement that all persons performing labor under such contract will be paid not less than the highest prevailing rate of wages for the labor so performed. Tenant will require any contractor to provide, and will deliver to City upon request, certified payroll reports with respect to all persons performing such labor at the Premises.

(g) Compliance with Workforce Development Plan. Tenant agrees that it will comply with the Workforce Development Plan attached hereto as ***Exhibit P.***

13.4. ***Safety Matters***. Tenant, while performing any Subsequent Construction or maintenance or repair of the Horizontal Improvements or Improvements (for purposes of this ***Section 13.4*** only, "**Work**"), will undertake commercially reasonable measures in accordance with good construction practices to minimize the risk of injury or damage to adjoining portions of the Premises, the Horizontal Improvements, and Improvements and the surrounding property, or the risk of injury to persons or members of the public, caused by or resulting from the performance of its Work. Tenant will erect appropriate construction barricades to enclose the areas of such construction and maintain them until the Work has been substantially completed, to the extent reasonably necessary to minimize the risk of hazardous construction conditions.

13.5. ***Record Drawings***.

(a) With respect to any Subsequent Construction requiring a building permit (but excluding temporary structures), Tenant will furnish to Port one set of design/permit drawings in their finalized form and Record Drawings with respect to such Subsequent Construction within ninety (90) days following completion of the applicable Subsequent Construction and Port's written notice to Tenant requesting same. Record Drawings must be in the form of full-size, hard paper copies and converted into electronic format as (1) full-size scanned TIF files, and (2) AutoCad files of the completed and updated Final Construction Documents, as further described below, and in such format as is reasonably required by Port's building department at the time of submittal. As used in this Section "**Record Drawings**" means drawings, plans and surveys showing the Subsequent Construction as built on the Premises and prepared during the course of construction (including all requests for information, responses, field orders, change orders, and other corrections to the documents made during the course of construction). If Tenant fails to provide such Record Drawings to Port within the time period specified herein, and such failure continues for an additional ninety (90) days following an additional written request from Port, Port will thereafter have the right to cause an architect or surveyor selected by Port to prepare Record Drawings showing such Subsequent Construction, and the actual, third-party cost of preparing such Record Drawings must be reimbursed by Tenant to Port as Additional Rent. Nothing in this Section limits Tenant's obligations, if any, to provide plans and specifications in connection with Subsequent Construction under applicable regulations adopted by Port in its regulatory capacity. Tenant is permitted to disclaim any representations or warranties with respect to the design/permit drawings, Record Drawings or other plans and specifications provided hereunder, and, at Tenant's request, Port will provide Tenant with a release from liability for future use of the applicable materials, in a form acceptable to Tenant and Port.

(b) Record Drawing Requirements. Record Drawings must be no less than (24" x 36"), with mark-ups neatly drafted to indicate modifications from the original design drawings, scanned at 400 dpi. Each drawing will have a Port-assigned number placed onto the title block prior to scanning. An index of drawings must be prepared correlating drawing titles to the numbers. A minimum of ten (10) drawings will be scanned as a test, prior to execution of this requirement in full.

(c) **AutoCad Requirements**. The AutoCad files must be contained in Release 2006 or a later version, and drawings must be transcribed onto a compact disc(s) or DVD(s), as requested by Port. All X-REF, block and other referenced files must be coherently addressed within the environment of the compact disc or DVD, at Port's election. Discs containing files that do not open automatically without searching or reassigning X-REF addresses will be returned for reformatting. A minimum of ten (10) complete drawing files, including all referenced files, is required to be transmitted to Port as a test, prior to execution of this requirement in full.

(d) **Changes in Technology**. Port reserves the right to revise the format of the required submittals set forth in this ***Section 13.5*** as technology changes and new engineering/architectural software is developed.

14. UTILITY SERVICES.

14.1. ***Utility Services***. Tenant acknowledges and agrees that Port, in its proprietary capacity as owner of the Premises and landlord under this Lease, will not provide any utility services to the Premises or any portion of the Premises. Additionally, Tenant's construction of the various utility infrastructure as part of the Horizontal Improvements required under the DDA is a material bargained for consideration of this Lease. Tenant, at its sole expense (without impacting any reimbursement right Tenant or the Master Developer, as applicable, may have under the Financing Plan), must (i) arrange for the provision and construction of all on-site and off-site utilities necessary to construct, operate and use the Horizontal Improvements, all of the buildings and any other portion of the Premises for their intended use, (ii) be responsible for contracting with, and obtaining, all necessary utility and other services, as may be necessary and appropriate to the uses to which all of the Horizontal Improvements, Improvements and the Premises are put, and (iii) maintain and repair all utilities serving the Premises to the point provided by the respective utility service provider (whether on or off the Premises). Tenant also must coordinate with the respective utility service provider with respect to the installation of utilities, including providing advance notice to appropriate parties of trenching requirements.

Tenant will pay or cause to be paid as the same become due, all deposits, charges, meter installation fees, connection fees and other costs for all public or private utility services at any time rendered to the Premises or any part of the Premises, and will do all other things required for the maintenance, repair, replacement, and continuance of all such services. Tenant agrees, with respect to any public utility services provided to the Premises by City, that no act or omission of City in its capacity as a provider of public utility services, abrogates, diminishes, or otherwise affects the respective rights, obligations and liabilities of Tenant and Port under this Lease, or entitle Tenant to terminate this Lease or to claim any abatement or diminution of Rent. Further, Tenant covenants not to raise as a defense to its obligations under this Lease, or assert as a counterclaim or cross-claim in any litigation or arbitration between Tenant and Port relating to this Lease, any Losses arising from or in connection with City's provision (or failure to provide) public utility services, except to the extent to preserve its rights hereunder that failure to raise such Claim in connection with such litigation would result in a waiver of such Claim. The foregoing does not constitute a waiver by Tenant of any Claim it may now or in the future have (or claim to have) against any such public utility provider relating to the provision of (or failure to provide) utilities to the Premises.

14.2. ***Electricity***. ***Section 5.8(f)*** of the Development Agreement, a copy of which is attached hereto as ***Exhibit Q***, will govern Tenant's obligation to procure electricity for the Premises from the San Francisco Public Utilities Commission.

14.3. ***Energy Consumption***. Tenant acknowledges and agrees that Port has delivered a Disclosure Summary Sheet, Statement of Energy Performance, Data Checklist, and Facility Summary (all as defined in the California Code of Regulations, Title 20, Division 2, Chapter 4,

Article 9, Section 1680) for the Premises no less than 24 hours prior to Tenant's execution of this Lease. The Disclosure Summary Sheet is attached as ***Schedule 14.3***.

14.4. ***Waiver***. Tenant hereby waives any benefits of any applicable Law, including the provisions of California Civil Code Section 1932(1) permitting the termination of this Lease due to any interruption or failure of utility services. The foregoing shall not constitute a waiver by Tenant of any Claim it may now or in the future have (or claim to have) against any public utility provider relating to the provision of (or failure to provide) utilities to the Premises.

15. DAMAGE OR DESTRUCTION.

15.1. *Damage or Destruction*.

(a) **Tenant to Give Notice**. If at any time during the Term, any damage or destruction occurs to all or any portion of the Premises (other than a de minimis portion) from fire or other casualty (each a "**Casualty**"), Tenant will promptly give telephonic or written notice (including via electronic mail) thereof to Port generally describing the nature and extent of such Casualty.

(b) **No Effect on Lease**. This Lease will not terminate or be forfeited or be affected in any manner by reason of Casualty, and Tenant, notwithstanding any Law present or future (including without limitation, California Civil Code Sections 1932(2) and 1933(4)), waives any and all rights to quit or surrender the Premises or any part thereof, Tenant acknowledging and agreeing that the provisions of this ***Article 15*** will govern the rights and remedies of the Parties in the event of a Casualty. Tenant expressly agrees that its obligations hereunder, including the payment of any and all Rent and any other sums due hereunder, will continue as though said Premises, the Horizontal Improvements, and/or other Improvements had not been damaged or destroyed and without abatement, suspension, diminution or reduction of any kind.

(c) **Tenant's Restoration**. Without limiting any obligations under the DDA with respect to Horizontal Improvements damaged or affected by Casualty, Tenant will promptly alleviate any conditions caused by such Casualty that could cause an immediate or imminent threat to the public safety and welfare or damage to the environment, including any demolition or hauling of rubble or debris.

(d) **Insurance Proceeds**. Port acknowledges and agrees that, in light of Tenant's obligations under ***Sections 15.1(b)*** and ***15.1(c)***, Port has no claim to receive any portion of insurance proceeds received by Tenant from insurance policies required to be carried by Tenant under this Lease on account of any Casualty unless such portion of insurance proceeds relates to Horizontal Improvements that have been Accepted.

16. CONDEMNATION.

16.1. *General; Notice; Waiver*.

(a) **General**. If, at any time during the Term, there is any Condemnation of all or any part of the Premises, including any of the Improvements, the rights and obligations of the Parties will be determined pursuant to this ***Article 16***.

(b) **Notice**. In case of the commencement of any proceedings or negotiations which might result in a Condemnation of all or any portion of the Premises during the Term, the Party learning of such proceedings will promptly give written notice of such proceedings or negotiations to the other Party. Such notice will describe with as much specificity as is reasonable, the nature and extent of such Condemnation or the nature of such proceedings or negotiations and of the Condemnation which might result therefrom, as the case may be.

(c) **Waiver**. Except as otherwise provided in this ***Article 16***, the Parties intend that the provisions of this Lease will govern their respective rights and obligations in the event of a Condemnation. Accordingly, but without limiting any right to terminate this Lease

given Tenant in this ***Article 16***, Tenant waives any right to terminate this Lease upon the occurrence of a Partial Condemnation under California Code of Civil Procedure Sections 1265.120 and 1265.130, as such section may from time to time be amended, replaced or restated.

16.2. ***Total Condemnation***. If there is a Condemnation of the entire Premises or the Leasehold Estate (a "**Total Condemnation**"), this Lease will terminate as of the Condemnation Date. Upon such termination, except as otherwise set forth in this Lease, the Parties will be released without further obligations to the other Party as of the Condemnation Date, subject to the payment to Port of accrued and unpaid Rent, up to the Condemnation Date and the provisions that expressly survive the expiration or earlier termination of this Lease. Port and Tenant will execute and deliver a termination of Lease or such other documents as is reasonably necessary to evidence such termination.

16.3. ***Substantial Condemnation, Partial Condemnation***. If there is a Condemnation of any portion but less than all of the Premises, the rights and obligations of the Parties will be as follows:

(a) **Substantial Condemnation**. If there is a Substantial Condemnation of a portion of the Premises or the Leasehold Estate, this Lease will terminate, at Tenant's option, (which will be exercised, if at all, at any time within ninety (90) days after the Condemnation Date by delivering written notice of termination to Port). "**Substantial Condemnation**" means where Tenant reasonably determines that, because of the Condemnation, it will be infeasible for Master Developer under the DDA to develop all or any remaining Phase (as defined in the DDA) of the Project substantially in conformance with the Project Approvals, due to either economic or physical construction reasons unless Port and Master Developer amend the DDA, each in their sole discretion.

(b) **Partial Condemnation**. If there is a Condemnation of any portion of the Premises or the Leasehold Estate which does not result in a termination of this Lease under ***Section 16.2*** or ***Section 16.3(a)*** (a "**Partial Condemnation**"), this Lease will terminate only as to the portion of the Premises taken in such Partial Condemnation, effective as of the Condemnation Date. In the case of a Partial Condemnation, this Lease will remain in full force and effect as to the portion of the Premises (or of the Leasehold Estate) remaining immediately after such Condemnation. Port and Tenant will execute and deliver a partial termination of Lease or such other document as is reasonably necessary to evidence such termination.

16.4. ***Awards***. Except as provided in ***Sections 16.5*** and ***16.6***, Awards and other payments to either Port or Tenant on account of a Condemnation, less costs, fees and expenses of either Port or Tenant (including, without limitation, reasonable Attorneys' Fees and Costs) incurred in the collection thereof ("**Net Awards and Payments**") will be allocated between Port and Tenant, with each Port and Tenant entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to the value of their respective interests in any condemnation proceedings.

16.5. ***Temporary Condemnation***. If there is a Condemnation of all or any portion of the Premises for a temporary period lasting less than the remaining Term, other than in connection with a Substantial Condemnation or a Partial Condemnation of a portion of the Premises for the remainder of the Term, this Lease will remain in full force and effect, and the entire Award will be payable to Tenant.

16.6. ***Personal Property***. Notwithstanding ***Section 16.4***, Port will not be entitled to any portion of any Net Awards and Payments payable in connection with the Condemnation of the Personal Property of Tenant or any of its Subtenants.

17. LIENS.

17.1. ***Liens.*** Tenant will not create or permit the attachment of, and will promptly discharge at no cost to Port, any lien, security interest, or encumbrance on the Premises or the Leasehold Estate, other than (a) this Lease, permitted Subleases, and Permitted Encumbrances, (b) liens for non-delinquent Impositions (excluding Impositions which may be separately assessed against the interests of Subtenants or are being contested in accordance with ***Article 7***), and (c) Mortgages in accordance with ***Article 37***.

17.2. ***Mechanics' Liens.*** Tenant will keep the Premises and the Leasehold Estate free from any liens arising out of any work performed, materials or services furnished, or obligations incurred by Tenant or any of its Agents. Tenant will provide thirty (30) days' advance written notice to Port of any Subsequent Construction to allow Port to post a notice of non-responsibility on the Premises. If Tenant does not, within sixty (60) days following the imposition of any such lien, cause the same to be released of record or post a bond or take such other action reasonably acceptable to Port, it will constitute an Event of Default, and Port will have, in addition to all other remedies provided by this Lease or by Law, the right but not the obligation to cause the same to be released by such means as it deems proper, including payment of the Claim giving rise to such lien. All sums paid by Port (including interest at the Default Rate computed from the date of payment) for such purpose and all expenses incurred by Port in connection therewith must be reimbursed to Port by Tenant within ten (10) days following demand by Port. Port will include with its demand, supporting documentation.

18. ASSIGNMENT AND SUBLETTING.

18.1. ***Transfers.*** Tenant will have the right to Transfer without obtaining Port's consent its entire interest in this Lease to the proposed Transferee in connection with a Transfer of the Master Developer's rights under the DDA pursuant to **Article 6 of the DDA.** Except in connection with a Transfer under the DDA or in accordance with the provisions of this ***Article 18***, no Transfer of Tenant's interest is permitted.

18.2. ***No Release of Tenant's Existing Liability or Waiver by Virtue of Consent.*** The effectiveness of a Transfer hereunder is not in any way to be construed to relieve Tenant of any liability arising out of or with regard to the performance of any covenants or obligations to be performed by Tenant hereunder before the date of such Transfer.

18.3. ***Phase Transferee Sublease.*** If the Master Developer assigns all of Master Developer's rights and obligations under the DDA for the development of the Horizontal Improvements with respect to a particular Phase, and such transferee assumes all such rights and obligations ("**Phase Transferee**") all in accordance with the DDA and pursuant to an assignment and assumption agreement approved by Port in accordance with the DDA ("**Phase Assignment and Assumption Agreement**"), then Tenant may enter into a Sublease for portions of the Premises applicable to the Phase Assignment and Assumption Agreement ("**Phase Sublease**") with Port's prior consent which will not be unreasonably withheld. The Parties agree that it will be reasonable for Port to withhold its consent to a Phase Sublease for any of the following reasons:

(a) The proposed area subject to the Phase Sublease extends beyond the applicable Phase Area (other than any construction staging area for the Horizontal Improvements applicable to such Phase);

(b) The term of the Phase Sublease extends beyond the earlier of the Expiration Date or the Outside Date set forth in the DDA Schedule of Performance for such Phase (as may be extended in accordance with the DDA);

(c) The Phase Sublease does not require the Phase Transferee to provide all of the documents described in ***Section 5.3*** within the time frame set forth therein; or

(d) The Phase Sublease does not include all of the provisions set forth in ***Section 18.4*** provided that references in such section to Pre-Approved Sublease will mean the Phase Sublease and Subtenant will mean the Phase Transferee.

18.4. ***Pre-Approved Sublease***. Other than any Phase Sublease or other agreement with a Phase Transferee, as further described in ***Section 18.3***, Tenant has the right to Sublease portions of the Premises for the Permitted Uses and enter into Parking Operator Agreements without Port's prior consent so long all of the following conditions are satisfied (each a "**Pre-Approved Sublease**"):

(a) The Pre-Approved Sublease will not adversely and materially impact construction of the Horizontal Improvements or the Vertical Improvements;

(b) The Pre-Approved Sublease (and any further sub-subleases of the Sublease space) are all subject to the terms and conditions of this Lease, provided that the Subtenant need not be obligated to undertake any obligations with respect to the Sublease space that is Tenant's obligation under such Sublease;

(c) The term of the Pre-Approved Sublease does not extend beyond the Expiration Date;

(d) The Pre-Approved Sublease contains an Indemnification and waiver of claims provision benefitting Port that is substantially and materially the same as ***Article 19*** except that the term "**Tenant**" in such provision means "**Subtenant**;" or "**Licensee**," as applicable;

(e) The Pre-Approved Sublease requires that under all liability and other insurance policies, "**THE CITY AND COUNTY OF SAN FRANCISCO, THE SAN FRANCISCO PORT COMMISSION AND THEIR OFFICERS, AGENTS, EMPLOYEES AND REPRESENTATIVES**" are additional insureds by written endorsement and acknowledging Port's rights to demand increased coverage to normal amounts consistent with the Subtenant's business activities on the Premises;

(f) Subject to the rights of any Mortgagee, the Pre-Approved Sublease requires Subtenant to pay the rent and other sums due under the Sublease directly to Port upon receiving written notice from Port that an Event of Default has occurred;

(g) The Pre-Approved Sublease requires the Subtenant to provide to Tenant any Books and Records which are needed for Port to verify Gross Revenues or Variable Rent and to otherwise adhere to the requirements in ***Sections 3.10*** and ***3.11*** of ***Exhibit D*** regarding books, records, accounting principles, audit rights and the like;

(h) The Pre-Approved Sublease requires the Subtenant to expressly waive entitlement to any and all relocation assistance and benefits in connection with this Lease;

(i) The Pre-Approved Sublease contains a provision similar to ***Article 36*** requiring Subtenant to permit Port to enter the Sublease space for the purposes specified in ***Article 36***;

(j) The Pre-Approved Sublease contains a provision similar to ***Section 30.1*** requiring Subtenant, from time to time, to provide Port, Vertical Developer, and Vertical Developer's lender, an estoppel certificate substantially similar to the form attached hereto as ***Exhibit R***;

(k) The Pre-Approved Sublease requires Subtenant to comply with the Other City Requirements set forth in ***Exhibit X***; and

(l) The Pre-Approved Sublease contains a provision that if for any reason whatsoever this Lease is terminated, the Sublease will be automatically terminated.

18.5. ***Non-Disturbance of Phase Transferee and Attornment.***

(a) **Generally**. Subject to the provisions of ***Section 18.3 and this Section 18.5***, from time to time upon the request of Tenant, Port will enter into an agreement with a Phase Transferee providing generally, with regard to a given Phase Sublease, that in the event of any termination of this Lease resulting from an Event of Default, Port will not terminate or otherwise disturb the rights of the Phase Transferee under such Phase Sublease, but will instead honor such Phase Sublease as if such agreement had been entered into directly between Port and such Phase Transferee ("**Non-Disturbance Agreement**").

(b) **Conditions for Issuance of Non-Disturbance Agreement**. Port will enter into a Non-Disturbance Agreement with a particular Phase Transferee if all of the following conditions are satisfied:

(i) Port has approved the Phase Budget applicable to the Phase Sublease;

(ii) The performance by Tenant of its obligations under such Phase Sublease will not cause an Event of Default to occur under this Lease;

(iii) The term of the Phase Sublease does not extend beyond the earlier of the Expiration Date or the Outside Date set forth in the DDA Schedule of Performance for such Phase (as may be extended in accordance with the DDA);

(iv) The Phase Sublease complies with all the conditions of ***Section 18.4***, provided that references in such section to Pre-Approved Sublease will mean the Phase Sublease and Subtenant will mean the Phase Transferee;

(v) The area subject to the Phase Sublease does not extend beyond the boundaries of applicable Phase (other than any construction staging area for the Horizontal Improvements applicable to such Phase, the boundaries of which are approved by Port and Master Developer);

(vi) The Phase Sublease requires the Phase Transferee to deliver all of the following into Escrow no less than five (5) business days prior to the Anticipated Conveyance Date of each Development Parcel within the subleased premises:

(1) a duly executed and acknowledged Partial Release of Sublease and if the rights to the applicable Phase under the DDA were assigned to and assumed by the Phase Transferee, a Partial Release of DDA;

(2) a duly executed estoppel certificate for the benefit of Port, the Vertical Developer and Vertical Developer's lenders, in the form attached hereto as ***Exhibit S***;

(3) a duly executed ground lessee's affidavit and, if required by the title insurance company, a mechanic's lien indemnity (excluding any work performed by Port) reasonably acceptable to Phase Transferee and the title insurance company issuing title insurance on the applicable Development Parcel;

(4) if applicable, a duly executed Coordination Agreement reasonably acceptable to both Tenant and Vertical Developer; and

(5) such other documents reasonably requested by Port, or Vertical Developer, to consummate the delivery of the applicable Development Parcel to Vertical Developer.

Upon request from each Vertical Developer, Subtenant will also enter into a license on the form attached hereto as ***Exhibit J*** to provide Vertical Developer access to the applicable Development Parcel for Vertical Developer to perform due diligence and site investigation prior to the Anticipated Conveyance Date.

(vii) Any Transfer by the Phase Transferee of its interest in the Phase Sublease will require Port's prior approval, which approval may be withheld in Port's sole discretion before the Initial Benchmarks have been achieved, and in its reasonable discretion after the Initial Benchmarks have been achieved;

(viii) The Phase Transferee agrees that if this Lease expires, terminates or is canceled during the term of the Phase Sublease, the Phase Transferee will attorn to Port (provided Port agrees not to disturb the occupancy or other rights of the Phase Transferee and to be bound by the terms of the Phase Sublease, except as otherwise set forth in the Non-Disturbance Agreement), and the Phase Sublease will be deemed a direct lease between the Phase Transferee and Port, except that any Subleases entered into by Phase Transferee (or its Affiliates) will be terminated and Port will not be:

(1) liable to the Phase Transferee for any security deposit or prepaid rent or other charges previously paid by such Phase Transferee to Tenant unless such deposits, rent or charges are transferred to Port;

(2) bound by any Indemnification obligations or any waivers and releases made by the sublandlord in the Phase Sublease for the benefit of the Phase Transferee or any other Person;

(3) bound by any requirement or obligation of Tenant under the Phase Sublease to pay any amount of money to the Phase Transferee;

(4) liable to the Phase Transferee for any indirect, consequential, incidental, punitive or special damages;

(5) bound by any limitation on the Phase Transferee's obligation to Indemnify any sublandlord parties based on the Phase Transferee's insurance coverage;

(6) bound by any limitation on sublandlord's ability to transfer its interest in the Phase Sublease (including any requirement to deliver prior notice to the Phase Transferee or obtain Phase Transferee's prior approval); or

(7) bound by any requirement or obligation to keep records or documents confidential that violates the Public Records Act or the City's Sunshine Ordinance.

(ix) During the continuance of an Event of Default, Port may, in its sole discretion, withhold or condition its agreement to provide a Non-Disturbance Agreement on the cure of such Event of Default as Port may specify either in a notice of default given under ***Section 23.1*** or in a notice withholding or conditioning its agreement to provide a Non-Disturbance Agreement; and

(x) Concurrently with its request for a Non-Disturbance Agreement from Port, Tenant will submit to Port

(1) an electronic copy of the Phase Sublease in Microsoft Word format (or other comparable format);

(2) a summary of basic terms of the Phase Sublease;

(3) an electronic draft of a Non-Disturbance Agreement in Microsoft Word format (or other comparable format), redlined against the form required by ***Section 18.5(d)***;

(4) a statement certifying that the proposed Non-Disturbance Agreement complies with all the conditions and requirements set forth in ***Sections 18.3 and 18.4(b)***;

(5) an executed Tenant estoppel certificate substantially in the form attached hereto as ***Exhibit K-2***, and Tenant will certify as of the effective date of the Non-Disturbance Agreement that the certifications made by Tenant in the estoppel certificate remains unchanged; and

(6) all relevant information requested by Port including reasonable financial information establishing the ability of the proposed Phase Transferee to perform its obligations under such Phase Sublease, and relevant information concerning the business character and operating history of the proposed Phase Transferee; provided however, in lieu of submitting the Phase Transferee's financial information to Port, Tenant may make such information available for review (but not duplication) at Port's office or at Tenant's office in the City of San Francisco.

(xi) Tenant deposits sufficient funds to reimburse Port for its Attorneys' Fees and Costs to review the proposed Non-Disturbance Agreement (which, for avoidance of doubt, includes any additional administrative fees, or outside counsel or contractors engaged by Port to review such request for a Non-Disturbance Agreement);

(xii) Phase Transferee agrees that notwithstanding any Non-Disturbance Agreement, the Phase Sublease will terminate as of the Lease termination date (1) if the Lease terminates in the event of Condemnation, as further described in ***Article16***; or (2) if there is an uncured Phase Transferee event of default under such Phase Sublease, giving effect to any notice and cure period provided therein (which agreement will be evidenced by acceptance of a Non-Disturbance Agreement reflecting the matters described in this ***Section 18.5(b)(xii)***); and

(xiii) If a guarantor guaranties any Phase Transferee obligation under the Phase Sublease, Port will be named as an additional beneficiary to such guaranty; provided, however, Port's rights under such guaranty will not be effective until termination of this Lease; and

(xiv) The applicable Phase Sublease will provide that the Phase Transferee will deliver to Port as of the Lease termination date or promptly following request by Port an executed estoppel certificate, substantially in the form attached hereto as ***Exhibit S-2*** certifying as of the Lease termination date, among other things: (A) that the Phase Sublease, including all amendments, is attached thereto and is unmodified, except for such attached amendments, and is in full force and effect, as so amended, or if such Phase Sublease is not in full force and effect, so stating, (B) which amendments, if any, to the Phase Sublease have been previously approved by Port in writing, including the dates of approval, (C) the dates, if any, to which any rent and other sums payable thereunder have been paid, (D) that the Phase Transferee is not aware of any Tenant defaults under the Phase Sublease which have not been cured, except as to defaults specified in said certificate, and (E) that the Phase Transferee is not aware of any Phase Transferee defaults which have not been cured.

(c) **Copy of Phase Sublease**. Tenant will provide Port a true and complete copy of the executed Phase Sublease and summary of the Phase Sublease basic terms attached to the Tenant estoppel certificate, in accordance with ***Section 18.5(b)(x)(5)*** within five (5) business days after the execution thereof, which Phase Sublease will contain substantially the same (or more favorable to the landlord) business terms as in the form of Phase Sublease, statement, and other information previously provided to Port.

(d) **Form of Non-Disturbance Agreement**. Each Non-Disturbance Agreement will be substantially in the form of ***Exhibit T*** and, if not in such form, will be in form and substance agreed upon by Tenant and Port, not to be unreasonably withheld by either Party. With each request for a Non-Disturbance Agreement, Tenant will submit a copy of the form, showing any requested interlineations or deletions.

(e) **Response Period**. Port will respond to any request for a Non-Disturbance Agreement within fifteen (15) business days after receipt of all the materials described in

Section 18.5(b)(x). If Port fails to respond to such request within such fifteen (15) business day period, then Tenant will deliver to Port a second notice requesting Port's response ("**Second NDA Notice**"). The Second NDA Notice must display prominently on the envelope enclosing such notice and the first page of such notice, substantially the following: "APPROVAL REQUEST FOR [INSERT ADDRESS OF LEASED PREMISES]/MISSION ROCK SUBLEASE MATTERS. IMMEDIATE ATTENTION REQUIRED; FAILURE TO RESPOND WITHIN FIVE (5) BUSINESS DAYS WILL RESULT IN THE REQUEST BEING DEEMED APPROVED." If Port fails to respond within five (5) business days after Port's receipt of the Second NDA Notice, then such non-response will be deemed to be approval of such Non-Disturbance Agreement and the applicable Phase Transferee will be entitled to rely on the terms of the applicable Non-Disturbance Agreement, provided, however, if there are any conflicts between the provisions in the Phase Sublease and the deemed approved Non-Disturbance Agreement, on the one hand, and ***Sections 18.4 and 18.5(b)*** on the other hand, ***Sections 18.4 and 18.5(b)*** will control.

18.6. ***No Further Amendment or Consent Implied***. Port's consent to any amendment of a Phase Sublease subject to an effective Non-Disturbance Agreement will not be required if the amendment conforms all of the requirements of ***Sections 18.3, 18.4, and 18.5(b)***. Tenant will provide Port a true and complete copy of any amendment of a Sublease subject to an effective Non-Disturbance Agreement, accompanied by a summary of any revisions to the Phase Sublease basic terms within five (5) business days after the execution thereof. Consent to one Phase Sublease or amendment, as applicable, will not be construed as consent to a subsequent Phase Sublease or amendment, as applicable.

18.7. ***Acknowledgements***. Tenant acknowledges and agrees that Port's rights with respect to Transfers are reasonable limitations for purposes of California Civil Code Section 1951.4 and waives any Claims arising from Port's actions under this ***Article 18***.

18.8. ***Mortgaging of Leasehold***. Notwithstanding anything herein to the contrary, at any time during the Term, Tenant has the right, without Port's consent, to sell, assign, encumber, or transfer its interest in this Lease to a Mortgagee or other purchaser in connection with a deed in lieu of foreclosure in connection with the exercise of remedies under the provisions of a Mortgage subject to the limitations, rights and conditions set forth in ***Article 37***, and, in the event so assigned, the Lease may be further assigned with notice to, but without the consent of, Port.

18.9. ***Assignment of Rents***. Tenant hereby assigns to Port all rents and other payments of any kind, due or to become due from any or present or future Subtenant as security for Tenant's obligations hereunder prior to actual receipt thereof by Tenant; provided, however, the foregoing assignment shall be subject and subordinate to any assignment made to a Mortgagee under ***Article 37*** until such time as Port has terminated this Lease (subject to the Port's agreement to enter into a new lease with Mortgagee and all other provisions of this Lease protecting Mortgagee's interests in this Lease), at which time the rights of Port in all rents and other payments assigned pursuant to this ***Section 18.9*** will become prior and superior in right; provided, further, any rents collected by any Mortgagee from any Subtenants pursuant to any assignment of rents or subleases made in its favor will promptly remit to Port the rents so collected (less the actual cost of collection) to the extent necessary to pay Port any Rent, including any and all Additional Rent, through the date of termination of this Lease.

18.10. ***No Release of Tenant***. The acceptance by Port of Rent or other payment from any other person will not be deemed to be a waiver by Port of any provision of this Lease or to be a release of Tenant from any obligation under this Lease. No Transfer or Sublease will in any way diminish, impair or release any of the liabilities and obligations of Tenant, any guarantor or any other person liable for all or any portion of Tenant's obligations under this Lease.

19. INDEMNIFICATION OF PORT.

19.1. ***General Indemnification of the Indemnified Parties***. Subject to ***Section 19.4***, Tenant agrees to and will Indemnify the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any such Indemnified Parties in connection with the occurrence or existence of any of the following:

(a) any accident, injury to or death of Persons, or loss or destruction of or damage to property occurring in, on, or under the Premises or any part thereof and which may be directly or indirectly caused by any acts done in, on, or under the Premises, or any acts or omissions of Tenant, its Agents, Subtenants, or Invitees, or their respective Agents and Invitees in, on, or under the Premises;

(b) any use, non-use, possession, occupation, operation, maintenance, management, or condition of the Premises or any part thereof by Tenant, its Agents, Subtenants, or Invitees, or their respective Agents and Invitees;

(c) any latent, design, construction or structural defect relating to the Improvements, any other Subsequent Construction, or any other matters relating to the condition of the Premises caused directly or indirectly by Tenant or any of its Agents, Invitees, or Subtenants;

(d) any failure on the part of Tenant or its Agents, Invitees, or Subtenants, as applicable, to perform or comply with any of the terms, covenants, or conditions of this Lease or with applicable Laws;

(e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof by Tenant or any of its Agents or Subtenants;

(f) any acts, omissions, or negligence of Tenant, its Agents, Invitees, or Subtenants; and

(g) any civil rights actions or other legal actions or suits initiated by any user or occupant of the Premises to the extent it relates to such use or occupancy.

19.2. ***Hazardous Materials Indemnification***.

(a) In addition to its obligations under ***Section 19.1*** and subject to ***Section 19.4***, Tenant agrees to Indemnify the Indemnified Parties and the State Lands Indemnified Parties from any and all Losses and Hazardous Materials Claims that arise as a result of any of the following:

(i) any Hazardous Material Condition existing or occurring during the Term;

(ii) any Handling, Release, or Exacerbation of Hazardous Materials in, on, or under the Premises during the Term; or

(iii) without limiting Tenant's Indemnification obligations in ***Section 19.2(a)(ii)***, any Handling or Release of Hazardous Materials outside of the Premises, but in, on, or under the Project Site, by Tenant or any Related Third Party during the Term. "**Related Third Party**" means Tenant's Agent, Subtenant, or their respective Agent; or

(iv) failure by Tenant or any Related Third Party to comply with the Soil Management Plan or the Environmental Covenants; or

(v) Claims by Tenant or any Related Third Party for exposure occurring during the Term to Pre-Existing Hazardous Materials or New Hazardous Materials in, on, or under the Project Site.

(b) Tenant's obligations under ***Section 19.2(a)*** includes: (i) actual costs incurred in connection with any Investigation or Remediation requested by Port or required by any Environmental Regulatory Agency and to restore the affected area to its condition before the Release; (ii) actual damages for diminution in the value of the Premises; (iii) actual damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises; (iv) actual damages arising from any adverse impact on marketing the space; (v) sums actually paid in settlement of Claims, Hazardous Materials Claims, Environmental Regulatory Actions, including fines and penalties; (vi) actual natural resource damages; and (vii) Attorneys' Fees and Costs, consultant fees, expert fees, court costs, and all other actual litigation, administrative or other judicial or quasi-judicial proceeding expenses. If Port actually incurs any damage and/or pays any costs within the scope of this section, Tenant must reimburse Port for Port's costs, plus interest at the Default Rate from the date of demand until paid, within five (5) business days after receipt of Port's payment demand and reasonable supporting evidence of the cost or damage actually incurred.

(c) Tenant understands and agrees that its liability to the Indemnified Parties and the State Lands Indemnified Parties under this ***Section 19.2***, subject to ***Section 19.4***, arises upon the earlier to occur of:

(i) discovery of any such Hazardous Materials (other than Pre-Existing Hazardous Materials) in, on, or under the Premises;

(ii) the Handling or Release of Hazardous Materials in, on, or under the Premises;

(iii) the Handling or Release of Hazardous Materials in, on, or under areas outside the Premises but within the Project Site caused by Tenant or a Related Third Party,

(iv) any occurrence of a Hazardous Material Condition during the Term; or

(v) the institution of any Hazardous Materials Claim with respect to such Hazardous Materials, and not upon the realization of loss or damage.

19.3. ***Scope of Indemnities; Obligation to Defend.*** Except as otherwise provided in ***Section 19.4***, Tenant's Indemnification obligations under this Lease are enforceable regardless of the active or passive negligence of the Indemnified Parties, and regardless of whether liability without fault is imposed or sought to be imposed on the Indemnified Parties. Tenant specifically acknowledges that it has an immediate and independent obligation to defend the Indemnified Parties from any Loss that actually or potentially falls within the Indemnification obligations of Tenant, even if such allegations are or may be groundless, false, or fraudulent, which arises at the time such claim is tendered to Tenant and continues at all times thereafter until finally resolved. Tenant's Indemnification obligations under this Lease are in addition to, and in no way will be construed to limit or replace, any other obligations or liabilities which Tenant may have to Port in this Lease, at common law or otherwise. All Losses incurred by the Indemnified Parties subject to Indemnification by Tenant constitute Additional Rent owing from Tenant to Port hereunder and are due and payable from time to time immediately upon Port's request, as incurred.

19.4. ***Exclusions from Indemnifications, Waivers and Releases.***

(a) Nothing in this ***Article 19*** relieves the Indemnified Parties or the State Lands Indemnified Parties from liability, nor will the Indemnities set forth in ***Sections 19.1, 19.2***, or the defense obligations set forth in ***Sections 19.3 and 19.6*** extend to Losses:

(i) to the extent caused by the gross negligence or willful misconduct of the Indemnified Parties; or

(ii) from third parties' Claims for exposure to Hazardous Materials prior to the Commencement Date.

(b) If it is reasonable for an Indemnified Party or a State Lands Indemnified Party to assert that a Claim for Indemnification under this ***Section 19.4*** is covered by a pollution liability insurance policy, pursuant to which such Indemnified Party or State Lands Indemnified Party is an insured party or a potential claimant, then Port will reasonably cooperate with Tenant in asserting a Claim or Claims under such insurance policy but without waiving any of its rights under this ***Section 19.4***. Notwithstanding the foregoing, if an Indemnified Party or State Lands Indemnified Party is a named insured on a pollution liability insurance policy obtained by Tenant, the Indemnification from Tenant under this ***Section 19.4*** will not be effective unless such Indemnified Party or State Lands Indemnified Party has asserted and diligently pursued a claim for insurance under such policy and until any limits from the policy are exhausted, on condition that (i) Tenant pays any self-insured retention amount required under the policy, and (ii) nothing in this sentence requires any Indemnified Party or State Lands Indemnified Party to pursue a Claim for insurance through litigation prior to seeking indemnification from Tenant.

19.5. ***Survival***. Tenant's Indemnification obligations under this Lease and the provisions of this ***Article 19*** survive the expiration or earlier termination of this Lease (or, the partial termination of this Lease with respect to any portion of the Premises released in accordance with ***Section 1.4(b)***).

19.6. ***Defense***. Tenant will, at its option but subject to reasonable approval by Port, be entitled to control the defense, compromise or settlement of any such matter through counsel of Tenant's choice; provided, that in all cases Port will be entitled to participate in such defense, compromise or settlement at its own expense. If Tenant fails, however, in Port's reasonable judgment, within a reasonable time following notice from Port alleging such failure, to take reasonable and appropriate action to defend, compromise or settle such Claim, Port will have the right promptly to use the City Attorney or hire outside counsel, at Tenant's sole expense, to carry out such defense, compromise or settlement which expense is due and payable to Port within fifteen (15) days after receipt by Tenant of a detailed invoice for such expense.

19.7. ***Waiver***. As a material part of the consideration of this Lease, Tenant hereby assumes the risk of, and waives, discharges, and releases any and all Claims against the Indemnified Parties from any Losses arising out of this Lease or relating to the Premises, including (a) damages by death of or injury to any Person, or to property of any kind whatsoever and to whomever belonging, (b) goodwill, (c) business opportunities, (d) any act or omission of Persons occupying adjoining premises, (e) theft, (f) explosion, fire, steam, oil, electricity, water, gas, rain, pollution, or contamination, (g) building defects, (h) inability to use all or any portion of the Premises due to sea level rise or flooding or seismic events, and (i) any other acts, omissions or causes arising at any time and from any cause, in, on, or under the Premises, including all Claims arising from the joint, concurrent, active or passive negligence of any of Indemnified Parties. The foregoing waiver, discharge and release does not include Losses arising from the Indemnified Parties' willful misconduct or gross negligence.

Tenant expressly acknowledges and agrees that the amount payable by Tenant hereunder does not take into account any potential liability of the Indemnified Parties for any consequential, incidental or punitive damages. Port would not be willing to enter into this Lease in the absence of a complete waiver of liability for consequential, incidental or punitive damages due to the acts or omissions of the Indemnified Parties, and Tenant expressly assumes the risk with respect thereto. Accordingly, without limiting any Indemnification obligations of Tenant or other waivers or releases contained in this Lease and as a material part of the consideration of this Lease, Tenant fully RELEASES, WAIVES AND DISCHARGES forever any and all Claims against the Indemnified Parties for consequential, incidental and punitive damages (including, without limitation, lost profits) and covenants not to sue, or to pay the Attorneys' Fees and Costs of any Person to sue for such damages, the Indemnified Parties arising out of this Lease or the

uses authorized hereunder, including, any interference with uses conducted by Tenant pursuant to this Lease regardless of the cause, and whether or not due to the negligence of the Indemnified Parties.

Tenant understands and expressly accepts and assumes the risk that any facts concerning the Claims released in this Lease might be found later to be other than or different from the facts now believed to be true, and agrees that the waivers and releases in this Lease will remain effective. Therefore, with respect to the Claims released in this Lease, Tenant waives any rights or benefits provided by California Civil Code Section 1542, which reads as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

By placing its initials below, Tenant specifically acknowledges and confirms the validity of the waivers and releases made above and the fact that Tenant was represented by counsel who explained the consequences of the waivers and releases at the time this Lease was made, or that Tenant had the opportunity to consult with counsel, but declined to do so.

Tenant's Initials: LMB

Tenant acknowledges that the waivers and releases contained herein include all known and unknown, disclosed and undisclosed, and anticipated and unanticipated Claims for consequential, incidental or punitive damages. Tenant realizes and acknowledges that it has agreed upon this Lease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect.

20. INSURANCE.

Tenant will maintain throughout the Term, the insurance as set forth in this ***Article 20***. Tenant shall also cause its Subtenants and Agents that use the Premises for, or conduct, any Special Event, Parking Operations, or other Permitted Use, or install or maintain any Promotional Signage in the Premises, to maintain the insurance as set forth in ***Section 20.2(c)***.

20.1. ***Required Insurance Coverage***. Tenant, at its sole cost and expense shall maintain, or cause to be maintained, throughout the Term, the following insurance; provided, however, that Tenant reserves the right, at its sole discretion, to utilize an owner controlled insurance program (OCIP) or contractor controlled insurance program (CCIP) to satisfy these insurance requirements:

(a) **General Liability Insurance**. Commercial general liability insurance, with limits not less than Twenty Million Dollars ($20,000,000.00) each occurrence and annual aggregate for bodily injury and property damage, including coverages for contractual liability, independent contractors, broad form property damage, personal injury and products and completed operations, as well as damage to premises rented to you with limits not less than Two Hundred Fifty Thousand Dollars ($250,000.00). Tenant's CGL policy shall contain no exclusion for explosion, collapse and underground liability during any period in which Tenant is conducting any such activity on or Subsequent Construction or Improvement to the Premises with risk of explosion, collapse or underground hazards. This policy or the Automobile Liability Policy described below must also cover non-owned and for-hire vehicles and all mobile equipment or unlicensed vehicles, such as forklifts. A policy written on an Insurance Services Office (ISO) form GC 00 01 as in effect on the Effective Date, or a form at least as broad as such form meets the requirement of this paragraph.

(b) **Automobile Liability Insurance**. Automobile liability insurance with limits not less than Five Million Dollars ($5,000,000.00) combined single limit each accident for

bodily injury and property damage, including coverages for owned and hired vehicles and for employer's non-ownership liability, which insurance shall be required if any automobiles or any other motor vehicles are operated in connection with Tenant's activity on the Premises or the Permitted Use.

(c) Worker's Compensation; Employer's Liability; Jones Act; U.S. Longshore and Harborworker's Act Insurance. If applicable, Worker's Compensation in statutory amounts, with Employer's Liability limits not less than One Million Dollars ($1,000,000.00) for each accident, injury, or illness. In the event Tenant is self-insured for the insurance required pursuant to this ***Section 20.1(c)***, it shall furnish to Port a current Certificate of Permission to Self-Insure signed by the Department of Industrial Relations, Administration of Self-Insurance, Sacramento, California. In addition, if applicable, Tenant will be required to maintain insurance for claims under the Jones Act or U.S. Longshore and Harborworker's Act, respectively as applicable with Employer's Liability limit not less than Five Million Dollars ($5,000,000.00) for each accident, injury or illness, on employees eligible for each.

(d) Business Personal Property Insurance. If Tenant uses business personal property in, on, or about the Premises, Tenant, at its sole cost and expense, shall procure or cause to be maintained on all of its business personal property, in, on, or about the Premises, property insurance on an all risk form, excluding earthquake and flood, to the extent of full replacement value.

(e) Construction Activities. Insurance required in connection with construction of Horizontal Improvements is as set forth below:

(i) *Contractor Requirements*. Tenant must require its general contractor(s) and its(their) subcontractors to maintain the following coverages, if applicable:

(1) An Insurance Services Office (or equivalent) Commercial general liability insurance with limits of not less than Five Million Dollars ($5,000,000.00) each occurrence and annual aggregate for general contractors, and One Million Dollars ($1,000,000.00) each occurrence and annual aggregate for subcontractors;

(2) An Insurance Services Office (or equivalent) Automobile liability insurance with a policy combined single limit of not less than Five Million Dollars ($5,000,000.00) each occurrence for general contractors.

(3) Worker's compensation insurance with statutory limits and employer's liability insurance with limits of not less than One Million Dollars ($1,000,000.00) each accident, injury, or illness;

(4) Marine liability insurance (only if the scope of work of the particular contractor involves operating watercraft) including protection and indemnity insurance with limits not less than Six Million Dollars ($6,000,000.00) each occurrence, or with Port approval, lesser limits and deductible as are readily available in the insurance market at a commercially reasonable cost, including wreck removal, and damages "In Rem" (the vessel), provided on a P&I, Marine General Liability, Marine Bumbershoot and/or other form reasonably acceptable to Port;

(5) Vessel pollution liability insurance (only if the scope of the work of the particular contractor involves operating watercraft with engines or fuel usage) with limits not less than Five Million Dollars ($5,000,000.00) per occurrence and Five Million Dollars ($5,000,000.00) in the aggregate with a deductible not to exceed Fifty Thousand Dollars ($50,000) without Port approval, which approval shall not be unreasonably withheld if such deductibles as are readily available in the insurance market at a commercially reasonable cost; and

(6) Contractor's pollution liability insurance with limits of not less than Five Million Dollars ($5,000,000.00) per claim and in the annual aggregate for general contractors.

(7) Property insurance on an all risk form, excluding earthquake and flood, on all of its business personal property whether owned, leased or rented, including any of their respective tools and equipment, in, on, or about the Premises.

(ii) *Builder's Risk Requirements*. In addition, if any of the following exposures are not covered by the insurance already required elsewhere Tenant or General Contractor must carry Builder's Risk Insurance: Contractor shall provide "Special Form" (All Risk) including Earthquake, Builder's Risk Insurance on a replacement cost basis as follows:

(1) Amount of Coverage: The amount of coverage shall be equal to the full replacement cost on a completed value basis, including periodic increases or decreases in values through change orders. The policy shall provide for no deduction for depreciation. The Builder's Risk Insurance shall also include the full replacement cost of all City-furnished equipment, if any.

(2) Parties Covered: The Builder's Risk policy shall identify the City and County of San Francisco as loss payee as its interest may appear. The policy shall include as additional named insureds the City and County of San Francisco, Tenant, the Contractor and its subcontractors of every tier. Each insured shall waive all rights of subrogation against each of the other insureds to the extent that the loss is covered by the Builder's Risk Insurance.

(3) Included Coverage: The Builder's Risk Insurance shall include, but shall not be limited to, the following coverages:

(A) All damages of loss to the Work and to appurtenances, to materials and equipment to be incorporated into the Project while the same are in transit, stored on or off the Project site, to construction plant and temporary structures.

(B) The perils of fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, smoke damage, damage by aircraft or vehicles, vandalism and malicious mischief, theft, collapse, and water damage.

(C) The costs of debris removal, including demolition as may be made reasonably necessary by such covered perils, resulting damage, and any applicable law, ordinance, or regulation with a sub-limit of not less than 25% of the value of the construction contract.

(D) Start up and testing and machinery breakdown including electrical arcing.

(E) Soft costs and loss of business income for any delayed completion period as caused by any of the perils or hazards set forth in and required to be insured pursuant to Section 20.1(a)(i), for a delay period of not less than two (2) years with a limit of not less than One Million Dollars ($1,000,000); provided however that Tenant may request approval from the Port, which shall not be unreasonably withheld, of a lesser delay period or limit.

(F) If available at commercially reasonable rates, such builders risk insurance will also extend to cover the peril of terrorism.

(G) Damages due to earthquake and tidal wave to the extent reasonably available, with limits subject to the reasonable approval of the Port.

(iii) *Deductibles*: The Builder's Risk Insurance may have a deductible clause not to exceed the amounts below. Contractor shall be responsible for paying any and all

deductible costs. The deductible for coverage of All Perils shall not exceed One Hundred Thousand Dollars ($100,000). Deductibles for earthquake and tidal wave coverage will be subject to the reasonable approval of the Port.

(iv) *Flood Insurance.*

(1) If the Premises is in a designated flood zone as depicted on current Flood Insurance Rate Maps ("FIRMs") issued by the U.S. Department of Homeland Security's Federal Emergency Management Agency ("FEMA") or its successor, then Tenant will, during construction, and prior to Substantial Completion of the Horizontal Improvements, obtain flood insurance from recognized insurance carriers (or through the National Flood Insurance Program ("NFIP")) equal to at least the lesser of (i) the maximum amount that is available at commercially reasonable rates from recognized insurance carriers or NFIP, or (ii) the then-current, full replacement cost of the Horizontal Improvements, as applicable, (including building code upgrade coverage and without any deduction being made for depreciation), with a deductible of up to but not to exceed ten percent (10%) of the then-current, full replacement cost of the Horizontal Improvements, except that a greater deductible will be permitted to the extent that such coverage is not available from recognized insurance carriers or at commercially reasonable rates. Such flood insurance or replacement coverage will remain in full force and effect or be separately produced from and after the Substantial Completion of the Horizontal Improvements in amount equal to at least the lesser of (i) the maximum amount that is available at commercially reasonable rates from recognized insurance carriers or NFIP, or (ii) the then-current, full replacement cost of the Horizontal Improvements with a deductible of up to but not to exceed ten percent (10%) of the then-current, full replacement cost of the Horizontal Improvements, except that a greater deductible will be permitted to the extent that such coverage is not available from recognized insurance carriers or at commercially reasonable rates.

(2) If the Premises is not in a designated flood zone as depicted on current FIRMs issued by the FEMA or its successor, Tenant will, during construction of the Horizontal Improvements, obtain flood insurance, to the extent available at commercially reasonable rates from recognized insurance carriers (or through the NFIP), in an amount equal to the maximum amount of the then-current, full replacement cost of the Horizontal Improvements (including building code upgrade coverage and without any deduction being made for depreciation), with a deductible of up to but not to exceed ten percent (10%), except that a greater deductible will be permitted to the extent that flood coverage is not available from recognized insurance carriers (or through the NFIP) at commercially reasonable rates; and

(3) Exceptions for Earthquake and Flood Insurance. If Tenant determines that earthquake or flood insurance should not be carried on the Horizontal Improvements because it is not (or no longer) available at commercially reasonable rates (or through the NFIP for flood insurance) or, in Tenant's reasonable business judgment, is imprudent, then Tenant will request in writing Port's consent to the absence or deletion thereof.

(v) *Professional Services Requirements.* Professional Service Requirements. Tenant will maintain or require to be maintained, project-specific professional liability (errors and omissions) insurance, with limits not less than Five Million Dollars ($5,000,000) each claim and annual aggregate, with respect to architectural, engineering, geotechnical, and environmental professional services, reasonably necessary or incidental to the construction of the Horizontal Improvements and any Subsequent Construction, with any deductible/self-insured retention not to exceed One Hundred Thousand Dollars ($100,000). Notwithstanding the foregoing, Tenant may elect, instead of obtaining the foregoing coverages in this paragraph, to require that any architects, contractors and sub-contractors performing professional services in connection with the Horizontal Improvements carry professional liability insurance (errors and omissions) in an amount not less than Two Million Dollars ($2,000,000) each claim and annual aggregate with a deductible/self-insured retention not to exceed One Hundred Thousand Dollars ($100,000). Coverage provided architects, contractors and sub-

contractors performing professional services may be provided with a lower limit if either (i) the Tenant maintains an owners' protective professional indemnity (OPPI) policy for the difference or (ii) upon the prior written approval of Port, if requested by Tenant to accommodate the needs and limitations of LBE contractors used by Tenant. Such insurance will provide coverage during the period when such professional services are performed and for a period of three (3) years after Completion of the Horizontal Improvements. With respect to Subsequent Construction, Tenant will require that any architect, contractor or subcontractor performing professional services in connection with such Subsequent Construction, carry professional liability insurance (errors and omissions) in an amount not less than One Million Dollars ($1,000,000) each claim and annual aggregate with a deductible/self-insured retention not to exceed One Hundred Thousand Dollars ($100,000).

(vi) *Pollution Legal Liability*. The Parties will investigate the availability of environmental insurance insuring the interests of Tenant and its Affiliates and Agents and naming the City Parties and the State Lands Indemnified Parties as additional insureds for a commercially reasonable premium. If available for a commercially reasonable premium, Tenant will purchase and maintain coverage in amounts to which the Parties reasonably agree under an insurance policy meeting the requirements hereunder. The Port and Developer agree to use commercially reasonable efforts to obtain the environmental insurance policy proceeds when applicable, and reasonably cooperate with each other on claims made under the policy.

(f) **Other Coverage**. Such other insurance or different coverage amounts may change from time to time as required by the City's Risk Manager, if in the reasonable judgement of the City's Risk Manager it is the general commercial practice in San Francisco to carry such insurance and/or in the requested insurance limits for the subject activities taking into consideration the risks associated with such uses of the Premises, so long as any insurance required is available from recognized carriers at commercially reasonable rates. If Tenant determines that such other insurance or coverage amount should not be required because it is not available from recognized carries at commercially reasonable rates, then Tenant will provide to Port evidence supporting Tenant's determination of commercial unreasonableness as to the applicable coverage. Such evidence may include quotes, declinations, and notices of cancellation or non-renewal from leading insurance companies for the required coverage, percentage of overall operating expenses attributable thereto, and then current industry practice for comparable mixed-use/retail/office projects in San Francisco.

(g) **Substitution**. Notwithstanding the foregoing, Tenant shall have the right, upon the prior approval of Port, not to be unreasonably withheld, to substitute any of the insurance coverage required in this ***Article 20*** with insurance coverage maintained by one or more of Tenant's Agents, Invitees or transferees as long as the insurance policies, certificates and endorsements for such insurance coverage comply in all respects with the requirements of this ***Section 20.1(g)***, as determined by Port.

20.2. ***General Requirements***.

(a) **Insurance provided pursuant to this Section.**

(i) As to all insurance required hereunder, such insurance shall be carried under a valid and enforceable policy or policies issued by insurers of recognized responsibility that are rated Best A—:VIII or better by the latest edition of Best's Key Rating Guide (or a comparable successor rating) and legally authorized to sell such insurance within the State of California.

(ii) As to property insurance required hereunder, such insurance will name the Tenant as the named insured, and will name the Port as a loss payee as its interest may appear. As to general liability, automobile liability, and umbrella or excess liability insurance (including blanket policies), such insurance will name as additional insureds by written

endorsement: "**THE CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO PORT COMMISSION AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS**" and if applicable, Tenant as additional insureds for claims arising in connection with the Insured's operations.

(iii) As to all insurance required hereunder, such insurance will be evaluated by Port and Tenant for adequacy every five (5) years from the Commencement Date. Following consultation with Tenant, Port may require, upon not less than ninety (90) days prior written notice, that Tenant increase the insurance limits for all or any of its general liability policies if in the reasonable judgment of the City's Risk Manager it is the general commercial practice in San Francisco to carry insurance for facilities or development projects of comparable size and use to the Premises in amounts substantially greater than the amounts being carried by Tenant with respect to risks comparable to those associated with the uses of the Premises. As part of such evaluation, Tenant may request that insurance limits for all or any of its general liability policies be decreased and, if the City's Risk Manager reasonably determines that the insurance limits required under ***Section 20.1*** may be decreased in light of such commercial practice and the risks associated with the uses of the Premises, Port will notify Tenant of such determination, and Tenant will have the right to decrease the insurance coverage required under this Lease accordingly. In such event, Tenant will promptly deliver to Port a certificate evidencing such new insurance amounts and additional insured endorsements in form reasonably satisfactory to Port, as applicable. If Tenant determines that such other insurance or coverage amount should not be required because it is not available from recognized carriers at commercially reasonable rates, then Tenant will provide to Port evidence supporting Tenant's determination of commercial unreasonableness as to the applicable coverage and any cost to maintain such additional insurance, if required by Port, shall be borne by Port and not by Tenant. Such evidence may include quotes, declinations, and notices of cancellation or non-renewal from leading insurance companies for the required coverage, percentage of overall operating expenses attributable thereto, and then current industry practice for comparable mixed-use/retail/office projects in San Francisco.

(iv) Thirty (30) days' advance written notice shall be provided to the Port of cancellation, intended non-renewal, or material reduction in coverages, except for non-payment for which no less than ten (10) days' notice shall be provided to Port. Notices shall be sent to the Port address set forth in ***Article 35*** entitled "**Notices**".

(v) As to commercial general liability and automobile liability insurance, such insurance will provide that it constitutes primary insurance with respect to claims arising in connection with Tenant's completed and ongoing operations, and shall provide cross liability coverage (separation of insureds or severability of interests provision);

(vi) As to commercial general liability, automobile liability, worker's compensation and property insurance required hereunder, such insurance will provide for waivers of any right of subrogation that the insurer of such party may acquire against each Party hereto with respect to any losses of the type covered under the policies required by ***Section 20.1(a)***; and

(vii) All insurance will be subject to the approval of Port, which approval will be limited to whether or not such insurance meets the terms of this Lease, such approval not to be unreasonably withheld. As to any minimum deductible specified hereunder, Tenant may request approval from the Port, which shall not be unreasonably withheld, of a higher deductible.

(b) Certificates of Insurance; Right of Port to Maintain Insurance. Tenant will furnish Port certificates and additional insured endorsements in form reasonably satisfactory to Port with respect to the policies required under this Section within thirty (30) days, (i) on or prior to the Commencement Date (to the extent such policy is required to be carried as of the Commencement Date), (ii) for such policies required to be carried after the

Commencement Date, on or prior to the date such policies are required, and (iii) with respect to renewal policies, after the policy renewal date of each such policy. Within thirty (30) days after Port's request, Tenant also will provide Port with copies of each such policy, or will otherwise make such policy available to Port for its review. If Tenant has determined that obtaining earthquake or flood insurance prior to commencement of construction of the Initial Improvements pursuant to ***Section 20.1(e)(iv)(3)*** is not commercially reasonable, then Tenant will provide Port with such documents evidencing such determination. If at any time Tenant fails to maintain the insurance required pursuant to ***Section 20.1***, or fails to deliver certificates and/or endorsements as required pursuant to this ***Section 20.2(b)*** then, upon thirty (30) business days' written notice to Tenant, Port may obtain and cause to be maintained in effect such insurance by taking out policies with companies satisfactory to Port. Within thirty (30) business days following demand, Tenant will reimburse Port for all amounts so paid by Port, together with all costs and expenses in connection therewith and interest thereon at the Default Rate.

(c) Insurance of Others.

(i) Tenant shall require any Subtenant or Agent of Tenant that uses the Premises for, or conducts, any Special Event, Parking Operations, or other Permitted Use, or installs or maintains any Promotional Signage on any portion of the Premises to maintain, or cause to be maintained, the following coverages, if applicable: (i) commercial general liability with limits of no less than One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) annual general aggregate, (ii) workers' compensation in amounts required by law, (iii) employer's liability coverage in an amount not less than One Million Dollars ($1,000,000) per accident, per employee and policy limit for injury by disease, covering all employees employed at the Premises, and (iv) automobile insurance in an amount not less than $1,000,000 combined single limit covering use of owned, non-owned or hired vehicles utilized in the performance of work in, on, under, around, or about the Premises. Tenant shall also require any of Tenant's Subtenants or Agents that conduct Parking Operations on any portion of the Premises to maintain, or cause to be maintained, Garagekeepers' Legal Liability insurance, with limits not less than One Million Dollars ($1,000,000) each occurrence, insuring against all risks of loss or physical damage to vehicles (and property left in vehicles) in the care, custody or control of Tenant, its subtenants, Agents, or Invitees, with any deductible not to exceed $10,000 each occurrence. In addition, for any Special Event that requires a liquor license, Tenant or its Subtenants or Agents conducting such Special Event shall maintain Liquor Liability insurance with limits not less than One Million Dollars ($1,000,000.00) each occurrence combined single limit for bodily injury and property damage.

(ii) To the extent Tenant requires liability insurance policies (other than employers' liability and professional liability) to be maintained by any Subtenants, contractors, subcontractors or others in connection with their use or occupancy of, or their activities in, on, under, around, or about the Premises, Tenant will require that such policies be endorsed to include the **CITY AND COUNTY OF SAN FRANCISCO AND THE SAN FRANCISCO PORT COMMISSION AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS** as well as Tenant as additional insureds for claims arising in connection with the named insured's operations.

(d) Primary/Excess Limits. All total limit requirements may be satisfied by any combination of primary, umbrella and excess liability policies (including blanket policies).

20.3. ***Release and Waiver.*** Each Party hereby waives all rights of recovery and causes of action, and releases each other Party from any liability, losses and damages occasioned to the property of each such Party, which losses and damages are of the type covered under the property policies required by ***Section 20.1(d)*** to the extent that such loss is reimbursed by an insurer.

21. HAZARDOUS MATERIALS.

21.1. ***Compliance with Environmental Laws***. Tenant will comply and cause its Subtenants their respective Agents and Invitees to comply while in, on, or under the Premises, with all Environmental Laws, Operations Plans (if any), the Soil Management Plan, the Environmental Covenants and prudent business practices, including, without limitation, any deed restrictions, regulatory agreements, deed notices, additional soils management plans or certification reports required in connection with the approvals of any regulatory agencies in connection with the Project. Without limiting the generality of the foregoing, Tenant covenants and agrees that it will not, without the prior written consent of Port, which consent will not be unreasonably delayed or withheld, Handle, nor permit the Handling of Hazardous Materials in, on, or under the Premises, except for (a) standard building materials and equipment that do not contain asbestos or asbestos-containing materials, lead or polychlorinated biphenyl (PCBs), (b) any Hazardous Materials which do not require a permit or license from, or that need not be reported to, a governmental agency and are used in compliance with all applicable Laws and any reasonable conditions or limitations required by Port, (c) janitorial or office supplies or materials in such amounts as are customarily used for general office, residential or commercial purposes so long as such Handling is at all times in compliance with all Environmental Laws, and (d) Pre-Existing Hazardous Materials that are Handled for Remediation purposes under the jurisdiction of an Environmental Regulatory Agency.

21.2. ***Tenant Responsibility***. Tenant agrees to protect its Agents and Invitees in its operations on the Premises from hazards associated with Hazardous Materials by complying with all Environmental Laws and occupational health and safety Laws and also agrees, for itself and on behalf of its Agents and Invitees, that during the Term:

(a) Other than the Pre-Existing Hazardous Materials, will not permit any Hazardous Materials to be present in, on, or under the Premises except as permitted under ***Section 21.1***;

(b) Will not cause or permit any Hazardous Material Condition; and

(c) Will comply with all Environmental Laws relating to the Premises and any Hazardous Material Condition and any investigation, construction, operations, use or any other activities conducted in, on, or under the Premises, and will not engage in or permit any activity at the Premises, or in the operation of any vehicles used in connection with the Premises in violation of any Environmental Laws;

(d) Tenant will be the "**Generator**" of any waste, including hazardous waste , resulting from investigation, construction, operations, use or any other activities conducted in, on, or under the Premises;

(e) Will comply with all provisions of the Soil Management Plan with respect to the Premises, at its sole cost and expense, including requirements to notify site users, comply with risk management measures during construction, and inspect, document and report site conditions to Port annually and

(f) Will comply, and will cause all of its Subtenants that are subject to an Operations Plan, to comply with the Operations Plan applicable to Tenant or such Subtenant.

21.3. ***Tenant's Environmental Condition Notification Requirements***. The following requirements are in addition to the notification requirements specified in the (i) Operations Plan(s), if any, (ii) the Soil Management Plan, (iii) Environmental Covenants, and (iv) Environmental Laws:

(a) Tenant must notify Port as soon as practicable, orally or by other means that will transmit the earliest possible notice to Port staff, of and when Tenant learns or has reason to believe Hazardous Materials were Released or, except as allowed under ***Section 21.1***, Handled, in, on, over, or under the Premises or emanating from the Premises, or from off-site

conditions or events affecting receptors or the environmental condition in, on, over, or under, the Premises, or from any vehicles Tenant, or its Agents and Invitees use during the Term, whether or not the Release or Handling is in quantities that would be required under Environmental Laws to be reported to an Environmental Regulatory Agency. In addition to Tenant's notice to Port by oral or other means, Tenant must provide Port written notice of any such Release or Handling within twenty-four (24) hours following such Release or Handling.

(b) Tenant must notify Port as soon as practicable, orally or by other means that will transmit the earliest possible notice to Port staff of Tenant's receipt or knowledge of any of the following, and contemporaneously provide Port with an electronic copy within twenty-four (24) hours following Tenant's receipt of any of the following, of:

(i) Any notice of the Release or Handling of Hazardous Materials, in, on, over, or under the Premises or emanating from the Premises, or from off-site conditions or events affecting receptors or the environmental condition in, on, over, or under, the Premises during the Term, or from any vehicles Tenant, or its Agents and Invitees use during the Term that Tenant or its Agents or Invitees provide to an Environmental Regulatory Agency;

(ii) Any notice of a violation, or a potential or alleged violation, of any Environmental Law that Tenant or its Agents or Invitees receive from any Environmental Regulatory Agency;

(iii) Any other Environmental Regulatory Action that is instituted or threatened by any Environmental Regulatory Agency against Tenant or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, over, or under the Premises during the Term or emanating from the Premises, or from off-site conditions or events affecting receptors or the environmental condition in, on, over, or under, the Premises, or from any vehicles Tenant, or its Agents and Invitees use during the Term;

(iv) Any Hazardous Materials Claim that is instituted or threatened by any third party against Tenant or its Agents or Invitees and that relates to the Release or Handling of Hazardous Materials, in, on, over, or under the Premises during the Term or emanating from the Premises, or from off-site conditions or events affecting receptors or the environmental condition in, on, over, or under, the Premises, or from any vehicles Tenant, or its Agents and Invitees use in, on, or under the Premises during the Term; and

(v) Other than any Environmental Regulatory Approvals issued by the Department of Public Health and the Hazardous Materials Unified Program Agency, any notice of the termination, expiration, or substantial amendment of any Environmental Regulatory Approval needed by Tenant or its Agents or Invitees for their operations at the Premises.

(c) Tenant must notify Port of any meeting, whether conducted face-to-face or telephonically, between Tenant and any Environmental Regulatory Agency regarding an Environmental Regulatory Action concerning the Premises or Tenant's or its Agents' or Invitees' operations at the Premises. Port will be entitled to participate in any such meetings at its sole election.

(d) Tenant must notify Port of any Environmental Regulatory Agency's issuance of an Environmental Regulatory Approval concerning the Premises or Tenant's or its Agents' or Invitees' operations at the Premises. Tenant's notice to Port must state the name of the issuing entity, the Environmental Regulatory Approval identification number, and the dates of issuance and expiration of the Environmental Regulatory Approval. In addition, Tenant must provide Port with a list of any plan or procedure required to be prepared and/or filed with any Environmental Regulatory Agency for operations on the Premises. Tenant must provide Port with copies of any of the documents within the scope of this ***Section 21.3(d)*** upon Port's request.

(e) Tenant must provide Port with copies of all non-privileged communications with Environmental Regulatory Agencies, copies of investigation reports

conducted by Environmental Regulatory Agencies, and all non-privileged communications with other Persons regarding actual Hazardous Materials Claims arising from Tenant's or its Agents' or Invitees' operations at the Premises.

(f) Port may from time to time request, and Tenant will be obligated to provide, available information reasonably adequate for Port to determine whether any and all Hazardous Materials are being Handled in a manner that complies with all Environmental Laws.

21.4. ***Remediation Requirement***.

(a) After notifying Port in accordance with ***Section 21.3*** and subject to ***Section 21.4(d)***, Tenant must Remediate, at its sole cost and in compliance with all Environmental Laws and this Lease, any Hazardous Material Condition occurring during the Term; provided Tenant must take all necessary immediate actions to the extent practicable to address an emergent Release of Hazardous Materials to confine or limit the extent or impact of such Release, and will then provide such notice to Port in accordance with ***Section 21.3***. Except as provided in the previous sentence, Tenant must obtain Port's approval, which approval will not be unreasonably withheld, conditioned or delayed, of a Remediation work plan whether or not such plan is required under Environmental Laws, then begin Remediation actions immediately following Port's approval of the work plan and continue diligently until Remediation is complete.

(b) In addition to its obligations under ***Section 21.4(a)***, before this Lease terminates for any reason, Tenant must Remediate, at its sole cost and in compliance with all Environmental Laws and this Lease: (i) any Hazardous Material Condition caused by Tenant's or its Agents' or Invitees' Handling of Hazardous Materials during the Term; and (ii) any Hazardous Material Condition discovered during Tenant's occupancy that is required to be Remediated by any Regulatory Agency if Remediation would not have been required but for Tenant's use of the Premises, or due to Subsequent Construction or construction of the Horizontal Improvements.

(c) In all situations relating to Handling or Remediating Hazardous Materials, Tenant must take actions that are reasonably necessary in Port's reasonable judgment to protect the value of the Premises, such as obtaining Environmental Regulatory Approvals related to Hazardous Materials and taking measures to remedy any deterioration in the condition or diminution of the value of any portion of the Premises.

(d) Unless Tenant or its Agents or Invitees Exacerbate the Hazardous Material Condition or Handle or Release Pre-Existing Hazardous Materials in, on, or under the Premises, Tenant will not be obligated to Remediate any Hazardous Material Condition existing before the Commencement Date.

21.5. ***Pesticide Prohibition***. Tenant will comply with the provisions of Chapter 3 of the San Francisco Environment Code (the "**Pesticide Ordinance**") which (i) prohibit the use of certain pesticides on City property, and (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage as further described in ***Item 10*** (Integrated Pest Management Program) of ***Exhibit X***.

21.6. ***Additional Definitions***.

"**Environmental Covenants**" means any recorded deed restrictions, as may be in effect from time to time, which impose conditions under which certain land uses will be permitted at designated portions of the Project Site.

"**Environmental Laws**" means all present and future federal, State and local Laws, statutes, rules, regulations, ordinances, standards, directives, and conditions of approval, all administrative or judicial orders or decrees, and all permits, licenses, approvals, or other entitlements, or rules of common law pertaining to Hazardous Materials (including the Handling, Release, or Remediation thereof), industrial hygiene or environmental conditions in the

environment, including structures, soil, air, air quality, water, water quality and groundwater conditions, any environmental mitigation measure adopted under Environmental Laws affecting any portion of the Premises, the protection of the environment, natural resources, wildlife, human health or safety, or employee safety, or community right-to-know requirements related to the work being performed under this Lease. "**Environmental Laws**" include the City's Pesticide Ordinance (Chapter 3 of the San Francisco Environment Code), the FOG Ordinance, the Soil Management Plan, and the Environmental Covenants.

"**Environmental Regulatory Action**" when used with respect to Hazardous Materials means any inquiry, Investigation, enforcement, Remediation, agreement, order, consent decree, compromise, or other action that is threatened, instituted, filed, or completed by an Environmental Regulatory Agency in relation to a Release of Hazardous Materials, including both administrative and judicial proceedings.

"**Environmental Regulatory Agency**" means the United States Environmental Protection Agency, OSHA, any California Environmental Protection Agency board, department, or office, including the Department of Toxic Substances Control and the RWQCB, Cal-OSHA, the Bay Area Air Quality Management District, the San Francisco Department of Public Health, the San Francisco Fire Department, the SFPUC, Port, (in its regulatory capacity), or any other Regulatory Agency now or later authorized to regulate Hazardous Materials.

"**Environmental Regulatory Approval**" means any approval, license, registration, permit, or other authorization required or issued by any Environmental Regulatory Agency, including any hazardous waste generator identification numbers relating to operations on the Premises and any closure permit.

"**Exacerbate**" or "**Exacerbating**" when used with respect to Hazardous Materials means any act or omission that increases the quantity or concentration or potential for human exposure of Hazardous Materials in the affected area, causes the increased migration of a plume of Hazardous Materials in soil, groundwater, or bay water, causes a Release of Hazardous Materials that had been contained until the act or omission, or otherwise requires Investigation or Remediation that would not have been required but for the act or omission, it being understood that the mere discovery of Hazardous Materials does not cause "**Exacerbation**". "**Exacerbate**" also includes the disturbance, removal or generation of Hazardous Materials in the course of Tenant's operations, Investigations, maintenance, repair, construction of Improvements, Horizontal Improvements, and Alterations under this Lease. "**Exacerbate**" also means failure to comply with the Soil Management Plan or Environmental Covenants. "**Exacerbation**" has a correlative meaning.

"**Handle**" when used with reference to Hazardous Materials means to use, generate, move, handle, manufacture, process, produce, package, treat, transport, store, emit, discharge or dispose of any Hazardous Material. "**Handling**" and "**Handled**" will have correlative meanings.

"**Hazardous Material**" means any material, waste, chemical, compound, substance, mixture, or byproduct that is identified, defined, designated, listed, restricted, or otherwise regulated under Environmental Laws as a "**hazardous constituent**", "**hazardous substance**", "**hazardous waste constituent**", "**infectious waste**", "**medical waste**", "**biohazardous waste**", "**extremely hazardous waste**", "**pollutant**", "**toxic pollutant**", or "**contaminant**", or any other designation intended to classify substances by reason of properties that are deleterious to the environment, natural resources, wildlife, or human health or safety, including, without limitation, ignitability, infectiousness, corrosiveness, radioactivity, carcinogenicity, toxicity, and reproductive toxicity. Hazardous Material includes, without limitation, any form of natural gas, petroleum products or any fraction thereof, asbestos, asbestos-containing materials, polychlorinated biphenyls (PCBs), PCB-containing materials, and any substance that, due to its characteristics or interaction with one or more other materials, wastes, chemicals, compounds, substances, mixtures or byproducts, damages or threatens to damage the environment, natural resources, wildlife or human health or

safety. "**Hazardous Materials**" also includes any chemical identified in the Soil Management Plan and Environmental Covenants.

"**Hazardous Material Claim**" means any Environmental Regulatory Action or any Claim made or threatened by any third party against the Indemnified Parties, the State Lands Indemnified Parties, or the Premises relating to contribution, cost recovery compensation, Losses resulting from the Release or Exacerbation of any Hazardous Materials, including Losses based in common law. Hazardous Material Claims include Investigation and Remediation costs, fines, natural resource damages, damages for decrease in value of the Premises or other Port property, the loss or restriction of the use or any amenity of the Premises or other Port property, Attorneys' Fees and Costs and fees and costs of consultants and experts.

"**Hazardous Material Condition**" means the Release or Exacerbation, or threatened Release or Exacerbation, of Hazardous Materials in, on, over, or under the Premises or emanating from the Premises, or from off-site conditions or events affecting receptors or the environmental condition in, on, over, or under, the Premises, or from any vehicles Tenant, or its Agents and Invitees use in, on, or under the Premises during the Term.

"**Investigate**" or "**Investigation**" when used with reference to Hazardous Material means any activity undertaken to determine the nature and extent of Hazardous Material that may be located in, on, over or under the Premises, any Horizontal Improvements, Improvements or any portion of the site or the Horizontal Improvements or Improvements or which have been, are being, or threaten to be Released into the environment from the Premises or from off-site conditions or events affecting receptors or the environmental condition in, on, over, or under, the Premises. Investigation will include preparation of site history reports and sampling and analysis of environmental conditions in, on, or under the Premises or any Horizontal Improvements or Improvements.

"**New Hazardous Material**" means a Hazardous Material that is not a Pre-Existing Hazardous Material.

"**Pre-Existing Hazardous Materials**" means any Hazardous Material existing on, in, or under the Premises as of the Commencement Date or identified in the list of Hazardous Materials set forth in ***Exhibit U*** attached hereto.

"**Release**" means when used with respect to Hazardous Materials any accidental, actual, imminent or intentional spilling, introduction, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the air, soil gas, land, surface water, groundwater, or environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Material).

"**Remediate**" or "**Remediation**" when used with reference to Hazardous Materials means any activities undertaken to clean up, abate, remove, transport, dispose, contain, treat, stabilize, monitor, remediate, or otherwise control Hazardous Materials located in, on, over, or under the Premises or which have been, are being, or threaten to be Released into the environment from the Premises or from off-site conditions or events affecting receptors or the environmental condition in, on, over, or under, the Premises, or to restore the affected area to the standard required by the applicable Environmental Regulatory Agency in accordance with application Environmental Laws and any additional Port requirements. Remediation includes, without limitation, those actions included within the definition of "**remedy**" or "**remedial action**" in California Health and Safety Code Section 25322 and "**remove**" or "**removal**" in California Health and Safety Code Section 25323.

"**Soil Management Plan**" means that certain Soil Management Plan for the Project Site, approved by Port, DPH, and DTSC. The Soil Management Plan has not yet been approved as of the Commencement Date.

"**State Lands Indemnified Parties**" means the State of California, the California State Lands Commission, and all of their respective heirs, legal representatives, successors and assigns, and all other Persons acting on their behalf.

22. PORT'S RIGHT TO PAY SUMS OWED BY TENANT.

22.1. ***Port May Pay Sums Owed by Tenant Following Tenant's Failure to Pay.*** Without limiting any other provision of this Lease, and in addition to any other rights or remedies available to Port for any Event of Default, if at any time Tenant fails to pay any sum required to be paid by Tenant pursuant to this Lease to any Person other than Port (other than any Imposition, mechanics' lien or encumbrance with respect to which the provisions of ***Articles 6*** and ***7*** apply, or any other sum required to be paid by Tenant which Tenant is contesting in good faith and with due diligence and which would not become a lien on the Premises), Port may, at its sole option, but will not be obligated to, upon ten (10) days prior notice to Tenant, pay such sum for and on behalf of Tenant.

22.2. ***Tenant's Obligation to Reimburse Port.*** If pursuant to ***Section 22.1***, Port pays any sum required to be paid by Tenant hereunder, Tenant will reimburse Port as Additional Rent, the sum so paid. All such sums paid by Port are due from Tenant to Port at the time the sum is paid, and if paid by Tenant at a later date, will bear interest at the lesser of the Default Rate or the maximum non-usurious rate Port is permitted by Law to charge from the date such sum is paid by Port until Port is reimbursed in full by Tenant. Port's rights under this ***Article 22*** are in addition to its rights under any other provision of this Lease or under applicable Laws. The provisions of this ***Section 22.2*** will survive the expiration or earlier termination of this Lease.

23. EVENTS OF DEFAULT.

23.1. ***Events of Default.*** Subject to the provisions of ***Section 23.2***, the occurrence of any one or more of the following events which remain uncured after the passage of time set forth pursuant to this ***Article 23*** shall constitute an "**Event of Default**" under the terms of this Lease:

(a) Tenant fails to pay any Rent or Imposition when due, which failure continues for five (5) business days following written notice from Port; provided, however, Port will not be required to give such notice with respect to Rent set forth on ***Exhibit D*** on more than two (2) occasions during any calendar year, and failure to pay any such Rent thereafter when due will be deemed an Event of Default without need for further notice;

(b) Subject to satisfaction or waiver of all of Master Developer's conditions precedent set forth in the DDA with regard to release of Development Parcels, Tenant fails to deliver (or cause the Phase Transferee to deliver) all of the executed and if applicable, acknowledged, documents required in ***Section 5.3*** into Escrow within the time period set forth in such ***Section 5.3***, and such failure continues for one (1) business day following written notice from Port;

(c) Tenant fails to maintain any insurance required to be maintained by Tenant under this Lease, which failure continues without cure for five (5) business days after written notice from Port;

(d) Tenant fails to comply with a material requirement set forth in ***Exhibit N*** for a Special Event and such failure continues for one (1) business day following written notice from Port; provided, however, if such default cannot reasonably be cured within such period, Tenant will not be in default of this Lease if Tenant commences to cure such default with such period and diligently and in good faith continues to cure the default;

(e) Tenant abandons the Premises, within the meaning of California Civil Code Section 1951.3, which abandonment is not cured within thirty (30) days after notice from Port of Port's belief of abandonment;

(f) The Premises are used for Prohibited Uses, as determined by Port in its reasonable discretion, and such Prohibited Use(s) continues for a period of one (1) business day following written notice from Port; provided, however, if such default cannot reasonably be cured within such period, Tenant will not be in default of this Lease if Tenant commences to cure the default within such period and diligently and in good faith continues to cure the default; provided, further, without limitation of the foregoing, the Parties agree that Tenant's internal deliberations to determine the path to cure such default will be deemed to be a commencement of cure;

(g) Tenant fails to comply with the provisions of ***Section 11.1*** (Covenants to Repair and Maintain the Premises) within five (5) days following written notice from Port; provided, however, if such default cannot reasonably be cured within such five (5) day period, Tenant will not be in default of this Lease if Tenant commences to cure the default within such five (5) day period and diligently and in good faith continues to cure the default; provided, however, without limitation of the foregoing, the Parties agree that Tenant's internal deliberations to determine the path to cure such default will be deemed to be a commencement of cure;

(h) Tenant fails to comply with the provisions of ***Article 21*** and such failure continues for a period of one (1) business day following written notice from Port; provided, however, if such default cannot reasonably be cured within such one (1) business day period, Tenant will not be in default of this Lease if Tenant commences to cure the default within such one (1) business day period and diligently and in good faith continues to cure the default; provided, further that the Parties agree that Tenant's internal deliberations to determine the path to cure such default will be deemed to be a commencement of cure;

(i) Tenant files a petition for relief, or an order for relief is entered against Tenant, in any case under applicable bankruptcy or insolvency Law, or any comparable Law that is now or hereafter may be in effect, whether for liquidation or reorganization, which proceedings if filed against Tenant are not dismissed or stayed within one hundred eighty (180) days;

(j) A writ of execution is levied on the Leasehold Estate which is not released within one hundred eighty (180) days, or a receiver, trustee or custodian is appointed to take custody of all or any material part of the property of Tenant, which appointment is not dismissed within one hundred eighty (180) days; provided, however, that the exercise by a Mortgagee of any of its remedies under its Mortgage will not, in and of itself, constitute a default under this ***Section 23.1(j)***;

(k) Tenant makes a general assignment for the benefit of its creditors; or

(l) Tenant violates any other covenant, or fails to perform any other obligation to be performed by Tenant under this Lease (including, but not limited to, any Mitigation and Improvement Measures that Tenant is required to comply with) at the time such performance is due, and such violation or failure continues without cure for more than thirty (30) days after written notice from Port specifying the nature of such violation or failure, or, if such cure cannot reasonably be completed within such thirty (30) day period, if Tenant does not within such thirty (30) day period commence such cure, or having so commenced, does not prosecute such cure with diligence and dispatch to completion within a reasonable time thereafter.

23.2. ***Special Provisions Concerning Mortgagees and Events of Default.*** Notwithstanding anything in this Lease to the contrary, the exercise by a Mortgagee of any of its remedies under its Mortgage will not, in and of itself, constitute a default under this Lease. Port will also accept a cure of an Event of Default by any Tenant investor or a mezzanine lender; provided, however, such parties will not have any additional time to cure any Event of Default.

24. REMEDIES.

24.1. *Port's Remedies Generally*.

(a) Upon the occurrence and during the continuance of an Event of Default under this Lease, except as expressly limited herein, Port has all rights and remedies provided in this Lease or available at Law or in equity (including the right to seek injunctive relief or an order for specific performance, where appropriate), including the right to self-help to the extent provided for herein; provided, however, notwithstanding anything to the contrary in this Lease, any right to cure and any remedy available to Port regarding any Event of Default under the Workforce Development Plan, is limited to those rights and remedies provided in the applicable Law for such applicable Other City Requirements set forth in ***Exhibit X***; provided, further, Port's right to terminate this Lease for an Event of Default will be limited to Events of Defaults described in ***Sections 23.1(a), 23.1(c), 23.1(e), 23.1(f) and 23.1(h)***.

(b) In addition to the foregoing Remedies, (i) Port will have the right to prohibit Tenant's use of the Premises for Special Events if more than three (3) Event of Defaults under ***Section 23.1(d)*** occur during any given twelve (12)-month period, and (ii) with respect to an Event of Default due to Tenant's failure to pay Rent, Port will have the remedies set forth in the Financing Plan.

(c) Except as expressly provided herein, all of Port's rights and remedies are cumulative, and except as may be otherwise provided by applicable Law, the exercise of any one or more rights will not preclude the exercise of any other.

24.2. *Right to Keep Lease in Effect*.

(a) **Continuation of Lease**. Port has the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations) under which Port may continue this Lease in full force and effect. In the event Port elects this remedy, Port has the right to enforce by suit or otherwise, all covenants and conditions hereof to be performed or complied with by Tenant and exercise all of Port's rights, including the right to collect Rent when due. Upon the occurrence of an Event of Default, Port may enter the Premises without terminating this Lease and relet them, or any part of them, to third parties for Tenant's account. Tenant will be liable immediately to Port for all reasonable costs Port incurs in reletting the Premises, including Attorneys' Fees and Costs, brokers' fees or commissions, expenses of remodeling the Premises required by the reletting and similar costs. Reletting can be for a period shorter or longer than the remaining Term, at such rents and on such other terms and conditions as Port determines in its sole discretion.

(b) **No Termination Without Notice**. No act by Port allowed by this ***Section 24.2***, nor any appointment of a receiver upon Port's initiative to protect its interest under this Lease, nor any withholding of consent to a Transfer or termination of a Transfer in accordance herewith, will terminate this Lease, unless and until Port notifies Tenant in writing that Port elects to terminate this Lease.

(c) Application of Proceeds of Reletting. If Port elects to relet the Premises as provided in ***Section 24.2(a)***, the rent that Port receives from reletting will be applied to the payment of:

(i) First, all costs incurred by Port in enforcing this Lease, whether or not any action or proceeding is commenced, including Attorneys' Fees and Costs, brokers' fees or commissions, the costs of removing and storing Personal Property, costs in connection with reletting the Premises, or any portion thereof, altering, installing, modifying and constructing tenant improvements required for a new tenant, and costs of repairing, securing and maintaining the Premises or any portion thereof;

(ii) Second, the payments of any indebtedness other than Rent due hereunder from Tenant to Port;

(iii) Third, Rent due and unpaid under this Lease;

(iv) After deducting the payments referred to in this ***Section 24.2(c)***, any sum remaining from the rent Port receives from reletting will be held by Port and applied to monthly installments of future Rent as such amounts become due under this Lease. In no event will Tenant be entitled to any excess rent received by Port. If on a date Rent or other amount is due under the Lease, the rent received by Port as of such date from any reletting is less than the Rent or other amount due on that date, or if any costs incurred by Port in reletting, remain after applying the rent received from such reletting, Tenant will pay to Port such deficiency. Such deficiency will be calculated and paid monthly.

(d) Payment of Rent. Tenant will pay to Port Rent on the dates the Rent is due, less the rent Port has received from any reletting which exceeds all costs and expenses of Port incurred in connection with an Event of Default and the reletting of all or any portion of the Premises.

24.3. ***Port's Right to Cure Tenant's Default***. Port, at any time after Tenant commits an Event of Default, may, at Port's sole option, cure the default at Tenant's sole cost. If Port at any time, by reason of Tenant's default, undertakes any act to cure or attempt to cure such default that requires the payment of any sums, or otherwise incurs any costs, damages, or liabilities (including without limitation, Attorneys' Fees and Costs), all such sums, costs, damages, or liabilities paid by Port will be due immediately from Tenant to Port at the time the sum is paid, and if paid by Tenant at a later date, shall bear interest at the lesser of the Default Rate or the maximum non-usurious rate Port is permitted by Law to charge from the date such sum is paid by Port until Port is reimbursed by Tenant.

24.4. ***Termination of Tenant's Right to Possession***. Upon an Event of Default that allows for termination:

(a) Before exercising any right to terminate this Lease and Tenant's right to possession of the Premises for a default arising under ***Sections 23.1(a)*** (but only with respect to Tenant's failure to pay any Imposition), ***23.1(b)***, ***23.1(f)***, and ***23.1(h)***, Port will provide Tenant with a second written notice ("**Second Default Notice**") and the additional cure period set forth below:

(i) For an Event of Default under ***Section 23.1(a)***, Tenant will have five (5) business days following delivery of the Second Default Notice to cure;

(ii) For an Event of Default under ***Sections 23.1(b)*** or ***23.1(f)***, Tenant will have one (1) business day following delivery of the Second Default Notice to cure; provided, however, if such default cannot reasonably be cured within such one (1) business day period, then Port will not exercise its termination right if Tenant is diligently and in good faith continues to cure the default to completion;

(b) Port may terminate this Lease and Tenant's right to possession of the Premises for the Events of Default described in ***Section 24.4(a)*** at any time following expiration of the cure periods set forth in ***Section 24.4(a)*** for the applicable Event of Default by providing Tenant with a written notice of termination.

(c) Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on Port's initiative to protect Port's interest under this Lease will not constitute a termination of Tenant's right to possession.

(d) If Port elects to terminate this Lease, Port has the rights and remedies provided by California Civil Code Section 1951.2, including the right to recover from Tenant the following:

(i) The worth at the time of award of the unpaid Rent which had been earned at the time of termination; plus

(ii) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(iii) 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 the loss of Rent that Tenant proves could be reasonably avoided; plus

(iv) Any other amounts necessary to compensate Port for the detriment proximately caused by Tenant's default, or which, in the ordinary course of events, would likely result therefrom. Efforts by Port to mitigate the damages caused by Tenant's breach of this Lease do not waive Port's rights to recover damages upon termination.

The "**worth at the time of award**" of the amounts referred to in ***Sections 24.4(d)(i) and 24.4(d)(ii)*** above will be computed by allowing interest at an annual rate equal to the lesser of the Default Rate or the maximum non-usurious rate Port is permitted by Law to charge. The "worth at the time of award" of the amount referred to in ***Section 24.4(d)(iii)*** will be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%).

24.5. ***Continuation of Subleases and Other Agreements***. Port has the right, at its sole option, to assume any and all Subleases and agreements by Tenant for the maintenance or operation of the Premises. Tenant hereby further covenants that, upon request of Port following an Event of Default and termination of Tenant's interest in this Lease, Tenant will execute, acknowledge and deliver to Port such further instruments as may be necessary or desirable to vest or confirm or ratify vesting in Port the then existing Subleases and other agreements then in force, as above specified.

24.6. ***Appointment of Receiver***. From and after an Event of Default, Port has the right to have a receiver appointed to collect Rent and conduct Tenant's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself will constitute an election by Port to terminate this Lease.

24.7. ***Waiver of Redemption***. Tenant hereby waives, for itself and all Persons claiming by and under Tenant, redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other pertinent present or future Law, in the event Tenant is evicted or Port takes possession of the Premises by reason of any Event of Default.

24.8. ***Liquidated Damages for Certain Defaults***. In addition to the other remedies available to Port under this Lease for an Event of Default under ***Sections 23.1(d) or 23.1(f)***, if Tenant uses the Premises in violation of material Special Event procedure or for the same type of Prohibited Use more than three (3) times within a twelve (12) month period, then Tenant will pay Port the Prohibited Use Charge as further described in ***Section 4.6***, or the No Access Charge as further described in ***Section 1.7***.

24.9. ***Remedies Not Exclusive***. The remedies set forth in this ***Article 24*** are not exclusive; they are cumulative and in addition to any and all other rights or remedies of Port now or later allowed by other terms and provisions of this Lease, law or in equity. Tenant's obligations hereunder will survive any termination of this Lease.

25. EQUITABLE RELIEF.

In addition to the other remedies provided in this Lease, either Party is entitled at any time after a default or threatened default by the other Party to seek injunctive relief or an order for specific performance, where appropriate to the circumstances of such default. In addition,

after the occurrence of an event of default by the other Party, the non-defaulting Party is entitled to any other equitable relief which may be appropriate to the circumstances of such event of default.

26. NO WAIVER.

26.1. ***No Waiver by Port or Tenant.*** No failure by Port or Tenant to insist upon the strict performance of any term of this Lease or to exercise any right, power or remedy consequent upon a breach of any such term, will be deemed to imply any waiver of any such breach or of any such term unless clearly expressed in writing by the Party against which waiver is being asserted. No waiver of any breach will affect or alter this Lease, which shall continue in full force and effect, or the respective rights of Port or Tenant with respect to any other then existing or subsequent breach.

26.2. ***No Accord or Satisfaction.*** No submission by Tenant or acceptance by Port of full or partial Rent or other sums during the continuance of any failure by Tenant to perform its obligations hereunder will waive any of Port's rights or remedies hereunder or constitute an accord or satisfaction, whether or not Port had knowledge of any such failure except with respect to the Rent so paid. No endorsement or statement on any check or remittance by or for Tenant or in any communication accompanying or relating to such payment will operate as a compromise or accord or satisfaction unless the same is approved as such in writing by Port. Port may accept such check, remittance or payment and retain the proceeds thereof, without prejudice to its rights to recover the balance of any Rent, including any and all Additional Rent, due from Tenant and to pursue any right or remedy provided for or permitted under this Lease or in law or at equity. No payment by Tenant of any amount claimed by Port to be due as Rent hereunder (including any amount claimed to be due as Additional Rent) will be deemed to waive any Claim which Tenant may be entitled to assert with regard to the making of such payment or the amount thereof, and all such payments will be without prejudice to any rights Tenant may have with respect thereto, whether or not such payment is identified as having been made "under protest" (or words of similar import).

27. DEFAULT BY PORT; TENANT'S REMEDIES.

27.1. ***Default by Port.*** Port will be deemed to be in default hereunder only if Port fails to perform or comply with any obligation on its part hereunder, and (i) such failure continues for more than the time of any cure period provided herein, or, (ii) if no cure period is provided herein, for more than sixty (60) days after written notice thereof from Tenant (provided that Port will use reasonable efforts to cure such default within a thirty (30) day period after receipt of such written notice from Tenant), or, (iii) if such default cannot reasonably be cured within such sixty (60) day period, Port does not within such period commence with due diligence and dispatch the curing of such default, or, having so commenced, thereafter fails or neglects to prosecute or complete with diligence and dispatch the curing of such default.

27.2. ***Tenant's Exclusive Remedies.*** Upon the occurrence of default by Port described above, Tenant will have the exclusive right (a) to seek equitable relief, including specific performance, in accordance with applicable Laws and the provisions of this Lease where appropriate and where such relief does not impose personal liability on Port or its Agents; or (b) if and only if Master Developer has a right to terminate the DDA on account of the applicable default, and Master Developer elects to terminate the DDA, to terminate this Lease. Tenant agrees that, notwithstanding anything to the contrary herein or pursuant to any applicable Laws, Tenant's remedies hereunder constitute Tenant's sole and absolute right and remedy for a default by Port hereunder, and Tenant has no remedy of self-help.

28. TENANT'S RECOURSE AGAINST PORT.

28.1. ***No Recourse Beyond Value of Property Except as Specified.*** Tenant agrees that notwithstanding any other term or provision of this Lease, (a) Tenant will have no recourse with respect to, and Port will not be liable for, any obligation of Port under this Lease, or for any

Claim based upon this Lease, except to the extent of the fair market value of Port's fee interest in the Premises (as encumbered by this Lease) and (b) neither Port nor the Indemnified Parties will be liable under any circumstances for injury or damage to, or interference with Tenant's business, including loss or profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring. By Tenant's execution and delivery hereof and as part of the consideration for Port's obligations hereunder, Tenant expressly waives all such liability.

28.2. ***No Recourse Against Specified Persons.*** No commissioner, officer, or employee of the Indemnified Parties will be personally liable to Tenant, or any successor in interest, for any event of default by Port, and Tenant agrees that it will have no recourse with respect to any obligation of Port under this Lease, or for any amount which may become due Tenant or any successor or for any obligation or Claim based upon this Lease, against any such Person.

28.3. ***Nonliability of Tenant's Members, Partners, Shareholders, Directors, Officers and Employees.*** No member, officer, partner, shareholder, director, board member, agent, or employee of Tenant will be personally liable to Port, and Port will have no recourse against any of the foregoing, in an Event of Default by Tenant or for any amount which may become due to Port or on any obligations under the terms of this Lease or any Claim based upon this Lease.

29. LIMITATIONS ON LIABILITY.

29.1. ***Waiver of Indirect or Consequential, Incidental, Punitive and Special Damages.*** As a material part of the consideration for this Lease, in no event will either Party be liable to the other Party for any consequential, incidental, special and punitive damages arising out of any such Party's default.

29.2. ***Limitation on Parties' Liability Upon Transfer.*** In the event of any transfer of Port's interest in and to the Premises, Port (and in case of any subsequent transfers, the then transferor) will automatically be relieved from and after the date of such transfer of all liability with regard to the performance of any covenants or obligations contained in this Lease thereafter to be performed on the part of Port (or such transferor, as the case may be), but not from liability incurred by Port (or such transferor, as the case may be) on account of covenants or obligations to be performed by Port (or such transferor, as the case may be) hereunder before the date of such transfer; provided, however, that Port (or such subsequent transferor) has transferred to the transferee any funds in Port's (or in the possession of such subsequent transferor) in which Port (or such subsequent transferor) has an interest, in trust, for application pursuant to the provisions hereof, and such transferee has assumed all liability for all such funds so received by such transferee from Port (or such subsequent transferor).

30. ESTOPPEL CERTIFICATES.

30.1. ***Estoppel Certificate by Tenant.*** Tenant will execute, acknowledge and deliver to Port (or at Port's request, to a prospective purchaser or mortgagee of Port's interest in the Premises), within fifteen (15) business days after a request, a certificate substantially in the form attached hereto as ***Exhibit K-2*** stating to Tenant's actual knowledge after diligent inquiry (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications or, if this Lease is not in full force and effect, so stating), (b) the dates, if any, to which any Rent and other sums payable hereunder have been paid, (c) that no notice has been received by Tenant of any default hereunder which has not been cured, except as to defaults specified in such certificate, and (d) any other matter actually known to Tenant, directly related to this Lease and reasonably requested by Port. In addition, if requested, Tenant will attach to such certificate a copy of this Lease, and any amendments thereto, and include in such certificate a statement by Tenant that, its knowledge, such attachment is a true, correct and complete copy of this Lease, as applicable, including all modifications thereto. Any such certificate may be relied upon by any Port, any successor agency, and any prospective purchaser

or mortgagee of the Premises or any part of Port's interest therein. Tenant will also insert a provision similar to this Section into each Sublease requiring Subtenants under Subleases to execute, acknowledge and deliver to Port, within twenty (20) business days after request, an estoppel certificate substantially in the form attached hereto as ***Exhibit R*** for Pre-Approved Subleases and ***Exhibit S-2*** for Phase Subleases covering the matters described in clauses (a), (b), (c) and (d) above with respect to such Sublease, along with a true and correct copy of the applicable Sublease and all amendments thereto.

30.2. ***Estoppel Certificate by Port***. Port will execute, acknowledge and deliver to Tenant (or at Tenant's request, to any Mortgagee, prospective Mortgagee, mezzanine lender or a prospective mezzanine lender, prospective purchaser, Phase Transferee, or other prospective transferee of Tenant's interest under this Lease), within fifteen (15) business days after a request, a certificate substantially in the form attached hereto as ***Exhibit V*** stating to Port's actual knowledge after diligent inquiry (or with respect to any estoppel certificates being provided to mezzanine lenders, to the actual knowledge of Port's project manager for this Lease without diligent inquiry) (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified, and stating the modifications or if this Lease is not in full force and effect, so stating), (b) the dates, if any, to which Rent and other sums payable hereunder have been paid, whether or not, to the knowledge of Port, there are then existing any defaults under this Lease (and if so, specifying the same) and (c) any other matter actually known to Port, directly related to this Lease and reasonably requested by the requesting Party. In addition, if requested, Port will attach to such certificate a copy of this Lease and any amendments thereto, and include in such certificate a statement by Port that, to its knowledge, such attachment is a true, correct and complete copy of this Lease, including all modifications thereto. Any such certificate may be relied upon by Tenant or any Mortgagee, prospective Mortgagee, prospective purchaser, Phase Transferee, or other prospective transferee of Tenant's interest under this Lease.

31. APPROVALS BY PORT; STANDARD OF REVIEW; FEES FOR REVIEW.

31.1. ***Approvals by Port***. The Port's Executive Director or his or her designee, is authorized to execute on behalf of Port any closing or similar documents and any contracts, agreements, memoranda, or similar documents with State, regional or local authorities or other Persons that are necessary or proper to achieve the purposes and objectives of this Lease and do not materially increase the obligations of Port hereunder, if the Executive Director reasonably determines, after consultation with, and approval as to form by, the City Attorney, that the document is necessary or proper and in Port's best interests. The Port Executive Director's signature of any such documents will conclusively evidence such a determination by him or her. Wherever this Lease requires or permits the giving by Port of its consent or approval, or whenever an amendment, waiver, notice, or other instrument or document is to be executed by or on behalf of Port, the Executive Director, or his or her designee, is authorized to execute such instrument on behalf of Port, except as otherwise provided by applicable Law, including the City's Charter and approval by the City's Attorney's Office to the extent applicable, or if the Executive Director determines, in his or her sole discretion, that Port Commission action is necessary prior to execution of such instrument.

31.2. ***Standard of Review***. Except as expressly provided otherwise or when Port is acting in its regulatory capacity, the following standards will apply to the Parties' conduct under this Lease.

(a) **Advance Writings Required**. Whenever a Party's approval or waiver is required: (i) the approval or waiver must be obtained in advance and in writing; and (ii) the Party whose approval or waiver is sought may not unreasonably withhold, condition, or delay its approval or waiver, as applicable.

(b) **Commercial Reasonableness**. Whenever a Party is permitted to make a judgment, form an opinion, judge the sufficiency of the other Party's performance, or exercise

discretion in taking (or refraining from taking) any action or making any determination, or grant or withhold its approval or consent, unless otherwise stated in this Lease, that Party must employ commercially reasonable standards in doing so. In general, the Parties' conduct in implementing this Lease, including construction of Improvements, disapprovals, demands for performance, requests for additional information, and any exercise of an election or option, must be commercially reasonable.

31.3. ***Fees for Review***. Unless a different time period is required in this Lease, within thirty (30) days after Port's written request, Tenant will pay Port, as Additional Rent, Port's reasonable costs, including, without limitation, Attorneys' Fees and Costs and costs of Port staff time incurred in connection with the review, investigation, processing, documentation, and/or approval of any proposed Transfer, Mortgage, estoppel certificate, or any other matter under this Lease requiring Port's approval or review excluding any such costs incurred by Port in its regulatory capacity, which costs will be paid separately by Tenant to the extent required by the applicable regulatory requirements. Tenant will pay such reasonable costs regardless of whether or not Port consents to such proposal.

32. NO MERGER OF TITLE.

There will be no merger of the Leasehold Estate with the fee estate in the Premises by reason of the fact that the same Person may own or hold (a) the Leasehold Estate or any interest in such Leasehold Estate, and (b) any interest in such fee estate. No such merger will occur unless and until all Persons having any interest in the Leasehold Estate and the fee estate in the Premises join in and record a written instrument effecting such merger.

33. QUIET ENJOYMENT.

Subject to the Permitted Encumbrances, the Premises being in and around construction throughout the Term, Construction Impacts from the adjacent and nearby Development Projects, the terms and conditions of this Lease and applicable Laws, Port agrees that Tenant, upon paying the Rent and observing and keeping all of the covenants under this Lease on its part to be kept, will lawfully and quietly hold, occupy and enjoy the Premises during the Term without hindrance or molestation by Port. Notwithstanding the foregoing, Port has no liability to Tenant in the event any defect exists in the title of Port as of the Commencement Date, whether or not such defect affects Tenant's rights of quiet enjoyment. Tenant's sole remedy with respect to any such existing title defect is to obtain compensation by pursuing its rights against any title insurance company or companies issuing title insurance policies to Tenant.

34. SURRENDER OF PREMISES.

34.1. ***Condition of Premises***. Except with respect to those portions of the Premises for which this Lease terminates upon conveyance of Development Parcels to Vertical Developers or the City upon Acceptance of Horizontal Improvements, as applicable, (either case of which will also be governed by the DDA and other Project Approvals), upon the expiration or other termination of the Term, Tenant will quit and surrender to Port the Premises (i) in good order and condition, (ii) clean, free of debris, waste, and Hazardous Materials (other than any Pre-Existing Hazardous Materials that have not been Handled, Released, or Exacerbated by Tenant, its Agents, or Invitees), and (iii) free and clear of all liens and encumbrances other than the Permitted Encumbrances. If it is determined by Port that the condition of all or any portion of the Premises is not in compliance with the provisions of this Lease with respect to Hazardous Materials at the expiration or earlier termination of this Lease, then at Port's sole option, Port may require Tenant to hold over possession of the Premises until Tenant can surrender the Premises to Port in the condition required herein. Except as set forth in ***Section 34.2***, the Premises will be surrendered with all Horizontal Improvements, other Improvements, repairs, alterations, additions, substitutions and replacements thereto. Tenant hereby agrees to execute all documents as Port or the City may deem necessary to evidence or confirm any such other termination.

34.2. ***Demolition of Improvements.***

(a) At the expiration or earlier termination of this Lease, at Port's sole election ("**Demolition Option**"), Port may require Tenant, at Tenant's sole cost, to Demolish and Remove the Improvements and any Horizontal Improvements that have not been Accepted by the City that Port or the City reasonably believe are defective, and surrender the Premises as a vacant parcel of real property. Port will notify Tenant of Port's election to exercise the Demolition Option (i) no later than twenty-four (24) months prior to the Expiration Date, or (ii) within ninety (90) days following termination of this Lease due to an Event of Default.

(b) If Port exercises the Demolition Option in accordance with ***Section 34.2(a)***, then if Port agrees that Tenant will complete the Demolition and Removal after the expiration or earlier termination of this Lease (or promptly thereafter if the Lease is terminated due to an Event of Default), Port and Tenant will enter into Port's standard license granting Tenant non-possessory access to the Premises in order for Tenant to perform the Demolition and Removal following the expiration or earlier termination of this Lease; provided, however, Tenant will perform the Demolition and Removal in compliance with ***Article 13*** (Subsequent Construction) and Port may require insurance, bond, guaranty, Indemnification, and other requirements that exceed the coverage amounts or licensee obligations set forth in Port's standard license, that Port determines are reasonably appropriate to protect its interest in light of the risks and liabilities associated with the Demolition and Removal.

(c) Tenant must commence and complete the Demolition and Removal in a timely manner and with due diligence and care, and complete the same within the time period agreed to between the Parties.

34.3. ***Subleases.*** Upon any termination of this Lease, subject to the terms of any Non-Disturbance Agreement, all Subleases hereunder will automatically terminate.

34.4. ***Personal Property.*** On or before expiration or earlier termination of this Lease, Tenant will remove and will cause all Subtenants to remove, all of their respective trade fixtures, signs and other Personal Property. If the removal of such Personal Property causes damage to the Premises, Tenant will promptly repair such damage, at no cost to Port. Any items not removed by Tenant as required herein will be deemed abandoned and may be stored, removed, and disposed of by Port at Tenant's sole cost and expense, and Tenant waives all Claims against Port for any Losses resulting from Port's retention, removal or disposition of such Personal Property; provided, however, that Tenant will be liable to Port for all costs incurred in storing, removing and disposing of such abandoned property or repairing any damage to the Premises resulting from such removal.

34.5. ***Quitclaim.*** Upon the expiration or earlier termination of this Lease, the Premises will automatically, and without further act or conveyance on the part of Tenant or Port, become the property of Port, free and clear of all liens and without payment therefore by Port and will be surrendered to Port upon such date. Upon or at any time after the expiration or earlier termination of this Lease, if requested by Port, Tenant will promptly deliver to Port, without charge, a quitclaim deed to the Premises and any other instrument reasonably requested by Port to evidence or otherwise effectuate the termination of Tenant's Leasehold Estate hereunder and to effectuate such transfer or vesting of title to the Premises, the Improvements, the Horizontal Improvements (if applicable), and Personal Property that Port agrees are to remain within the Premises.

34.6. ***Survival.*** The provisions of this ***Article 34*** will survive the expiration or earlier termination of this Lease.

35. NOTICES.

35.1. *Notices*.

All notices, demands, consents, and requests which may or are to be given by any Party to the other will be in writing, except as otherwise provided herein. All notices, demands, consents, and requests to be provided hereunder shall be deemed to have been properly given on the date of receipt if served personally on a day that is a business day (or on the next business day if served personally on a day that is not a business day), or, if mailed, on the date that is two (2) days after the date when deposited with the U.S. Postal Service for delivery by United States registered or certified mail, postage prepaid, in either case, addressed as follows:

To Port:	Port of San Francisco Pier 1 San Francisco, CA 94111 Attn: Deputy Director of Real Estate and Development Re: Mission Rock
With a copy to:	Port of San Francisco Pier 1 San Francisco, CA 94111 Attn: Deputy Director of Real Estate and Development Re: Mission Rock
Tenant:	24 Willie Mays Plaza San Francisco, CA 94107 Attention: General Counsel Email: jbair@sfgiants.com
With a copy to:	Coblentz Patch Duffy & Bass LLP One Montgomery Street, Suite 3000 San Francisco, CA 94104 Attention: Harry O'Brien Email: hobrien@coblentzlaw.com

or at such other place or places in the United States as each such Party may from time to time designate by written notice to the other in accordance with the provisions hereof. For convenience of the Parties, copies of notices may also be given by electronic-mail to the electronic-mail address set forth above (or such other address as may be provided from time to time by notice given in the manner required hereunder); however, neither Party may give official or binding notice by electronic-mail.

35.2. *Form and Effect of Notice*.

Every notice given to a Party or other Person under this ***Article 35*** must state (or shall be accompanied by a cover letter that states):

(a) the Section of this Lease pursuant to which the notice is given and the action or response required, if any; and

(b) if applicable, the period of time within which the recipient of the notice must respond thereto.

In no event will a recipient's approval of or consent to the subject matter of a notice be deemed to have been given by its failure to object thereto if such notice (or the accompanying cover letter) does not comply with the requirements of this ***Section 35.2***.

36. INSPECTION OF PREMISES BY PORT.

36.1. ***Entry for Inspection***. Subject to the rights of any Subtenants, Port and its authorized Agents have the right to enter the Premises without notice at any time during normal business hours of generally recognized business days, provided that Tenant or Tenant's Agents are present on the Premises (except in the event of an emergency), for the purpose of inspecting the Premises to determine whether the Premises is in good condition and whether Tenant is complying with its obligations under this Lease.

36.2. ***Entry for Horizontal Improvements***. With respect to the development of Horizontal Improvements, Port and its Agents have the right of entry onto Premises in accordance with Section 13.8(b) of the DDA to the extent reasonably necessary to carry out the purposes of the DDA.

36.3. ***General Entry***. In addition to its rights pursuant to ***Section 36.1***, subject to the rights of any Subtenants, Port and its authorized Agents will have the right to enter the Premises at all reasonable times and upon reasonable notice as stated below for any of the following purposes:

(a) To perform any necessary maintenance, repairs or restoration to the Premises or to perform any services which Port has the right or obligation to perform in accordance with ***Sections 11.2*** or ***24.2***;

(b) To serve, post, or keep posted any notices required or allowed under the provisions of this Lease; or

(c) To obtain environmental samples and perform equipment and facility testing.

Port agrees to give Tenant reasonable prior notice of Port's entering on the Premises except in an emergency for the purposes set forth above. Such notice will be not less than one (1) days' prior notice. Tenant will have the right to have a representative of Tenant accompany Port or its Agents on any entry into the Premises. Notwithstanding the foregoing, no notice will be required for Port's entry onto public areas of the Premises during regular business hours unless such entry is for the purposes set forth in ***Section 36.3(a)***.

36.4. ***Emergency Entry***. Port may enter the Premises at any time, without notice, in the event of an emergency. Port will have the right to use any and all means which Port may deem proper in such an emergency in order to obtain entry to the Premises. Entry to the Premises by any of these means, or otherwise, will not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from the Premises or any portion of the Premises.

36.5. ***No Liability***. Port will not be liable in any manner, and Tenant hereby waives any claim for damages, for any inconvenience, disturbance, loss of business, nuisance, or other damage, including without limitation any abatement or reduction in Rent, arising out of Port's entry onto the Premises as provided in ***Article 36*** or performance of any necessary or required work on the Premises, or on account of bringing necessary materials, supplies and equipment into or through the Premises during the course thereof, except damage resulting solely from the willful misconduct or gross negligence of Port or its authorized representatives.

36.6. ***Nondisturbance***. Port will use its commercially reasonable efforts to conduct its activities on the Premises as allowed in this ***Article 36*** in a manner which, to the extent reasonably practicable, will minimize annoyance or disturbance to Tenant.

36.7. *Subtenant Agreement.* Tenant will require each Subtenant to permit Port to enter its premises for the purposes specified in *Section 36.1* through *Section 36.4*.

37. MORTGAGES.

Tenant will have the right to Mortgage the Leasehold Estate in accordance with the provisions set forth in *Exhibit W* attached hereto.

38. NO JOINT VENTURE.

Nothing contained in this Lease will be deemed or construed as creating a partnership or joint venture between Port and Tenant or between Port and any other Person, or cause Port to be responsible in any way for the debts or obligations of Tenant. The subject of this Lease is a lease with neither Party acting as the agent of the other Party in any respect except as may be expressly provided for in this Lease.

39. ECONOMIC ACCESS.

Tenant will comply with the Workforce Development Plan, including the Local Business Enterprise (LBE) Utilization Plan, attached hereto as *Exhibit P* (collectively, the "**Workforce Development Plan**"). The Workforce Development Plan is designed to afford opportunities for San Francisco residents to participate in the construction and operation of the Horizontal Improvements. Tenant will comply with the Workforce Development Plan with respect to the operation and leasing of the Premises, and will include in its Subleases, applicable provisions of the Workforce Development Plan in accordance with the same.

40. REPRESENTATIONS AND WARRANTIES OF TENANT.

Tenant represents, warrants and covenants to Port as follows, as of the date hereof and as of the Commencement Date:

(a) **Valid Existence; Good Standing**. Tenant is a limited liability company duly organized and validly existing under the laws of the State of Delaware. Tenant has the requisite power and authority to own its property and conduct its business as presently conducted. Tenant is in good standing in the State of Delaware.

(b) **Authority**. Tenant has the requisite power and authority to execute and deliver this Lease and the agreements contemplated hereby and to carry out and perform all of the terms and covenants of this Lease and the agreements contemplated hereby to be performed by Tenant and upon execution, are legal, valid and binding obligations of Tenant, enforceable against Tenant in accordance with its terms; and do not violate any provision of any agreement or judicial order to which Tenant is a party or to which Tenant is subject.

(c) **No Suspension**. That Tenant has not been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. In the event Tenant has been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it will immediately notify the Port of same and the reasons therefore together with any relevant facts or information requested by Port. Any such suspension, debarment, discipline or prohibition may result in the termination or suspension of this Lease.

(d) **No Limitation on Ability to Perform**. Neither Tenant's articles of organization or operating agreement, nor any applicable Law, prohibits Tenant's entry into this Lease or its performance hereunder. No consent, authorization or approval of, and no notice to or filing with, any governmental authority, regulatory body or other Person is required for the due execution and delivery of this Lease by Tenant and Tenant's performance hereunder, except for consents, authorizations and approvals which have already been obtained, notices which have already been given and filings which have already been made. Except as may otherwise have been disclosed to Port in writing, there are no undischarged judgments pending against Tenant, and Tenant has not received notice of the filing of any pending suit or proceedings against

Tenant before any court, governmental agency, or arbitrator, which might materially adversely affect the enforceability of this Lease or the business, operations, assets or condition of Tenant.

(e) Valid Execution. The execution and delivery of this Lease and the performance by Tenant hereunder have been duly and validly authorized. When executed and delivered by Port and Tenant, this Lease will be a legal, valid and binding obligation of Tenant.

(f) Defaults. The execution, delivery and performance of this Lease (i) do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default by Tenant under (A) any agreement, document or instrument to which Tenant is a party or by which Tenant is bound, (B) any law, statute, ordinance, or regulation applicable to Tenant or its business, or (C) the articles of organization or the operating agreement of Tenant, and (ii) do not result in the creation or imposition of any lien or other encumbrance upon the assets of Tenant, except as contemplated hereby.

(g) Financial Matters. Except to the extent disclosed to Port in writing, (i) Tenant is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money, (ii) Tenant has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code, (iii) there has been no event that has materially adversely affected Tenant's ability to meet its Lease obligations hereunder, (iv) to Tenant's knowledge, no involuntary petition naming Tenant as debtor has been filed under any chapter of the U.S. Bankruptcy Code, (v) no federal or state tax liens have been filed against Tenant, and (vi) there is no material adverse change in Tenant's financial condition and Tenant is meeting its financial obligations as they mature.

The representations and warranties herein survive any termination of this Lease.

41. OTHER CITY REQUIREMENTS.

Tenant will comply with the Other City Requirements attached hereto as ***Exhibit X***.

42. GENERAL.

42.1. *Time of Performance.*

(a) Expiration. All performance dates (including cure dates) expire at 5:00 p.m., San Francisco, California time, on the performance or cure date.

(b) Weekend or Holiday. A performance date which falls on a Saturday, Sunday or City holiday is deemed extended to 5:00 p.m. the next working day.

(c) Days for Performance. All periods for performance or notices specified herein in terms of days will be calendar days, and not business days, unless otherwise provided herein.

(d) Time of the Essence. Time is of the essence with respect to each provision of this Lease, including, but not limited, the provisions for the exercise of any option on the part of Tenant hereunder and the provisions for the payment of Rent and any other sums due hereunder, subject to Force Majeure.

42.2. *Interpretation of Agreement.*

(a) Exhibits and Schedule. Whenever an "**Exhibit**" or "**Schedule**" is referenced, it means an attachment to this Lease unless otherwise specifically identified. All such exhibits and schedules are incorporated herein by reference.

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

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

(d) No Presumption Against Drafter. This Lease has been negotiated at arm's length and between Persons sophisticated and knowledgeable in the matters dealt with herein. In addition, experienced and knowledgeable legal counsel has represented each Party. Accordingly, this Lease will be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting any part of this Lease (including California Civil Code Section 1654).

(e) Fees and Costs. The Party on which any obligation is imposed in this Lease will be solely responsible for paying all costs and expenses incurred in the performance thereof, unless the provision imposing such obligation specifically provides to the contrary.

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

(g) Approvals. Unless otherwise specifically stated in this Lease, wherever a Party hereto has a right of approval or consent, such approval or consent will not be unreasonably withheld, conditioned or delayed and such approval or consent will be given in writing.

(h) Legal References. Wherever reference is made to a specific code or section of a specific Law, the reference will be deemed to include any amendment, restatement or replacement.

42.3. ***Successors and Assigns***. This Lease is binding upon and will inure to the benefit of the successors and assigns of Port, Tenant, and any Mortgagee. Where the term "**Tenant**," "**Port**," "**Mortgagee**" is used in this Lease, it means and includes their respective successors and assigns, or including, as to any Mortgagee, any transferee and any successor or assign of such transferee. Whenever this Lease specifies or implies Port as a Party or the holder of the right or obligation to give approvals or consents, if Port or the entity which has succeeded to Port's rights and obligations no longer exists, then the City will be deemed to be the successor and assign of Port for purposes of this Lease.

42.4. ***No Third-Party Beneficiaries***. This Lease is for the exclusive benefit of the Parties hereto and not for the benefit of any other Person and will not be deemed to have conferred any rights, express or implied, upon any other Person, except as provided in ***Article 37*** with regard to Mortgagees.

42.5. ***Real Estate Commissions***. Port is not liable for any real estate commissions, brokerage fees or finder's fees which may arise from this Lease or any Sublease. Tenant and Port each represents that neither has engaged any broker, agent or finder in connection with this transaction. In the event any broker, agent or finder makes a claim, through either Party, the Party through whom such claim is made agrees to Indemnify the other Party (including the Indemnified Parties) from any Losses arising out of such claim.

42.6. ***Counterparts***. This Lease may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.

42.7. ***Entire Agreement***. This Lease (including the Exhibits) constitutes the entire agreement between the Parties with respect to the subject matter set forth therein, and supersede

all negotiations or previous agreements between the Parties with respect to all or any part of the terms and conditions mentioned herein or incidental hereto. No parol evidence of any prior of other agreement will be permitted to contradict or vary the terms of this Lease.

42.8. ***Amendment***. Neither this Lease nor any of the terms hereof may be terminated, amended or modified except by a written instrument executed by the Parties. If Master Developer seeks an amendment to the DDA pursuant to Section 3.8(c) thereof, and such amendment requires a corresponding amendment to this Lease, then the provisions of Section 3.8(c) thereof shall be deemed incorporated herein by reference.

42.9. ***Governing Law; Selection of Forum***. This Lease will be governed by, and interpreted in accordance with, the laws of the State of California. As part of the consideration for Port's entering into this Lease, Tenant agrees that all actions or proceedings arising directly or indirectly under this Lease may, at the sole option of Port, be litigated in courts having situs within the State of California, and Tenant consents to the jurisdiction of any such local, state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon Tenant wherever Tenant may then be located, or by certified or registered mail directed to Tenant at the address set forth herein for the delivery of notices.

42.10. ***Recordation***. This Lease will not be recorded by either Party. The Parties agree to execute and record in the Official Records a Memorandum of Lease in the form attached hereto as ***Exhibit Y***. Promptly upon Port's request following the expiration of the Term or any other termination of this Lease, Tenant will deliver to Port a duly executed and acknowledged quitclaim deed suitable for recordation in the Official Records and in form and content satisfactory to Port and the City Attorney, for the purpose of evidencing in the public records the termination of Tenant's interest under this Lease. Port may record such quitclaim deed at any time on or after the termination of this Lease, without the need for any approval or further act of Tenant.

42.11. ***Attorneys' Fees***. The Prevailing Party in any action or proceeding (including any cross-complaint, counterclaim, or bankruptcy proceeding) against the other party by reason of a claimed default, or otherwise arising out of a party's performance or alleged non-performance under this Lease, will be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable Attorneys' Fees and Costs, which will be payable whether or not such action is prosecuted to judgment. "**Prevailing Party**" within the meaning of this Section includes, without limitation, a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its Claim or defense. Attorneys' Fees and Costs under this ***Section 42.11*** includes attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal.

For purposes of this Lease, reasonable fees of attorneys of the City's Office of the City Attorney will be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

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

43. DEFINITION OF CERTAIN TERMS.

For purposes of this Lease, initially capitalized terms shall have the meanings ascribed to them in this ***Article 43***.

"**2017 Variable Rent Amount**" is defined in ***Section 3.8*** of ***Exhibit D.***

"**3rd Street Bridge Project**" is defined in ***Section 1.9***.

"**AB 2797**" is defined in ***Recital C.***

"**Access Rights**" as defined in ***Section 4.5(b).***

"**Acceptance**" means, with respect to any Horizontal Improvement, the acceptance by the Port or City of such Horizontal Improvement in accordance with the applicable procedures set forth in the DDA. "**Accept**" and "**Accepted**" have correlative meanings.

"**Activation Areas**" means one or more areas within the Project, designated from time to time pursuant to ***Section 4.5***, within which Tenant has the right to conduct Activation Uses.

"**Activation Use Rent**" is defined in ***Section 3.5*** of ***Exhibit D***.

"**Activation Uses**" means retail, food and beverage uses, including service of alcoholic beverages, sales or information centers for the Project or any buildings or uses conducted within the Project, open space, pedestrian areas, cultural programming, entertainment events and opportunities for active recreation and public gathering, any of which may be conducted within interior spaces or in the open air.

"**Additional Area**" is defined in ***Recital C***.

"**Additional Rent**" means any and all sums (other than Base Rent) that may become due or be payable by Tenant under this Lease.

"**Affiliate**" means any Person directly or indirectly Controlling, Controlled by or under Common Control with the other Person in question.

"**Agents**" means, when used with reference to either Party to this Lease, the members, officers, directors, commissioners, employees, agents and contractors of such Party, and their respective heirs, legal representatives, successors and assigns.

"**Allocated Tax Increment**" means the portion of Gross Tax Increment from Project Area I that the City has agreed to allocate to the IFD for use in Project Area I by approving Appendix I.

"**Alternative Return Rent Credits**" is defined in ***Section 3.7*** of ***Exhibit D***.

"**Ancillary Permitted Uses**" as described in the Basic Lease Information.

"**Anniversary Date**" means each anniversary of the Commencement Date during the Term, unless the actual Commencement Date is not the first day of a month, in which case, each Anniversary Date will be determined as if the Commencement Date were the first day of the first full month after the actual Commencement Date.

"**Annual Statement**" is defined in ***Section 3.9(b)*** of ***Exhibit D***.

"**Anticipated Conveyance Date**" as defined in ***Section 1.4(a)(ii).***

"**Appendix**" means that certain Appendix to Transaction Documents for the Mission Rock Project.

"**As Is With All Faults**" as defined in ***Section 1.2(c).***

"**Assessment Shortfall**" is defined in the Appendix.

"**Assessor**" and "**Assessor-Recorder**" mean the Assessor-Recorder of the City and County of San Francisco.

"Assessor Information" is defined in ***Section 6.4(a).***

"Attorneys' Fees and Costs" means reasonable attorneys' fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs, and other reasonable costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, including such fees and costs associated with execution upon any judgment or order, and costs on appeal.

"Award" means all compensation, sums or value paid, awarded or received for a Condemnation, whether pursuant to judgment, agreement, settlement or otherwise.

"Ballpark" means the stadium and related facilities currently known as AT&T Park, located at 24 Willie Mays Plaza, San Francisco, California.

"Ballpark Events" means baseball games and other full-venue events taking place in the Ballpark.

"Base Rent" is defined in ***Section 3.2(a)*** of ***Exhibit D***.

"**Baseline Assessed Value**" is defined in the Appendix.

"**Board of Supervisors**" means the Board of Supervisors of the City and County of San Francisco.

"**Books and Records**" is defined in ***Section 3.10*** of ***Exhibit D***.

"**BTCC**" means the Ballpark Transportation Coordination Committee.

"**Burton Act**" means Assembly Bill 190 (stats. 1968, ch. 1333), authorizing the State to grant tidelands and submerged lands comprising San Francisco Harbor to San Francisco under the management and control of the Port Commission.

"**CASp**" is defined in ***Section 1.1(b).***

"Casualty" is defined in ***Section 15.1(a).***

"**CBBC**" means China Basin Ballpark Company, LLC, a Delaware limited liability company.

"Channel Wharf License Area" is defined in the "Parking License Areas" row of the Basic Lease Information.

"City" means the City and County of San Francisco, a municipal corporation.

"**City Agency**" means any public body or an individual authorized to act on behalf of the City in its municipal capacity, including the Board of Supervisors or any City commission, department, bureau, division, office, or other subdivision, and officials and staff to whom authority is delegated, on matters within the City Agency's jurisdiction.

"**City Fiscal Year**" means the period beginning on July 1 of any year and ending on the following June 30.

"**Claims**" means a demand made in an action or in anticipation of an action for money, mandamus, or any other relief available at law or in equity for a Loss arising directly or indirectly from acts or omissions occurring in relation to this Lease, the Premises or the Project Site during the Term. "Claim" excludes any demand made to an insurer under an insurance policy.

"Commencement Date" as defined in the Basic Lease Information.

"Condemnation" means the taking or damaging, including severance damage, of all or any part of any property, or the right of possession thereof, by eminent domain, inverse condemnation, or for any public or quasi-public use under the law. Condemnation may occur

pursuant to the recording of a final order of condemnation, or by a voluntary sale of all or any part of any property to any Person having the power of eminent domain (or to a designee of any such Person), provided that the property or such part thereof is then under the threat of condemnation or such sale occurs by way of settlement of a condemnation action.

"Condemnation Date" means the earlier of: (a) the date when the right of possession of the condemned property is taken by the condemning authority; or (b) the date when title to the condemned property (or any part thereof) vests in the condemning authority.

"**Construction Impacts**" as described in ***Section 5.1***.

"**Contest Notice**" is defined in ***Section 6.4(c)***.

"Control" means the ownership (direct or indirect) by one Person of more than fifty percent (50%) of the profits or capital of another Person. **"Controlled"** and **"Controlling"** have correlative meanings. **"Common Control"** means that two Persons are both Controlled by the same other Person.

"Coordination Agreement" means a contract between Master Developer and Vertical Developers that addresses matters necessary to coordinate horizontal and vertical construction in an orderly manner.

"DA Ordinance" means Ordinance No. 033-18 approving the Development Agreement, incorporating by reference the General Plan Consistency Findings, authorizing the Planning Director and other City officials to execute the Development Agreement on behalf of the City, and waiving the application of certain Municipal Code provisions to aspects of the Project.

"DDA" is defined in ***Recital B***.

"**DDA and Master Lease Partial Release**" is defined in ***Section 1.4(a)(i)***.

"Default Rate" is defined in ***Section 3.13*** of ***Exhibit D***.

"Deferred Infrastructure" subject to further discussion and the City Agencies' prior agreement as described in the Interagency Cooperation Agreement Exh D, means Improvements that would be Horizontal Improvements built or installed by Developer but for the Port's agreement through a Phase Approval to require Vertical Developers to construct one or more of the following:

(i) Utility Infrastructure;

(ii) Public ROW Improvements; and

(iii) fixtures installed between right-of-way curbs and the boundaries of a Development Parcel, such as sidewalks and curb cuts, lighting, street furnishings, landscaping, and utility boxes and laterals serving the parcel.

"**Deferred Infrastructure**" excludes utility Improvements and fixtures customarily installed as part of a Vertical Improvement.

"Demolish and Remove" means the demolition of the Improvements (and if applicable, the Horizontal Improvements) and the removal and disposal of all debris in accordance with all Laws. "**Demolition and Removal**" shall have a correlative meaning.

"**Demolition Option**" as defined in ***Section 34.2(a).***

"Design Controls" means the Mission Rock Design Controls that the Port Commission and the Planning Commission approved.

"**Development Parcel**" means any parcel in Seawall Lot 337 designated for vertical development.

"**Development Projects**" is defined in ***Section 5.1***.

"**DPH**" means the City and County of San Francisco Department of Public Health, Environmental Health Branch.

"**DTSC**" means the California Department of Toxic Substances Control.

"**Eastern Parking Strip**" is defined in the "Parking License Areas" row of the Basic Lease Information.

"**East TFB Users**" is defined in ***Section 1.5(b)(ii)***.

"**Encroachment Area**" is defined in ***Section 1.1(d)***.

"**Encroachment Area Charge**" is defined in ***Section 1.1(d).***

"**Entitlement Sum**" is defined in the Appendix.

"**Environmental Laws**" is defined in ***Section 21.6***.

"**Environmental Regulatory Action**" is defined in ***Section 21.6***.

"**Environmental Regulatory Agency**" is defined in ***Section 21.6***.

"**Environmental Regulatory Approval**" is defined in ***Section 21.6***.

"**Escrow**" is defined in the Appendix.

"**Escrow Agent**" is defined in the Appendix.

"**Event of Default**" is defined in ***Section 23.1***.

"**Exacerbate**" is defined in ***Section 21.6***.

"**Executive Director**" means the Executive Director of the Port or his or her designee.

"**Exempt Parcel**" means, depending on the context: (i) any assessor's parcel of a real property interest that is exempt either in whole or in part from property taxation under California law; and (ii) any assessor's parcel of a real property interest that is exempt from Mello-Roos Taxes under an RMA. "Exempt Parcel" excludes any parcel that: (1) the Port or any other Regulatory Agency acquires by gift, devise, negotiated transaction, or foreclosure; (2) the Port acquires under the DDA; or (3) is in private use for taxable purposes.

"**Expansion Area**" is defined in ***Section 1.5***.

"**Expansion Area A**" is defined in ***Section 1.5(a)***.

"**Expansion Area B**" is defined in ***Section 1.5(b)***.

"**Expansion Area C**" is defined in ***Section 1.5(c)***.

"**Expansion Area D**" is defined in ***Section 1.5(d)***.

"**Expansion Area E**" is defined in ***Section 1.5(e)***.

"**Expansion Area F**" is defined in ***Section 1.5(f)***.

"**Extraordinary Expense Cap**" is defined in ***Section 3.8*** of ***Exhibit D***.

"**Extraordinary Expense Overage Amount**" is defined in ***Section 3.8*** of ***Exhibit D***.

"**Extraordinary Expenses**" is defined in ***Section 3.8*** of ***Exhibit D***.

"**Final Construction Documents**" means plans and specifications sufficient for the processing of an application for a building permit in accordance with applicable Laws and the Interagency Cooperation Agreement.

"**Final Map**" means a final Subdivision Map meeting the requirements of the Subdivision Code and the Map Act, subject to amendments made by the DA Ordinance.

"**Financing Plan**" means Exhibit C1 to the DDA.

"**First Tranche Bonds**" means Bonds that are payable from Allocated Tax Increment, the proceeds of which are used to finance the Project Payment Obligation.

"**FOG Ordinance**" means Sections 140-140.7 of Article 4.1 of the San Francisco Public Works Code, or any subsequent amendment or replacement of the same that sets forth prohibitions, limitations and requirements for the discharge of fats, oils and grease into the City's sewer system by food service establishments.

"**Force Majeure**" means events which result in delays in a Party's performance of its obligations hereunder due to causes beyond such Party's control, including, but not restricted to: (i) domestic or international events disrupting civil activities, such as war, acts of terrorism, insurrection, acts of the public enemy, and riots; (ii) acts of nature, including floods, earthquakes, unusually severe weather, and resulting fires and casualties; (iii) epidemics and other public health crises affecting the workforce by actions such as quarantine restrictions; (iv) inability to secure necessary labor, materials, or tools (but only if the Party claiming delay has taken reasonable action to obtain them on a timely basis) due to any of the above events, freight embargoes, lack of transportation, or failure or delay in delivery of utilities serving the Premises; (v) Administrative Delay, Environmental Delay, or Down Market Delay (in each case as defined in the DDA); and (vi) in the case of Tenant, any delay resulting from a defect in Port's title to the Premises. Force Majeure does not include failure to obtain financing or have adequate funds. The delay caused by Force Majeure includes not only the period of time during which performance of an act is hindered, but also such additional time thereafter as may reasonably be required to make repairs, to Restore if appropriate, and to complete performance of the hindered act.

"**Foreclosure**" means a foreclosure of a Mortgage or other proceedings in the nature of foreclosure (whether conducted pursuant to court order or pursuant to a power of sale contained in the Mortgage), deed or voluntary assignment or other conveyance in lieu thereof.

"**Generator**" is defined in ***Section 21.2(d).***

"**Giants**" means the holder of the San Francisco Giants National League franchise.

"**Gross Tax Increment**" means 100% of the property and possessory interest taxes that the City actually receives in a City Fiscal Year by application of the 1% ad valorem tax against the increase in assessed value of Taxable Parcels in Project Area I above their values in the base year of Project Area I.

"**Gross Revenues**" is defined in ***Section 3.8*** of ***Exhibit D***.

"**Handle**" is defined in ***Section 21.6***.

"**Hard costs**" is defined in ***Section 11.3***

"**Hazardous Material**" is defined in ***Section 21.6.***

"**Hazardous Material Claim**" is defined in ***Section 21.6***.

"**Hazardous Material Condition**" is defined in ***Section 21.6***.

"**High Season**" is defined in ***Section 3.2(a)*** of ***Exhibit D***.

"**Horizontal Improvements**" is defined in the Appendix.

"**Horizontal Improvement Parcel**" is defined in ***Section 1.4(b)***.

"**IFD**" is an acronym for Infrastructure Financing District No. 2 (Port of San Francisco), formed by Ordinance No. 27-16.

"**IFD Termination Date**" is defined in the Appendix.

"**Impositions**" is defined in ***Section 6.1(b)***.

"**Improvements**" means all buildings, structures, fixtures and other improvements erected, built, placed, installed, constructed, renovated, or rehabilitated, located upon or within the Premises on or after the Commencement Date. Notwithstanding the foregoing, for the purposes of this Lease, the term "Improvements" excludes the Horizontal Improvements.

"**Indemnified Party**" and "**Indemnified Parties**" means the City, including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, including, without limitation, Port; all of the Agents of the California State Lands Commission, the City, including its Port, and all of their respective heirs, legal representatives, successors and assigns, all other Person acting on their behalf, and each of them.

"**Indemnify**" means indemnify, protect and hold harmless. "**Indemnification**" and "**Indemnity**" have correlative meanings.

"**Information Charge**" is defined in ***Section 6.4(d)***.

"**Infrastructure Plan**" means the Infrastructure Plan attached to the DDA as Exhibit B1.

"**Initial Benchmarks**" is defined in the Appendix.

"**Investigate**" or "**Investigation**" are defined in ***Section 21.6***.

"**Invitees**" when used with reference to either party to this Lease or any other person means the clients, customers, patrons, invitees, guests, members, licensees, assignees, and subtenants of such party and any other person whose rights arise through them.

"**ISCOTT**" means the Interdepartmental Staff Committee on Traffic and Transportation.

"**Law**" or "**Laws**" "Law" or "Laws" means any of the following validly in effect as of the Commencement Date and as later amended, supplemented, clarified, corrected, or replaced during the Term, whether or not within the present contemplation of the Parties: (i) federal, state, regional, or local constitution, charter, law, statute, ordinance, code, rule of common law, resolution, rule, regulation, standard, directive, requirement, proclamation, order, decree, and policy (including the Waterfront Plan and Port and City construction requirements); (ii) judicial order, injunction, writ, or other decision interpreting any law; (iii) requirement or condition of any Regulatory Approval of a Regulatory Agency affecting any portion of the Project Site; and (iv) recorded covenants, conditions, or restrictions affecting any portion of the Project Site. "**Laws**" include the Mitigation and Monitoring Program and the Soil Management Plan and Environmental Covenants.

"**Lead Parcel**" is defined in the Appendix.

"**Lease**" means this lease, as it may be amended from time to time.

"**Lease Year**" means the one (1) year period commencing as of the Commencement Date and every year thereafter.

"**Leasehold**" or "**Leasehold Estate**" means Tenant's leasehold interest in the Premises created by this Lease and held by Tenant at any particular time.

"**Live/Work**" as described in ***Section 4.5(a)(vi)***.

"**Loss**" or "**Losses**" means any and all Claims, demands, losses, liabilities, damages (including foreseeable and unforeseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, (including, without limitation, reasonable Attorneys' Fees and Costs and consultants' fees and costs) of whatever kind or nature, known or unknown, contingent or otherwise.

"**Low Season**" is defined in ***Section 3.2(a)*** of ***Exhibit D***.

"**Maintenance and Repair Security**" means Adequate Security (as defined in the DDA) that the Port may require under DDA § 14.9(e) (Maintenance as Soft Costs).

"**Maintenance Notice**" is defined in ***Section 11.4.***

"**Major Special Events**" means a Special Event of 3 or more days (excluding set up and take down) or an event with 5,000 or more attendants daily.

"**Map Act**" means the Subdivision Map Act of California (Cal. Gov't Code §§ 66410-66499.37).

"**Master Developer**" is defined in ***Recital B***.

"**Master Utilities Plan**" is defined in the Appendix.

"**Memorandum of Lease**" means the Memorandum of this Lease, between Port and Tenant, recorded in the Official Records, in the form of ***Exhibit Y*** attached hereto.

"**Mello-Roos Taxes**" is defined in the Appendix.

"**Minimum Special Event Rent**" is defined in ***Section 3.3(a)*** of ***Exhibit D.***

"**Minor Special Events**" means a Special Event of 1 or 2 days (excluding set up and take down) with fewer than 5,000 attendants daily.

"**Mission Rock CFD**" is a term used to refer to the CFD for the Project, if and when formed.

"**Mission Rock Parties**" is defined in ***Section 5.2***.

"**Mitigation Monitoring and Reporting Program**" means the Mitigation Monitoring and Reporting Program that the Port Commission adopted for the Project and attached hereto as ***Exhibit M***.

"**MLB**" is defined in ***Section 2.2(a)***.

"**Mortgage**" means a mortgage, deed of trust, assignment of rents, fixture filing, security agreement or similar security instrument or assignment of Tenant's leasehold interest under this Lease recorded in the Official Records.

"**Mortgagee**" means the holder or holders of a Mortgage and, if the Mortgage is held by or for the benefit of a trustee, agent or representative of one or more financial institutions, the financial institutions on whose behalf the Mortgage is being held. Multiple financial institutions participating in a single financing secured by a single Mortgage shall be deemed a single Mortgagee for purposes of this Lease.

"**Net Awards and Payments**" is defined in ***Section 16.4***.

"**New Hazardous Materials**" is defined in ***Section 21.6***.

"**No Access Charge**" is defined in ***Section 1.7***.

"**Non-Disturbance Agreement**" is defined in ***Section 18.5(a)***.

"**Notice for Information**" is defined in ***Section 6.4(c)***.

"**Notice of Special Tax**" is defined in ***Section 6.2(a)***.

"**Notice to Vacate**" is defined in ***Section 1.1(d).***

"**Official Records**" means, with respect to the recordation of Mortgages and other documents and instruments, the Official Records of the City and County of San Francisco.

"**Operations Plan**" means an operations plan reasonably approved by Port regarding the Handling of Hazardous Materials within, on, or near the Premises and the management of

Hazardous Material risks associated with such operations. Any Operations Plan previously approved by Port may be amended from time to time with the prior consent of Port.

"**Outfall Infrastructure**" is defined in ***Section 1.2(a)***.

"**Outfall Infrastructure Area**" is defined in ***Section 1.3(a)***.

"**Outfall Work**" is defined in ***Section 1.3(a)***.

"Parcel D2 Garage" is defined in ***Section 3.8 of Exhibit D***.

"**Parking License**" is defined in the "Parking License Areas" row of the Basic Lease Information.

"**Parking License Areas**" is defined in the "Parking License Areas" row of the Basic Lease Information.

"**Parking Operations**" means all parking on the Premises, including parking in connection with Ballpark Events, Special Events and commuter parking.

"**Parking Operator**" means a Person who enters into a Parking Operations Agreement with Tenant.

"**Parking Operator Agreement**" is defined in ***Section 10.3***.

"**Parking Taxes**" is defined in ***Section 3.8*** of ***Exhibit D***.

"**Parking Use Agreement**" is defined in ***Section 10.3(a).***

"**Partial Condemnation**" is defined in ***Section 16.3(b)***.

"Party" means Port or Tenant, as a party to this Lease; **"Parties"** means both Port and Tenant, as Parties to this Lease.

"**PEP Permit**" is defined in ***Section 10.2***.

"**Percentage Rent**" is defined in ***Exhibit D***.

"**Permitted Encumbrances**" is described in ***Section 1.2(a).***

"Permitted Title Exceptions" is defined in ***Section 1.2(a).***

"Permitted Transferee(s)" means any transferee of the Master Developer's interest in the DDA permitted or approved in accordance with the DDA.

"Permitted Uses" is defined in ***Section 4.1***.

"Person" means any individual, partnership, corporation (including, but not limited to, any business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or any other entity or association, the United States, or a federal, state or political subdivision thereof.

"Personal Property" means all fixtures, furniture, furnishings, equipment, machinery, supplies, software, and other tangible personal property that is incident to the ownership, development or operation of the Horizontal Improvements, Improvements and/or the Premises, whether now or hereafter located in, upon or about the Premises, belonging to Tenant and/or in which Tenant has or may hereafter acquire an ownership interest, together with all present and future attachments, accessions, replacements, substitutions and additions thereto or therefor.

"Pesticide Ordinance" is defined in ***Section 21.5.***

"**Phase**" means one of the integrated stages of horizontal and vertical development for the Project Site as shown in the Phasing Plan.

"**Phase Area**" means the Development Parcels and other land in the Project Site that are to be developed in a Phase.

"**Phase Budget**" means the proforma for a Phase, based on the Summary Proforma attached to the Financing Plan and included in each Phase Submittal under DDA art. 3 (Phase Approval), as approved by the Port Commission. An inserted number will mean the Phase Budget for the Phase given the inserted number (e.g., "Phase 1 Budget").

"**Phase Submittal**" means Developer's application for Port Commission approval of a proposed Phase under DDA Article 3 (Phase Approval).

"**Phase Transferee**" is defined in the Appendix.

"**Phasing Plan**" means DDA Exh A4, which shows the order of development of the Phases and the Development Parcels in each Phase Area, subject to revision under DDA art. 3 (Phase Approval).

"**Port**" means the San Francisco Port Commission.

"**Port Parameter Rent**" is defined in ***Section 3.8*** of ***Exhibit D***.

"**Port Representative**" is defined in ***Section 3.11*** of ***Exhibit D***.

"**Pre-Approved Sublease**" is defined in ***Section 18.4***.

"**Pre-Existing Hazardous Materials**" is defined in ***Section 21.6***.

"**Premises**" is defined in the Basic Lease Information and ***Section 1.1***.

"**Prevailing party**" is defined in ***Section 42.11***.

"**Primary Permitted Use**" is defined in the Basic Lease Information.

"**Prime Rate**" is defined in ***Section 3.13*** of ***Exhibit D***.

"**Prohibited Use**" or "**Prohibited Uses**" as defined in ***Section 4.5(a).***

"**Prohibited Use Charge**" is defined in ***Section 4.6.***

"**Project**" means the Mission Rock project as generally described in the Project Approvals.

"**Project Approvals**" is defined in ***Recital D***.

"**Project Area I**" means the area within the IFD covering Mission Rock formed by Ordinance No. 34-18.

"**Project Payment Obligation**" means Port's contractual obligation on terms described in the Financing Plan to pay each Party's Capital Costs (as defined in the DDA).

"**Project Signage**" is defined in ***Section 4.2.***

"**Project Site**" means the area consisting of SWL 337, 3.53 acres of Terry A. Francois Boulevard from Third Street to Mission Rock Street, Pier 48, and ½ acre to the east of Terry A. Francois Boulevard between Pier 48 and Pier 50, as more particularly described in DDA Exh A1.

"**Promotional Signage**" means signage containing advertising or promotional messages relating to events, subtenants or otherwise relating to the Premises, which signage is intended to be visible primarily to Persons on the Premises.

"**public work**" is defined in ***Section 13.3(f).***

"**Quarterly Variable Rent Statement**" is defined in ***Section 3.9(a)*** of ***Exhibit D***.

"**reasonable wear and tear**" is defined in ***Section 11.1(b).***

"**Reassessment**" is defined in the Appendix.

"**Record Drawings**" is defined in ***Section 13.5(a)***.

"**Regulatory Agency**" means any City Agency or federal, state, or regional body, administrative agency, commission, court, or other governmental or quasi-governmental organization with jurisdiction over any aspect of the Project or the Project Site.

"Regulatory Approval" means any motion, resolution, ordinance, permit, approval, license, registration, permit, utility services agreement, Final Map, or other action, agreement, or entitlement required or issued by any Regulatory Agency with jurisdiction over any portion of the Project Site, as finally approved.

"**Related Third Party**" is defined in ***Section 19.2(a)(iii)***.

"Release" is defined in ***Section 21.6.***

"Relocated Outfall Infrastructure" is defined in ***Section 1.3(a)***.

"Remediate" or **"Remediation"** is defined in ***Section 21.6***.

"Rent" means the sum of Base Rent (including all adjustments), Variable Rent, and Additional Rent. For purposes of this Lease, Rent includes all unpaid sums that are payable as Rent, but that are unpaid when earned and/or accrue for payment at a later time in accordance with the provisions of this Lease.

"**Response Period**" is defined in ***Section 6.4(c)***.

"Restoration" means the restoration, replacement, or rebuilding of the Improvements (or the relevant portion thereof) in accordance with all Laws then applicable. "**Restore**" and "**Restored**" shall have correlative meanings.

"**Requested Information**" is defined in ***Section 6.4(b)***.

"**RMA**" is an acronym for the Rate and Method of Apportionment.

"RWQCB" shall mean the San Francisco Bay Regional Water Quality Control Board of Cal/EPA, a state agency.

"Second Tranche Bonds" means Bonds that are payable from Allocated Tax Increment, the proceeds of which are used to finance the Shoreline Protection Project.

"Security Deposit" is defined in the Basic Lease Information.

"**SFPW**" is defined in Section 1.9.

"**SFPW License**" is defined in Section1.9.

"**Shared Public Way**" means a promenade linking Mission Rock Square and China Basin Park to the main Project Site parking garage on Block D, as further described in the DDA.

"**Shoreline Protection Facilities**" means future Improvements to protect the San Francisco Bay shoreline from perils associated with seismic events and climate change, including sea level rise and floods, and other public improvements approved by the Port Commission and the Board of Supervisors.

"**Shoreline Protection Project**" means planning, design, and construction of Shoreline Protection Facilities.

"**Site Preparation**" means physical work to prepare and secure the Project Site for installation and construction of Horizontal Improvements, such as demolition of existing structures, excavation and removal of contaminated soils, fill, grading, soil compaction, and construction fencing and other security measures, and temporary Improvements for interim uses before vertical development begins.

"**Soil Management Plan**" is defined in ***Section 21.6***.

"**Special Event**" means exhibitions or presentations of sporting events, exhibitions and tournaments, concerts, musical and theatrical performances and other forms of live entertainment, public ceremonies, private and public gatherings, recreation, athletic events, filming, fairs, carnivals, commemorations, market places, shows, fundraising events or other public or private exhibitions and activities related thereto and includes setup/load in and demobilization/load out; parking for Special Events; temporary improvements; installation of tents and structures; administrative and security functions and other amenities and facilities to accommodate such Special Events.

"**State**" shall mean the State of California.

"**State Lands Indemnified Parties**" is defined in ***Section 21.6.***

"**State**" means the State of California.

"**Subdivision Code**" means the San Francisco Subdivision Code, as amended by the DA Ordinance, and Subdivision Regulations adopted by Public Works.

"**Sublease**" means any lease, sublease, license, concession, or other agreement (including, without limitation, a Sublease to Port) by which Tenant leases, subleases, demises, licenses, or otherwise grants to any Person in conformity with the provisions of this Lease, the right to occupy or use any portion of the Premises (whether in common with or to the exclusion of other Persons).

"**Sub-Project Area**" means a sub-project area that the Board of Supervisors established in Project Area I.

"**Subsequent Assessed Value**" means the assessed value of the Premises in any City Fiscal Year after the most recent Baseline Assessed Value was established.

"**Subsequent Construction**" means all repairs to and reconstruction, replacement, addition, expansion, Restoration, alteration, or modification of any Improvements, or any construction of additional Improvements. "**Subsequent Construction**" does not include any Horizontal Improvements.

"**Substantial Condemnation**" is defined in ***Section 16.3(a).***

"**Subtenant**" means any Person leasing, using, occupying or having the right to occupy any portion of the Premises under and by virtue of a Sublease.

"**SUD**" is an acronym for the area subject to Section 249.80 and related zoning maps, which established the Mission Rock Special Use District and zoning and other land use limitations for the Project Site.

"**Tax Increment**" refers to Allocated Tax Increment or Gross Tax Increment, as appropriate in the context.

"**Taxable Parcel**" means an assessor's parcel of real property or other real estate interest created by each Phase Final Map that is not an Exempt Parcel, which may include leased space occupied for private use in an Exempt Parcel.

"**Tenant**" is identified in the Basic Lease Information, and its permitted successors and assigns.

"**Tentative Map**" is defined in the Appendix.

"**Term**" is defined in ***Section 2***.

"**Termination Notice**" is defined in ***Section 2.2(a)***.

"**Termination Option**" is defined in ***Section 2.2(a)***.

"**TFB**" means Terry A. Francois Boulevard.

"**TFB License**" is defined in ***Section 1.6***.

"**TFB License Area**" is defined in ***Section 1.6***.

"**TFB License Work**" is defined in ***Section 1.6***.

"**Total Condemnation**" is defined in ***Section 16.2***.

"**Transfer**" means any of the following events or proposed events, whether voluntary, involuntary, or by operation of Law: (a) Tenant sells, assigns, encumbers, subleases, or otherwise transfers any of its interest in this Lease or in the Premises; (b) any Person other than Tenant occupies or claims a right of possession to any part of the Premises; (c) Tenant dissolves, merges, consolidates, or otherwise reorganizes, or sells, assigns, encumbers, or otherwise transfers cumulatively or in the aggregate 50 percent or more (25 percent or more if publicly traded) of its equity interests or business assets, such as goodwill, inventory, and profits; or (d) any subtenant, assignee, or other Transferee of Tenant sells, assigns, encumbers, sub-subleases, or otherwise Transfers any of its interest in its Sublease or premises.

Notwithstanding the foregoing, as used herein, the term "**Transfer**" does not include (i) Special Events; or (ii) any hypothecation, encumbrance or mortgage of this Lease, or pledge of the ownership interests in Tenant, made in accordance with ***Article 37***.

"**Treasurer-Tax Collector**" means the Treasurer and Tax Collector of the City and County of San Francisco.

"**Variable Rent**" is defined in ***Section 3.8*** of ***Exhibit D***.

"**Variable Rent Statement**" is defined in ***Section 3.9(b)*** of ***Exhibit D***.

"**Vertical DDA**" is defined in the Appendix.

"**Vertical Developer**" is defined in the Appendix.

"**Vertical Improvement Staging Rent**" is defined on ***Exhibit D***.

"**Vertical Improvements**" is defined in the Appendix.

"**Vertical Staging Areas**" is defined in ***Section 3.8*** of ***Exhibit D***.

"**Waterfront Area**" is defined in ***Section 1.8(a)***.

"**Waterfront Area License**" is defined in ***Section 1.8(a)***.

"**Waterfront License Work**" is defined in ***Section 1.8(a)***.

"**Waterfront Plan**" means the Port of San Francisco Waterfront Land Use Plan, including the Waterfront Design and Access Element, for the approximately 7-1/2 miles of waterfront property under Port jurisdiction, as amended from time to time.

"**Work**" is defined in ***Section 13.4***.

"**Workforce Development Plan**" is defined in ***Article 39.***

"**worth at the time of award**" is defined in ***Section 24.4.***

"**Yard**" is defined in ***Section 3.8*** of ***Exhibit D***.

[NO FURTHER TEXT ON THIS PAGE; SIGNATURE PAGE FOLLOWS]

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

Tenant

SEAWALL LOT 337 ASSOCIATES, LLC,
A DELAWARE LIMITED LIABILITY COMPANY

By: Giants Development Services, LLC
Its: Member

By: Laurence M. Baer

Name: LAWRENCE M. BAER
Its: CHAIRMAN AND CHIEF EXCUTIVE OFFICER

Date: August 13, 2018

Port

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Elaine Forbes
Its: Executive Director

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____

Name:
Deputy City Attorney

Lease authorized by:

-Port Board of Directors Resolution No. 18-03, on January 30, 2018
-Board of Supervisors Resolution No. 36-18, on February 13, 2018

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

Tenant

SEAWALL LOT 337 ASSOCIATES, LLC,
A DELAWARE LIMITED LIABILITY COMPANY

By: Giants Development Services, LLC
Its: Member

By: _____

Name:
Its:

Date: _____

Port

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____
Elaine Forbes
Its: Executive Director
Date: 8/15/2018

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Name: Grace Park
Deputy City Attorney

Lease authorized by:

-Port Board of Directors Resolution No. 18-03, on January 30, 2018
-Board of Supervisors Resolution No. 36-18, on February 13, 2018

"**TFB License**" is defined in ***Section 1.6***.

"**TFB License Area**" is defined in ***Section 1.6***.

"**TFB License Work**" is defined in ***Section 1.6***.

"**Total Condemnation**" is defined in ***Section 16.2***.

"**Transfer**" means any of the following events or proposed events, whether voluntary, involuntary, or by operation of Law: (a) Tenant sells, assigns, encumbers, subleases, or otherwise transfers any of its interest in this Lease or in the Premises; (b) any Person other than Tenant occupies or claims a right of possession to any part of the Premises; (c) Tenant dissolves, merges, consolidates, or otherwise reorganizes, or sells, assigns, encumbers, or otherwise transfers cumulatively or in the aggregate 50 percent or more (25 percent or more if publicly traded) of its equity interests or business assets, such as goodwill, inventory, and profits; or (d) any subtenant, assignee, or other Transferee of Tenant sells, assigns, encumbers, sub-subleases, or otherwise Transfers any of its interest in its Sublease or premises.

Notwithstanding the foregoing, as used herein, the term "**Transfer**" does not include (i) Special Events; or (ii) any hypothecation, encumbrance or mortgage of this Lease, or pledge of the ownership interests in Tenant, made in accordance with ***Article 37***.

"**Treasurer-Tax Collector**" means the Treasurer and Tax Collector of the City and County of San Francisco.

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"**Waterfront Plan**" means the Port of San Francisco Waterfront Land Use Plan, including the Waterfront Design and Access Element, for the approximately 7-1/2 miles of waterfront property under Port jurisdiction, as amended from time to time.

"**Work**" is defined in ***Section 13.4***.

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"**worth at the time of award**" is defined in ***Section 24.4.***

"**Yard**" is defined in ***Section 3.8*** of ***Exhibit D***.

[NO FURTHER TEXT ON THIS PAGE; SIGNATURE PAGE FOLLOWS]

EXHIBIT A

LEGAL DESCRIPTION OF INITIAL PREMISES

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LEGAL DESCRIPTION

"INITIAL PREMISES"

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

A PORTION OF PARCEL "A", AS SAID PARCEL IS SHOWN ON THAT MAP ENTITLED, "MAP OF LANDS TRANSFERRED IN TRUST TO THE CITY AND COUNTY OF SAN FRANCISCO", FILED IN BOOK "W" OF MAPS, PAGES 66 THROUGH 72, INCLUSIVE, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND AS PARCEL "A" IS FURTHER DESCRIBED IN THAT DOCUMENT RECORDED MAY 14, 1976, IN BOOK C169, PAGE 573, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE FORMER WESTERLY LINE OF THIRD STREET (100.00 FEET WIDE) WITH THE FORMER SOUTHWESTERLY LINE OF FOURTH STREET (102.50 FEET WIDE), AS SAID STREET LINES ARE SHOWN ON THAT CERTAIN MAP ENTITLED "AMENDED RECORD OF SURVEY MAP OF MISSION BAY" RECORDED JUNE 3, 1999, IN BOOK "Z" OF MAPS AT PAGES 74-94 INCLUSIVE, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO; THENCE ALONG THE PROLONGATION OF SAID LINE OF THIRD STREET N03°10'56"W 65.02 FEET; THENCE N86°49'04"E 108.47 FEET TO THE TRUE POINT OF BEGINNING; THENCE N03°10'45"W 514.98 FEET; THENCE N03°59'04"W 71.58 FEET; THENCE N06°26'40"W 83.72 FEET; THENCE N04°37'44"W 63.62 FEET; THENCE N03°09'58"W 415.42 FEET; THENCE N86°51'49"E 541.36 FEET TO THE EASTERLY LINE OF SEAWALL LOT 337, AS SAID LINE IS SHOWN ON THAT CERTAIN MAP ENTITLED "SURVEY C" OF THE HARBOR COORDINATE SURVEY, SHEET NUMBER 8127-416-2 ON FILE AT THE OFFICE OF THE SAN FRANCISCO PORT COMMISSION CHIEF HARBOR ENGINEER, SAID LINE ALSO BEING KNOWN AS THE INNER WATERFRONT LINE; THENCE ALONG SAID EASTERLY LINE OF SEAWALL LOT 337 S03°02'38"E 1077.80 FEET TO AN ANGLE POINT THEREIN; THENCE CONTINUING ALONG SAID EASTERLY LINE OF SEAWALL LOT 337, ALSO KNOWN AS THE INNER WATERFRONT LINE S17°50'47"E 73.31 FEET TO THE NORTHERLY LINE OF FUTURE MISSION ROCK STREET (65.25 FEET WIDE); THENCE ALONG SAID NORTHERLY LINE OF FUTURE MISSION ROCK STREET S86°49'04"W 550.09 FEET TO THE TRUE POINT OF BEGINNING.

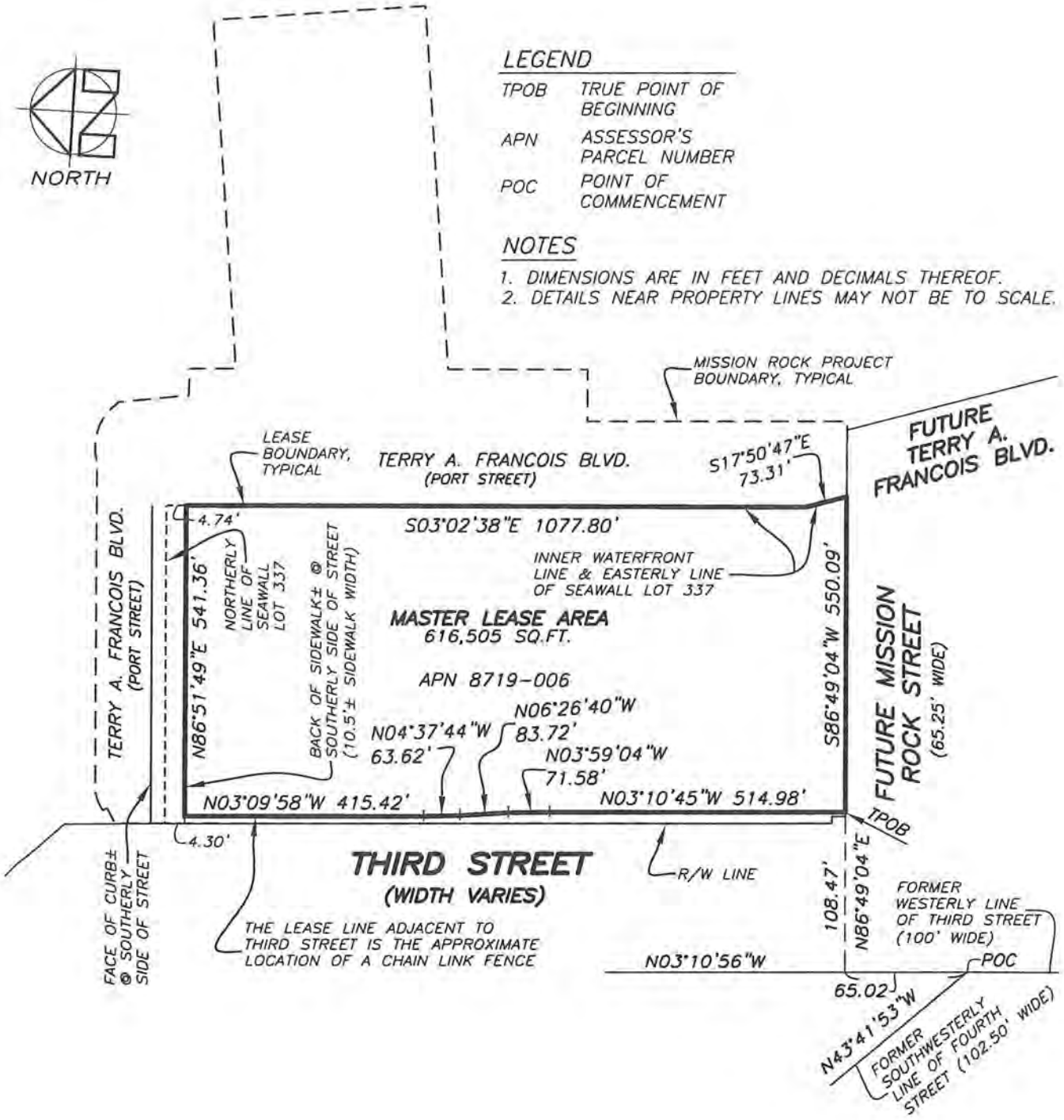
CONTAINING 616,505 SQ. FT. OR 14.15 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS FOR THE ABOVE DESCRIPTION IS THE THIRD STREET MONUMENT LINE TAKEN TO BE N03°10'56"W AS SHOWN ON THAT CERTAIN "FINAL MAP" FILED FOR RECORD ON MAY 31, 2005, IN BOOK BB OF MAPS, AT PAGES 6-10 INCLUSIVE, IN THE OFFICE OF THE RECORDER OF THE CITY AND COUNTY OF SAN FRANCISCO.

EXCEPTING THEREFROM, ALL SUBSURFACE MINERAL DEPOSITS, INCLUDING OIL AND GAS DEPOSITS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS ON SAID LAND FOR EXPLORATION, DRILLING AND EXTRACTION OF SUCH MINERAL, OIL AND GAS DEPOSITS, AS EXCEPTED AND RESERVED BY THE STATE OF CALIFORNIA IN THAT CERTAIN ACT OF THE LEGISLATURE ("THE BURTON ACT") SET FORTH IN CHAPTER 1333 OF THE STATUTES OF 1968 AND AMENDMENTS THERETO, AND UPON TERMS AND PROVISIONS SET FORTH THEREIN.

AND FURTHER EXCEPTING THEREFROM:

UNTO THE STATE OF CALIFORNIA, ITS SUCCESSORS, AND ASSIGNS, FOREVER, ALL MINERALS AND MINERAL RIGHTS OF EVERY KIND AND CHARACTER NOW KNOWN TO EXIST OR HEREAFTER DISCOVERED IN THE HEREINAFTER DESCRIBED PORTION OF THE ABOVE DESCRIBED REAL PROPERTY INCLUDING, BUT NOT LIMITED TO, OIL AND GAS AND RIGHTS THERETO, TOGETHER WITH THE SOLE, EXCLUSIVE, AND PERPETUAL RIGHT TO EXPLORE FOR, REMOVE AND DISPOSE OF THOSE MINERALS BY ANY MEANS OR METHODS SUITABLE TO THE STATE OF CALIFORNIA OR TO ITS SUCCESSORS AND ASSIGNS, BUT WITHOUT ENTERING UPON OR USING THE SURFACE OF THE LANDS CONVEYED AND IN SUCH MANNER AS NOT TO DAMAGE THE SURFACE OF THE LANDS CONVEYED, OR TO INTERFERE WITH THE USE THEREOF BY THE CITY AND COUNTY OF SAN FRANCISCO, ITS SUCCESSORS AND ASSIGNS, PROVIDED, HOWEVER, THAT THE STATE OF CALIFORNIA, ITS SUCCESSORS AND ASSIGNS, WITHOUT THE PRIOR WRITTEN PERMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO, ITS SUCCESSORS AND ASSIGNS, SHALL NOT CONDUCT ANY MINING ACTIVITIES OF ANY NATURE WHATSOEVER ABOVE A PLANE FIVE HUNDRED FEET (500') BELOW THE SURFACE OF THE HEREINAFTER DESCRIBED PORTION OF THE ABOVE DESCRIBED REAL PROPERTY, AS RESERVED IN THAT CERTAIN PATENT FROM THE STATE OF CALIFORNIA TO THE CITY AND COUNTY OF SAN FRANCISCO, A CHARTER CITY AND COUNTY, RECORDED JULY 19, 1999, IN REEL H429, IMAGE 518, AS INSTRUMENT NO. G622166, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO, AND AS SET FORTH IN CHAPTER 1143, STATUTES OF 1991, AND AMENDMENTS THERETO UPON THE TERMS AND PROVISIONS SET FORTH THEREIN SUCH PORTION OF THE ABOVE DESCRIBED REAL PROPERTY.



SUBJECT: **MASTER LEASE PROPERTY–INITIAL PREMISES**

BY DR	CHKD. BR	DATE 7/3/18	SCALE 1"=250'	SHEET 1 OF 1	JOB NO. S-9229

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

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

S-9229-20180625 MASTER LEASE PROPERTY.DWG

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EXHIBIT B

SITE PLAN

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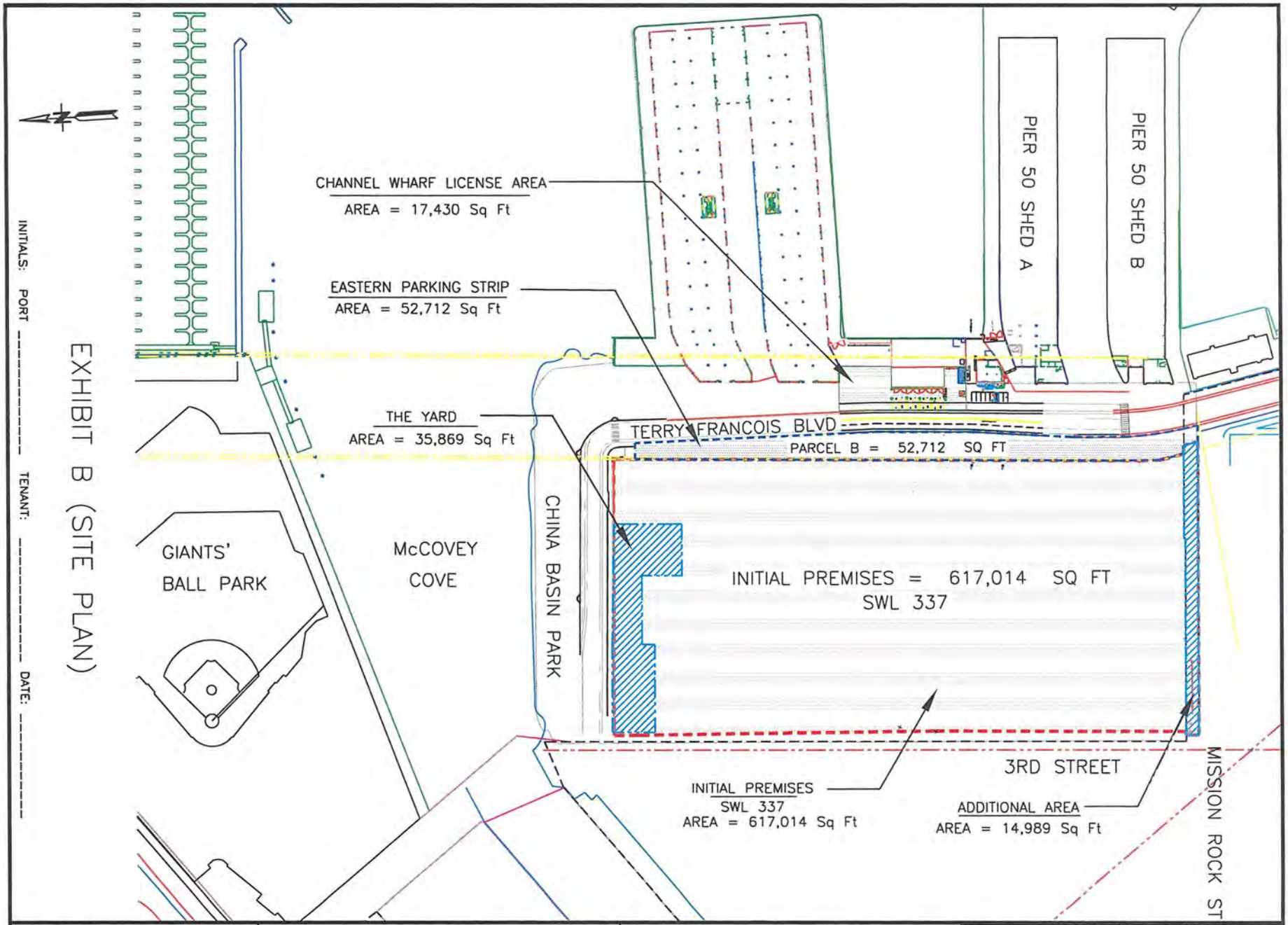

LEASE NO. L-16417	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT CHINA BASIN BALLPARK CO., LLC.	DRAWN BY: J. DOMINGUEZ CHECKED BY: P. WILLIAMSON PLACE CODE NO. 1480-00 DATE: AUG 10TH, 2018 SCALE: 1" = 250' SHEET NO.

G:\DS PROPERTY FILES\Lease Maps\LEASES-SWL\SWL337\SWL337ChinaBasinBallpark REVS.DWG

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EXHIBIT C

DEPICTION OF OUTFALL INFRASTRUCTURE AND OUTFALL INFRASTRUCTURE AREA

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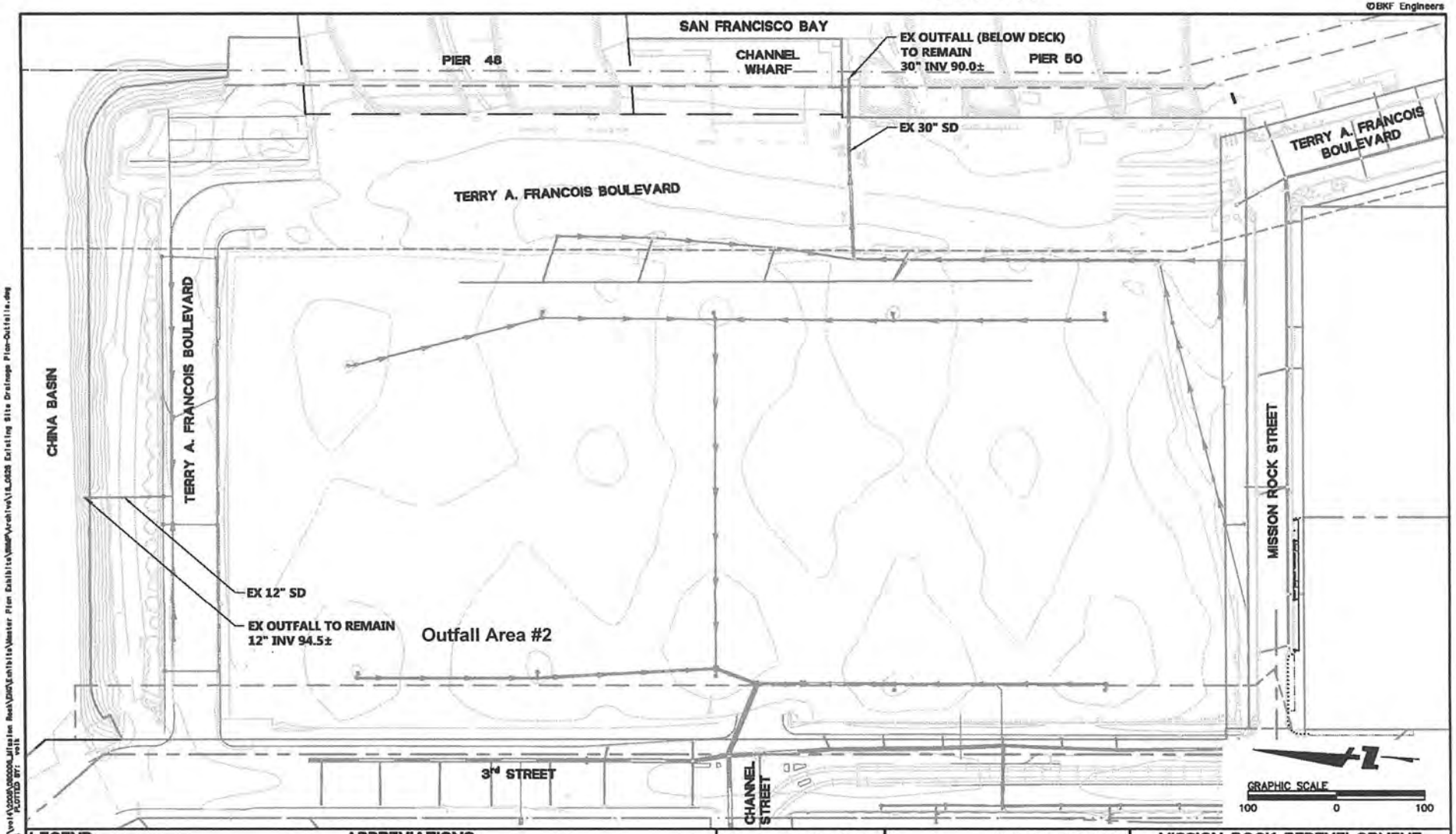
©BKF Engineers



LEGEND

- EXISTING PARCEL BOUNDARIES
- EXISTING STORM DRAIN MAIN

ABBREVIATIONS

DI	DROP INLET	MH	MANHOLE
EG	EXISTING GRADE	SD	STORM DRAIN
EX	EXISTING		
HP	HIGH POINT		
INV	INVERT		

DATE:	06/07/2018
SCALE:	1"=100'
DESIGN:	JVH
DRAWN BY:	JVH
APPROVED:	MAO
JOB NO:	20080006

GIANTS DEVELOPMENT SERVICES LLC
24 WILLIE MAYS PLAZA
SAN FRANCISCO, CA 94107
415/455-8875
415/488-8878 (FAX)

BKF ENGINEERS
150 CALIFORNIA STREET, STE 600
SAN FRANCISCO, CA 94111
415/930-7900
415/930-7949 (FAX)

MISSION ROCK REDEVELOPMENT
STORMWATER MANAGEMENT MASTER PLAN

FIGURE 3.1
EXISTING SITE DRAINAGE PLAN

DRAWING NAME: \\bkf-sf\vol4\20080\006000_Mission Rock\DWG\Exhibits\MMP\Arch\vA\ILL4028 Existing Site Drainage Plan-Outfalls.dwg
PLOT DATE: 06-26-18 PLOTTED BY: vsh

EXHIBIT D

RENT

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EXHIBIT D

RENT

3. RENT.

3.1. ***Covenant to Pay Rent.*** During the Term, Tenant will pay Rent for the Premises to Port at the times and in the manner provided in this ***Article 3***. If the Commencement Date is other than the first day of the month, or the Expiration Date is other than the last day of the month, the Base Rent for those months shall be apportioned based on a thirty (30) day month.

3.2. ***Parking Rent.***

(a) **Base Rent**. From and after the Commencement Date and continuing thereafter throughout the Term until the earlier of the opening of the Parcel D2 Garage or the expiration or earlier termination of this Lease, Tenant will pay to Port, in advance on the first day of each calendar quarter during the Term, without further notice or demand and without abatement, offset, rebate, credit or deduction for any reason whatsoever, annual base rent equal to $2,040,000, as adjusted in accordance with ***Section 3.2(b)*** (as adjusted from time to time, "**Base Rent**"). The Base Rent will be paid in quarterly installments, in advance on the first (1ST) day of each Quarter. Additionally, ninety percent (90%) of the annual Base Rent will be allocated to the High Season and ten percent (10%) of the annual Base Rent will be allocated to the Low Season. Accordingly, during the first (1ST) Lease Year, for the period between April 1—September 30 (the "**High Season**"), each quarterly installment will equal Nine Hundred Eighteen Thousand Dollars ($918,000). For the period between October 1—March 31 (the "**Low Season**"), each quarterly installment will equal One Hundred Two Thousand Dollars ($102,000). After opening of the Parcel D2 Garage, no Base Rent shall be paid by Tenant, but Tenant shall pay Variable Rent as set forth in this ***Exhibit D***.

(b) **Adjustment to Base Rent**.

(i) *Annual Adjustments*.

(1) On each Anniversary Date, annual Base Rent payable under this Lease will be adjusted to equal one hundred three percent (103%) of the annual Base Rent in effect immediately prior to the applicable Anniversary Date; provided, however, if the annual Base Rent for each of two (2) consecutive Lease Years is greater than the annual Percentage Rent due Port for each such Lease Year, then annual Base Rent will be adjusted in accordance with ***Section 3.2(b)(i)(2)***.

(2) If the annual Base Rent for each of two consecutive Lease Years is greater than the annual Percentage Rent due Port for each such Lease Year, then on the Anniversary Date immediately following the end of such two (2) Lease Year period, annual Base Rent will be adjusted to equal the average of the annual Percentage Rent due Port during the immediately prior two (2) year period.

(ii) **Adjustment after Leases for the Lead Parcels have Closed**. Immediately following the execution of leases for the Lead Parcels, annual Base Rent will be adjusted to equal one hundred three percent (103%) of the then current Base Rent payable by Tenant, provided, however for purposes of calculating "**then current Base Rent**" the initial Base Rent which was payable by Tenant pursuant to Section 3.2(a) will be deemed to be $2,400,000, rather than $2,040.00 and will continue to be subject to the annual adjustments described in ***Section 3.2(b)(i)***. **See Table 3.2.** By way of example, if the Lead Parcels closed in Lease Year 3, the annual Base Rent amount used to calculate the appropriate adjustment will be $2,546,160.

Table 3.2		
Lease year	**Base Rent**	**"then current Base Rent"**
1	$2,040,000	$2,400,000
2	$2,101,200	$2,472,000
3	$2,164,236	$2,546,160

(iii) Adjustment after Release of Development Parcels and Commencement of Horizontal Improvements. Immediately following release of a Development Parcel in accordance with ***Section 1.4*** or upon the start of the High Season or the Low Season immediately following commencement of construction of Horizontal Improvements for a particular Phase annual Base Rent will multiplied by a fraction, the numerator of which shall be equal to the number of parking spaces which are usable by Tenant on the Premises following the release of the applicable Development Parcel or upon the start of the High Season or the Low Season immediately following commencement of construction of Horizontal Improvements for a particular Phase, as applicable, and the denominator of which shall be the number of parking spaces which are usable by Tenant on the Premises as of the Commencement Date.

(c) Parking Percentage Rent. Prior to the opening of the Parcel D2 Garage, Tenant will pay percentage rent calculated in accordance with this ***Section 3.2(c)*** ("**Percentage Rent**") to the extent that such Percentage Rent exceeds the Base Rent paid or payable on a quarterly basis. After opening of the Parcel D2 Garage, no Base Rent will be paid by Tenant, but Tenant will pay Percentage Rent as a component of Variable Rent paid pursuant to this ***Exhibit D***.

(i) *Before Closing of Lead Parcels*. Tenant will pay Port on a quarterly basis, Percentage Rent equal to fifty-six percent (56%) of Gross Revenues from Parking Operations, less Parking Taxes and Extraordinary Expenses paid in such quarter up to the Extraordinary Expense Cap.

(ii) *After Closing of Lead Parcels*. Tenant will pay Port on a quarterly basis, Percentage Rent equal to sixty-six percent (66%) of Gross Revenues from Parking Operations, less Parking Taxes and Extraordinary Expenses paid in such quarter up to the Extraordinary Expense Cap.

(d) Extraordinary Expenses.

(i) *Allocation of Extraordinary Expense*. The Extraordinary Expense Cap during any Lease Year will be allocated as follows: ninety percent (90%) during the High Season and ten percent (10%) during the Low Season.

(ii) Deduction of Extraordinary Expense Overage Amount. If, in any given calendar year, there is any Extraordinary Expense Overage Amount and Tenant is paying Variable Rent, rather than Base Rent, Tenant will be permitted to deduct from Tenant's payment of Variable Rent, an amount equal to eighty-seven and one-half percent (87.5%) of the difference between the amount of Variable Rent payable in such calendar year and the 2017 Variable Rent Amount.

(iii) *Documentation*. Tenant will substantiate actual Extraordinary Expenses with proof of expenditure, which may include: (i) copies of canceled checks, (ii) copies of executed contracts, (iii) invoices for labor services and/or materials marked "Paid"; or otherwise evidenced as having been paid; bills of lading marked "Paid"; other bills, contracts

and receipts for goods, materials and/or services marked "Paid", (iv) and such other proofs of expenditure as may be reasonably approved by Port. Port will have the right to examine and audit Extraordinary Expenses and deductions with reasonable advance notice in accordance with ***Sections 3.10*** and ***3.11***. All actual Extraordinary Expenses will be documented no later than in the Annual Statement.

3.3. ***Special Event Rent.***

(a) **Minimum Special Event Rent**. Tenant will pay to Port in advance on a quarterly basis, rent for each Special Event held at the Premises at the rates set forth in **Table 3.3** ("**Minimum Special Event Rent**"). Square footage used for parking in connection with a Special Event will not be included in determining the square footage used by such Special Event for purposes of calculating the Minimum Special Event Rent. Minimum Special Event Rent will be adjusted on an annual basis in accordance with ***Section 3.3(b)***.

Table 3.3

Special Event Category	**Rate/square foot**
Minor Special Events:	(i) $0.0085 per square foot per day (e.g., the equivalent of $5,000 per day for the entire Premises) for each day of the event and (ii) $0.0043 per square foot per day for each day of set up and take down.
Major Special Events:	(i) $0.017 per square foot per day (e.g., the equivalent of $10,000 per day for the entire Premises) for the first day of the event; (ii) $0.0128 per square foot (equivalent of $7,500) per day for the second day of the event; (iii) $0.0085 per square foot (equivalent of $5,000) per day for each remaining day of the event; and (iv) fifty percent (50%) of the average daily event fee per day for each set up and take down day.

(b) **Adjustment of Minimum Special Event Rent**. On each Anniversary Date, the Special Event Rent for Minor Special Events and Major Special Events as set forth in **Table 3.3** will be adjusted to equal one hundred three percent (103%) of the Special Event Rent in effect immediately prior to such Anniversary Date.

3.4. ***Vertical Improvement Staging Rent***. Any Vertical Staging Areas will be subleased by Tenant to Vertical Developers at fair market rates, as reasonably determined by Tenant (**"Vertical Improvement Staging Rent"**); provided, however, with regard to any Subleases with Tenant Affiliates, Tenant will provide Port with documentation supporting its determination that the Sublease rent is at fair market rates. Prior to the opening of the Parcel D2 Garage, (i) to the extent that quarterly Vertical Improvement Staging Rent exceeds, on a prorata square footage basis, the quarterly Base Rent that is payable on such Vertical Staging Area(s), Tenant will pay to Port sixty-six percent (66%) of such excess and (ii) to the extent that quarterly Vertical Improvement Staging Rent is less than, on a prorata square footage basis, the quarterly Base Rent that is payable on such Vertical Staging Area(s), the Base Rent applicable to such Vertical Staging Area(s) shall be reduced to quarterly Vertical Improvement Staging Rent received by Tenant. After the opening of the Parcel D2 Garage, Tenant will pay to Port the Port Parameter Rent on such Vertical Staging Area(s) and, to the extent that quarterly Vertical Improvement Staging Rent exceeds, on a prorata square footage basis, the Port Parameter Rent which would be payable on such Vertical Staging Area(s), Tenant will also pay to Port sixty-six percent (66%) of such excess.

3.5. ***Activation Use Rent***. Tenant will have no obligation to pay to Port any rent for the use of the Yard in its location as of the Commencement Date, as the Yard is depicted on

Exhibit B. If Tenant enters into any Sublease, license, or any other agreement for Activations Uses within a portion of the Premises, Tenant will pay Port , on a quarterly basis, additional rent equal to sixty-six percent (66%) of the quarterly gross lease revenue received by Tenant for such Activation Uses ("**Activation Use Rent**") less any amounts paid by Subtenant, licensee or other user of Activation Areas solely to reimburse Tenant for its operating expenses, taxes and insurance costs; provided however, Tenant shall not be permitted to "net out" any expenses from gross lease revenue which are otherwise included in the calculation of Extraordinary Expenses.

3.6. ***Promotional Signage Rent***. If Tenant enters into any Sublease, license, or any other agreement for Promotional Signage within a portion of the Premises, Tenant will pay Port in advance, on a quarterly basis, additional rent equal to fifty percent (50%) of Gross Revenues from Promotional Signage ("**Promotional Signage Rent**").

3.7. ***Alternative Return Rent Credits***. Tenant shall be entitled to a quarterly credit against Rent calculated in accordance with Section 2.8 of the Financing Plan (the "**Alternative Return Rent Credits**").

3.8. ***Additional Definitions***.

"**2017 Variable Rent Amount**" means $3,612,500.00. After conveyance of a Development Parcel, the 2017 Variable Rent Amount shall be reduced, as and when necessary by multiplying the 2017 Variable Rent Amount then in effect by a fraction, the numerator of which shall be equal to the number of parking spaces which are usable by Tenant on the Premises at such time of recalculation and the denominator of which will be 2,428.

"**Extraordinary Expense Cap**" for calendar year 2018, shall equal $762,521.80, which amount shall be increased in each subsequent calendar year by three percent (3%). After conveyance of a Development Parcel, the Extraordinary Expense Cap shall be reduced, as and when necessary by multiplying the Extraordinary Expense Cap then in effect by a fraction, the numerator of which shall be equal to the number of parking spaces which are usable by Tenant on the Premises at such time of recalculation and the denominator of which will be 2,428.

"**Extraordinary Expense Overage Amount**" means the amount by which Extraordinary Expenses in the Annual Statement (or such other amount due as a result of an audit performed in accordance with Section 3.11) exceed the Extraordinary Expense Cap for the applicable year.

"**Extraordinary Expenses**" means the annual substantiated costs of: (i) security for Event Operations, including payments made under the San Francisco Police Department's 10B program; (ii) operation of an accessibility shuttle from the parking area(s) to the Ballpark for Event Operations; (iii) temporary bathroom facilities, including the cleaning thereof, for Event Operations; (iv) post-Event Operations cleaning of the Premises; (v) labor and uniform costs for parking attendants for Event Operations; (vi) commercial general liability insurance maintained in accordance with ***Article 20*** which can be equitably attributed to Event Operations; (vii) utilities which can be equitably attributed to Event Operations; (viii) the Department of Transportation fees attributed solely to Event Operations; and (ix) tickets and signage.

"**Gross Revenues**" means all sales, payments, revenues, income, fees, rentals, receipts, proceeds and amounts of any kind whatsoever, whether for cash, credit or barter, received or receivable by Tenant or any other party from any parking activity, parking revenues, sales of parking tickets, entry fees, and services related to Parking Operations or from Promotional Signage, or any combination thereof, transacted, arranged or performed, in whole or in part, on the Premises, including without limitation, all returns and refunds, discounted services or similar benefits and/or goodwill. Except as specified herein, Gross Revenues shall be determined without reserve or deduction for failure or inability to collect and without deduction or allowance for cost of goods sold or other costs, charges or expenses of purchasing or selling incurred by Tenant. No value added tax, no franchise or capital stock tax and no income, gross receipts or

similar tax based upon income, profits or gross receipts as such shall be excluded or deducted from Gross Revenues.

"**Parcel D2 Garage**" means that certain parking structure to be constructed on Parcel D2.

"**Parking Taxes**" means all sums collected by Tenant to pay any parking tax required by Article 9 of the Business and Tax Regulations Code, to the extent such amounts are in fact paid to the appropriate governmental entities for which they are collected.

"**Port Parameter Rent**" means the then approved Port rental rate for paved land in the central waterfront area.

"**Variable Rent**" means Percentage Rent, Special Event Rent, Vertical Improvement Staging Rent and Activation Use Rent and Promotional Signage Rent and any other rent generated from or on the Premises.

"**Vertical Staging Areas**" means those portions of the Premises which are subleased by Tenant to Vertical Developers for the construction of the Vertical Improvements.

"**Yard**" means the pop-up village consisting of repurposed shipping containers located on a portion of the Premises.

3.9. ***Reporting of Variable Rent.***

(a) Tenant will deliver to Port a complete statement setting forth in reasonable detail the computation of Variable Rent for each calendar month in each calendar quarter, including an itemized list of all adjustments and deductions relating to the calculation of Variable Rent (the "**Quarterly Variable Rent Statement**") by the twentieth (20th) day of the immediately following calendar quarter, which shall be accompanied by all Variable Rent due for such calendar quarter. A financial officer or other accountant employed by Tenant who is authorized and competent to prepare such Quarterly Variable Rent Statement must certify each Quarterly Variable Rent Statement as accurate, complete and current.

(b) Tenant will provide Port within sixty (60) days after the expiration of each Lease Year, a complete statement, showing the computation of the Variable Rent for the immediately preceding Lease Year ("**Annual Statement**;" together with the Quarterly Variable Rent Statement, "**Variable Rent Statement**") substantially in the form of ***Exhibit Z***. Each Annual Statement will be certified as accurate, complete and current by Deloitte, EY, KPMG, PwC, or an independent certified public accounting firm reasonably acceptable to Port. Tenant must submit payment of the balance owing together with any Annual Statement showing that Tenant has underpaid Base Rent or Variable Rent. At Port's option, overpayments may be refunded to Tenant, applied to any other amount then due under the Lease and unpaid, or applied to Rent due at the first opportunity following Tenant's delivery of any Annual Statement showing an overpayment.

(c) The Annual Statement is for verification and certification of Quarterly Variable Rent Statements and Extraordinary Expenses only and will not result in any averaging of quarterly Base Rent or Variable Rent. Each Quarterly Statement and Annual Statement will set forth in reasonable detail Gross Revenues for such immediately preceding calendar quarterly or Lease Year, as applicable, including an itemized list of any and all deductions or exclusions from Gross Revenues that Tenant may claim at that time and which are expressly permitted under this Lease, and a computation of the Variable Rent for the immediately preceding calendar quarterly or Lease Year, as applicable.

(d) If Port receives the Variable Rent payment but does not receive the applicable Quarterly Variable Rent Statement by the twentieth (20th) day of the immediately following calendar quarter, such failure, until cured, will be treated as a late payment of Variable Rent, subject to a Late Charge.

(e) If Tenant fails to deliver any Quarterly Variable Rent Statement within the time period set forth in this Section 3.9 (irrespective of whether any Variable Rent is actually paid or payable by Tenant to Port) and such failure continues for thirty (30) days after the date Port delivers to Tenant written notice of such failure, Port will have the right, among its other remedies under this Lease, to have a Port Representative examine Tenant's Books and Records (and, to the extent permitted by the applicable Sublease, the Books and Records of any other occupant or user of the Premises) as may be necessary to determine the amount of Variable Rent due to Port for the period in question. The determination made by Port Representative will be binding upon Tenant, absent manifest error, and Tenant will promptly pay to Port the total cost of the examination, together with the full amount of Variable Rent due and payable for the period in question, including any Late Charge and interest at the Default Rate.

(f) In the event this Lease expires or terminates on a day other than the last day of a calendar quarter, Variable Rent for such fractional part of the calendar quarter preceding such expiration or termination date will be prorated to account for the partial calendar quarter and paid within twenty (20) days after such expiration or termination date, but if this Lease terminates as a result of an Event of Default, any amounts due hereunder will be payable immediately upon termination.

3.10. ***Books and Records***. Tenant will keep, and will cause its Subtenants to keep, Books and Records according to generally accepted accounting principles consistently applied or such other method as is reasonably acceptable to Port. "Books and Records" means all of Tenant's books, records, and accounting reports or statements relating to this Lease and the operation and maintenance of the Premises, including, without limitation, cash journals, rent rolls, general ledgers, income statements, bank statements, income tax schedules relating to the Premises, and any other bookkeeping documents Tenant utilizes in its business operations for the Premises. Tenant will maintain a separate set of accounts, including bank accounts, to allow a determination of expenses incurred and revenues generated directly from the Premises. If Tenant operates or Subleases all or any portion of the Premises through (or to) a Subtenant or Agent (other than Port), Tenant will cause such Subtenant or Agent to adhere to the foregoing requirements regarding books, records, accounting principles and the like.

3.11. ***Audit***. Tenant agrees to make its Books and Records (and the Books and Records of any other Person relating to the calculation of Variable Rent) available in the City and County of San Francisco to Port, or to any accountant employed or retained by Port or the City who is competent to examine and audit the Books and Records (hereinafter collectively referred to as "**Port Representative**"), for the purpose of examining said Books and Records to determine the accuracy of Tenant's reporting of Gross Revenues and Variable Rent, for a period of five (5) years after the applicable Annual Variable Rent Statement was delivered to Port. Tenant will reasonably cooperate with Port Representative during the course of any audit; provided however, once commenced, such audit will be diligently pursued to completion by Port within a reasonable time after its commencement. If an audit has commenced and Port claims that errors or omissions have occurred, Tenant will retain the Books and Records and make them available until those matters are resolved.

If an audit reveals that Tenant has understated its Gross Revenues or Variable Rent for said audit period, Tenant will pay Port, within fifteen (15) days after receipt of such audit results, the difference between the amount Tenant has paid and the amount it should have paid to Port, plus interest at the Default Rate. If Tenant understates its Gross Revenues for any audit period by five percent (5%) or more of Tenant's understated amount, Tenant will pay Port's cost of the audit. Any overpayments revealed by an audit will be credited towards Rent payments due subsequent to the audit until credited in full.

3.12. ***Manner of Payment***. Tenant will pay all Rent to Port in lawful money of the United States of America at the address for notices to Port specified in this Lease, or to such other Person or at such other place as Port may from time to time designate by notice to Tenant.

Variable Rent is payable without prior notice or demand. Rent is due and payable at the times provided in this Lease, provided that if no date for payment is otherwise specified, or if payment is stated to be due "upon demand," "promptly following notice," "upon receipt of invoice," or the like, then such Additional Rent is due thirty (30) days following the giving by Port and the receipt by Tenant of such demand, notice, invoice or the like to Tenant specifying that such sum is presently due and payable.

3.13. ***Interest on Delinquent Rent***. Rent not paid when due (or in the case of Variable Rent, if not reported when due or applied when due) will bear interest from the date due until paid (or, for Variable Rent, when reported or when applied) at an annual interest rate equal to the greater of (i) ten percent (10%) or (ii) five percent (5%) in excess of the Prime Rate that is in effect as of the date payment is due (the "**Default Rate**"). However, interest will not be payable on Late Charges incurred by Tenant or to the extent such payment would violate any applicable usury or similar law. Payment of interest will not excuse or cure any default by Tenant.

3.14. Late Charge. Tenant acknowledges and agrees that late payment by Tenant to Port of Rent, or Tenant's failure to provide the Variable Rent Statement to Port, will cause Port increased costs not contemplated by this Lease. The exact amount of such costs is extremely difficult to ascertain. Such costs include processing and accounting charges. Accordingly, without limiting any of Port's rights or remedies hereunder and regardless of whether such late payment results in an Event of Default, Tenant will pay a late charge (the "Late Charge") equal to the higher of (a) five percent (5%) of all Rent or any portion thereof which remains unpaid more than five (5) days following the date it is due (or with respect to a failure by Tenant to deliver the Variable Rent Statement to Port within five (5) days following the date it is due, five percent (5%) of Variable Rent due for the subject period of the Variable Rent Statement), or (b) One Thousand Dollars ($1,000), which amount will be increased by an additional One Thousand Dollars ($1,000) on the tenth (10th) anniversary of the Commencement Date and every ten (10) years thereafter; provided, however, Tenant will not be subject to a Late Charge more than once every calendar year if Tenant pays the unpaid Rent or delivers the Variable Rent Statement to Port, as applicable, within five (5) days of written notice from Port of such failure. The Parties agree that the Late Charge represents a fair and reasonable estimate of the cost that Port will incur by reason of a late payment by Tenant.

3.15. ***No Abatement or Setoff***. Tenant will pay all Rent at the times and in the manner provided in this Lease without any abatement, setoff, credit (other than the Alternative Return Rent Credits), deduction, or counterclaim.

3.16. ***Net Lease***. It is the purpose of this Lease and intent of Port and Tenant that all Rent is absolutely net to Port, so that this Lease yields to Port the full amount of Rent at all times during the Term, without deduction, abatement or offset. Under no circumstances, whether now existing or hereafter arising, and whether or not beyond the present contemplation of the Parties is Port expected or required to incur any expense or make any payment of any kind with respect to this Lease or Tenant's use or occupancy of the Premises. Without limiting the foregoing, Tenant is solely responsible for paying each item of cost or expense of every kind and nature whatsoever, the payment of which Port would otherwise be or become liable by reason of Port's estate or interests in the Premises, any rights or interests of Port in or under this Lease, or the ownership, leasing, operation, management, maintenance, repair, rebuilding, remodeling, use or occupancy of the Premises, or any portion thereof. No occurrence or situation arising during the Term, or any Law, whether foreseen or unforeseen, and however extraordinary, relieves Tenant from its liability to pay all of the sums required by any of the provisions of this Lease, or otherwise relieves Tenant from any of its obligations under this Lease, or except as set forth in this Lease, gives Tenant any right to terminate this Lease in whole or in part. Tenant waives any rights now or hereafter conferred upon it by any Law to terminate this Lease or to receive any abatement, diminution, reduction or suspension of payment of such sums, on account of any such occurrence or situation, provided that such waiver will not affect or impair any right or remedy expressly provided Tenant under this Lease.

3.17. ***Survival***. Tenant's obligation to pay any unpaid Rent due and payable (and Port's obligation to repay any overpayments) will survive the expiration or earlier termination of this Lease.

EXHIBIT E

PROJECT APPROVALS

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MASTER LEASE

EXHIBIT E

Project Approvals

1. **Final Environmental Impact Report** (Planning Dept. Case No. 2013.0208ENV)
   - Certify FEIR and adopt CEQA Findings: Planning Commission Motion No. 20017 and Motion No. 20018, October 5, 2017
   - Adopt CEQA Findings and MMRP: Port Resolution No. 18-03, January 30, 2018
   - Affirm Planning Commission's certification of FEIR and adopt CEQA Findings and MMRP: Board of Supervisors Resolution No. 36-18, February 13, 2018
2. **Planning Code and Zoning Map amendments**
   - Recommend: Planning Commission Resolution No. 20019, October 5, 2017
   - Consent: Port Resolution No. 18-04, January 30, 2018
   - Approve: Board of Supervisors Ordinance No. 31-18, February 27, 2018
3. **Development Agreement and amendments and waivers of specified provisions of the Administrative and Subdivision Codes**
   - Recommend: Planning Commission Resolution No. 20020, October 5, 2017
   - Consent: Port Resolution No. 18-06, January 30, 2018
   - Consent: SFPUC Resolution No. 18-0014, January 23, 2018
   - Consent: SFMTA Resolution No. 180206-025, February 6, 2018,
   - Approve: Board of Supervisors Ordinance No. 33-18, February 27, 2018
4. **Mission Rock Design Controls**
   - Approve: Planning Commission Motion No. 20021, October 5, 2017
   - Approve: Port Resolution No. 18-04, January 30, 2018
5. **Master Lease**
   - Adopt public trust findings, approve, and recommend: Port Resolution No. 18-03, January 30, 2018
   - Adopt public trust findings and approve under Charter § 9.118: Board of Supervisors Resolution No. 42-18, February 12, 2018
6. **Disposition and Development Agreement and Development Plan**
   - Adopt public trust findings, approve, and recommend: Port Resolution No. 18-03, January 30, 2018
   - Approve under Charter § 9.118: Board of Supervisors Resolution No. 42-18, February 12, 2018
7. **Waterfront Land Use Plan / Waterfront Design and Access Element amendments**
   - Adopt public trust findings and approve: Port Resolution No. 18-03 (Public Trust Findings) January 30, 2018, and Resolution No. 18-05 (Waterfront Land Use Plan), January 30, 2018

8. **Infrastructure Financing District Project Area I and Sub-Project Areas**

- Adopt public trust findings, approve, and recommend: Port Resolution No. 18-08, January 30, 3018
- Approve: Board of Supervisors Ordinance Nos. 34-18, February 27, 2018

9. **Memorandum of Understanding re Interagency Cooperation**

- Approve and recommend: Port Resolution No. 18-07, January 30, 3018
- Adopt CEQA Findings and consent: SFMTA Board Resolution No. 180206-025, February 6, 2018
- Adopt CEQA Findings and consent: SFPUC Resolution No. 18-0014, January 23, 2018
- Approve: Board of Supervisors Resolution No. 44-18, February 13, 2018

10. **Memorandum of Understanding re Collection and Allocation of Taxes**

- Approve and recommend: Port Resolution No. 18-09, January 30, 2018
- Approve: Board of Supervisors Resolution No. 45-18, February 13, 2018

11. **Mission Rock South Redevelopment Plan Amendment, OPA Amendment, and Design for Development Plan Amendment**

- Approve: OCII Commission Resolution Nos. 39-2017, 40-2017, 41-2017 and 42-2017, all October 17, 2017
- Approve: Board of Supervisors Ordinance No. 32-18, February 27, 2018

EXHIBIT F

PERMITTED TITLE EXCEPTIONS

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SCHEDULE B

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.

2. Any facts, rights, interests or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.

3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.

4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.

5. (a) Unpatented claims; (b) reservations or exceptions in patents or in acts authorizing the issuance thereof; (c) water rights, claims or title to water; whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

7. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2018-2019.

8. Intentionally deleted

9. The Land lies within the boundaries of a Mello Roos Community Facilities District ("CFD"), as follows:

   CFD No: 90-1
   For: School Facility Repair and Maintenance

   This property, along with all other parcels in the CFD, is liable for an annual special tax. This special tax is included with and payable with the general property taxes of the City and County of San Francisco. The tax may not be prepaid.

10. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 (commencing with Section 75) or Part 2, Chapter 3, Articles 3 and 4, respectively, of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A or as a result of changes in ownership or new construction occurring on or after the Date of Policy.

11. Intentionally deleted

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SCHEDULE B
(Continued)

12. Any adverse claim based upon the assertion that any portion of said land was not tide or submerged land subject to disposition by the State of California on the effective date of the legislative grant of such land to the City and County of San Francisco or that any portion thereof has ceased to be tide or submerged land by natural causes and imperceptible degrees.

13. Rights and Easements for Commerce, Navigation and Fishery.

14. Conditions, restrictions, easements, reservations and limitations and rights, powers, duties and trusts contained in the Legislative Grants, and by law as to the land or any portion thereof, acquired by the City and County of San Francisco by Chapter 1333 of the Statutes of 1968, (the Burton Act) as amended by Chapters 1296 and 1400, Statutes of 1969, Chapter 670, Statutes of 1970 , Chapter 1253, Statutes of 1971,Chapter 660, Statutes of 2007 and Chapter 529, Statutes of 2016 and as may be further amended, and such Reversionary Rights and Interests as may be possessed by the State of California under the terms and provisions of said Legislative Grants, or by law and that certain Agreement Relating to Transfer of the Port of San Francisco from the State of California to the City and County of San Francisco, executed by and between the City and County of San Francisco and the Director of Finance of the State of California and the San Francisco Port Authority, recorded January 30, 1969, Book B308, Page 686, Series No. R404013, of Official Records as modified by Chapters 1296 and 1400, Statutes of 1969, Chapter 670, Statutes of 1970 , Chapter 1253, Statutes of 1971,Chapter 660, Statutes of 2007 and Chapter 529, Statutes of 2016 and as may be further modified.

15. Any right, title or interest of persons, known or unknown, who claim or may claim adversely to the vested owners herein by reason of the record title to said property not having been established and quieted under the provisions of the "Destroyed Land Records Relief Act of 1906, as Amended", commonly known as the "McEnerney Act".

    Affects: Portion to be determined by Survey

16. Intentionally deleted

17. Intentionally deleted

18. Intentionally deleted

19. Intentionally deleted

20. Intentionally deleted

21. Intentionally deleted

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SCHEDULE B
(Continued)

22. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by:	City and County of San Francisco Water Dept.
Purpose:	Hydrant and waterline
Recorded:	August 24, 1995, Instrument No. 95 F837202, Reel G452, Image 435, of Official Records
Affects:	Portion

No representation is made as to the present ownership of said easement.

23. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by:	City and County of San Francisco of Electricity
Purpose:	Fire and police box, conduit and overhead line
Recorded:	August 24, 1995, Instrument No. 95 F837202, Reel G452, Image 435, of Official Records
Affects:	Portion

No representation is made as to the present ownership of said easement.

24. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document;

In favor of:	Pacific Gas and Electric Company
Purpose:	Overhead and underground electric and underground gas facilities
Recorded:	August 24, 1995, Instrument No. 95 F837202, Reel G452, Image 435, of Official Records
Affects:	The Westerly 61.50 foot portion of said land

No representation is made as to the present ownership of said easement.

25. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document;

In favor of:	Pacific Bell
Purpose:	Overhead conduits and aerial lines
Recorded:	August 24, 1995, Instrument No. 95 F837202, Reel G452, Image 435, of Official Records
Affects:	The westerly 61.50 foot portion of said land

No representation is made as to the present ownership of said easement.

26. Intentionally deleted

27. Intentionally deleted

28. Intentionally deleted

29. Intentionally deleted

30. Intentionally deleted

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SCHEDULE B
(Continued)

31. Intentionally deleted

32. Intentionally deleted

33. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in that certain document entitled "Street Vacation Ordinance No. 328-98":

In favor of:	Pacific Bell and Pacific Gas and Electric Company
Purpose:	Utilities
Recorded:	July 19, 1999, Instrument No. 99-G622153, Reel H429, Image 505, of Official Records.

The exact location and extent of said easement is not disclosed of record.

No representation is made as to the present ownership of said easement.

34. Intentionally deleted

35. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to:	Pacific Gas and Electric Company
Purpose:	Existing gas pipelines, street lighting facilities and facilities for the distribution of electric energy
Recorded:	July 19, 1999, Instrument No. 99-G622162, of Official Records
Affects:	That portion thereof designated and described therein as SV-19 lying within P20, so called

36. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to:	Pacific Bell
Purpose:	Telegraph, telecommunication and telephone lines
Recorded:	July 19, 1999, Instrument No. 99-G622163, of Official Records
Affects:	That portion thereof designated and described therein as SV-19 lying within P20, so called

37. Intentionally deleted

38. Intentionally deleted

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SCHEDULE B
(Continued)

39. Intentionally deleted

40. Intentionally deleted

41. Intentionally deleted

42. Matters contained in that certain document

Entitled:	Agreement for Mutual Release and Covenant Not to Sue
Recording Date:	September 2, 1999
Recording No:	99-G647957, Reel H462, Image 0117, Official Records

Reference is hereby made to said document for full particulars.

Affects: That portion of the herein described property lying within Parcel P 20, so called

43. Matters contained in that certain document

Entitled:	COVENANT TO RESTRICT USE OF PROPERTY ENVIRONMENTAL RESTRICTION
Executed by:	CITY AND COUNTY OF SAN FRANCISCO, A CHARTER CITY AND COUNTY, IN TRUST; DEPARTMENT OF TOXIC SUBSTANCES CONTROL
Recording Date:	January 27, 2000
Recording No:	00-G723986-00 of Official Records

Reference is hereby made to said document for full particulars.

44. Covenants, conditions and restrictions set forth in that certain Covenant and Environmental Restriction on Property executed by and between City, Port Commission, and the California Regional Water Quality Control Board for the San Francisco Bay Region, recorded March 21, 2000, Reel H598, Image 171, Instrument No. 2000-G748551-00, of Official Records, but omitting any covenant or restriction, if any, based upon race, color, religion, sex, handicap, familial status or national origin as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

As disclosed by such Covenant, the following additional exceptions:

Covenants, conditions and restrictions contained in that certain unrecorded Risk Management Plan approved by the California Regional Water Quality Control Board for the San Francisco Bay Region, a copy of which is on file with the Department of Public Health for the City and County of San Francisco in a file entitled "Mission Bay Risk Management Plan."

Affects: That portion of herein described land lying within P20, so called

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SCHEDULE B
(Continued)

45. Matters contained in that certain document entitled "City and County of San Francisco Department of Public Works Street Encroachment Agreement" dated April 13, 2000, executed by and between City and County of San Francisco and China Basin Ballpark Company, LLC recorded May 15, 2000, Instrument No. 2000-G773008, of Official Records.

Reference is hereby made to said document for full particulars.

46. Intentionally deleted

47. Intentionally deleted

48. Intentionally deleted

49. Matters contained in that certain document

Entitled:	Disposition and Development Agreement
Dated:	August 15, 2018
Executed by And between:	City and County of San Francisco, acting by and through the San Francisco Port Commission and Seawall Lot 337 Associates, LLC, a Delaware limited liability company
Recording Date:	_____, 2018
Recording No:	2018-_____, Official Records

Reference is hereby made to said document for full particulars.

50. Matters contained in that certain document

Entitled:	Development Agreement
Dated:	August 15, 2018
Executed by:	The City and County of San Francisco and Seawall Lot 337 Associates, LLC, a Delaware limited liability company
Recording Date:	_____, 2018
Recording No:	2018-_____, Official Records

Reference is hereby made to said document for full particulars.

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51. Covenants, conditions and restrictions set forth in that certain Permit No. 2017-004-00 dated June 29, 2018 granted by the San Francisco Bay Conservation and Development Commission, recorded _____, 2018, Recording No. 2018-_____, of Official Records, but omitting any covenant or restriction, if any, based upon race, color, religion, sex, handicap, familial status or national origin as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as such permit may be presently amended and/or modified.

END OF SCHEDULE Bi

This is a pro forma policy furnished to or on behalf of the party to be insured. It neither reflects the present status of title, nor is it intended to be a commitment to insured. The inclusion of endorsements as a part of the pro forma policy in no way evidences the willingness of the company to provide any affirmative coverage shown therein. There are requirements which must be met before a final policy can be issued in the same form as the pro forma policy. A commitment to insure setting forth these requirements should be obtained from the Company.

Additional Matters may be added or other amendments may be made to this pro forma policy by reason of any defects, liens or encumbrances that appear for the first time in the Public Records or come to the attention of the Company and are created or attached between the issuance of this pro forma policy and the issuance of a policy of title insurance. The Company shall have no liability because of such addition or amendment.

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EXHIBIT G

CFD AND ASSESSMENT MATTERS

[TO BE INSERTED POST-CLOSING]

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EXHIBIT H

DDA AND MASTER LEASE PARTIAL RELEASE

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MASTER LEASE EXHIBIT H
FORM OF DDA AND MASTER LEASE PARTIAL RELEASE

This document is exempt from payment of a recording fee pursuant to California Government Code Section 27383

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

Recorder's Stamp

APN:

DDA AND MASTER LEASE PARTIAL RELEASE

This **DDA AND MASTER LEASE PARTIAL RELEASE** (this "**Partial Release**"), dated for reference purposes only as of _____, 20____ (the "**Reference Date**"), is made by the **CITY AND COUNTY OF SAN FRANCISCO** (the "**City**"), operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), as landlord, and **SEAWALL LOT 337 ASSOCIATES, LLC**, a Delaware limited liability company ("**Tenant**" or "**Master Developer**"), with reference to the following facts and circumstances:

A. Tenant and the Port entered into that certain Master Lease, dated for reference purposes as of [_____], 2018 (as amended and as may be further amended from time to time, the "**Master Lease**"). In accordance with Section 43.10 of the Master Lease, a Memorandum of Lease was recorded in the Official Records of the City and County of San Francisco ("**Official Records**") on [_____] as Document No. [_____]. All capitalized terms used but not defined herein shall have the meanings assigned to them in the Master Lease.

B. Tenant and Port also entered into that certain Development and Disposition Agreement, dated for reference purposes as of [_____], 2018 (as amended and as may be further amended from time to time, the "**DDA**") pursuant to which Tenant, as the master developer of Mission Rock, will perform certain obligations, including the construction of Horizontal Improvements. The DDA was recorded in the Official Records on [_____] as Document No. [_____]. Tenant, as master developer of Mission Rock, is sometimes referred to as the Master Developer in the Master Lease.

C. [***add for Development Parcel conveyances only***] Port and [_____], a [_____] ("**Vertical Developer**") entered into that certain Vertical Disposition and Development Agreement dated for reference purposes as of [_____] (as amended from time to time, the "**Vertical DDA**") for the Development

Parcel more particularly described in ***Exhibit A-1*** and shown on the map attached hereto as ***Exhibit A-2*** (the "**Development Parcel**"). Port is obligated to convey the Development Parcel to the Vertical Developer upon satisfaction or waiver of various conditions, all of which have either been satisfied by Vertical Developer or waived by Port as of the date hereof. In order for Port to convey the Development Parcel to the Vertical Developer, the Development Parcel must first be released from the Premises. **Master Lease Section 1.4(a) and DDA Section 18.3(b)** provides that Port and Tenant will execute and record a DDA and Master Lease Partial Release for that portion of the Premises consisting of the Development Parcel in order to effectuate the Vertical DDA applicable to such Development Parcel. The Parties now desire to release the Development Parcel from the Premises (the "**Release Parcel**") and release the lien of the DDA from the Release Parcel. Accordingly, the Parties wish to enter into this Partial Release and record the same in the Official Records.

C. [***use if the Release Parcel is a Park Parcel or contains Phase Improvements or Deferred Infrastructure that has been Accepted by the Port Commission per DDA Section 14.7, where all Horizontal Improvements within the Release Parcel are Accepted***] **Master Lease Section 1.4(b)** provides that Port and Tenant will execute and record a DDA and Master Lease Partial Release for that portion of the Premises on which Tenant has constructed Horizontal Improvements that have been accepted by Port or other City Agencies, as applicable, in accordance with **DDA Section 14.7** (Acceptance of Port Facilities) and **DDA Section 14.8** (Acceptance of Other Horizontal Improvements) and **DDA Section 18.3(b)** provides for the release of the lien of the DDA. By [**insert Port resolution No. _____**, dated ___, 20XX], a copy of which is attached hereto as ***Exhibit B***, Port Accepted the Park Parcels and Phase Improvements described in Resolution No. ___ that are contained within that portion of the Premises described in ***Exhibit A-1*** and shown on the map attached hereto as ***Exhibit A-2*** (the "**Release Parcel**"), and authorized the Port Executive Director or her designee to sign and record this Partial Release after satisfaction of all conditions required by the Port Commission for acceptance. All conditions to Resolution No. ____ have been satisfied. Accordingly, the Parties wish to enter into this Partial Release and record the same in the Official Records.

C. [***use if all Horizontal Improvements within the Release Parcel have been Accepted by the Board of Supervisors per DDA Section 14.8. There are no other Horizontal Improvements within the Release Parcel that need Acceptance***] **Master Lease Section 1.4(b)** provides that Port and Tenant will execute and record a DDA and Master Lease Partial Release for that portion of the Premises on which Tenant has constructed Horizontal Improvements that have been accepted by Port or other City Agencies, as applicable, in accordance with **DDA Section 14.7** (Acceptance of Port Facilities) and **DDA Section 14.8** (Acceptance of Other Horizontal Improvements) and **DDA Section 18.3(b)** provides for the release of the lien of the DDA. By [**insert Board of Supervisors Motion No. _____**, dated ___, 20XX], a copy of which is attached hereto as ***Exhibit B***, the City Accepted all Horizontal Improvements [**add if applicable: including Utility Infrastructure**] that are described in Motion No. ___ and contained within that portion of the Premises described in ***Exhibit A-1*** and shown on the map attached hereto as ***Exhibit A-2*** (the "**Release Parcel**"). Accordingly, the Parties wish to enter into this Partial Release and record the same in the Official Records.

D. By recording this Partial Release, the Parties seek to notify third parties that the Premises described in the Master Lease will be [further] adjusted by the release of the Release Parcel and that the lien of the DDA is released from the Release Parcel.

NOW THEREFORE, in consideration of the foregoing facts, understandings and agreements, the Parties agree as follows:

AGREEMENT

1. In accordance with Master Lease Section [***1.4(a)*** (Development Parcels)] or [***1.4(b)*** (Horizontal Improvement Parcels)], Port and Tenant hereby release as of the date hereof, the Release Parcel from the Master Lease and as of the date hereof, the "**Premises**" under and as defined in the Master Lease will be adjusted to exclude the Release Parcel.

2. In accordance with **DDA Section 18.3(b)**, Port and Tenant hereby release as of the date hereof, the lien of the DDA from the Release Parcel.

3. Other than the adjustment of the Premises and the partial release of the DDA as set forth in this Partial Release, all other terms and conditions of the Master Lease and DDA remain unchanged.

[Signature appears on following page]

IN WITNESS WHEREOF, Port and Tenant have executed this Release as of the day and year first above written.

Tenant

SEAWALL LOT 337 ASSOCIATES, LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

Port

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Name: _____
Title: _____

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

State of California)
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A-1

Legal Description of Release Parcel

Real property in the City of San Francisco, County of San Francisco, State of California, described as follows:

[_____]

EXHIBIT A-2

Site Map of Release Parcel

[see attached]

EXHIBIT B

Port Resolution No. _____

EXHIBIT I

EXPANSION AREAS

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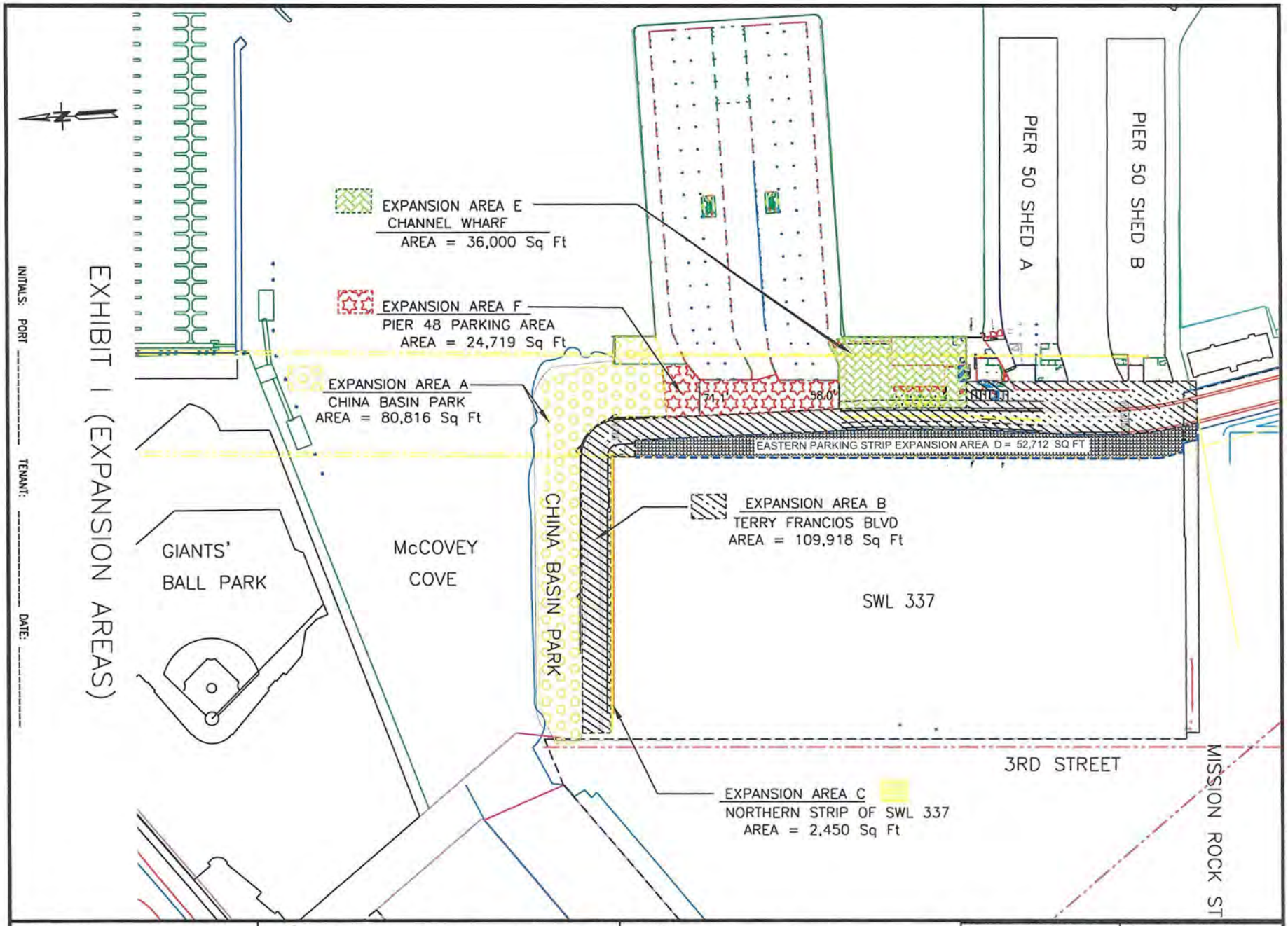

LEASE NO. L-16417	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT CHINA BASIN BALLPARK CO., LLC.	DRAWN BY: J. DOMINGUEZ; DATE: AUG. 10TH, 2018; CHECKED BY: P. WILLIAMSON; SCALE: 1" = 250'; PLACE CODE NO. 1480-00; SHEET NO.

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EXHIBIT I- A

TFB LICENSE AREA

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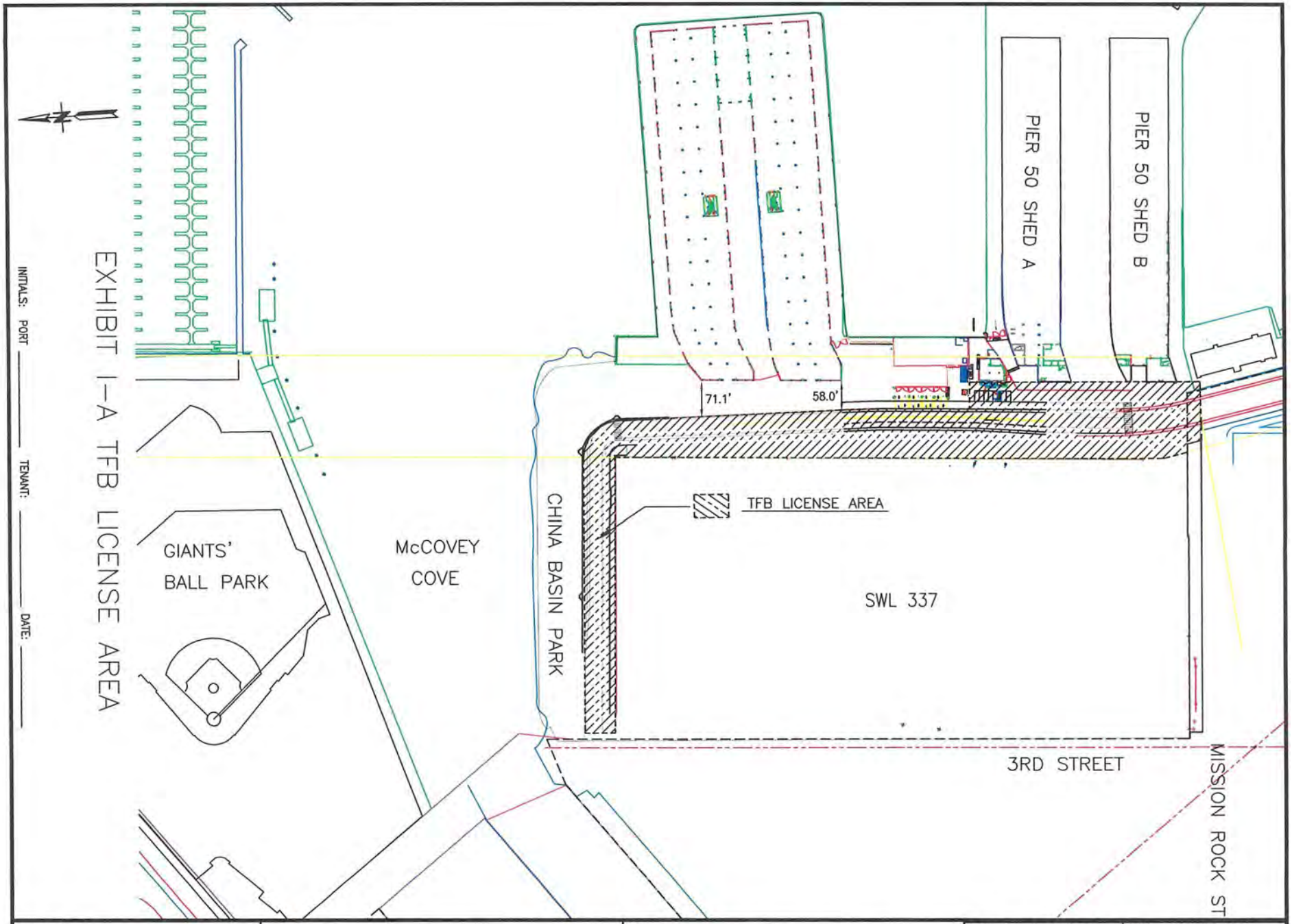

LEASE NO. L-16417	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT CHINA BASIN BALLPARK CO., LLC.	DRAWN BY: J. DOMINGUEZ | DATE: AUG. 15TH, 2018 CHECKED BY: P. WILLIAMSON | SCALE: 1" = 250' PLACE CODE NO. 1480-00 | SHEET NO.

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EXHIBIT I- B

3RD STREET PROJECT RELOCATION AREA

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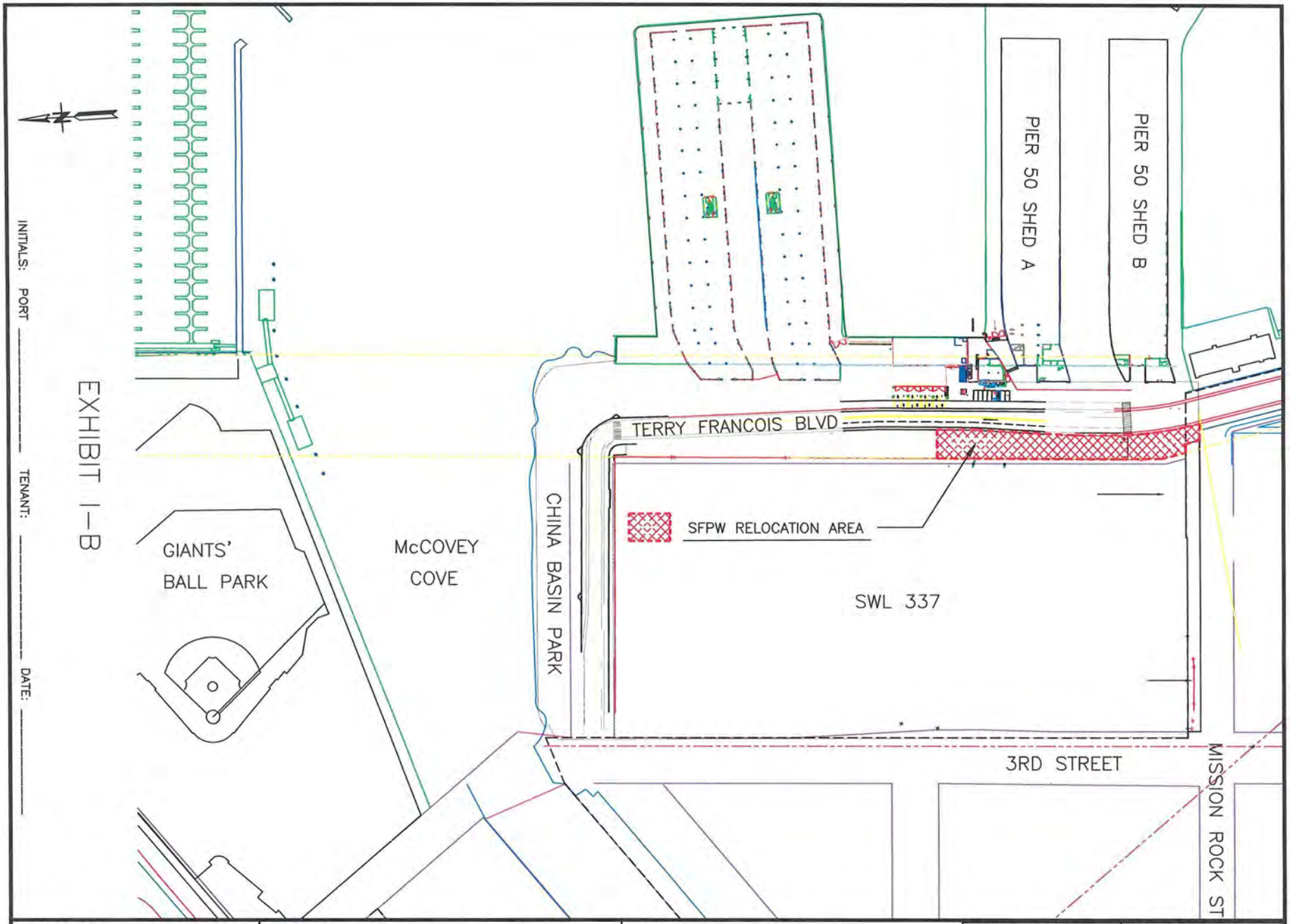

LEASE NO. L-16417	SAN FRANCISCO PORT COMMISSION PORT OF SAN FRANCISCO DEPARTMENT OF ENGINEERING	TENANT CHINA BASIN BALLPARK CO., LLC.	DRAWN BY: J. DOMINGUEZ | DATE: AUG 15TH, 2018 CHECKED BY: P. WILLIAMSON | SCALE: 1" = 250' PLACE CODE NO. 1480-00 | SHEET NO.

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EXHIBIT J

FORM OF LICENSE

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MASTER LEASE EXHIBIT J

ACCESS AGREEMENT

This ACCESS AGREEMENT (this "**Agreement**") is made as of _____, 20[XX], by and between **SEAWALL LOT 337 ASSOCIATES, LLC**, a Delaware limited liability company ("**Master Tenant**"), and _____, a _____ ("**Prospective Vertical Developer**").

RECITALS:

This Agreement is made with reference to the following facts:

A. Reference is made to that certain Master Lease No. L-[_____] dated as of [_____], 2018 (as modified, assigned, supplemented and/or amended, the "**Master Lease**"), between Master Tenant, as tenant, and CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), operating by and through the SAN FRANCISCO PORT COMMISSION ("**Port**"), as landlord, covering the Mission Rock development, as further described in the Master Lease (the "**Master Premises**").

B. Prospective Vertical Developer desires to obtain access to a portion of the Master Premises, described on the attached **Exhibit A** (the "**Property**"), for the limited purpose of conducting due diligence with respect thereto, prior to a possible lease of the Property by Port to Prospective Vertical Developer if all conditions to closing under that certain Vertical Development and Disposition Agreement dated as of [_____], [20XX] (the "**VDDA**") by and between Prospective Vertical Developer and Port are either satisfied or waived by Port and the Prospective Vertical Developer, as applicable.

C. Master Tenant is agreeable to allowing Prospective Vertical Developer to have access to the Property in accordance with the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the promises and undertakings herein made, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Prospective Vertical Developer and its agents, employees, consultants, appraisers, engineers and contractors (collectively, the "**Prospective Vertical Developer Parties**") shall be provided access to the Property for the sole purpose of conducting such non-invasive investigations, inspections, audits, analyses, surveys, tests, examinations, and studies of the Property as Prospective Vertical Developer has deemed necessary or desirable to determine whether the Property is suitable for Prospective Vertical Developer's purposes. Prospective Vertical Developer's access to the Property shall be governed by the terms of this Agreement. Prospective Vertical Developer shall not unreasonably interfere with Master Tenant's operations at the Property or the rights of any subtenants or other occupants of the Property. Prospective Vertical Developer shall not permit any mechanic's liens to be filed against all or any part of the Property arising from Prospective Vertical Developer's activities pursuant to this Agreement.

2. In exercising its right of access to, or inspection of, the Property, Prospective Vertical Developer shall notify Master Tenant's representative, [_____], at least two (2) business days prior to any proposed access to the Property (each of which must be expressly approved in advance by Master Tenant by electronic mail) to perform inspections and tests of the Property, including surveys, environmental studies and examinations. All such inspections and tests undertaken by or on behalf of Prospective Vertical Developer shall be conducted in strict accordance with all applicable laws and regulations and in a manner reasonably acceptable to Master Tenant.

3. Master Tenant's written reasonable approval of the location and scope of any physically intrusive testing, Phase II environmental survey or any testing or sampling of surface or subsurface soils, surface water, groundwater or any materials in or about the Property in connection with Prospective Vertical Developer's environmental due diligence will be required before Prospective Vertical Developer performs any such work in or about the Property. If Prospective Vertical Developer desires to perform invasive testing or other due diligence on the Property, then Master Tenant may, as a condition to such consent, increase the insurance coverage amounts or additional insurance coverage and modify the indemnity and release provisions set forth in Section 6, below. Prospective Vertical Developer agrees to cooperate with any request by Master Tenant in connection with the timing of any such inspection or test. Prospective Vertical Developer agrees to provide Master Tenant, upon Master Tenant's request, and to Port, with copies of the final versions of any written environmental inspection or test report or environmental summary prepared by any unrelated third party (excluding attorneys), and copies of all test results. Prospective Vertical Developer agrees that any inspection, test or other study or analysis of the Property by Prospective Vertical Developer shall be performed at Prospective Vertical Developer's expense and in accordance with applicable law. Prospective Vertical Developer agrees at its own expense to promptly restore the Property or, at Master Tenant's option, to reimburse Master Tenant for any repair or restoration costs incurred by Master Tenant as a result thereof, if any inspection or test requires or results in any damage to or alteration of its condition.

4. Master Tenant shall not be obligated to incur or be subject to any liability, cost or expense in connection with Prospective Vertical Developer's activities pursuant to this Agreement. Prospective Vertical Developer agrees that all inspections or other work undertaken by or on behalf of Prospective Vertical Developer at the Property shall be for Prospective Vertical Developer's account and not as an agent, servant, or contractor for Master Tenant.

5. This Agreement and Prospective Vertical Developer's rights of access hereunder shall terminate on the date that is the earliest to occur of (a) the expiration of the Contingency Period (as defined in the VDDA) or (b) the termination of the VDDA. Notwithstanding the foregoing, Prospective Vertical Developer's obligations set forth in Section 1 and Section 3 above, and Sections 6, 7, 8 and 9 below, shall survive any termination of this Agreement.

6. Prospective Vertical Developer hereby agrees to indemnify, defend, and hold harmless Master Tenant, its partners, members, affiliates, property manager, and their respective officers, directors, agents, employees, and representatives, as well as the Port, City and the

members, officers, directors, commissioners, employees, agents and contractors of Port and City (collectively, the "**Indemnified Parties**") from and against any and all liens, claims, or damages of any kind or nature, including any demands, actions or causes of action, assessments, losses, costs, expenses, liabilities, interest and penalties, and reasonable attorneys' fees suffered, incurred, or sustained by any of the Indemnified Parties caused by Prospective Vertical Developer, its agents or representatives with respect to any due diligence activities at the Property or entry onto the Master Premises pursuant to this Agreement. Prospective Vertical Developer shall promptly restore the Master Premises to its condition before any damages that may have been caused by Prospective Vertical Developer or its agents or representatives in the conduct of the review. [**NTD: All insurance coverage to be revisited prior to finalization of License to incorporate then current commercially reasonable insurance provisions, which provisions will be reviewed by Port.**] Prior to any entry onto the Property, Prospective Vertical Developer shall obtain, and during the period of such inspection or testing shall maintain, at their expense: (i) commercial general liability ("**CGL**") insurance, issued on a form at least as broad as Insurance Services Office ("**ISO**") Commercial General Liability Coverage "occurrence" form CG 00 01 10 01 or another "occurrence" form providing equivalent coverage, including contractual liability and personal injury liability coverage, with limits of not less than Two Million Dollars ($2,000,000) for any one occurrence and Five Million Dollars ($5,000,000) in the aggregate; (ii) comprehensive automobile liability insurance (covering any automobiles owned or operated by Prospective Vertical Developer) issued on a form at least as broad as ISO Business Auto Coverage form CA 00 01 07 97 or other form providing equivalent coverage; (iii) worker's compensation insurance, and (iv) employer's liability insurance. Such automobile liability insurance shall be in an amount not less than One Million Dollars ($1,000,000) for each accident. Such worker's compensation insurance shall carry minimum limits as defined by the law of the jurisdiction in which the Property is located (as the same may be amended from time to time). Such employer's liability insurance shall be in an amount not less than One Million Dollars ($1,000,000) for each accident, One Million Dollars ($1,000,000) disease-policy limit, and One Million Dollars ($1,000,000) disease-each employee. Master Tenant, Port and City shall be covered as additional insureds by written endorsement on the CGL and automobile liability insurance policies with respect to liability arising out of the named insured's acts or omissions relating to the Master Premises. As to all insurance required hereunder, such insurance shall be carried under a valid and enforceable policy or policies issued by insurers of recognized responsibility that are rated Best A—:VIII or better by the latest edition of Best's Key Rating Guide (or a comparable successor rating) and legally authorized to sell such insurance within the State of California. As to worker's compensation insurance required hereunder, such insurance will provide for waivers of any right of subrogation that the insurer of such party may acquire against each party hereto with respect to any losses of the type covered under such policies. Prior to making any entry upon the Property, Prospective Vertical Developer shall furnish to Master Tenant a certificate of insurance evidencing the foregoing coverages, which certificate of insurance shall be in form and substance reasonably satisfactory to Master Tenant.

7. Notwithstanding anything appearing to the contrary in this Agreement, no direct or indirect partner, member or shareholder of Master Tenant (or any officer, director, agent, member, manager, personal representative, trustee or employee of any such direct or indirect partner, member or shareholder) shall be personally liable for the performance of the obligations

of, or in respect of any claims against, Master Tenant arising under this Agreement. No personal judgment shall be sought or obtained against any of the foregoing in connection with this Agreement. Prospective Vertical Developer agrees to look solely to Master Tenant's interest in the Property for the satisfaction of any liability or obligation of Master Tenant arising under this Agreement.

8. If either party hereto fails to perform any of its obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not substantially prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default or in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements. Any such attorneys' fees and other expenses incurred by either party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such attorneys' fees obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment.

9. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies upon or by reason of this Agreement on any persons other than the parties to this Agreement and their respective permitted successors and assigns. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained herein and supersedes all prior or contemporaneous oral or written agreements, representations, statement, documents, or understanding of the parties. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties hereto. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and transmitted by overnight delivery or electronic mail to Prospective Vertical Developer or Master Tenant, as the case may be, to the addresses specified beneath each party's signature. This Agreement shall be construed in accordance with and governed by the laws of the State of California. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and signatures may be transmitted by portable document format (.pdf) or email. Prospective Vertical Developer may assign this Agreement in connection with any transfer of its interest in the VDDA, upon written notice to, but without Master Tenant's consent, provided that Prospective Vertical Developer's assignee assumes all of Prospective Vertical Developer's obligations hereunder. With respect to any other assignment of this Agreement, Prospective Vertical Developer shall not assign this Agreement to any other party without first obtaining Master Tenant's written consent, which consent may be withheld in Master Tenant's sole and absolute discretion

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this Access Agreement as of the date first written above.

MASTER TENANT:

SEAWALL LOT 337 ASSOCIATES, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

_____
_____
_____
Attn: [_____]
Email: [_____]

PROSPECTIVE VERTICAL DEVELOPER:

By: _____
Name: _____
Title: _____

_____
_____
_____
Attn: [_____]
Email: [_____]

EXHIBIT A

PROPERTY

EXHIBIT K-1

FORM OF TENANT ESTOPPEL CERTIFICATE (FOR DEVELOPMENT PARCEL CLOSING)

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MASTER LEASE EXHIBIT K-1

FORM OF MASTER DEVELOPER/MASTER TENANT/PHASE SUBTENANT ESTOPPEL CERTIFICATE IN CONNECTION WITH VERTICAL DEVELOPER/DEVELOPMENT PARCEL CLOSING

Seawall Lot 337 Associates, LLC, a Delaware limited liability company ("**Master Developer**" or "**Master Tenant**"), is the master tenant of the real property commonly known as Parcel [XX] (the "**Development Parcel**"). The Development Parcel is located within the mixed-use development commonly known as "**Mission Rock**" in San Francisco, California. [**Note: Use only if Development Parcel is s.t. Phase Sublease**: [_____], a [_____] ("**Phase Subtenant**") subleased the Development Parcel from Master Developer.] The undersigned [Master Developer] [Phase Subtenant] hereby certifies to the City and County of San Francisco, a municipal corporation, operating by and through the **San Francisco Port Commission** ("**Port**"), to _____ ("**Vertical Developer**")] [and to _____] the following as of [_____] ("**Certification Date**") [**Note: certification date will be the Development Parcel Closing Date**]:

1. That there is presently in full force and effect Master Lease No. L-[_____] dated as of [_____], 2018 (as may be modified, assigned, supplemented and/or amended, the "**Master Lease**"), between Master Developer, as tenant, and Port, as landlord, covering portions of the Mission Rock development, as further described in the Master Lease (the "**Master Premises**"), which Master Premises includes the Development Parcel. [**Note: Use only for Phase Subtenant**: That there is presently in full force and effect Sublease Agreement dated as of [_____], 20[XXX] (as may be modified, assigned, supplemented and/or amended, the "**Phase Sublease**"), between Phase Subtenant, as subtenant, and Master Developer, as sublandlord, covering Phase [XXX] of the Mission Rock development, which Phase includes the Development Parcel, as further described in the Phase Sublease.

2. That there is presently in full force and effect a Disposition and Development Agreement dated as of [_____], 2018 (as may be modified, assigned, supplemented and/or amended, the "**DDA**"), between Master Developer, as master developer of the Master Premises, and Port, as further described in the DDA, a copy of which was recorded in the official records of the City and County of San Francisco ("**Official Records**") as Instrument No. _____.

3. That there is presently in full force and effect a Development Agreement dated as of [_____], 2018 (as may be modified, assigned, supplemented and/or amended, the "**DA**"), between Master Developer, as master developer of the Master Premises, and the City and County of San Francisco, a municipal corporation (the "**City**"), as further described in the DA, a copy of which was recorded in the Official Records as Instrument No. _____.

4. [**Include if Phase Sublease in effect**: That Master Developer and Phase Subtenant have entered into that certain [DDA and DA Assignment and Assumption Agreement dated as of [_____], 20[XX]], pursuant to which Master Developer has assigned to, and Phase Subtenant has assumed, certain rights and obligations under the DDA and DA, as more specifically set forth therein.]

5. That the undersigned has executed, acknowledged, and delivered into escrow as of [_____], 20[XX], the DDA and Master Lease Partial Release (as required under Section 5.3 of the Master Lease [**Insert for Phase Sublease**: 18.5 of the Master Lease]), releasing the Development Parcel from the Master Premises and any rights it has in the Development Parcel, which DDA and Master Lease Partial Release will be effective as of the Closing Date. The undersigned also has consented to the recordation of the DDA and Master Lease Partial Release

in the Official Records. The undersigned has no claim, interest, or right to any interest in the Development Parcel as of the Closing Date.

6. That the undersigned has executed, acknowledged, and delivered into escrow as of [_____], 20[XX], the Development Agreement Assignment and Assumption Agreement, assigning to Vertical Developer certain specified rights and obligations under the DA, which Development Agreement Assignment and Assumption Agreement will be effective as of the Closing Date. The undersigned also has consented to the recordation of the Development Agreement Assignment and Assumption Agreement in the Official Records.

7. That, to the undersigned's actual knowledge, there does not exist an Event of Default, or Prospective Breach or Prospective Default (as to which [Master Developer][Phase Subtenant] has given Port a notice of such Prospective Breach or Prospective Default), of Port under the DDA except as follows: [_____].

8. That, to the undersigned's actual knowledge, there does not exist an Event of Default, or Prospective Breach or Prospective Default (as to which [Master Developer][Phase Subtenant] has received a notice from Port of such Prospective Breach or Prospective Default), of [Master Developer][Phase Subtenant]under the DDA except as follows: [_____].

9. That, to the undersigned's actual knowledge, there does not exist any default (as to which [Master Developer][Phase Subtenant] has given City a notice of such default), of City under the DA except as follows: [_____].

10. That, to the undersigned's actual knowledge, there does not exist any default (as to which [Master Developer][Phase Subtenant]has received a notice from City of default), of [Master Developer][Phase Subtenant] under the DA except as follows: [_____].

11. That, to the undersigned's actual knowledge after diligent inquiry, Port is not in default or breach of the Master Lease, nor has Port committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Master Lease by Port. [**Note: Use only for Phase Subtenant:**] That, to the undersigned's actual knowledge after diligent inquiry, Master Developer is not in default or in breach of the Phase Sublease, nor has Master Developer committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Phase Sublease by Master Developer.

12. That, to the undersigned's actual knowledge after diligent inquiry, Master Developer is not in default or in breach of the Master Lease, nor has Master Developer committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Master Lease by Master Developer. [**Note: Use only for Phase Subtenant**:] That, to the Phase Subtenant's actual knowledge, after diligent inquiry, Phase Subtenant is not in default or in breach of the Phase Sublease, nor has the undersigned committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Phase Sublease by the undersigned.

13. The undersigned has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code and to the undersigned's current actual knowledge, no involuntary petition naming [Master Developer] [Phase Subtenant] as debtor has been filed under any chapter of the U.S. Bankruptcy Code..

14. That, to the undersigned's actual knowledge there are no unrecorded leases, license or agreements affecting the Development Parcel, or parties in possession of the Development Parcel, that will remain in effect or in possession following the Closing Date, other than _____.

15. That, to the undersigned's actual knowledge after diligent inquiry, there are no unrecorded claims against the Development Parcel, nor any set of facts by reason of which the undersigned's [ground leasehold] [sublease hold] interest in the Development Parcel might be disputed or questioned, and the [Master Developer] [Phase Subtenant] has been in peaceable and undisputed possession of the Development Parcel since its leasehold interest in the Development Parcel was acquired.

16. That there has not been any construction, repairs, alterations or improvements made, ordered or contracted to be made on or to the Development Parcel, nor materials ordered therefor within the last six months which have not been paid for in full except as follows: _____; nor are there any fixtures attached to the Development Parcel which have not all been paid for in full except as follows: _____.

17. That, to the undersigned's actual knowledge, there has been no violation of any covenants, conditions or restrictions of record affecting the Development Parcel and that there are no disputes with any adjoining property owners or tenants as to the location of Development Parcel lines, or the encroachment of any improvements.

This Certificate shall be binding upon the undersigned and inure to the benefit of Port, Vertical Developer [,] and their respective successors and assigns.

[ ], a [_____]

By: _____

Name: _____

Title: _____

EXHIBIT K-2

FORM OF TENANT ESTOPPEL CERTIFICATE

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MASTER LEASE EXHIBIT K-2

FORM OF MASTER TENANT/PHASE SUBTENANT ESTOPPEL CERTIFICATE

Seawall Lot 337 Associates, LLC, a Delaware limited liability company ("**Master Tenant**"), is the master tenant of the real property located at [_____] [_____] (the "**Property**"). The Property is located within the mixed-use development commonly known as "**Mission Rock**" in San Francisco, California. [**Note: Use only for Phase Subtenant**: [_____], a [_____] ("**Phase Subtenant**") subleased a portion of the Property that includes Parcels [XXXXXXXXXX] within Mission Rock from Master Tenant.] [Master Tenant] [Phase Subtenant] hereby certifies to the **City and County of San Francisco**, a municipal corporation, operating by and through the **San Francisco Port Commission** ("**Port**") [and to _____] the following as of [_____], 20XX:

1. [**Note: Use for Master Tenant**: That there is presently in full force and effect that certain Master Lease No. L-[_____] dated as of [_____], 2018 (as modified, assigned, supplemented and/or amended as set forth in ***paragraph 2 below***, the "**Master Lease**"), between Master Tenant, as tenant, and Port, as landlord, covering the Property and other improvements, as further described in the Master Lease (the "**Master Premises**"). [**Note: Use is there is a Phase Sublease**: That there is presently in full force and effect that certain Sublease Agreement [_____] dated as of [_____], 20[XXX] (as modified, assigned, supplemented and/or amended as set forth in ***paragraph 2 below***, the "**Phase Sublease**"), between Master Tenant, as sublandlord, and Phase Subtenant, as subtenant, covering the a portion of the Master Premises, as further described in the Phase Sublease (the "**Subleased Property**").

2. [**Note: Use for Master Tenant:** That to Master Tenant's knowledge, a true, correct, and complete Master Lease is attached hereto as Exhibit A and has not been modified, assigned, supplemented or amended except as follows: _____. [**Note: Use only if Phase Subtenant is signing when Master Lease terminates**] That to Phase Subtenant's knowledge after diligent inquiry, (A) a true, correct, and complete Phase Sublease is attached hereto as Exhibit A, is in full force and effect, and has not been modified, assigned, supplemented or amended except as follows: _____;] [**Note: add if initial Phase Sublease has been amended**: and (B) the following amendments to the Phase Sublease and dates of Port approval for such amendments are as follows: [_____].]

3. [**Note: Use only in connection with Phase Sublease**:] That the attached Sublease and summary of basic terms attached hereto as Exhibit XXX are both true, correct and complete and that there have been no changes in the executed Sublease and summary from the electronic copies previously delivered to Port on [_____], [20XX].

4. That the commencement date under the Master Lease was [_____], 2018. [**Note: Use only for Phase Sublease**: The expiration date of the Phase Sublease is [____], 20[__].

5. That the present minimum monthly base rent which [Master Tenant] [Phase Subtenant] is paying under the [Master Lease] [Phase Sublease] is $_____ and has been paid in full as of [_____].

6. That the Percentage Rent paid by [Master Tenant] [Phase Subtenant] for the most recent full calendar [month] [quarter] [year] prior to the date set forth above was $_____.]

7. **[Note: Use only for Master Lease:** That the security deposits held by Port under the terms of the Master Lease are as follows: $_____. [**Note: Use only for Phase Sublease**: That the security deposits held by Master Tenant under the terms of the Phase Sublease are as follows: $_____.

8. [**Note: Use only for Master Tenant**: That Master Tenant has accepted possession of the Master Premises and that, to Master Tenant's actual knowledge, after diligent inquiry, all conditions of the Master Lease to be satisfied by Port have been completed or satisfied to the satisfaction of Master Tenant.] [**Note: Use only for Phase Subtenant**: That Phase Subtenant has accepted possession of the Subleased Property and that, to Phase Subtenant's actual knowledge, after diligent inquiry, all conditions of the Phase Sublease to be satisfied by Master Tenant have been completed or satisfied to the satisfaction of Phase Subtenant.]

9. That, to [Master Tenant's] [Phase Subtenant's] actual knowledge, after diligent inquiry, [Master Tenant] [Phase Subtenant], as of the date set forth above, has no right or claim of deduction, charge, lien or offset against [**Note: Use only for Master Tenant**: Port under the Master Lease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Master Lease other than _____.] [**Note: Use only for Phase Subtenant**: Master Tenant under the Phase Sublease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Phase Sublease other than _____.]

10. [**Note: Use for Master Tenant**:] That, to Master Tenant's actual knowledge, after diligent inquiry, Port is not in default or breach of the Master Lease, nor has Port committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Master Lease by Port. [**Note: Use for Phase Subtenant**: That, to Phase Subtenant's actual knowledge, after diligent inquiry, Master Tenant is not in default under the Phase Sublease, nor has Master Tenant committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Phase Sublease by Master Tenant, respectively, which have not been cured, except as follows: [_____].

11. That, to Master Tenant's actual knowledge, after diligent inquiry, Master Tenant is not in default or in breach of the Master Lease [or the Phase Sublease], nor has Master Tenant committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Master Lease [or the Phase Sublease] by Master Tenant. [**Note: Use only for Phase Subtenant**:] That, to the best of Phase Subtenant's actual knowledge, after diligent inquiry, Phase Subtenant is not in default or in breach of the Phase Sublease, nor has Phase Subtenant committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Phase Sublease by Phase Subtenant.

12. Except for the following: _____, (i) [Master Tenant] [Phase Subtenant] is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money, (ii) [Master Tenant] [Phase Subtenant] has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code, (iii) there has been no event that has materially adversely affected [Master Tenant's] [Phase Subtenant's] ability to meet its [Master Lease] [Phase Sublease] obligations hereunder, and (iv) to [Master Tenant's] [Phase Subtenant's] knowledge, no involuntary petition naming [Master Tenant] [Phase Subtenant] as debtor has been filed under any chapter of the U.S. Bankruptcy Code.

13. **[Note: Use for Master Tenant:]** That, to Master Tenant's actual knowledge, after diligent inquiry, there has been no violation of any covenants, conditions or restrictions of record affecting the Property and that there are no disputes with any

adjoining property owners or tenants as to the location of property lines, or the encroachment of any improvements.

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This Certificate shall be binding upon [Master Tenant] [Phase Subtenant] and inure to the benefit of Port, [ ] and their respective successors and assigns.

[ ], a [_____]

By: _____

Name: _____

Title: _____

EXHIBIT L

ASSESSOR INFORMATION

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MASTER LEASE EXHIBIT L - ASSESSORS INFORMATION

Overview of major events

- Pre-event information
- Assessable/actionable events for ASR
    - Initial land sale/transfer of title
    - Mapping
    - Tax certificates
    - Lien date new construction
    - Completed new construction
    - Final ownership changes/sales to users

Pre-event information

- Project timeline of major events
- Points of contact for the project (City PM, developer, etc.)
- Physical boundaries and clear legal descriptions of what is being conveyed, built, sold, etc. in each phase of the project and at the time of map recordation
- Anticipated final land use for each phase of the project
- Current federal/state maps if available

Advance notice and communication of updates at each step in the process

Event information

1. Initial land sale / transfer of title
    a. Assessable: any recorded change in ownership or ground lease/changes to existing ground lease
    b. Information needed:
        i. Deeds (transfer maps do not convey title for ASR purposes)
        ii. Subdivision maps and how they correspond to recorded deeds
        iii. Appraisal for transfers from government entities or non-arm's length transactions
    c. Timing: at the time of recording for a basis of calculating transfer tax

2. Mapping
    a. Justification/Purpose: ASR needs this information to reserve new block and lot numbers for the project.
    b. Information needed:
        i. Tentative maps that overlay future parcel changes and project phases (with current APNs and future reserved APNs)
        ii. Federal/state maps if applicable
        iii. Timeline of subdivision activity and how the current parcels will be divided/combined/adjusted in each phase of the subdivision
        iv. Initial subdivision maps and what deeds they correspond to
    c. Timing:
        i. Upon request to reserve APNs for new project

3. Tax certificates (Treasurer & Tax Collector's Office provides to ASR)
    a. Justification: ASR needs this information to (1) ensure that any outstanding changes in ownership have been recorded and any completed or anticipated new construction has been valued and (2) to generate a new assessed value for TTX to use for tax pre-payment purposes.
    b. Information needed:
        i. Pre-final map
        ii. TTX Form A and B (depending on how complicated the development is)
    c. Timing: whenever requested by the taxpayer, ASR has four weeks to review and determine new value

4. Lien date new construction
    a. Justification/Purpose: ASR needs this information to accurately assess the value of new construction in progress as of January 1st as required by the Revenue & Taxation Code.
    b. Information needed:
        i. The date construction started and the estimated completion date. If construction was in progress on January 1st, the percentage of construction completed.
        ii. A complete list of all the construction and/or demolition cost incurred as of this date, including direct and indirect costs and entrepreneurial profit. *(sample provided for reference)*
        iii. Copies of any leases signed.
        iv. A detailed description of all work to be completed or any changes to the work description.
        v. A copy of the pro forma, feasibility study or appraisal used to support the building of this project.
        vi. Copies of all application for building permits.
        vii. Certified copy of the lender's disbursement of funds.
        viii. Cost not funded by construction loan.
        ix. Details on any current or anticipated efforts to sell the property, if applicable.
        x. Any additional information, if not referenced above, that would influence the market value of the property.
        xi. Name, mailing address, phone number and e-mail of person(s) to contact regarding additional questions and inspection of property.
    c. Timing:
        i. By January 31st of each year the construction is in progress

5. Completed new construction
    a. Justification: ASR needs this information to accurately assess the value of completed new construction as of the date of completion as required by the Revenue & Taxation Code.
    b. Information needed:
        i. All property types
            1. The date construction started and completion date.
            2. A detailed description of all work completed (attach referenced floor plans, etc.)
            3. Copies of all applications for building permits.
            4. A complete list of all construction costs (see form) including direct, indirect costs and anticipated or actual entrepreneurial profit.
            5. Detailed information on costs not funded by construction loans.
            6. A copy of the pro forma, feasibility study or appraisal used to support the building of this project.
            7. Details on any current or anticipated efforts to sell the property, if applicable.
            8. Copies of any leases signed or currently in negotiation. Please include asking rents for spaces not leased.
            9. A copy of the land lease or other document that indicates the value of the land, if applicable.
            10. Projected or actual income and expense statement and a schedule of asking rent, if applicable. For actual statements, please provide the source document.

11. Certified copy of the lender's disbursement of funds.
12. Details on parking stall rents and any miscellaneous income.
13. Any appraisal completed.
14. Any additional information, if not referenced above, that would influence the market value of the property.
15. Name, address, phone number and email of person to contact for questions/arrange for a site inspection.

ii. Office

1. Rent roll showing net rentable areas by floor and area leased by each tenant; the type of lease (FSG, NNN or IG); the date and terms of each lease; the move in date; options to renew; escalation clauses; tax clauses; free rent or any lease concessions, landlord tenant improvement allowances.
2. The gross and net rentable areas of the building.
3. Projected or actual sales volume of the property.
4. A copy of any existing operating agreements, if applicable.
5. A copy of the feasibility study.
6. A copy of the stacking plan, if applicable.
7. XFactor or BOMA recalculation of square footage, if applicable.
8. If the construction project includes a parking garage:
    a. How will it be operated (i.e. leased to a second party for contract rent or net income to the owner)?
    b. What is the anticipated number of spaces and vehicle capacity (with valet services if applicable)?
    c. What will be the monthly fee for parking?

iii. Retail

1. Rent roll showing net rentable areas by floor and area leased by each tenant; the type of lease (FSG, NNN or IG); the date and terms of each lease; the move in date; options to renew; escalation clauses; tax clauses; free rent or any lease concessions, landlord tenant improvement allowances.
2. The gross and net rentable areas of the building.
3. Details on parking stall rents and any miscellaneous income.
4. Projected or actual sales volume of the property.
5. A copy of the operating agreement signed with the mall owner, if applicable.

iv. Apartments

1. Tenant Rent Roll for residential and commercial units that includes the unit number, unit type (number of beds/baths), number of rooms, market rate or BMR unit, occupancy, square footage, contract rental rate, date lease signed, market rental rate, other fees collected – parking, storage, pet. Overall parking spaces, any upgrades, floor and view premiums (if applicable). Please provide a rent roll as of the certificate of occupancy and/or when stabilized occupancy is achieved.
2. A finish schedule.
3. Total square footage of improvements allocated by use (residential, retail, common area, parking, etc.). Area (sq. ft.) of each floor including basement, mezzanine, penthouse, etc.

v. Condos

1. The Parcel Split/Condo Conversion Questionnaire *(attached, Excel is strongly preferred.)*
2. For any units retained by the developer (i.e. parking, storage, retail, etc.), please provide copies of any signed leases, details on any leases in negotiation or proposed, or a summary of asking rents. Include a tenant rent roll, projected or actual income and expense statements, and net rentable area of each retained unit.
3. Condo map/plan (if applicable) – required for us to split a new condo project or condo conversion

vi. Hotel
    1. A list of the number of hotel rooms, the average daily rates, and projected occupancy levels.
    2. Percentage of guest segmentation.
    3. A copy of the Management Agreement.
    4. A copy of the Franchise Fee Agreement, specifically identifying the franchise fees and how they are determined.
    5. Breakdown of real property and personal property.
    6. Current or projected rent roll showing any net rentable areas of the building by floor and area leased by each retail tenant (if any); the type of lease (FSG, NNN, or IG); the date and terms of each lease, the move in date; options to renew, escalation clauses, tax clauses, free rent or any lease concessions, or landlord/tenant improvement allowances. If there are no leasable office or retail areas on the property, so state.

c. Timing: within 60 days upon completion of construction for each project phase

6. Final ownership changes/sales to users
    a. Event: any recorded change in ownership or new lease/changes to existing lease
    b. Information needed:
        i. All property types
            1. Information about the sale:
                a. The purchase agreement and closing statement
                b. Identify the broker or agent on the sale
                c. Original list price
                d. Days on market
            2. Details and terms of financing the property.
            3. Details on any anticipated deferred maintenance costs or capital expenditures anticipated by buyer at the time of the sale (i.e. renovations, major repairs, seismic retrofitting, and asbestos abatement) and a detailed schedule of when the work is to be completed.
            4. If the purchase price was not considered market value for the property, an explanation of why.
            5. Detailed anticipated income and expense operating statements of the new owner at time of purchase and/or acquisition and the prior two (2) years.
            6. Copies of any leases or lease abstracts, amendments or renewals, including free rent and tenant improvement allowances agreed to.
            7. Marketing materials and/or asking rents to lease vacant space as of the transfer date.
            8. Any anticipated changes in use.
        ii. Office
            1. A copy of the Offering Memorandum distributed by selling agent.
            2. Copies of any appraisal prepared for purchase financing.
            3. The investor's pro-forma and market rent assumptions generated by Argus investment analysis or other format (Excel preferred).
            4. A rent roll as of the change in ownership date showing; all tenants with corresponding suite numbers, suite sizes (sf), monthly or annual rent, date and terms of leases, scheduled rent escalations and any vacant rentable space (Excel format preferred).
            5. Indicate if any lease expense agreements are other than full-service gross with a base year (FSG).
            6. If vacancy is above 10%, provide historical vacancy or occupancy ratios (on an annual or bi-annual basis) over the previous three (3) years.
            7. A detailed annual income and expense summary for the year of sale and the prior two (2) years. If historical income and operating statements were not provided by the seller, please substitute your operating budget as of the purchase date (Excel format preferred).

iii. Retail

1. Any cash flow analysis, pro forma worksheets or investment analysis in the acquisition of the property.
2. Any appraisal prepared for the acquisition or financing of the subject property.
3. Details on the financing involved for the purchase and/or acquisition of the subject property.
4. Current rent roll showing net rentable areas by floor and area leased by each tenant; the type of lease (FSG, NNN or IG); the date and terms of each lease; the move in date; options to renew; escalation clauses; tax clauses; free rent or any lease concessions, landlord tenant improvement allowances.
5. The gross and net rentable areas of the building.
6. At the time of transfer, indicate the amount of net rentable vacant space, identify its location within the building and indicate the asking rental rates.
7. The anticipated sales volume of the property.

iv. Apartments

1. Rent roll as of the change in ownership date, showing the list of all tenants with monthly rent and move-in date. For retail tenants, please provide copies of the lease(s), including any amendments or renewals (Excel format preferred).
2. The anticipated rental rates for any vacant units.
3. The anticipated operating income and expenses at the time of purchase/change in ownership. If available, provide the operating income and expenses statements for the two (2) years preceding change in ownership (Excel format preferred).
4. Details on any miscellaneous income (parking, laundry, storage, etc.)
5. A copy of any appraisal prepared for any purpose (financing, insurance, investment) within two (2) years of the event date.
6. A description of each unit; number of rooms, bedrooms, bathrooms, furnished or unfurnished.

v. Hotel

1. Any appraisal, pro forma or feasibility study made to assist in the acquisition of the subject property, or for any other purpose (i.e. insurance, investment, financing) prepared within two (2) years of the event date.
2. List of the number of hotel rooms, the average daily rates and occupancy levels as of the change in ownership date and for the previous two (2) years.
3. The guest segmentation, by percentage.
4. Detailed, historic income and expense statement for the two (2) years prior to the event date, and the budgeted or anticipated income and expense statement for the first year following the change in ownership date.
5. Copy of the Management Agreement.
6. Copy of the Franchise Agreement, specifically identifying the franchise fees and how they are determined.
7. Copy of the Smith Travel Report for the property, as of the same year as the change in ownership.
8. The current rent roll showing net rentable areas by floor and area leased by each retail tenant (if any); the type of lease (FSG, NNN or IG); the date and terms of each lease; the move in date; options to renew; escalation clauses; tax clauses; free rent or any lease concessions, landlord tenant improvement allowances. If there are no leasable areas of the property, so state.
9. Copy of the sale agreement with detailed itemizations of all real property and business personal property components included in the sale.

vi. Single Family Homes/Condos

1. No additional information needed, recorded deed is sufficient

c. Timing: within 60 days of a change to the fee owner of the property

Attachments

1. In Progress and Completed New Construction Cost Report template
2. Parcel Split/Condo Conversion Questionnaire

EXHIBIT M

MITIGATION AND IMPROVEMENT MEASURES

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MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
	Department.			
Consultation with Descendant Communities: On discovery of an archeological site[2] associated with descendant Native Americans, the overseas Chinese, or other potentially interested descendant group, an appropriate representative[3] of the descendant group and the ERO shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and offer recommendations to the ERO regarding appropriate archeological treatment of the site, recovered data from the site, and, if applicable, interpretative treatment of the associated archeological site. A copy of the final archeological resources report shall be provided to the representative of the descendant group.	Infrastructure developer or vertical developer(s) (as applicable) and archaeological consultant.	For the duration of soil-disturbing activities and data recovery of potentially significant archeological sites.	Infrastructure developer or vertical developer(s) (as applicable) and/or archaeological consultant shall contact the ERO and descendant group representative upon discovery of an archaeological site associated with descendant Native Americans, Overseas Chinese, or interested descendant group. The representative of the descendant group shall be given the opportunity to monitor archaeological field investigations on the site and consult with the ERO regarding appropriate archaeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archaeological site. Archaeological Consultant shall prepare a Final Archaeological Resources	Considered complete upon submittal of Final Archaeological Resources Report.

[2] The term "archeological site" is intended here to include any archeological deposit, feature, burial, or evidence of burial.

[3] An "appropriate representative" of the descendant group is here defined to mean, in the case of Native Americans, any individual listed in the current Native American contact list for the City and County of San Francisco maintained by the NAHC or, in the case of overseas Chinese, the Chinese Historical Society of America. An appropriate representative of other descendant groups should be determined in consultation with the department archeologist.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
			Report in consultation with the ERO (per below). A copy of this report shall be provided to the ERO and the representative of the descendant group.	
Archeological Testing Program. The archeological consultant shall prepare and submit to the ERO for review and approval an archeological testing plan (ATP). The archeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archeological resource(s) that could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archeological testing program will be to determine, to the extent possible, the presence or absence of archeological resources and identify and evaluate whether any archeological resource encountered on the site constitutes a historical resource under CEQA.	Infrastructure developer or vertical developer(s) (as applicable) and archaeological consultant in consultation with the ERO. Development of ATP for a defined geographic area and/or specified construction activities.	Prior to any excavation, site preparation or construction, and prior to testing, submit an ATP for a defined geographic area and/or specified construction activities to and obtain approval by the ERO. A single ATP or multiple ATPs may be produced to address project phasing.	Archaeological consultant to undertake ATP in consultation with ERO.	Prior to any soil disturbing activities. Considered complete upon approval of the ATP by the ERO and finding by the ERO that the ATP is implemented.
At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the ERO. If, based on the archeological testing program, the archeological consultant finds that significant archeological resources may be present, the ERO, in consultation with the archeological consultant, shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archeological testing, archeological monitoring, and/or an archeological data recovery program. No archeological data recovery shall be undertaken without the prior approval of the ERO or the Planning Department archeologist. If the ERO determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor:	Infrastructure developer or vertical developer(s) (as applicable) and archaeological consultant in consultation with the ERO.	Upon completion of the archeological testing program.	Archaeological consultant to submit results of testing, and, in consultation with ERO, determine whether additional measures are warranted. If significant archaeological resources are present and may be adversely affected., the infrastructure developer or vertical developer(s) (as applicable), at its discretion, may elect to redesign a project, or implement data	Considered complete after ERO review and approval of report(s) on ATP findings.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
			recovery program, unless ERO determines the archaeological resource is of greater interpretive than research significance and that interpretive use is feasible.	
A. The proposed project shall be redesigned so as to avoid any adverse effect on the significant archeological resource, or B. A data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.	Written report on ATP findings: Infrastructure developer or vertical developer(s) (as applicable) and archaeological consultant in consultation with the ERO.	At the completion of each archaeological testing program.	Archeological consultant shall submit report of the findings of the ATP to the ERO.	After completion of archeological testing program.
Archeological Monitoring Program. If the ERO, in consultation with the archeological consultant, determines that an archeological monitoring program shall be implemented, the archeological monitoring program shall include the following provisions: • The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the archeological monitoring program reasonably prior to any project-related soil-disturbing activities commencing. The ERO, in consultation with the archeological consultant, shall determine what project activities shall be archeologically monitored. In most cases, any soil-disturbing activities, such as demolition, foundation removal, excavation, grading, utility installation, foundation work, pile driving (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archeological resources and their depositional context; • The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), know how to identify evidence of the expected resource(s), and know the appropriate protocol in the event of apparent discovery of an archeological	Infrastructure developer or vertical developer(s) (as applicable) and archaeological consultant in consultation with the ERO.	The archaeological consultant, infrastructure developer or vertical developer(s) (as applicable), and ERO shall meet prior to the commencement of soil-disturbing activities for a defined geographic area and/or specified construction activities. The ERO in consultation with the archaeological	If required, archaeological consultant to prepare the AMP in consultation with the ERO. Infrastructure developer or vertical developer(s) (as applicable), project archaeological consultant, and infrastructure developer's or vertical developer(s) contractors shall implement the AMP, if required by the ERO.	Considered complete on approval of AMP(s) by ERO; submittal of report regarding findings of AMP(s); and finding by ERO that AMP(s) is implemented.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT **NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.**				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
resource; • The archeological monitor(s) shall be present on the project site according to the schedule agreed upon by the archeological consultant and the ERO until the ERO has, in consultation with project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits; • The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis; • If an intact archeological deposit is encountered, all soil-disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile-driving/construction activities and equipment until the deposit is evaluated. If, in the case of pile-driving activity (foundation, shoring, etc.), the archeological monitor has cause to believe that the pile-driving activity may affect an archeological resource, the pile-driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit and present the findings of this assessment to the ERO. • Whether or not significant archeological resources are encountered, the archeological consultant shall submit a written report of the findings of the monitoring program to the ERO.		consultant shall determine what archaeological monitoring is necessary. A single AMP or multiple AMPs may be produced to address project phasing.		
Archeological Data Recovery Program. The archeological data recovery program shall be conducted in accordance with an archeological data recovery plan (ADRP). The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would	Infrastructure developer or vertical developer(s) (as applicable) and archaeological consultant in consultation with the ERO.	Upon determination by the ERO that an ADRP is required. A single ADRP or multiple ADRPs may be produced to address project phasing.	If required, archaeological consultant to prepare an ADRP(s) in consultation with the ERO.	Considered complete upon review and approval of the ADRP(s) by the ERO.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to any portions of the archeological resources if nondestructive methods are practical. The scope of the ADRP shall include the following elements: • Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations. • Cataloging and Laboratory Analysis. Description of selected cataloging system and artifact analysis procedures. • Discard and Deaccession Policy. Description of and rationale for field and post-field discard and deaccession policies. • Interpretive Program. Consideration of an onsite/offsite public interpretive program during the course of the archeological data recovery program. • Security Measures. Recommended security measures to protect the archeological resource from vandalism, looting, and nonintentionally damaging activities. Final Report. Description of proposed report format and distribution of results. • Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.				
Final Archeological Resources Report. The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. A separate, brief, non-confidential summary of findings that can be made available to the public shall be submitted with each FARR.	Infrastructure developer or vertical developer(s) (as applicable) and archaeological consultant in consultation with the ERO.	For infrastructure developer-prior to acceptance of work. Prior to issuance of Certificate of Temporary or Final Occupancy, whichever occurs first.	If applicable, archaeological consultant to submit a Draft FARR to ERO.	Considered complete on submittal of FARR and approval by ERO.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (NWIC) shall receive one copy, the ERO shall receive a copy of the transmittal of the FARR to the NWIC, and the Environmental Planning division of the Planning Department shall receive one bound, one unbound, and one unlocked, searchable PDF copy on CD of the FARR, along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or high interpretive value of the resource, the ERO may require a final report content, format, and distribution different from that presented above.	Archaeological consultant at the direction of the ERO.	Upon approval of the FARR by the ERO.	Archaeological consultant to distribute FARR.	Considered complete when archaeological consultant provides written certification to the ERO that the required FARR distribution has been completed.
M-CP-3: Treatment of Human Remains, Associated or Unassociated Funerary Objects. The treatment of human remains and associated or unassociated funerary objects discovered during any soil-disturbing activity shall comply with applicable state and federal laws. This shall include immediate notification of the coroner of the City and County of San Francisco and, in the event of the coroner's determination that the human remains are Native American remains, notification of the Native American Heritage Commission (NAHC), which shall appoint a Most Likely Descendant (MLD) (PRC Section 5097.98). The ERO will also be immediately notified. The archeological consultant, project sponsor, ERO, and MLD shall have up to but not beyond 6 days after the discovery to make all reasonable efforts to develop an agreement for the treatment of human remains and associated or unassociated funerary objects with appropriate dignity (CEQA Guidelines. Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. Nothing in existing state regulations or in this mitigation measure compels the project sponsor and the ERO to accept recommendations of an MLD. The archeological consultant shall retain possession of any Native American human remains and associated or unassociated burial objects until completion of any scientific analyses of the human remains or objects, as specified in the treatment agreement, if such an agreement has been made or, otherwise, as determined by the archeological consultant and the ERO.	Infrastructure developer or vertical developer(s) (as applicable) and archaeological consultant, in consultation with the San Francisco Coroner, NAHC, ERO, and MLD.	In the event human remains and/or funerary objects are encountered, during soils disturbing activity.	Archaeological consultant or archaeological monitor or infrastructure developer or vertical developer(s) or contractor to contact San Francisco County Coroner and ERO Implement regulatory requirements, if applicable, regarding discovery of Native American human remains and associated and/or unassociated funerary objects. Contact archaeological consultant and ERO.	Considered complete on notification of the San Francisco County Coroner, ERO, and NAHC, if necessary, and completion of treatment agreement and/or analysis.

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
M-CP-4: Tribal Cultural Resources Interpretive Program. If the ERO determines that a significant archeological resource is present, and if in consultation with the affiliated Native American tribal representatives, the ERO determines that the resource constitutes a tribal cultural resource (TCR) and that the resource could be adversely affected by the proposed project, the proposed project shall be redesigned so as to avoid any adverse effect on the significant tribal cultural resource, if feasible. If the Environmental Review Officer (ERO) determines that preservation-in-place of the tribal cultural resource (TCR) pursuant to Mitigation Measure M-CP-2, Archeological Testing, is both feasible and effective, then the archeological consultant shall prepare an archeological resource preservation plan (ARPP). Implementation of the approved ARPP by the archeological consultant shall be required when feasible. If the Environmental Review Officer (ERO), if in consultation with the affiliated Native American tribal representatives and the Project Sponsor, determines that preservation in place of the tribal cultural resources is not a sufficient or feasible option, the project sponsor shall implement an interpretive program of the TCR in consultation with affiliated tribal representatives. An interpretive plan produced in consultation with the ERO and affiliated tribal representatives, at a minimum, and approved by the ERO would be required to guide the interpretive program. The plan shall identify, as appropriate, proposed locations for installations or displays, the proposed content and materials of those displays or installation, the producers or artists of the displays or installation, and a long term maintenance program. The interpretive program may include artist installations, preferably by local Native American artists, oral histories with local Native Americans, artifacts displays and interpretation, and educational panels or other informational displays.	Infrastructure developer or vertical developer(s) (as applicable), archaeological consultant, and ERO, in consultation with the affiliated Native American tribal representatives.	If significant archeological resources are present, during implementation of the project.	Infrastructure developer, vertical developer(s), or archaeological consultant shall implement the project redesign, completion of archeological resource preservation plan, or interpretive program of the TCR, if required.	Considered complete upon project redesign, completion of ARPP, or interpretive program of the TCR, if required.
Transportation and Circulation Mitigation Measures				
M-TR-3: Parking Garage and Intersection Queue Impacts. The easternmost driveway on Long Bridge Street (i.e., closest to Bridgeview Street) shall be restricted to right-in, right-out access during all times. Restricted access could be accomplished by placing signage (i.e., on Long Bridge Street to direct westbound traffic to the westernmost garage driveway, and within the parking garage for exiting traffic to indicate outbound right	Infrastructure developer, garage operator, or vertical developer(s) of garage.	Prior to issuance of certificate of occupancy of Block D2 parking garage. Note: Mitigation	SFMTA, in consultation with the Planning Department and the Port, to review and sign off on detailed plans regarding driveways to ensure design will	Considered complete upon approval of the final driveway plans by SFMTA.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
turn movement only allowed) as well as delineators of a sufficient length in the middle of Long Bridge Street to block left-turn access to the driveway.		Measure M-TR-3 is not applicable to Variant 3 (Reconfigured Parking).	sufficiently restrict movements at driveway to right-in, right-out.	Planning Department, and the Port.
M-TR-4.1: Provide Fair-Share Contribution to Improve 10 Townsend Line Capacity. Upon completion and occupancy of Phase 1 of the proposed project and upon completion and occupancy of each subsequent phase as defined in the Development Agreement the project sponsor shall obtain from SFMTA the current ridership on the 10 Townsend and conduct an assessment of the capacity utilization at the screenline's Maximum Load Point (MLP) for weekday AM and PM peak hour conditions. If the capacity utilization exceeds 85 percent, a fair share contribution payment shall be made to SFMTA by the project sponsor, calculated as further provided in a Transit Mitigation Agreement described below, and attached to or incorporated into the Development Agreement. Such payment shall be adjusted, as appropriate, to the extent, if any, that the proposed project reflects either the High Residential Assumption or High Commercial Assumption based upon all phases of the proposed project that have been completed up to such date. Accordingly, the fair share contributions by phase may differ by scenario because the number of transit riders varies due to different mixes of land use. If the capacity utilization based on SFMTA's ridership data is less than 85 percent, then the project sponsor's fair share payment for that phase shall be $0 and the process will repeat at the next subsequent phase. Each subsequent fair share calculation shall take account of amounts paid for prior phases, to ensure that payments are not duplicative for the same transit rider impacts. The project sponsor shall enter into a Transit Mitigation Agreement with the SFMTA pursuant to which the project sponsor will make a fair share contribution to the cost of providing additional bus service or otherwise improving service on the 10 Townsend. The fair share contribution as documented in the Transportation Impact Study for the proposed project shall not exceed the following amounts, in total across all phases: a. $991,230 for High Commercial Assumption	Infrastructure developer and/or vertical developer(s), Transportation Coordinator, and SFMTA.	Prior to issuance of certificate of occupancy of Phase 1 of the proposed project, enter into Transit Mitigation Agreement. Upon issuance of a certificate of occupancy for each phase of development as defined in the Development Agreement, SFMTA to provide ridership data and assess capacity utilization and, if capacity utilization exceeds 85 percent, the infrastructure developer/vertical developer(s) would pay fair share contribution fees as specified in this measure, which would be used by	Infrastructure developer and/or vertical developer(s) and Transportation Coordinator to obtain current ridership on the 10 Townsend from SFMTA and conduct an assessment of the capacity utilization associated with the project, as described in the measure. If the capacity utilization of the 10 Townsend line at its maximum load point exceeds 85 percent as measured at the completion of any individual project phase, and the SFMTA has committed to implement M-TR-4.1, the infrastructure developer shall provide a fair share contribution subject to the limits stated in M-TR-4.1 to capital costs for SFMTA to implement one of the designated capacity enhancement measures.	Considered complete upon execution of Transit Mitigation Agreement and payment of fair share contribution as described in this M-TR-4.1 for any phase of development for which such contribution is determined to be necessary.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
b. $782,706 for High Residential Assumption SFMTA will determine whether adding bus(es) or other measures are more desirable to increase capacity along the route and will use the funds provided by the project sponsor to implement the most desirable measure(s), which may include but is not limited to the following measures: 1. Convert to using higher-capacity vehicles on the 10 Townsend route. In this case, the project sponsors fair share contribution may be utilized to convert the route to articulated buses. Some bus stops along the route may not currently be configured to accommodate the longer articulated buses. Some bus zones could be extended by removing one or more parking spaces at locations where appropriate space is available. 2. Instead of adding more buses to a congested route, increase travel speeds along the route which would allow for buses to move faster thus increasing efficiency and reliability. In this case, the project sponsor's fair share contribution may be used to fund a study to identify appropriate and feasible improvements and/or implement a portion of the improvements that would increase travel speeds enough to increase capacity along the bus route. Such improvements could include transit only lanes, transit signal priority, and transit boarding improvements. 3. Increase capacity along the corridor by adding a new Muni service route in this area. If this option is selected, the project sponsor's fair share contribution may fund the purchase of the new vehicles.		SFMTA to increase capacity.		
M-TR-4.2: Provide Fair-Share Contribution to Improve 30 Stockton Line Capacity Proposed Project. Upon completion and occupancy of Phase 1 of the proposed project and upon completion and occupancy of each subsequent phase as defined in the Development Agreement, the project sponsor shall obtain from SFMTA the current ridership on the 30 Stockton and conduct an assessment of the capacity utilization at the Maximum Load Point (MLP) on the route between the proposed project and Market Street for weekday PM peak hour conditions. If the capacity utilization exceeds 85 percent, a fair share contribution payment shall be made by the project sponsor, calculated as further provided in Transit Mitigation Agreement described below, and attached to or incorporated into the Development Agreement. Such payment shall be	Infrastructure developer and/or vertical developer(s), or Transportation Coordinator, and SFMTA.	Prior to issuance of certificate of occupancy of Phase 1 of the proposed project, enter into Transit Mitigation Agreement. Upon issuance of a certificate of occupancy for each phase of development as	Infrastructure developer or Transportation Coordinator to obtain current ridership on the 30 Stockton from SFMTA and conduct an assessment of the capacity utilization associated with the project, as described in the measure. If the capacity utilization of the 30 Stockton line at its maximum load point exceeds 85 percent as measured at	Considered complete upon execution and implementation of Transit Mitigation Agreements and payment of fair share contribution as described in this M-TR-4.2 for any phase for which

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
adjusted, as appropriate, to the extent, if any, that the proposed project reflects either the High Commercial Assumption or the High Residential Assumption, the latter of which does not require any fair share contribution. The fair share contributions differ by scenario because the number of transit riders varies due to different mixes of land use. If the capacity utilization based on SFMTA's ridership data is less than 85 percent, then the project sponsor's fair share payment for that phase shall be $0 and the process will repeat at the next subsequent phase. Each subsequent fair share calculation shall take account of amounts paid for prior phases, to ensure that payments are not duplicative for the same transit rider impacts. The project applicant shall enter into a Transit Mitigation Agreement with the SFMTA pursuant to which the project applicant will make a fair share contribution to the cost of providing additional bus service or otherwise improving service on the 30 Stockton. The fair share contribution as documented in the Transportation Impact Study for the proposed project shall not exceed the following amounts, in total across all phases: a. $417,691 for High Commercial Assumption b. $0 for High Residential Assumption SFMTA will determine whether adding bus(es) or other measures are more desirable to increase capacity along the route and will use the funds provided by the project sponsor to implement the most desirable measure(s), which may include but is not limited to the following measures: 1. Convert to using higher-capacity vehicles on the 30 Stockton route. In this case, the project sponsors fair share contribution may be utilized to convert the route to articulated buses. Some bus stops along the route may not currently be configured to accommodate the longer articulated buses. Some bus zones could be extended by removing one or more parking spaces at locations where appropriate space is available. 2. Instead of adding more buses to a congested route, increase travel speeds along the route which would allow for buses to move faster thus increasing efficiency and reliability. In this case, the project sponsor's fair share contribution may be used to fund a study to identify appropriate and feasible improvements and/or implement a portion of the improvements that would increase travel speeds enough to increase capacity along the		defined in the Development Agreement, SFMTA to provide ridership data and assess capacity utilization and, if capacity utilization exceeds 85 percent, the infrastructure developer/vertical developer(s) would pay fair share contribution fees as specified in this measure, which would be used by SFMTA to increase capacity.	the completion of any individual project phase, and the SFMTA has committed to implement M-TR-4.2, the infrastructure developer shall provide the fair share contribution subject to the limits stated in M-TR-4.2 to capital costs for SFMTA to implement one of the designated capacity enhancement measures.	such contribution is determined to be necessary.

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
bus route. Such improvements could include transit only lanes, transit signal priority, and transit boarding improvements. 3. Increase capacity along the corridor by adding a new Muni service route in this area. If this option is selected, the project sponsor's fair share contribution may fund the purchase of the new vehicles.				
M-TR-6: Parking Garage and Intersection Queue Impacts on Transit Delay A. The westernmost driveway on Mission Rock Street (i.e., closest to Third Street) shall be restricted to right-in, right-out access and closed during large AT&T Park events. Restricted access could be accomplished by placing signage as well as delineators of a sufficient length on the center line on Mission Rock Street t, east of Third Street o block left-turn access to the driveway.	Infrastructure developer and/or garage operator SFMTA, Planning Department, Transportation Coordinator, onsite transportation staff, parking garage management staff, event staff.	Prior to certificate of occupancy for Block D garage.	SFMTA, in consultation with the Planning Department and the Port, to review and sign off on detailed plans regarding driveways to ensure design will sufficiently restrict movements at driveway to right-in, right-out.	Infrastructure developer's/ garage operator's obligations deemed complete once construction of listed improvements are complete.
B. A "keep clear" zone shall be provided in front of the easternmost driveway on Mission Rock Street (i.e., closest to Bridgeview Street) to prevent westbound queues at the Third Street/Mission Rock traffic signal from blocking inbound access to the driveway. The Keep Clear pavement markings shall be placed in the westbound lane immediately in front of the easternmost driveway for the Block D2 parking garage.	Infrastructure developer and/or garage operator SFMTA, Planning Department, Transportation Coordinator, onsite transportation staff, parking garage management staff, event staff.	Prior to the opening of the Block D2 garage.	SFMTA, in consultation with the Planning Department and the Port, to review and sign off on detailed plan regarding the easternmost driveway keep clear zone.	Infrastructure developer's/ garage operator's obligations deemed complete once construction of listed improvements are complete.
C. The southbound left-turn lane at the Third Street/Mission Rock Street intersection shall be restriped to extend the length of the left-turn lane to 350 feet. Advance traffic signal detection equipment shall be installed at the end of the newly striped left-turn pocket to detect when queues fill up the left-turn pocket and extend north to the end of the pocket near the Third Street/Channel Street intersection, allowing additional green time to be allocated to the southbound left-turn movement at the Third Street/Mission Rock Street traffic signal.	Infrastructure developer and/or garage operator SFMTA, Planning Department, Transportation Coordinator, onsite transportation staff, parking garage	Prior to certificate of occupancy for Block D garage; sequencing and selection of interventions outlined within Item C shall be at the direction of the	SFMTA, in consultation with the Planning Department and the Port, to review and sign off on detailed plans regarding extension of the left-turn pocket on Third Street/Mission Rock Street.	Infrastructure developer's/garage operator's obligations deemed complete once construction of listed improvements are complete.

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	management staff, event staff.	SFMTA. In the case that the SFMTA identifies any of these intervention as technically challenging, infeasible, or undesirable because of resultant operational issues, other interventions must be selected.		
D. Wayfinding signs including Static and Variable Message Signs will be installed to provide directions to the parking garages and to provide traffic alerts, messages, and alternate driving routes for drivers traveling to the Block D2 aboveground garage, to destinations in the vicinity, or through the area. Four High Visibility Static Signs will be installed, three on the approaches to the Third Street/Mission Rock Street intersections (for southbound, eastbound and northbound directions) and one for northbound drivers on Terry A. Francois Boulevard, south of Mission Rock Street. One permanent Variable Message Sign shall be installed for southbound drivers on Third Street, between King Street and Berry Street.	Infrastructure developer and/or garage operator SFMTA, Planning Department, Transportation Coordinator, onsite transportation staff, parking garage management staff, event staff.	Prior to certificate of occupancy for Block D garage.	SFMTA, in consultation with the Planning Department and the Port, to review and sign off on detailed plans regarding wayfinding signs including Static and Variable Message Signs.	Infrastructure developer's/ garage operator's obligations deemed complete once construction of listed improvements is complete.
E. The project sponsor shall enter into an Event Mitigation Agreement with the SFMTA that provides for Parking Control Officers (PCOs) to manage traffic within the project site adjacent to the proposed project's parking garages and on Exposition Street (between Third Street and the Shared Public Way) during all AT&T Park events and on-site events with 15,000 or more attendees.	Infrastructure developer and/or garage operator, SFMTA, Planning Department, Transportation Coordinator, onsite transportation staff, parking garage management staff,	Enter into Event Mitigation Agreement prior opening of the Block D2 parking garage. Prior to commencement of construction on the site, and on-going	Infrastructure developer and/or garage operator to enter in Event Management Agreement with SFMTA, who should provide for implementation of all of these items, as well as closure of the westernmost driveway during AT&T events per Item A.	Considered complete upon Infrastructure developer and SFMTA entering into Event Mitigation Agreement.

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	event staff.	through the life of project.		
F. The site's transportation coordinator shall be a member of the Mission Bay Ballpark Transportation Coordination Committee and provide notification prior to the start of any on-site event that would overlap with an event at AT&T Park or the Warriors arena.	Infrastructure developer and/or garage operator SFMTA, Planning Department, Transportation Coordinator, onsite transportation staff, parking garage management staff, event staff.	Enter into Event Mitigation Agreement prior opening of the Block D2 parking garage. With commencement of construction, and on-going through life of the project.	Infrastructure developer and/or garage operator to enter into Event Management Agreement with SFMTA, who should provide for implementation of all of these items, as well as closure of the westernmost driveway during AT&T events per Item A.	Upon infrastructure developer and SFMTA entering into Event Mitigation Agreement and ongoing during project operations.
G. Traffic destined for the proposed project's parking garages will be monitored by the owner/operator during all AT&T Park events and on-site events with 15,000 or more attendees, and periodically during weekday a.m. and p.m. peak hours, to ensure that garage access queues do not affect operations of the T Third transit line. Action will be taken by the Mission Rock Transportation Coordinator, onsite transportation staff, parking garage management staff, event staff, and/or PCOs assigned to event traffic management to implement real-time traffic management strategies (i.e., alternative traffic routing, temporal parking pricing, enhanced garage driveway controls, etc.) to reduce vehicle garage access queues so they do not affect operations of the T Third line.	Infrastructure developer and/or garage operator SFMTA, Planning Department, Transportation Coordinator, onsite transportation staff, parking garage management staff, event staff.	Enter into Event Mitigation Agreement prior opening of the Block D2 parking garage. With commencement of construction, and on-going through life of the project; the weekday (non-event) AM and PM peak-hour monitoring shall be conducted quarterly on a Tuesday, Wednesday, or Thursday of a	Infrastructure developer and/or garage operator to enter into Event Management Agreement with SFMTA, who should provide for implementation of all of these items, as well as closure of the westernmost driveway during AT&T events per Item A.	Upon Infrastructure developer and SFMTA entering into Event Mitigation Agreement and ongoing during project operations.

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
		non-holiday week.		
H. If the SFMTA Director, or his or her designee, receives information that a recurring queue that could affect the operation of the T Third line is imminent or present, SFMTA shall notify the property owner in writing. Upon request, the owner/operator shall hire a qualified transportation consultant to evaluate the conditions at the site for no less than 7 days. The consultant shall prepare a monitoring report to be submitted to SFMTA for review. If SFMTA determines that a recurring queue does exist, the facility owner/operator shall have 45 days from the date of the written determination to abate the excessive recurring queue. Approaches to queue abatement could include but are not limited to: changing parking access and revenue collection system (PARCS) technology to process vehicles more rapidly, adjusting the layout of the garage's ground floor to accommodate more queuing vehicles within the garage, implementing peak-period surge pricing to encourage garage access and egress outside of times with recurrent excessive queues; installing additional variable message signage further upstream from the site to direct drivers to garage access routes away from affected intersections; and/or closing, limiting or controlling Mission Rock Street access from Third Street during times with excessive recurrent queuing and redirecting garage-bound traffic to Terry A. Francois Boulevard.	Infrastructure developer and/or garage operator vertical, SFMTA, Planning Department, Transportation Coordinator, onsite transportation staff, parking garage management staff, event staff.	As may be requested during operations, per written notification by SFMTA With commencement of operation of the Block D2 garage and on-going through the life of the project. If analysis is requested, the analysis shall be conducted during a period that is representative of standard traffic patterns, e.g. on week that does not contain a holiday, is not during winter break, or off-season, etc. The analysis period chosen by the infrastructure developer/garage operator and consultants must be approved by the SFMTA.	SFMTA.	Ongoing during project operations after opening of Block D2 garage.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
M-TR-9: Install Traffic Signals and Related Intersection Improvements at Unsignalized Intersections on Fourth Street at Mission Rock Street and Long Bridge Street. Prior to issuance of approval of the third building site permit, but in no event later than the site permit for the Block D2 parking garage, the project sponsor shall provide funding to SFMTA, for a maximum amount of $1 million for SFMTA to design and construct (1) a traffic signal at the intersection of Fourth Street/Long Bridge Street and (2) a traffic signal at the intersection of Fourth Street/Mission Rock Street. These improvements should be constructed by SFMTA prior to opening of the Block D2 parking garage.	Infrastructure developer. SFMTA.	Payment to SFMTA: Prior to issuance of approval of the third building site permit, but in no event later than the site permit for the Block D2 parking garage. Installation of traffic signals: Prior to opening of the Block D2 parking garage.	SFMTA.	Infrastructure developer's obligations deemed complete once payment is made. SFMTA's obligations deemed complete once traffic signals are constructed.
M-TR-10: Bicycle-Truck Interface at Pier 48. The project shall construct a highly visible crossing treatment across the driveway as well as bollards and detectable warning pavers that satisfy ADA requirements at the Pier 48 driveway's beginning and end locations along the Blue Greenway path to warn cyclists and pedestrians of the upcoming driveway crossing.	Pier 48 developer.	Prior to occupancy of Pier 48.	Planning Department will monitor.	Considered complete when crossing treatment is constructed.
The project shall provide a traffic control staff at the junction of the Blue Greenway and the driveway to the Pier 48 valley during deliveries to manage bicycle and truck traffic. A flagger shall be provided to manage bicycle and pedestrian travel along the Blue Greenway at the Pier 48 valley driveway whenever trucks back into Pier 48.	Pier 48 developer.	During deliveries.	Pier 48 developer to document arrangement for traffic control staff to manage traffic during deliveries. Planning Department to review documentation.	Ongoing during deliveries.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
M-TR-11.1: Commercial Loading Supply – Monitor Loading Activity and Implement Additional Loading Management Strategies as Needed. After completion of the first phase of the proposed project and prior to approval of each subsequent phase, the project sponsor shall conduct a study of utilization of commercial loading spaces. The methodology for the study shall be reviewed and approved by the Planning Department prior to completion. If the result of the study indicates that fewer than 15 percent of the commercial loading spaces are available during the peak loading period, the project sponsor shall implement additional loading management strategies and/or provide additional or expanded off-street loading supply sufficient to meet the loading demand in subsequent phases of the project in either the garages or in off-street parking in individual buildings, consistent with the proposed project's design intent. Additional loading strategies could include (but are not limited to): expanding efforts to coordinate with parcel delivery companies to schedule deliveries to the site during hours outside the peak hour of loading, installing parcel lock boxes that allow parcel delivery personnel unsupervised access to enable off-hour deliveries, coordinating delivery services across buildings to enable the delivery of several buildings' packages to a single location, and/or encouraging deliveries to the retail and restaurant components of the projects to happen during early morning or late evening hours. The project sponsor may also address a shortfall by reserving parking spaces for smaller delivery vehicles such as autos or vans, which comprise approximately two-thirds of the vehicle types for freight delivery service, on the ground floor of the Block D2 garage during peak or appropriate business hours for small-vehicle deliveries and, in connection therewith, providing hand trucks, bicycles, or electric wheeled carts for distribution of packages to buildings throughout the site. If plans for individual buildings include a driveway to off-street loading or parking (maximum 10 off-street spaces) along a frontage that has a designated on-street loading zone, an equivalent amount or level of off-street loading space shall be provided to effectively replace the lost on-street loading area.	Infrastructure developer, vertical developer(s) or garage operators (as applicable).	Study completion: after completion of the first phase of the proposed project and prior to approval of each subsequent phase. If additional loading management strategies ongoing in subsequent phases are needed: after completion of each phase for which additional strategies are applicable.	Planning Department, in consultation with the SFMTA, will review and approve methodology of utilization study. Infrastructure developer, vertical developer(s), and garage operators (as applicable) will provide report to Planning Department on implementation of additional loading management strategies, if required.	Considered complete for each phase after Planning Department staff reviews and approves the study, in consultation with the SFMTA, and, if deemed necessary, the infrastructure developer, vertical developer(s), and garage operators (as applicable) incorporate provides a report of how it incorporated any additional management strategies for loading into each applicable phase.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
M-TR-11.2: Coordinate Deliveries and Tenant Moving Activities. The project's transportation coordinator and in-building concierges shall coordinate with building tenants and delivery services to minimize deliveries and moving activities during peak periods, and endeavor to spread deliveries across the full day and moving activities to time periods after regular working hours, thereby reducing activity during the peak hour for loading. Although many deliveries cannot be limited to specific hours, the transportation coordinator and in-building concierges shall work with tenants to find opportunities to consolidate deliveries and reduce the need for peak-period deliveries, wherever possible.	Project Transportation Coordinator and vertical developer(s).	Ongoing.	Planning Department will monitor.	On-going during project operations.
M-C-TR-4: Provide Fair-Share Contribution to Improve 10 Townsend Line Capacity Proposed Project. Upon completion and occupancy of Phase 1 and upon completion and occupancy of each subsequent phase of the proposed project as defined in the Disposition and Development Agreement, the project sponsor shall fund a transit capacity study to be reviewed and approved by the SFMTA. The project sponsor shall obtain from SFMTA the current ridership on the 10 Townsend and conduct an assessment of the capacity utilization at the screenline's Maximum Load Point (MLP) for weekday AM and PM peak hour conditions. If the capacity utilization exceeds 85 percent, a fair share payment shall be made to SFMTA by the project sponsor, calculated as further provided in a Transit Mitigation Agreement. Such payment shall be calculated in light of the project's progress towards one or the other of the development scenario (i.e. High Commercial or High Residential) as reflected by all phases of the project that have been completed up to such date. The fair share contributions by phase differ by scenario because the number of transit riders varies due to different mixes of land use. If the capacity utilization based on SFMTA's ridership data is less than 85 percent, then the project sponsor's fair share payment for that phase shall be $0 and the process will repeat at the next subsequent phase. Each subsequent fair share calculation shall take account of amounts paid for prior phases, to ensure that payments are not duplicative for the same transit rider impacts.	Infrastructure developer and/or vertical developer(s), Transportation Coordinator, and SFMTA.	Prior to issuance of certificate of occupancy of Phase 1 of the proposed project, enter into Transit Mitigation Agreement. Upon issuance of a certificate of occupancy for each phase of development as defined in the Development Agreement, SFMTA to provide ridership data and assess capacity utilization and, if capacity utilization exceeds 85 percent, the infrastructure developer/vertical developer(s) would pay fair share contribution fees as	Infrastructure developer and/or vertical developer(s) and Transportation Coordinator to obtain current ridership on the 10 Townsend from SFMTA and conduct an assessment of the capacity utilization associated with the project as described in the measure. If the capacity utilization of the 10 Townsend line at its maximum load point exceeds 85 percent as measured at the completion of any individual project phase, and the SFMTA has committed to implement M-C-TR-4, the infrastructure developers shall provide the fair share contribution subject to the limits stated in M-C-TR-3 to capital costs for SFMTA to implement one of the designated capacity enhancement measures.	Considered complete upon execution of Transit Mitigation Agreement for each phase of development, for which this measure is determined to be necessary.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
The project sponsor shall enter into a Transit Mitigation Agreement with the SFMTA under which the agreement shall provide for the project sponsor to make a fair share contribution to the cost of providing additional bus service or improving service on the 10 Townsend by paying a fee. The fair share contribution as documented in the Transportation Impact Study from the proposed project shall not exceed the following amounts, in total across all phases: a. $391,179 for High Commercial b. $324.595 for High Residential SFMTA may determine that other measures to increase capacity along the route would be more desirable than adding buses and may use the funds provided by the project sponsor to implement these other measures, which include but are not limited to the following measures: 1. Convert to using higher-capacity vehicles on the 10 Townsend route. In this case, the project sponsor's fair share contribution may be utilized to convert the route to articulated buses. Some bus stops along the route may not currently be configured to accommodate the longer articulated buses. Some bus zones could be extended by removing one or more parking spaces at locations where appropriate space is available. 2. Instead of adding more buses to a congested route, it would be more desirable to increase travel speeds along the route which would allow for buses to move faster thus increasing efficiency and reliability. In this case, the project sponsor's fair share contribution may be used to fund a study to identify appropriate and feasible improvements and/or implement a portion of the improvements that would increase travel speeds enough to increase capacity along the bus route. Such improvements could include transit only lanes, transit signal priority, and transit boarding improvements. 3. Another option to increase capacity along the corridor is to add a new Muni service route in this area. If this option is selected, the project sponsor's fair share contribution may fund the purchase of the new vehicles.		specified in this measure, which would be used by SFMTA to increase capacity.		

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
Noise and Vibration Mitigation Measures				
M-NOI-1: Prepare and Implement a Construction Noise Control Plan to Reduce Construction Noise at Noise-Sensitive Land Uses. The project sponsor shall develop a noise control plan that requires the following: • Construction contractors shall specify noise-reducing construction practices that will be employed to reduce construction noise from construction activities. The measures specified by the project sponsor shall be reviewed and approved by the City prior to the issuance of building permits. Measures that can be used to limit noise include, but are not limited to, those listed below. o Locate construction equipment as far as feasible from noise-sensitive uses. o Require that all construction equipment powered by gasoline or diesel engines have sound control devices that are at least as effective as those originally provided by the manufacturer and that all equipment be operated and maintained to minimize noise generation. o Idling of inactive construction equipment for prolonged periods shall be prohibited (i.e., more than 5 minutes). o Prohibit gasoline or diesel engines from having unmuffled exhaust systems. o Use noise-reducing enclosures around noise-generating equipment that has the potential to disturb nearby land uses. o Ensure that equipment and trucks used for project construction utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, intake silencers, ducts, engine enclosures, acoustically attenuating shields or shrouds) wherever feasible. o Monitor the effectiveness of noise attenuation measures by taking noise measurements. A plan for noise monitoring shall be provided to the City for review prior to the commencement of each construction phase.	Infrastructure developer and/or vertical developer(s) (as applicable).	Prior to the issuance of building permits; implementation ongoing during construction.	Infrastructure developer or vertical developer(s) (as applicable) to submit the Construction Noise Control Plan to the Port's Building Permit Group.[4] A single Noise Control Plan or multiple Noise Control Plans may be produced to address project phasing.	Considered complete upon submittal of the Construction Noise Control Plan to the Port's Building Permit Group.

[4] The Port may designate another agency, such as the Planning Department, to carry out monitoring and reporting, and any reference to Port responsibilities includes such designated agencies.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
• Impact tools (e.g., jack hammers, pavement breakers, rock drills) used for project construction shall be "quiet" gasoline-powered compressors or electrically powered compressors, and electric rather than gasoline- or diesel-powered engines shall be used to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where the use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used; which could achieve a reduction of 5 dBA. Quieter equipment shall be used when feasible, such as drills rather than impact equipment. • Construction contractors shall be required to use "quiet" gasoline-powered compressors or electrically powered compressors and electric rather than gasoline- or diesel-powered forklifts for small lifting. • Stationary noise sources, such as temporary generators, shall be located as far from nearby receptors as possible; they shall be muffled and enclosed within temporary enclosures and shielded by barriers, which could reduce construction noise by as much as 5 dB, or other measures, to the extent feasible.				
• Prior to the issuance of the building permit, along with the submission of construction documents, the project sponsor shall submit to the Planning Department and Department of Building Inspection a list of measures for responding to and tracking complaints pertaining to construction noise. These measures shall include: o Identification of measures that will be implemented to control construction noise. o A procedure and phone numbers for notifying the Department of Building Inspection, the Department of Public Health, or the Police Department of complaints (during regular construction hours and off hours). o A sign posted onsite describing noise complaint procedures and a complaint hotline number that shall be answered at all times during construction. o Designation of an onsite construction complaint and enforcement manager for the project.	Infrastructure developer and/or vertical developer(s) (as applicable).	Prior to the issuance of each building permit for duration of the project.	Infrastructure developer and/or vertical developer(s) (as applicable) to submit a list of measures for handling noise complaints to the Planning Department and Department of Building Inspection.	Considered complete upon review and approval of the complaint tracking measures by the Planning Department and Department of Building Inspection.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
○ A plan for notification of neighboring residents and nonresidential building managers within 300 feet of the project construction area at least 30 days in advance of extreme noise-generating activities (defined as activities that generate noise levels of 90 dBA or greater) about the estimated duration of the activity and the associated control measures that will be implemented to reduce noise levels.				
Mitigation Measure M-NOI-2.1: Noise Control Plan for Special Outdoor Amplified Sound. To reduce potential impacts related to noise generated by events in project outdoor use areas, the project sponsor shall develop and implement a Noise Control Plan for operations at the proposed entertainment venues to reduce the potential for noise impacts from public address and/or amplified music. This Noise Control Plan shall contain the following elements: • The project sponsor shall comply with noise controls and restrictions in applicable entertainment permit requirements for outdoor concerts, and shall comply with the Port of San Francisco's "Good Neighbor" standards, unless the Port Commission makes a specific finding that a particular condition is unnecessary or infeasible. • Speaker systems shall be directed away from the nearest sensitive receptors to the degree feasible. • In order to limit or prevent sleep disturbance, events with amplified sound shall, to the extent reasonable and appropriate given the nature and context of the event, end at 10:00 p.m.	Infrastructure developer and/or park manager, the Port, parks management entity and/or parks programming entity.	Prior to the issuance of event permit.	Infrastructure developer and/or park manager, the Port, parks management entity and/or parks programming entity to submit the Noise Control Plan to the Port.	Considered complete upon submission and approval of the Noise Control Plan by the Port, although the Noise Control Plan may be adjusted as needed.
Mitigation Measure M-NOI-2.2: Stationary Equipment Noise Controls. Noise attenuation measures shall be incorporated into all stationary equipment (including HVAC equipment and emergency generators) installed on all buildings that include such stationary equipment as necessary to meet noise limits specified in Section 2909 of the Police Code. Interior noise limits shall be met under both existing and future noise conditions, accounting for foreseeable changes in noise conditions in the future (i.e., changes in on-site building configurations). Noise attenuation measures could include provision of sound enclosures/barriers, addition of roof parapets to block noise, increasing setback distances from sensitive receptors, provision of louvered vent openings, location of vent openings away from adjacent residential uses, and restriction of generator testing to the daytime hours.	Vertical developer(s).	Prior to the issuance of certificate of occupancy for each building located on the site.	The Port's Building Permit Group to review construction plans regarding noise attenuation measures for stationary equipment.	Considered complete after submittal and approval of plans including noise attenuation measures by the Port's Building Permit Group.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
Mitigation Measure M-NOI-2.3: Design of Future Noise-Sensitive Uses. Prior to issuance of a building permit for a residential building on Mission Rock Boulevard between Terry A. Francois Boulevard and Third Street, a noise study shall be conducted by a qualified acoustician to determine the need to incorporate noise attenuation measures into the building design in order to meet Title 24's interior noise limit for residential uses as well as the City's (Article 29, Section 2909(d)) 45-dBA (Ldn) interior noise limit for residential uses. This evaluation shall account for the projected increase in traffic noise as a result of project traffic along Mission Rock Boulevard between Terry A. Francois Boulevard and Third Street and any new shielding benefits provided by surrounding buildings that exist at the time of development, future cumulative traffic noise increases on adjacent roadways, existing and planned stationary sources (i.e., emergency generators, HVAC, etc.), and future noise increases from all known cumulative projects located with direct line-of-sight to the project building.	Vertical developer(s) and qualified acoustician.	Prior to the issuance of the building permit for vertical construction of any residential building on each parcel on Mission Rock Boulevard between Terry A. Francois Boulevard and Third Street.	Port staff to review the noise study. A single noise study or multiple noise studies may be produced to address project phasing.	Considered complete after submittal and approval of the noise study by the Port.
Mitigation Measure M-NOI-2.4: Design of Future Noise-Generating Uses near Residential Uses. Future land uses shall be designed to minimize the potential for sleep disturbance (defined as exceeding 45 dBA at residential interiors during the hours of 10 p.m. to 7 a.m.) at any future adjacent residential uses. Design approaches including, but not limited to, the following shall be incorporated into future development plans to minimize the potential for noise conflicts of future uses on the project site: • Design of Future Noise-Generating Uses. To reduce potential conflicts between sensitive receptors and new noise-generating land uses located adjacent to these receptors, exterior facilities such as loading areas/docks, trash enclosures, and surface parking lots shall be located on the sides of buildings facing away from existing or planned sensitive receptors (e.g., residences). If this is not feasible, these types of facilities shall be enclosed or equipped with appropriate noise shielding. • Design of Future Above-Ground Parking Structure on Block D2. For parking garage on Block D2, the sides of the parking structures facing adjacent or nearby existing or planned residential uses shall be designed to shield residential receptors from noise associated with parking cars.	Garage developer (for Block D2 garage) and vertical developer(s) (for commercial/office buildings),	Prior to the issuance of a building permit for each commercial/office building, and prior to issuance of building permit for Block D2 parking garage.	The Port's Building Permit Group to review construction plans to confirm that future noise-generating land uses meet the requirements of this Measure M-NOI-2.4.	Considered complete after submittal and approval of construction plans by the Port's Building Permit Group.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
M-NOI-3.1: Pile-Driving Control Measures – Annoyance. To reduce impacts associated with pile driving, a set of site-specific vibration attenuation measures shall be implemented under the supervision of a qualified acoustical consultant during the project construction period. These attenuation measures shall include as feasible, in consideration of technical and structural requirements and conditions, the following control strategy, as well as any other effective strategies to the extent necessary to achieve a PPV vibration level at neighboring properties of less than the strongly perceptible level of 0.10 in/sec. The project sponsor shall require the construction contractor to limit pile-driving activity so that the PPV vibration level at neighboring uses is less than 0.10 in/sec to the extent it is practical and necessary, and, to the extent it is practical, implement "quiet" pile-driving technology, such as predrilling piles, using sonic pile drivers, or using more than one pile driver to shorten the total duration of pile driving.	Infrastructure developer and/or vertical developer(s) (as applicable), qualified acoustical consultant.	Prior to issuance of building permit for each proposed building.	Infrastructure developer or vertical developer(s) (as applicable) to submit the Construction Noise Control Plan (detailed in M-NOI-1) to the Port's Building Permit Group documenting site-specific vibration attenuation measures. A single Noise Control Plan or multiple Noise Control Plans may be produced to address project phasing.	Considered complete upon submittal and approval of the Construction Noise Control Plan (including vibration attenuation measures) to the Port's Building Permit Group.
M-NOI-3.2: Pile-Driving Vibration Control Measures – Damage. To reduce the potential for damage to Pier 48, the following measures shall be implemented: • The Port of San Francisco shall be notified in writing prior to construction activity that construction may occur within 100 feet of the Pier 48 buildings. • The project sponsor shall retain a structural engineer, an architectural historian, and a licensed historical architect (hereafter referred to as the building evaluation team) to evaluate potentially affected buildings and determine their susceptibility to damage. The structural engineer shall evaluate the building structure. The architectural historian and licensed historical architect shall evaluate architectural elements. This building evaluation team shall then establish building-specific vibration thresholds that will (a) identify the level of vibration affected historic buildings will tolerate so as to preclude structural damage to the building of a nature that would result in material damage to any historic features of the buildings, and (b) identify the level of vibration at which cosmetic damage may begin to occur to buildings. • The building evaluation team shall inventory and document existing cracks in paint, plaster, concrete, and other building elements.	Infrastructure developer and/or vertical developer(s) (as applicable), building evaluation team.	Prior to construction activities adjacent to Pier 48.	Infrastructure developer or vertical developer(s) (as applicable) to submit proposed building-specific vibration thresholds with input from structural engineer, architectural historian, and historic architect; an inventory of the condition of Pier 48; a vibration monitoring plan; and results of the inspection following construction activities to the Port's Building Permit Group for review and approval.	Considered complete upon submittal and approval of documentation incorporating identified measures by the Port's Building Permit Group.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
• The building evaluation team shall develop a ground-borne vibration monitoring plan that will include monitoring vibration at the buildings of concern to determine if the established thresholds are exceeded. • The project sponsor shall retain a qualified acoustical consultant or engineering firm to implement the vibration monitoring plan at Pier 48. As part of the monitoring plan, the consultant shall conduct regular periodic inspections for cosmetic damage to each building within 160 feet of planned ground-disturbing activity on the project site. • Should vibration levels be observed in excess of the cosmetic damage threshold or cosmetic damage be observed below that level, the driving of piles within 100 feet of the Pier 48 structure (or within the impact distance determined by the study of building-specific vibration thresholds, per second bullet above, whichever distance is shorter) shall be halted until measures are implemented to prevent cosmetic damage to the extent feasible. These measures include use of alternative construction techniques, including, but not limited to, use of pre-drilled piles if soil conditions allow, use of smaller, lighter equipment, using vibratory hammers in place of impact hammers, and using pile cushioning or equipping the impact hammer with wooden cushion blocks to increase the period of time over which the energy from the driver is imparted to the pile. Should cosmetic damage to a building occur as a result of ground-disturbing activity on the site notwithstanding the use of alternative construction techniques, the building(s) shall be remediated to its pre-construction condition at the conclusion of ground-disturbing activity on the site. • Should vibration levels be observed that reach the threshold designed to protect historic buildings from material damage to historic features, pile-driving within impact distances of the Pier 48 building, as determined by the building evaluation team, shall be halted and a structural bracing program or other appropriate protective measures for the potentially affected buildings shall be designed by the building evaluation team and implemented by the project sponsor. The structural bracing program or other protective measures shall be designed to prevent damage to the potentially affected buildings that could materially impair their historic resource status consistent with CEQA Guidelines Section 15064.5(b)(2).				

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
In addition, the structural bracing program shall be consistent with the proposed rehabilitation of the Pier 48 buildings and meet the Secretary of the Interior's Standards for Rehabilitation. Following completion of construction, the project sponsor shall conduct a second inspection to inventory changes in existing cracks and new cracks or damage, if any, that occurred as a result of pile driving. If new damage is found, then the project sponsor shall promptly arrange to have the damage repaired in accordance with recommendations made by the building evaluation team.				
Air Quality Mitigation Measures				
Mitigation Measure M-AQ-1.1: Off-Road Construction Equipment Emissions Minimization. The project sponsor shall require all construction contractors to implement the following measures to reduce construction emissions. A. Engine Requirements 1. All off-road equipment greater than 25 horsepower and operating for more than 20 total hours over the entire duration of construction activities shall have engines that meet or exceed either USEPA or ARB Tier 4 Interim off-road emissions standards. Tier 4 final equipment, which may be largely available in the Bay Area, may be used to comply with this requirement (since Tier 4 final engines must comply with a stricter standard than Tier 4 interim engines, Tier 4 final engines meet Tier 4 interim standards and thus comply with this requirement). 2. Where access to alternative sources of power are available, portable diesel engines shall be prohibited. 3. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than 2 minutes at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The contractor shall post legible and visible signs in English, Spanish, and Chinese in designated queuing areas and at the construction site to remind operators of the 2-minute idling limit.	Infrastructure developer and/or vertical developer(s) (as applicable).	Prepare and Implement Construction Emissions Minimization Plan: Prior to issuance of grading, excavation, or demolition permits and ongoing during demolition and construction activities. Quarterly Monitoring Reports: Quarterly after start of construction activities. Final Construction Report: After completion of construction activities but prior to receiving a final certificate of occupancy.	Infrastructure developer and/or vertical developer(s) (as applicable) or contractor to submit a Construction Emissions Minimization Plan to Port staff for review and approval. Quarterly reports to be submitted to Port staff documenting compliance with the plan for review and approval. Final Construction Report to be submitted to Port staff for review and approval.	Considered complete upon Port review and approval of Construction Emissions Minimization Plan, ongoing review and approval of quarterly reports, and review and approval of final construction report.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
4. The contractor shall instruct construction workers and equipment operators regarding the maintenance and tuning of construction equipment and require that such workers and operators properly maintain and tune equipment in accordance with manufacturers' specifications. B. Waivers 1. The Planning Department's Environmental Review Officer (ERO) or designee may waive the requirement for an alternative source of power from Subsection (A)(2) if an alternative source of power is limited or infeasible at the project site. If the ERO grants the waiver, the contractor must submit documentation that the equipment used for onsite power generation meets the requirements of Subsection (A)(1). 2. The ERO may waive the equipment requirements of Subsection (A)(1) if use of a particular piece of off-road equipment with a Tier 4 interim-compliant engine is not feasible or reasonable, the equipment would not produce the desired emissions reductions because of the expected operating modes, installation of the equipment would create a safety hazard or impair visibility for the operator, or there is a compelling emergency that requires use of off-road equipment that is not Tier 4 interim-compliant. If seeking an exception, the project sponsor shall demonstrate to the ERO's satisfaction that the resulting construction emissions would not exceed the health risk thresholds of significance for cancer risk and PM2.5 concentrations with respect to sensitive receptors, as identified within the EIR under Impact AQ-4. If the ERO grants the waiver, the contractor must use the next-cleanest piece of available off-road equipment, according to the table below. 3. Off-road Equipment Compliance Step-down Schedule **Compliance Alternative** / **Engine Emissions Standard** / **Emissions Control** 1 / Tier 3 / ARB Level 2 VDECS 2 / Tier 2 / Alternative Fuel* VDECS = Verified Diesel Emissions Control Strategies * Alternative fuels are not a VDECS				

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
4. How to use the table: If the ERO determines that the equipment requirements cannot be met, then the project sponsor must attempt to meet Compliance Alternative 1. If the ERO determines that the contractor cannot supply off-road equipment that meets Compliance Alternative 1, then the contractor must meet Compliance Alternative 2. C. Construction Emissions Minimization Plan Before starting onsite construction activities, the contractor shall submit a Construction Emissions Minimization Plan to the ERO for review and approval. The plan shall state, in reasonable detail, how the contractor shall meet the requirements of Section A. 1. The plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. The description may include, as such information is available, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed, the description may include technology type, serial number, make, model, manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, the description shall also specify the type of alternative fuel being used. Renewable diesel shall be considered an alternative fuel if it can be demonstrated to the Planning Department or the City's air quality specialists that it is compatible with tiered engines and that emissions of ROG and NOx from the transport of fuel to the project site will not offset its NOx reduction potential. 2. The project sponsor shall ensure that all applicable requirements of the plan have been incorporated into the contract specifications. The plan shall include a certification statement, stating that the contractor agrees to comply fully with the plan. 3. The contractor shall make the plan available to the public for review onsite during working hours. The contractor shall post at the construction site a legible and visible sign summarizing the plan. The sign shall also state that the public may ask to inspect the plan for the project at any time during working hours and explain how to request				

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
to inspect the plan. The contractor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right of way. D. Monitoring After start of construction activities, the contractor shall submit quarterly reports to the ERO, documenting compliance with the plan. After completion of construction activities but prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report, summarizing construction activities, including the start and end dates, the duration of each construction phase, and the specific information required in the plan.				
Mitigation Measure M-AQ-1.2: On-Road Material Delivery and Haul Trucks Construction Emissions Minimization. The project sponsor shall require all construction contractors to implement the following measures to reduce construction haul truck emissions. A. Engine Requirements 1. The project sponsor shall also ensure that all on-road heavy-duty diesel trucks with a gross vehicle weight rating of 19,500 pounds or greater used at the project site (such as haul trucks, water trucks, dump trucks, and concrete trucks) be model year 2010 or newer. B. Construction Emissions Minimization Plan As part of the *Construction Emissions Minimization Plan* identified above for Mitigation Measure M-AQ-1.1 Section C, the contractor shall state, in reasonable detail, how the contractor shall meet the requirements of Section A. 1. The plan shall include estimates of the construction timeline by phase, with a description of how the on-road haul truck fleet required for every construction phase will comply with the engine requirements stated above. The plan shall also include expected fuel usage (or miles traveled) and hours of operation for the on-road haul truck fleet. For on-road trucks using alternative fuels, the description shall also specify the type of alternative fuel being used. Renewable diesel shall be considered as an alternative fuel if it can be demonstrated to the Planning Department or the City's air quality specialists that it is compatible with on-road truck engines and that emissions of ROG and NOx from transport of fuel to the project site will not offset its NOx reduction potential.	Infrastructure developer and/or vertical developer(s) (as applicable).	Prepare and Implement Construction Emissions Minimization Plan including engine requirements: Prior to issuance of a grading, excavation, or demolition permits and ongoing during demolition and construction activities. Quarterly Monitoring Reports: Quarterly after start of construction activities. Final Construction Report: After completion of construction	Infrastructure developer and/or vertical developer(s) (as applicable) or contractor to submit a Construction Emissions Minimization Plan including engine requirements to Port staff for review and approval. Quarterly reports to be submitted to Port staff documenting compliance with the plan for review and approval. Final Construction Report to be submitted to Port staff for review and approval.	Considered complete upon Port review and approval of Construction Emissions Minimization Plan, ongoing review and approval of quarterly reports, and review and approval of final construction report.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT **NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.**				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
a. See Mitigation Measure M-AQ-1.1 Section C, Part 2. b. See Mitigation Measure M-AQ-1.1 Section C, Part 3. C. Monitoring See Mitigation Measure M-AQ-1.1 Section D.		activities but prior to receiving a final certificate of occupancy.		
Mitigation Measure M-AQ-1.3: Low-VOC Architectural Coatings. The project sponsor shall use low-VOC (i.e., ROG) coatings, beyond local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings), for at least 90 percent of all residential and nonresidential interior and exterior paints. This includes all architectural coatings applied during both construction and reapplications throughout the project's operational lifetime. At least 90 percent of coatings applied must meet the "super-compliant" VOC standard of less than 10 grams of VOC per liter of paint. After start of construction activities, the contractor shall submit quarterly reports to the ERO documenting compliance with this measure by providing an inventory listing the VOC content of all coatings purchased and applied during construction activities. For the reapplication of coatings during the project's operational lifetime, the Declaration of Covenants, Conditions, and Restrictions shall also contain a stipulation that low-VOC coatings must be used and a list of potential coatings shall be provided. A list of "super-compliant" coatings can be found on the South Coast Air Quality Management District's website: http://www.aqmd.gov/home/regulations/compliance/architectural-coatings/super-compliant-coatings.	Vertical developer(s).	At the start of construction activities and quarterly during construction and the project's operational lifetime.	Vertical developer(s) to submit initial report and quarterly reports to the Port's Building Permit Group documenting compliance for review and approval.	Ongoing throughout construction and operation.
Mitigation Measure M-AQ-1.4: Best Available Control Technology for In-Water Construction Equipment. The project sponsor shall require all construction contractors to implement the following measures to reduce emissions from in-water equipment. A. Engine Requirements 1. The project sponsor shall ensure that the construction barge shall have engines that meet or exceed USEPA marine engine Tier 3 emissions standards. 2. The project sponsor shall also ensure that the construction work boat engine shall be model year 2005 or newer or meet NOx and PM emissions standards for that model year.	Pier 48 developer.	Prepare and Implement Construction Emissions Minimization Plan including barge and work boat engine requirements: Prior to issuance of a grading, excavation, or demolition permits	Pier 48 developer or contractor to submit a Construction Emissions Minimization Plan including barge and work boat engine requirements to Port staff for review and approval. Quarterly reports to be submitted to Port staff documenting compliance with the plan for review and approval.	Considered complete upon Port review and approval of Construction Emissions Minimization Plan, ongoing review and approval of quarterly reports, and review and

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
B. Construction Emissions Minimization Plan As part of the *Construction Emissions Minimization Plan* identified above for Mitigation Measure M-AQ-1.1 Section C, the contractor shall state, in reasonable detail, how the contractor shall meet the requirements of Section A. 1. The plan shall include estimates of the construction timeline by phase, with a description of how each in-water equipment piece (e.g. barge engines, work boats) required for every construction phase will comply with the engine requirements stated above. The plan shall also include expected fuel usage and hours of operation for in-water equipment. For in-water equipment using alternative fuels, the description shall also specify the type of alternative fuel being used. Renewable diesel shall be considered as an alternative fuel if it can be demonstrated to the Planning Department or the City's air quality specialists that it is compatible with tiered engines and that emissions of ROG and NOx from transport of fuel to the project site will not offset its NOx reduction potential. a. See Mitigation Measure M-AQ-1.1 Section C, Part 2. b. See Mitigation Measure M-AQ-1.1 Section C, Part 3. C. Monitoring See Mitigation Measure M-AQ-1.1 Section D.		and ongoing during demolition and construction activities. Quarterly Monitoring Reports: Quarterly after start of construction activities. Final Construction Report: After completion of construction activities but prior to receiving a final certificate of occupancy.	Final Construction Report to be submitted to Port staff for review and approval.	approval of final construction report.
Mitigation Measure M-AQ-1.5: Emissions Offsets for Construction and Operational Ozone Precursor Emissions. Prior to the estimated first year of exceedance, the project sponsor, with oversight of the Planning Department, shall elect to either: 1. Directly implement a specific offset project or program to achieve emission reductions of up to 9.6 tons of ozone precursors to offset the combined emissions from construction and operations remaining above significance levels after implementation of identified mitigation measures. To qualify under this mitigation measure, the specific emissions reduction project must result in emissions reductions within the SFBAAB that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement. Prior to implementation of the offset project, the project sponsor must obtain the	Infrastructure developer.	Implement a specific offset project or program: Prior to the estimated first year of exceedance and notify the Port within 6 months of completion of the offset project. Mitigation Fee: Installment for each development block to be paid	Implementation of specific offset project or program: Port approval of proposed offset program. Port verification of successful completion of offset program. Mitigation Fee: Infrastructure developer, BAAQMD, and Port to determine fee. BAAQMD and infrastructure developer to develop and implement MOU.	Implementation of specific offset project or program: Complete upon Port's verification of successful completion of offset program. Mitigation Fee: Complete for each block upon payment of fee

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
Planning Department's approval of the proposed offset project by providing documentation of the estimated amount of emissions of ROG and NOx to be reduced (tons per year) within the SFBAAB from the emissions reduction project(s). The project sponsor shall notify the Planning Department within 6 months of completion of the offset project for Planning Department verification.		with site permit application for each block, if no specific project or program is identified. Enter into MOU with BAAQMD Foundation and pay offset fee in installments for each development block.		installment outlined in the MOU.
2. Pay a mitigation offset fee to the BAAQMD Bay Area Clean Air Foundation (Foundation) in installments, as further described below, with each installment amount to be determined prior to the estimated first year of exceedance. This fee is intended to fund emissions reduction projects to achieve reductions totaling up to 10.5 tons of ozone precursors per year, the estimated maximum tonnage of operational and construction-related emissions offsets required to reduce emissions below significance levels after implementation of other identified mitigation measures. This total emissions offset amount was calculated by summing the maximum daily construction and operational emissions of ROG and NO_X (pounds/day), multiplying by 260 work days per year for construction and 365 days per year for operation, and converting to tons. The amount represents the total estimated operational and construction-related ROG and NOx emissions offsets required. The fee shall be paid in up to 12 installments, each installment payable at the time of application for a site permit for each development block, representing the portion of the 10.5 tons of ozone precursors per year attributable to each building, as follows: (a) Blocks A, G, and K: 6.6% or 0.70 tons per each development block; (b) Pier 48: 18.6% or 1.95 tons; (c) Blocks B, C, and D: 9% or 0.95 tons per each development block; (d) Blocks E and F: 10.3% or 1.08 tons per each development block; and (e) Blocks H, I, and J: 4.6% or 0.49 tons per each development block. The mitigation offset fee, currently estimated at approximately $18,262 per weighted ton, shall not exceed $35,000 per weighted ton of ozone precursors plus an administrative fee of no more than 5 percent of the total offset to fund one or more emissions reduction projects within the SFBAAB. The not to exceed amount of $35,000 will be adjusted to reflect annual California Consumer Price Index adjustments between 2017 and the estimated first year of exceedance. Documentation of payment shall be provided to the Planning Department.				

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
Unless directly implementing a specific offset project (or program) as described above, the project sponsor would enter into a Memorandum of Understanding (MOU) with the BAAQMD Foundation in connection with each installment payment described above. The MOU will include details regarding the funds to be paid, the administrative fee, and the timing of the emissions reductions project. Acceptance of this fee by the BAAQMD shall serve as acknowledgment and a commitment to (1) implement an emissions reduction project(s) within a time frame to be determined, based on the type of project(s) selected, after receipt of the mitigation fee to achieve the emissions reduction objectives specified above and (2) provide documentation to the Planning Department and the project sponsor describing the project(s) funded by the mitigation fee, including the amount of emissions of ROG and NOx reduced (tons per year) within the SFBAAB from the emissions reduction project(s). To qualify under this mitigation measure, the specific emissions reduction project must result in emission reductions within the SFBAAB that are real, surplus, quantifiable, and enforceable and would not otherwise be achieved through compliance with existing regulatory requirements or any other legal requirement.				
Mitigation Measure M-AQ-2.1: Best Available Control Technology for Operational Diesel Generators. The project sponsor shall ensure that the operational backup diesel generators comply with the following: (1) ARB Airborne Toxic Control Measure (ATCM) emissions standards for model year 2008 or newer engines; and (2) meet or exceed one of the following emission standards for particulate matter: (A) Tier 4 interim certified engine or (B) Tier 2 or Tier 3 certified engine that is equipped with an ARB Level 3 VDECS. A nonverified diesel emissions control strategy may be used if the filter has the same particulate matter reduction as the identical ARB-verified model and BAAQMD approves of its use. The project sponsor shall submit documentation of compliance with the BAAQMD NSR permitting process (Regulation 2, Rule 2, and Regulation 2, Rule 5) and the emissions standard requirement of this measure to the Planning Department for review and approval prior to issuance of a permit for a backup diesel generator from any City agency.	Vertical developer(s).	Prior to issuance of permit for each backup diesel generator from BAAQMD.	Vertical developer(s) shall submit documentation of compliance to the Port for review and approval.	Considered complete upon review and approval of documentation by Port staff.

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Mitigation Measure M-AQ-2.2: Reactive Organic Gases Emissions Reduction Measures. To reduce ROG emissions associated with the project, the project sponsor shall provide education for residential and commercial tenants to help reduce area source (e.g., architectural coatings, consumer products, and landscaping) emissions associated with residential and building operations. Prior to receipt of any building permit and every 5 years thereafter, the project sponsor shall work with the San Francisco Department of Environment to develop electronic correspondence, which will be distributed by email annually to tenants of the project that encourages the purchase of consumer products that are better for the environment and generate fewer VOC emissions. The correspondence shall encourage environmentally preferable purchasing and include contact information and links to SF APPROVED. While microbreweries do not typically implement emission control devices, to further reduce ROG (primarily ethanol) emissions associated with Pier 48 industrial operations, the project sponsor shall implement technologies to reduce ethanol emissions if available and practicable. Such measures could include wet scrubbers, ethanol recovery and capture (e.g., carbon absorption) or incineration. At the time when specific designs for the Pier 48 use are submitted to the City for approval, the project sponsor shall provide an analysis that quantifies the emissions, based on the specific design proposal, and evaluates ROG emission control technologies.	Vertical developer(s).	Prior to issuance of any building permit and every 5 years thereafter.	Vertical developer(s) to work with the San Francisco Department of Environment to develop materials. San Francisco Department of the Environment to review and approve materials.	Considered complete after documentation provided to the Department of Environment of distribution of educational materials to residential and commercial tenants.
Mitigation Measure M-AQ-2.3: Transportation Demand Management. The project sponsors shall prepare and implement a Transportation Demand Management (TDM) Plan. The TDM Plan shall have a goal of reducing estimated aggregate daily one way vehicle trips by 20 percent compared to the aggregate daily one-way vehicle trips identified in the project's travel demand memo, prepared by Adavant Consulting, dated June 30, 2015 ("Travel Demand Memo"), and attached as Appendix 4-4 to the Draft EIR. The project sponsors shall be responsible for monitoring implementation of the TDM Plan and proposing adjustments to the TDM Plan if its goal is not being achieved, in accordance with the following provisions. The TDM Plan may include, but is not limited to, the types of measures summarized below by way of example. TDM Plan measures shall generally be consistent with the City's adopted TDM Program Standards and the draft	Transportation Coordinator and/ or infrastructure developer to prepare the TDM Plan, which will be implemented by the Transportation Coordinator and will be binding on all development parcels.	Transportation Coordinator and/or Infrastructure developer to prepare TDM Plan and submit to Planning Department staff prior to approval of the project.	Transportation Coordinator to submit the TDM Plan to Planning Department staff for review and approval. Transportation Coordinator to submit monitoring report annually to Planning Department staff and implement TDM Plan Adjustments (if required).	The TDM Plan is considered complete upon approval by the Planning Department staff, in consultation with the SFMTA. Annual monitoring reports would be on-going during project buildout.

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MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
proposed TDM Plan prepared by Nelson Nygaard, dated September 2016, and attached as Appendix 4-5 to the Draft EIR. The TDM Plan describes the scope and applicability of candidate measures in detail, and may include, for example: • Active Transportation: Provision of streetscape improvements to encourage walking, secure bicycle parking, shower and locker facilities for cyclists, subsidized bike share memberships for project occupants, bicycle repair and maintenance services, and other bicycle-related services; • Car-Share: Provision of car-share parking spaces and subsidized memberships for project occupants; • Delivery: Provision of amenities and services to support delivery of goods to project occupants; • Family-Oriented Measures: Provision of on-site childcare and other amenities to support the use of sustainable transportation modes by families; • High-Occupancy Vehicles: Provision of carpooling/vanpooling incentives and shuttle bus service; • Information and Communications: Provision of multimodal wayfinding signage, transportation information displays, and tailored transportation marketing services; • Land Use: Provision of on-site affordable housing and healthy food retail services in underserved areas; • Parking: Provision of unbundled parking, short-term daily parking provision, parking cash out offers, and reduced off-street parking supply. The TDM Plan shall describe each measure, including the degree of implementation (e.g., how long will it be in place, how many tenants or visitors it will benefit, on which locations within the site it will be placed, etc.) and the population that each measure is intended to serve (e.g., residential tenants, retail visitors, employees of tenants, visitors). The TDM Plan shall commit to monitoring vehicle trips to and from the project site to determine the TDM Plan's effectiveness, as required by TDM Plan Monitoring and Reporting outlined below. The TDM Plan shall have been approved by the Planning Department prior to site permit application for the first building and the TDM Plan shall be implemented as to each new building upon the issuance of the certificate of occupancy for that building.				or until five consecutive reporting periods show that the fully-built project has met its reduction goals, at which point reports would be submitted every three years.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
The TDM Plan shall remain a component of the proposed project to be implemented for the duration of the project. *TDM Plan Monitoring and Reporting*: the Transportation Coordinator shall collect data, prepare monitoring reports and submit them to the Planning Department. To ensure the goal of reducing by 20 percent the aggregate daily one-way vehicle trips is reasonably achievable, the project sponsor shall monitor daily one-way vehicles trips for all buildings that have received a Certificate of Occupancy, and compare these vehicle trips to the aggregate daily one-way vehicle trips anticipated for the those buildings based on the trip generation rates contained within the proposed project Travel Demand Memo. • **Timing:** The Transportation Coordinator shall collect monitoring data and shall begin submitting monitoring reports to the Planning Department beginning 18 months after the completion and commencement of operation of the proposed garage on Block D. Thereafter, annual monitoring reports shall be submitted (referred to as "reporting periods") until five consecutive reporting periods show that the project has met the reduction goal, at which point monitoring data shall be submitted to the Planning Department once every 3 years. The project sponsor shall complete each trip count and survey (see below for description) within 30 days following the end of the applicable reporting period. Each monitoring report shall be completed within 90 days following the applicable reporting period. The project sponsor shall modify the timing of monitoring reports such that a new monitoring report is submitted 12 months after adjustments are made to the TDM Plan in order to meet the reduction goal, as may be required under the "TDM Plan Adjustments" heading, below. In addition, the Planning Department may modify the timing of monitoring reports as needed to consolidate this requirement with other monitoring and/or reporting requirements for the project, such as annual reporting under the proposed project Development Agreement. • **Term:** The Project Sponsor shall monitor, submit monitoring reports, and make plan adjustments as provided below until the earlier of: (i) the expiration of the Development Agreement, or (ii) the reduction goal has been met for up to eight consecutive reporting periods as determined by the Planning Department. Notwithstanding the foregoing or any other provision of this mitigation measure, all obligations for monitoring,				

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

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reporting and for making adjustments to the TDM Plan shall terminate if the project sponsor has paid and/or made a commitment to pay the offset fee for any shortfall in the TDM Plan's meeting the reduction goal as provided below. • **Components:** The monitoring and reporting, including trip counts, surveys and travel demand information, shall include the following components or comparable alternative methodology and components, as approved, accepted or provided by Planning Department staff: o Trip Count and Intercept Survey: Provide a site-wide trip count and intercept survey of persons and vehicles arriving and leaving the project site, other than on AT&T Park ballgame or other major event (e.g., concert or other event substantially occupying the capacity of AT&T Park) days or hours, for no less than two days during the reporting period between 6:00 a.m. and 8:00 p.m. One day shall be a Tuesday, Wednesday, or Thursday during one week without federally recognized holidays, and another day shall be a Tuesday, Wednesday, or Thursday during another week without federally recognized holidays. The trip count and intercept survey shall be prepared by a qualified transportation or survey consultant, and the Planning Department shall approve the methodology prior to the Project Sponsors conducting the components of the trip count and intercept survey. The Planning Department anticipates it will have a standard trip count and intercept survey methodology developed and available to project sponsors at the time of data collection. o Travel Demand Information: The above trip count and survey information shall be able to provide the travel demand analysis characteristics (work and non-work trip counts, origins and destinations of trips to/from the project site, and modal split information), as outlined in the Planning Department's *Transportation Impact Analysis Guidelines for Environmental Review*, October 2002, or subsequent updates in effect at the time of the survey. o Documentation of Plan Implementation: The transportation coordinator shall work in conjunction with the Planning Department to develop a survey (online or paper) that can be reasonably completed by the transportation coordinator and/or Transportation				

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Management Association (TMA) staff members to document implementation of TDM program elements and other basic information during the reporting period. The project sponsors shall include this survey in the monitoring report submitted to the Planning Department. o Assistance and Confidentiality: The Planning Department will assist the transportation coordinator with questions regarding the components of the monitoring report and will assist the transportation coordinator in determining ways to protect the identity of individual survey responders. *TDM Plan Adjustments*. The project sponsors shall adjust the TDM Plan according to the monitoring results if three consecutive reporting periods demonstrate that measures within the TDM Plan are not achieving the reduction goal. The TDM Plan adjustments shall be made in consultation with the Planning Department and may require refinements to existing measures (e.g., changes to subsidies, increased bicycle parking), inclusion of new measures (e.g., a new technology or project operational changes not inconsistent with any agreements with the Port), or removal of existing measures (e.g., measures that are ineffective or induce vehicle trips).[5] If three consecutive reporting periods' monitoring results demonstrate that measures within the TDM Plan are not achieving the reduction goal, the project sponsors shall propose TDM Plan adjustments to be incorporated in the TDM Plan within 270 days following the last reporting period. The project sponsors shall implement the TDM Plan adjustments until the results of three consecutive reporting periods demonstrate that the reduction goal is being achieved. If after implementing TDM Plan adjustments as described above, and the project sponsors have not met the reduction goal for up to eight consecutive reporting periods as determined by the Planning Department, the project sponsors may, at any time thereafter, elect to address the shortfall in meeting the TDM Plan reduction target by, in addition to paying the emission offset fees set forth in Mitigation Measure M-AQ-1.5, also paying an additional				

[5] No parking-related restrictive measures on the project site shall by design or effect, restrict parking on the project site for patrons of AT&T ballpark games or events.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT **NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.**				
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offset fee in accordance with Mitigation Measure M-AQ-1.5, in the amount required to address, both the shortfall in reduction during the previously monitored years and the anticipated shortfall in the remaining expected years of project operations, the latter of which shall be based on the shortfall that occurred in the most recently monitored year. Calculations of emissions to be offset shall be based on the total amount of emissions anticipated to be reduced by achieving the 20 percent TDM goal adjusted for the actual percentage of aggregate daily one way vehicle trip reduction achieved in the most recently monitored year.				
Wind and Shadow Mitigation Measures				
M-WS-1: Assessment and Mitigation of Wind Hazards on a Building-by-Building Basis. 1. Prior to or as part of the submittal package for the schematic design of a new building (Proposed Building), the Proposed Building developer shall submit to the Planning Department, for its review and approval, a scope of work and, following approval of the scope, a report from a Qualified Wind Consultant (QWC) that reviews the Proposed Building schematic design, absent landscaping.[6] "QWC" means a wind consultant retained by the Proposed Building(s) developer and approved by the Planning Department for preparation of the report. The EIR wind consultant for the proposed project and any other wind consultant on the City's then approved list or otherwise approved by the City will be considered a QWC. 2. The QWC report shall evaluate whether the Proposed Building(s) would create a Significant Wind Impact. "Significant Wind Impact" means a substantial increase on a site-wide basis in the number of hours per year that the 26 mph wind hazard criterion is exceeded or, if baseline wind conditions are greater than 26 mph, a substantial increase in the area subjected to winds greater than 26 mph. This analysis shall focus on the entire project area that was studied in wind tunnel tests conducted for the EIR and not just the area immediately surrounding the Proposed Building(s).	Vertical developer(s) and qualified wind consultant. Vertical developer(s) to implement architectural or landscaping features, or a combination of such features, that have been demonstrated in wind tunnel to reduce the Proposed Building's wind hazards to a level no greater than those of either	Prior to or as part of the submittal package for the schematic design of a new building.	Vertical developer(s) to submit to the Planning Department and the Port, for their review and approval, a scope of work and, following the approval of the scope of work by Planning Department and Port staff, a report from a qualified wind consultant that determines building-specific wind conditions.	Considered complete upon approval of wind report by the Planning Department and Port.

[6] The scope of work for this report shall use the same methodology and wind test point locations as the Wind Study prepared for this EIR.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
3. The QWC shall consider the Proposed Building(s) in the context of the "Current Project," which, at any given time during construction of the Project, shall be defined as the building masses used in the Original Model (Wind Study Configuration B),[7] except as updated to reflect schematic design submittals for any previously approved building that has not yet commenced construction, and construction permit designs for on-site buildings that are under construction or have completed construction. This model shall be referred to as the "Current Project" and shall be updated over time as architectural design for each proposed project block/building is completed.	Wind Study Configuration A or Wind Study Configuration B.			
4. The Proposed Building shall be tested in the wind tunnel as proposed, including any architectural features that can be shown on plans to mitigate wind effects.[8] Testing may not include any existing or proposed onsite landscaping. A separate test shall be conducted with existing and proposed onsite landscaping included, if required per Section 5, below. The accompanying report shall compare the wind tunnel results analyzing the Proposed Building in the context of the Current Project to the following two baselines: (1) the EIR baseline conditions for the project site (Wind Study Configuration A), and (2) Existing Plus Project (i.e., with Mission Rock proposed project) conditions used in the EIR (Wind Study Configuration B).				
5. No further analysis shall be required if the QWC concludes, and the Planning Department concurs, that the Proposed Building's schematic design, absent proposed onsite landscaping, would not create a Significant Wind Impact. If the QWC concludes that the Proposed Building's schematic design, absent proposed onsite and existing offsite landscaping, would create a Significant Wind Impact, as defined above, then a second wind tunnel test shall be conducted, taking into account proposed onsite landscaping and existing offsite landscaping. The intent of landscaping is				

[7] All references to the Wind Study refer to the Mission Rock EIR Pedestrian Wind Study Wind Tunnel Tests Report prepared by RWDI, final report, January 25, 2017, which can be found in Appendix 7-1 to this EIR.

[8] These could include features such as setbacks, wind baffles, randomized balconies, overhands, canopies, awnings and the like, provided they are consistent with the project's Design Controls and shown on schematic architectural plans for the Proposed Building.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
to emulate the function and effect of a manmade wind screen. The following parameters have been determined to be the minimum requirements for landscaping features to be effective in controlling wind:[9] • It is the combined effect of a cluster or group of landscaping features that is most effective, rather than the maturity of one tree. • Since a general rule is that vertical wind control features should be taller than the average height of a person, foliage from the ground up is most effective at a height of approximately 6 to 8 feet. • Since winds can easily flow under tree crowns, underplantings (e.g., shrub plantings at the base of a tree) should be included where trunks are bare for the first 5 to 6 feet of a tree measured from the ground. • Tree crowns with at least 60 percent cover (density of leafage) and even spread of branches are most effective.				
Biological Resources Mitigation Measures				
M-BI-3.1: Conduct Impact Hammer Pile Driving during Periods that Avoid Special-Status Fish Species' Spawning and Migration Seasons. In-water pile installation using impact hammers shall occur within the work window of June 1 to November 30, which has been established for dredging in San Francisco Bay to reduce potential effects on special-status fish species.	Pier 48 developer.	During the construction work window of June 1 to November 30.	Pier 48 developer to submit detailed construction schedule to Port staff for review and approval.	Considered complete upon approval of construction schedule by Port staff.
M-BI-3.2: Pile-Driving Noise Reduction for the Protection of Fish. Prior to the start of pile driving in the Bay, the project sponsor shall develop an underwater noise monitoring and attenuation plan and obtain approval from NMFS. The NMFS-approved plan or any modifications shall be provided to the City Planning Department for determination of consistency with the requirements in this measure. The plan shall provide details regarding the estimated underwater sound levels expected, sound attenuation methods, methods used to monitor and verify sound levels during pile-driving activities, and management practices	Pier 48 developer.	Prior to the start of pile driving in the Bay.	Pier 48 developer to prepare an underwater noise monitoring and attenuation plan and obtain approval from NMFS. The NMFS-approved plan or any modifications to be provided to the Port staff for determination of consistency with the requirements in this	Considered complete upon review and approval of the sound attenuation and monitoring plan by NMFS and consistency determination by

[9] RWDI, Landscaping, December 8, 2016.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
to be taken to reduce pile-driving sound in the marine environment to below NMFS thresholds for injury to fish. The plan shall incorporate, but not be limited to, the following BMPs: • All steel pilings shall be installed with a vibratory pile driver to the deepest depth practicable. An impact pile driver may be used only where necessary, as determined by the contractor and/or project engineer, to complete installation of the steel pilings, in accordance with seismic safety or other engineering criteria. • The smallest pile driver and minimum force shall be used to complete the work necessary to meet NMFS requirements, as determined by the contractor and/or project engineer. • The hammer shall be cushioned using a 12-inch-thick wood block during all impact hammer pile-driving operations. • To reduce impacts to levels below injury thresholds, based on hydroacoustic monitoring and the amount of impact pile driving occurring on a particular day, a bubble curtain, wood block cushion, air barrier, or similar technology shall be employed during impact pile-driving activities. • A "soft start"[10] technique shall be employed upon initial pile-driving activities every day to allow fish an opportunity to vacate the area. • During impact pile driving, the contractor shall limit the number of strikes per day to the minimum necessary to complete the work, as determined by the contractor and/or project engineer. • No pile driving shall occur at night. • During impact pile driving, a qualified fish biologist shall monitor the project site for fish that exhibit signs of distress. If fish are observed exhibiting signs of injury or distress, work shall be halted by the biologist, and the cumulative SEL up to that point shall be examined. If the cumulative SEL is close to the threshold or exceeds the threshold, then pile-driving activities will cease until the next day.			measure.	Port staff.

[10] Soft starts require an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period between subsequent three-strike sets. Soft starts for vibratory hammers will initiate noise at 15 seconds at reduced energy, followed by a 1-minute waiting period between subsequent starts. This process should continue for a period of no less than 20 minutes.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
• All pile-driving and pile-removal activity shall be monitored by a NMFS-approved biological monitor before and during all pile driving. The biological monitor shall maintain a monitoring log of daily pile-driving activities, any field sound measurements, fish sightings, and implementation of soft-start and shut-down requirements. A monitoring report shall be prepared for submission to NMFS and the City (submitted monthly and at the completion of all pile-driving/pile-removal activities).				
M-BI-3.3: Pile-Driving Noise Reduction for Protection of Marine Mammals. Prior to the start of pile driving in the Bay, as part of the underwater noise monitoring and attenuation plan required by Mitigation Measure M-BI-3.2, the project sponsor shall provide details regarding the estimated underwater sound levels expected, not just from impact hammer pile driving that may affect fish but also from vibratory pile driving and removal because these sound levels may affect marine mammals. The plan shall also address sound attenuation methods, methods used to monitor and verify sound levels during pile-driving activities, and management practices to be taken to reduce pile-driving sound in the marine environment to below NMFS thresholds for injury to marine mammals. As part of implementation of the sound attenuation monitoring plan, the project sponsor shall take actions to reduce the effect of underwater noise transmission on marine mammals. These actions shall include, at a minimum: • The establishment of initial safety zones, based on the estimated NMFS injury threshold contours for the different marine mammals (as shown in Table 4.L-8 and Table 4.L-9). The initial size of the safety zones may be modified, based on subsequent analysis of the anticipated noise levels and the actually proposed piles, equipment, and activity prior to construction but only with the approval of NMFS. • Hydroacoustic monitoring, according to the NMFS-approved sound attenuation and monitoring plan, shall be completed during initial pile driving to verify projected isopleths for pile driving and removal. The plan shall require real-time hydroacoustic monitoring for a sufficient number of piles to determine and verify modeled noise isopleths. The safety zones established prior to construction may be modified, based on field measurements of noise levels from different pile-driving activities, if the field measurements indicate that different noise threshold contours than those estimated prior to construction are appropriate but only with approval of NMFS.	Pier 48 developer.	Prior to the start of pile driving in the Bay.	Pier 48 developer to prepare an underwater noise monitoring and attenuation plan (including estimated underwater sound levels expected) and obtain approval from NMFS. The NMFS-approved plan or any modifications to be provided to Port staff for determination of consistency with the requirements in this measure.	Considered complete upon review and approval of the sound attenuation and monitoring plan by NMFS and consistency determination by Port staff.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
• Halting of work activities when a marine mammal enters a safety zone (specific to that species) and resumed only after the animal has not been observed within the safety zone for a minimum of 15 minutes. • Use of a "soft start"[11] technique each day upon commencement of pile-driving activity, any time after ceasing pile-driving activity for more than 1 hour, and any time after shutdown due to marine mammal entry into a safety zone. • Monitoring by an NMFS approved biological monitor of all pile-driving and pile-removal activity before and during all pile driving/removal to inspect the work zone and adjacent Bay waters for marine mammals and implement the safety zone requirements described above. The biological monitor shall maintain a monitoring log of daily pile-driving/removal activities, any field sound measurements, marine mammal sightings, and implementation of soft-start, shut-down, and safety-zone requirements. A monitoring report shall be prepared for submission to the City and NMFS (submitted monthly and at the completion of all pile-driving/pile-removal activities).				
M-BI-5: Conduct Pre-Construction Surveys for Nesting Migratory Birds. To facilitate compliance with state and federal laws (California Fish and Game Code and the MBTA) and prevent impacts on nesting migratory birds, the project sponsor shall avoid vegetation/structure removal, ground-disturbing activities, and elevated noise levels near suitable nesting habitat during the nesting season (February 1 through August 31) or conduct pre-construction surveys, as described below. Alternatively, the project sponsor may remove vegetation or structures that may support nesting birds outside of the breeding season such that no breeding habitat would be present should construction start in the normal breeding season.	Infrastructure or vertical developer(s) (as applicable), qualified wildlife biologist (if necessary).	Infrastructure or vertical developer(s) (as applicable) to avoid vegetation and/or structure removal, ground-disturbing activities, and elevated noise levels near suitable nesting habitat	Avoid Removal during Nesting Season: contractor to provide detailed construction schedule to Port to confirm affected activities fall outside nesting season or removal of trees and/or structures occurs outside breeding season. Nesting Surveys: If necessary, wildlife biologist to complete a memorandum	Avoid Removal during Nesting Season: complete upon review and approval of construction schedule by Port staff. Nesting Surveys: Considered complete upon review and

[11] Soft starts require an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 1-minute waiting period between subsequent three-strike sets. Soft starts for vibratory hammers will initiate noise at 15 seconds at reduced energy, followed by a 1-minute waiting period between subsequent starts. This process should continue for a period of no less than 15 minutes.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
If it is not feasible to avoid the nesting season and suitable nesting areas remain on the project site, the project sponsor shall hire a qualified wildlife biologist with demonstrated nest-searching experience to conduct surveys for nesting birds, including raptors. The following list details the nesting bird survey requirements for this project. • One nesting bird assessment is required at the beginning of each year, at the start of the nesting bird season (February), to determine if suitable nesting habitat remains or has been reinstated (e.g., the project site is revegetated). • If suitable nesting habitat is present, one nesting survey shall be conducted between February and April, and one nesting survey shall be conducted between April and June. • Additional nesting surveys are required when construction work stops at a portion of the site where suitable nesting habitat remains for more than 15 days or if construction is phased in such a way that no disturbance has occurred in a portion of the project site. • If active nests are observed during construction when the wildlife biologist is not present, all work within 250 feet of the nest shall stop, and wildlife biologist shall be contacted immediately. All personnel shall move at least 250 feet away from the nest. To the extent feasible, after consulting with the wildlife biologist, construction equipment shall be shut down or moved 250 feet away from the nest. Nesting bird surveys shall be performed no earlier than 7 days prior to the commencement of ground-disturbing activities and vegetation removal (including clearing, grubbing, and staging). The area surveyed shall include all construction areas as well as areas within 250 feet outside the boundaries of the areas to be cleared or as otherwise determined by the biologist. If the wildlife biologist finds any active nests (e.g., a nest with eggs, chicks, or young) during the survey, the biologist shall establish no-disturbance species-specific buffer zones for each nest, marked with high-visibility fencing, flagging, or pin flags. No construction activities shall be allowed within the buffer zones. The size of the buffer shall be based on the species' sensitivity to disturbance and planned work activities in the vicinity; typical buffer sizes are 250 feet for raptors and 50 feet for other birds. The buffer shall remain in effect until the chicks have fledged from the nest or the nest is no longer active, which will be verified by the biologist.		during the nesting season (February 1 through August 31), conduct pre-construction surveys (February through June), or remove vegetation and/or structures outside breeding season.	detailing the survey effort and results and submit the memorandum to the infrastructure developer or vertical developer (s) (as applicable) and Port staff within 7 days of survey completion. Port staff to review and approve report.	approval of nesting surveys by Port staff.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
If inactive nests are identified, the project sponsor or its contractor shall remove those nests from the structure/vegetation and install nest exclusion measures on structures (i.e., fine mesh netting, panels, or metal projectors) outside of the nesting season, if deemed necessary and suitable by the qualified wildlife biologist. All exclusionary devices shall be monitored and maintained throughout the breeding season to ensure that they are successful in preventing the birds from accessing the cavities or nest sites. After each survey and/or after nest-deterrence activities are completed, the wildlife biologist shall complete a memorandum detailing the survey effort and results and submit the memorandum to the project sponsor within 7 days of survey completion.				
Geology and Soils Mitigation Measures				
M-GE-5: Accidental discovery of paleontological resource. Given the potential for paleontological resources to be present at the project site at excavation depths within the Colma Formation, the following measures shall be undertaken to avoid any significant adverse effect from the proposed project on paleontological resources. Before the start of any drilling or pile-driving activities, the project sponsor shall retain a qualified paleontologist, as defined by the SVP, who is experienced in teaching nonspecialists. The qualified paleontologist shall train all construction personnel who are involved with earthmoving activities, including the site superintendent, regarding the possibility of encountering fossils, the appearance and types of fossils that are likely to be seen during construction, and proper notification procedures should fossils be encountered. Procedures to be conveyed to workers include halting construction within 50 feet of any potential fossil find and notifying a qualified paleontologist, who shall evaluate the significance. If paleontological resources are discovered during earthmoving activities, the construction crew shall immediately cease work near the find and notify the project sponsor and the San Francisco Planning Department. Construction work in the affected areas shall remain stopped or be diverted to allow recovery of fossil remains in a timely manner. The project sponsor shall retain a qualified paleontologist to evaluate the resource and prepare a recovery plan in accordance with SVP guidelines. The recovery plan may include a field survey, construction monitoring, sampling and data recovery	Infrastructure developer and/or vertical developer(s) (as applicable), and qualified paleontologist.	Before the start of any drilling or pile-driving activities.	Infrastructure developer or vertical developer(s) (as applicable) to retain qualified paleontologist and notify Port staff. Port staff to approve selection of paleontologist. If necessary, paleontologist to prepare and submit a recovery plan for Port review and approval.	Considered complete once training is complete, once construction is complete, or once the Planning Department approves the recovery plan and the infrastructure developer or vertical developer(s) and qualified paleontologist implements the plan.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT

NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.

MEASURES ADOPTED AS CONDITIONS OF APPROVAL	Implementation Responsibility	Mitigation Schedule	Monitoring/Reporting Responsibility (Public Agency)	Monitoring Schedule
procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations in the recovery plan that are determined by the San Francisco Planning Department to be necessary and feasible shall be implemented before construction activities can resume at the site where the paleontological resources were discovered. The San Francisco Planning Department shall be responsible for ensuring that the monitor's recommendations regarding treatment and reporting are implemented.				
IMPROVEMENT MEASURES FOR THE SEAWALL LOT 337 AND PIER 48 MIXED-USED PROJECT				
I-TR-1: Construction Management Plan. Traffic Control Plan for Construction – To reduce potential conflicts between construction activities and pedestrians, bicyclists, transit and autos during construction activities, the project sponsor should require construction contractor(s) to prepare a traffic control plan for major phases of construction (e.g. demolition and grading, construction, or renovation of individual buildings). The project sponsor and their construction contractor(s) should meet with relevant City agencies to coordinate feasible measures to reduce traffic congestion, including temporary transit stop relocations and other measures to reduce potential traffic and transit disruption and pedestrian circulation effects during major phases of construction. This includes coordinating project construction activities with nearby City construction projects, such as the Third Street Rehabilitation Project. For any work within the public right-of-way, the contractor would be required to comply with the San Francisco's Regulations for Working in San Francisco Streets, which establishes rules and permit requirements so that construction activities can be conducted safely and with the least possible interference with pedestrians, bicyclists, transit, and vehicular traffic. Additionally, restrict truck movements and deliveries to the maximum feasible extent during peak hours (generally 7:00 to 9:00 a.m. and 4:00 to 6:00 p.m., or other times, as determined by SFMTA and the TASC). In the event that the construction timeframes of the major phases and other development projects adjacent to the project site overlap, the project sponsor should coordinate with City agencies through the TASC and the adjacent developers to minimize the severity of any disruption to adjacent land uses and transportation facilities from overlapping construction transportation	Infrastructure developer and/or developer(s) (as applicable) (s).	Construction Management Plan for Construction: Prior to the issuance of a grading, excavation, or building permit. Project Construction Updates: ongoing throughout construction activities.	Infrastructure developer and/or vertical developer(s) (as applicable) and construction contractor(s) to submit Traffic Control Plan for Construction to the Port and SFMTA for review and approval. Project construction update materials would be provided in the annual mitigation and monitoring plan.	Ongoing during project construction.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
impacts. The project sponsor, in conjunction with the adjacent developer(s), should propose a construction traffic control plan that includes measures to reduce potential construction traffic conflicts, such as coordinated material drop-offs, collective worker parking and transit to job site and other measures. Reduce Single-Occupant Vehicle Mode Share for Construction Workers – To minimize parking demand and vehicle trips associated with construction workers, the project sponsor should require the construction contractor to include in the Traffic Control Plan for Construction methods to encourage walking, bicycling, carpooling, and transit access to the project construction sites by construction workers in the coordinated plan. Project Construction Updates for Adjacent Residents and Businesses – To minimize construction impacts on access for nearby residences, institutions, and businesses, the project sponsor should provide nearby residences and adjacent businesses with regularly updated information regarding construction, including construction activities, peak construction vehicle activities (e.g., concrete pours), travel lane closures, and lane closures via a newsletter and/or website.				
I-TR-7: Garage Access – Pedestrian Design Features. During the final design process for the parking facilities and the pedestrian realm of adjacent streets, improvements should be designed for the safe interface of vehicles and pedestrians at parking facility driveways. This design shall include adequate sight distance, signing, striping, warning devices, and lighting.	Garage developer.	During the final design process for the parking facilities and the pedestrian realm of adjacent streets.	Garage developer to design parking facilities and pedestrian realm for the safe interface of vehicles and pedestrians. SFMTA, in consultation with the Planning Department to review and approve plans.	Considered complete once SFMTA and Planning Department signs off on final plans.
I-TR-10: Garage Access – Bicycle-Vehicle Design Features. During the final design process for Long Bridge Street, adequate sight distance should be provided through a combination of signing, striping, and lighting improvements, which should be designed for the safe interface of vehicles and cyclists at the two Block D2 parking facility driveways.	Garage developer.	During final design process for Long Bridge Street.	Garage developer to design Long Bridge Street with adequate sight distance. SFMTA to review and approve plans.	Considered complete once SFMTA signs off on final plans.

MITIGATION MONITORING AND REPORTING PROGRAM FOR SEAWALL LOT 337 AND PIER 48 MIXED-USE PROJECT NOTE: Each mitigation measure in this document applies to the proposed project and all variants, unless noted otherwise.				
MEASURES ADOPTED AS CONDITIONS OF APPROVAL	**Implementation Responsibility**	**Mitigation Schedule**	**Monitoring/Reporting Responsibility (Public Agency)**	**Monitoring Schedule**
I-TR-12: Strategies to Enhance Transportation Conditions During Large Events. The project's Transportation Coordinator should participate as a member of the Mission Bay Ballpark Transportation Coordination Committee and provide at least 1-month notification prior to the start of any large event that would overlap with an event at AT&T Park.	Project Transportation Coordinator.	Ongoing.	Transportation Coordinator to provide at least 1-month notification to Port, Planning Department, and SFMTA prior to the start of any large event that would overlap with an event at AT&T Park.	On-going during project operations.

EXHIBIT N

SPECIAL EVENTS RULES AND REGULATIONS

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EXHIBIT N

RULES FOR SPECIAL EVENTS AND GOOD NEIGHBOR POLICY

(a) Tenant shall provide notice of the following pending Special Events at least one week prior to such Special Event to the Central Waterfront Advisory Group (or its successor advisory group), neighbors or neighborhood organizations requesting notice and others as requested by Port: Special Events with a duration of five (5) days or more (excluding set up and take down); Special Events with an estimated attendance of 5,000 people or more; and Special Events which require an Entertainment Related Permits under the SF Police Code.

(b) Except as otherwise permitted by a permit issued by the Entertainment Commission or other governmental agency of competent jurisdiction, all Special Events in non-enclosed areas on the Premises involving music or other events where the Special Event may involve similar noise impacts shall conclude by 11:00 p.m.

(c) Tenant shall remove from the China Basin Shoreline Park and adjacent Port facilities all debris and refuse resulting from the Special Event within 12 hours of the conclusion of any Special Events.

(d) With respect to any Special Event requiring the consent of the Port Executive Director, the Executive Director and Tenant shall negotiate in good faith with each other and with any affected City departments to determine what, if any, Designated Services would be reasonably required in connection with such Special Event(s), and the incremental costs of providing such Designated Services with respect to such Special Event(s) taking into account all the facts and circumstances, including the security, transportation plan, litter pick-up, parking and traffic control and other such services to be provided by Tenant and/or sponsor of such Special Event(s). Without limiting the approval rights as to certain Special Events under this Lease, the Executive Director shall not withhold consent hereunder for any such Special Event as to which Tenant has agreed to pay (or pay to City, as applicable) for the actual and reasonable incremental cost of providing Designated Services with respect to such Special Event, in an amount (i) agreed to in advance by Tenant and the Executive Director, or (ii) reasonably determined by the Executive Director. The term "Designated Services" shall mean, with respect to any Special Event, such levels of incremental police services, fire marshal services, public transportation, litter pick-up, street and sidewalk cleanup, first aid and paramedic services, and parking and traffic control services, as the parties agree in advance are reasonably required by, and will be provided by City to the Premises and/or surrounding area in connection with, such Special Event. Tenant shall not be required to reimburse City or Port for any costs of providing City services to or in connection with any Special Event, except to the extent of the incremental costs of Designated Services as agreed in advance, or as Tenant and the Executive Director otherwise agree in writing. In particular, the parties intend that such an agreement may, with respect to any particular Special Event, include provisions for the payment by Tenant (or the sponsor of a Special Event), if the actual attendance at such Special Event materially exceeds the estimated attendance, of costs directly resulting from the provision of Designated Services in excess of the levels which were agreed upon based on estimated attendance.

(e) Tenant shall comply with the good neighbor policy below:

Good Neighbor Policy

(1) Notices shall be prominently displayed at all entrances to and exits from the establishment urging patrons to leave the establishment and neighborhood in a quiet, peaceful and orderly fashion and to please not litter or block driveways in the neighborhood.

(2) Employees of the establishment shall be posted at all entrances and exits to the establishment during the period from beginning at event opening through the conclusion of the event when all patrons have left the premises. These employees shall ensure that patrons waiting

to enter the establishment and those exiting the premises are urged to respect the quiet and cleanliness of the neighborhood as they walk to their parked vehicle or otherwise leave the area.

(3) Employees of the establishment shall walk a 100-foot radius from the premises sometime between 30 minutes after closing time and 8:00 am the following morning, and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

(4) Sufficient toilet facilities and hand washing stations shall be made accessible to patrons within the premises, and such toilet facilities within the premises shall be made accessible to prospective patrons who may be lined up waiting to enter the establishment.

(5) The establishment shall provide outside lighting in a manner that would illuminate outside street and sidewalk areas and adjacent parking, as appropriate.

(6) The establishment shall provide adequate parking for patrons that would encourage use of parking by establishment patrons. Adequate signage shall be well-lit and prominently displayed to advertise the availability and location of such parking resources for establishment patrons. During events, Tenant or event sponsor at its sole cost and expense shall provide a drop off/pick -up zone for ride sharing operators and must contract and pay independently for use of metered parking stalls and/or with Port's parking lot operators.

(7) Where practical, the establishment shall provide adequate ventilation within the structures such that doors and/or windows are not left open for such purposes resulting in noise emission from the premises.

(8) Special Events shall be conducted in accordance with permits issued by the Entertainment Commission or other governmental agency of competent jurisdiction and as reasonably necessary to accommodate the nature of the event.

(9) The establishment shall implement other conditions and/or management practices necessary to ensure that management and/or patrons of the establishment maintain the quiet, safety and cleanliness of the premises and the vicinity of the use, and do not block driveways of neighboring residents or businesses.

(10) Event sponsor shall take all reasonable measures to ensure the sidewalks adjacent to the premises are not blocked or unnecessarily affected by patrons or employees due to the operations of the premises and shall provide security whenever patrons gather outdoors.

(11) Event sponsor shall provide a phone number to all interested neighbors that will be answered at all times by a representative of event sponsor.

(12) Event sponsor agrees to be responsible for all operation under which an entertainment commission permit is required and granted, including associated conditions of such permit.

(13) In addition, a representative of the event sponsor shall answer a phone for at least two hours after the conclusion of a Special Event to allow for police and emergency personnel or other City personnel to contact that person concerning incidents.

(14) The parties may mutually agree to update these policies from time to time as may be appropriate.

EXHIBIT O

DESCRIPTION OF EXISTING PARKING PRACTICE

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EXHIBIT O

DESCRIPTION OF EXISTING PARKING PRACTICE

1. **Historical Practices**. The Premises has served as a parking lot for a variety of parkers, including daily and monthly parking by the general public, ballpark patrons, ballpark tenants and ballpark employees. Consistent with historical parking practices at the Premises, Tenant, or its subtenant or agents operating the Premises as a parking lot, may continue to provide parking on the Premises as follows:

   1.1. **Daily or Monthly Parking.** The general public may be provided non-exclusive daily and monthly parking at market rates. In order to accommodate ballpark patrons wishing to park on the Premises to attend Giants' home games and Special Events, general public daily and monthly parkers may be required to leave the Premises prior to the start of Giants' home games and Special Events or event parking fee as well.

   1.2. **Game Days and Special Events.** Ballpark patrons attending Giants' home games and Special Events may be provided single day parking on the Premises. Single day parking will be offered at market rates.

   1.3. **Season Ticket and Premium Pass Holders.** Giants' season and premium ticket holders may be provided parking passes to park on the Premises during Giants' regular season home games. Season and premium ticket parking passes may be offered at a discounted rate per game. In the event the Giants host a home playoff game, season and premium ticket holders may be offered discounted parking passes to park at the Premises during such home playoff game.

   1.4. **Ballpark Tenants.** Ballpark tenants may be provided a limited number of discounted reserved parking spaces on the Premises, consistent with historical usage, to be used during normal business hours by the tenant for office parking. Certain restrictions on the number of spaces which may be used by Ballpark tenants are included in Section 10.3 of the Lease.

   1.5. **Ballpark Operations.** Ballpark employees may be provided discounted parking passes for daily or monthly parking on the Premises, consistent with historical usage, in connection with the operations of the Ballpark. Certain restrictions on the number of spaces which may be used by, and the discounted rates for such spaces for, Ballpark employees are included in Section 10.3 of the Lease.

2. **New Parking Opportunities.** The parties agree and acknowledge that new parking practices are required at the Premises to support the Mission Rock Project in addition to the historical parking practices. To facilitate the development and operations of the Mission Rock Project, Tenant, or its subtenant or agents operating the Premises as a parking lot, may provide Mission Rock Project tenants or residents with daily and monthly parking at market rates.

EXHIBIT P

WORKFORCE DEVELOPMENT PLAN

For purposes of this ***Exhibit P***, references to Exhibit B6-A in the attached Workforce Development Plan and to Exhibit B6-B in the Local Business Enterprise (LBE) Utilization Program will mean this ***Exhibit P*** to this Lease.

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Master Lease Exhibit P

Workforce Development Plan

The development plan for Mission Rock under the Transaction Documents provides for the development of a new mixed-use neighborhood composed of commercial/office, retail, garage, market rate and affordable residential uses and major new and expanded parks. This Workforce Development Plan sets forth the activities Port, Developer and Vertical Developer shall undertake, and require their Contractors, Consultants, Subcontractors, Subconsultants, Commercial Tenants, Lessees, Service Providers and Professional Service Providers, as applicable, to undertake, to support workforce development in the pre-construction, construction and end use phases of the Project, as set forth in this Exhibit B6-A.[1]

The Port and Developer shall enter into the DDA which will provide for the development of the Project in a series of Phases. In connection with the DDA, the Port and the Developer will enter into a Master Lease providing Developer the right to construct Horizontal Improvements within the Project. Developer will enter into contracts with Contractors and Consultants to construct all Horizontal Improvements allowed under the Master Lease.

Developer will submit Phase Submittals to the Port pursuant to the Transaction Documents. Following each Phase Approval, the Port will authorize the Chief Harbor Engineer to issue Port permits necessary for Developer to begin to construct Horizontal Improvements in accordance with the DDA and the Master Lease. Upon exercise of an Option in accordance with the DDA, the Port will convey each Development Parcel through Parcel Leases to a Vertical Developer. A Vertical Developer will enter into contracts with Contractors and Consultants to construct the Vertical Improvements, including residential and commercial improvements, in accordance with the Parcel Lease and Vertical DDA. Upon completion of the Vertical Improvements, the applicable Parcel Lease, between the Port and the Vertical Developer, shall govern the operation and use of the Vertical Improvements.

The foregoing summary is provided for convenience and for informational purposes only. In case of any conflict, the provisions of the DDA and each Vertical DDA shall control.

A. First Source Operations and Pre-Construction Hiring Agreement.

1. Developer shall, with respect to Horizontal Improvements, and the Port shall require that each Vertical Developer shall, with respect to each Vertical Improvement, comply with the operational requirements of the First Source Hiring Program pursuant to San Francisco Administrative Code Chapter 83 ("**Chapter 83**") and upon entering into: (a) leases or any other occupancy contracts for commercial space at Vertical Improvements that are subject to Chapter 83 with a tenant ("**Lessee**"), provided, however, that no Lessee occupying less than 5,000 square

[1] Any capitalized term used in this Exhibit B6-A, including its Attachments, that is not defined herein, or in such Attachments, or in the referenced Administrative Code Sections, shall have the meaning given to such term in the DDA.

feet in floor area within the Project Site shall have an obligation to enter into a First Source Hiring Agreement or comply with the requirements of Chapter 83; or (b) janitorial, security, landscape, operations and maintenance contracts, will include in each such lease or contract a requirement that such third party enter into a First Source Hiring Agreement in the form attached hereto as Attachment A, and provide a signed copy thereof to the Office of Economic and Workforce Development within 10 business days of execution. The Port shall cause (i) Developer to comply with the above requirements by including such requirements as a material term in the Master Lease applicable to such Contract and (ii) each Vertical Developer to comply with the above requirements by including such requirements as a material term in the Vertical DDA applicable to such Contract.

2. Further, Developer shall, with respect to Horizontal Improvements, and the Port shall require that each Vertical Developer shall, with respect to each Vertical Improvement, voluntarily include within its good faith efforts to comply with Chapter 83 a requirement to include pre-construction work within the Project's First Source Hiring Program and upon entering into professional services contracts for architectural and engineering services, provided, however, that no professional services firm performing work through a contract valued at less than $500,000 or a contract for services relating to the construction of any tenant improvements within a leased premises comprised of less than 15,000 square feet in floor area shall have an obligation to enter into a First Source Hiring Agreement, include in each such contract a requirement that such third party enter into a First Source Hiring Agreement in the form attached hereto as Attachment A, and provide a signed copy thereof to the Office of Economic and Workforce Development within 10 business days of execution. The Port shall cause (i) Developer to comply with the above requirements by including such requirements as a material term in the Master Lease applicable to such Contract and (ii) each Vertical Developer to comply with the above requirements by including such requirements as a material term in the Vertical DDA applicable to such Contract.

3. Residential units within the Project shall not be subject to any obligations under this Section A and the tenants of such residential units shall have no obligation to enter into a First Source Hiring Agreement.

4. The Office of Economic and Workforce Development ("**OEWD**") is the sole administrator of the First Source Hiring Program per San Francisco Administrative Code Chapter 83. OEWD's Business Services team will manage the First Source Hiring Agreement and will be the point of contact for Lessees and Service Providers. OEWD's Business Team will provide Referrals for the permanent Entry Level Positions located within the Project where required under Chapter 83.

5. Incorporation into contract provisions.

i. Developer or Vertical Developer shall include in its Contracts provisions that require Lessees and Service Providers to enter into a First Source Hiring Agreement and follow the good faith efforts within such agreements towards the hiring goals of Chapter 83. Developer or Vertical Developer shall also include in such Contracts provisions that require Lessees and Service Providers to identify a single point of contact and contact OEWD's Business Services team to discuss its obligations under the First Source Hiring Agreement.

ii. Developer or Vertical Developer shall include in its Professional Service Contracts provisions that require Professional Service Providers to enter into a First Source Hiring Agreement and follow the good faith efforts within such agreement towards the hiring goals of Chapter 83. Developer or Vertical Developer shall also include in such Professional Service Contracts provisions that require Professional Service Providers to identify a single point of contact and contact OEWD's Business Services team to discuss its obligations under the First Source Hiring Agreement.

6. Pre-start conference and access.

i. Developer or Vertical Developer shall meet with OEWD prior to initial occupancy of Vertical Improvements at the Project Site for a pre-start conference to assess the operation goals of the First Source Hiring Program, including commercial tenant operations, janitorial, security, landscape, operations and maintenance services and provide projections for Entry Level Position employment opportunities within such fields with respect to the Horizontal Improvements or Vertical Improvements. Developer or Vertical Developer shall also provide OEWD access to meet Lessees and Service Providers at the Project Site and encourage the same to meet with OEWD regarding their respective First Source Hiring Obligations.

ii. With respect to each Horizontal Improvement, Developer shall meet with OEWD upon submission of a Phase Submittal, and, with respect to each Vertical Improvement, Vertical Developer shall meet with OEWD upon entering into a Vertical DDA at the Project Site for a pre-start conference to assess the pre-construction goals of the First Source Hiring Program, including architectural and engineering services and provide projections for Entry Level Position employment opportunities within such fields with respect to such Horizontal Improvement or Vertical Improvement. Developer or Vertical Developer shall also provide OEWD access to meet Professional Service Providers at the Project Site and encourage the same to meet with OEWD regarding their respective First Source Hiring Obligations.

7. Compliance with the operational goals of Chapter 83 shall be determined on an individual Contract or Professional Service Contract basis. Lessees and Service Providers shall demonstrate good faith efforts towards the hiring goals of Chapter 83. Professional Service Providers shall demonstrate good faith efforts towards the hiring goals of their First Source Hiring Agreement.

8. For the purposes of a First Source Hiring Agreement, (i) Contract shall mean: (a) any commercial lease or other commercial occupancy agreement with respect to a Vertical Improvements; and (b) any contract for janitorial, security, landscape, or operations and maintenance services performed at a Horizontal Improvement or Vertical Improvement; (ii) Professional Service Contract shall mean any contract for architectural or engineering services performed with respect to a Horizontal Improvement or Vertical Improvement, (iii) Service Provider shall mean any person(s), firm, partnership, corporation, government agency, nonprofit or combination thereof, who owns or operates a commercial business that enters into a Contract to perform janitorial, security, landscape, and operations and maintenance services with respect a Horizontal Improvement or Vertical Improvement, and (iv) Professional Service Provider shall mean any person(s), firm, partnership, corporation, government agency, nonprofit or combination thereof, who owns or operates a commercial business that enters into a Contract to

perform architectural or engineering services with respect a Horizontal Improvement or Vertical Improvement.

9. OEWD shall notify any Lessees, Service Providers or Professional Service Providers in writing, with a copy to Developer or Vertical Developer, as applicable, and to the Port, of any alleged breach on the part of that entity of its obligations under the First Source Hiring Agreement, as applicable, and provide such entity a reasonable opportunity to cure its alleged breach before seeking an assessment of liquidated damages pursuant to Section 83.12 of the Administrative Code. OEWD sole remedy against a Lessees, Service Providers and Professional Service Providers shall be as set forth in Chapter 83, including the enforcement process. Upon OEWD's request, Port, Developer or Vertical Developer, as applicable, shall reasonably cooperate with OEWD in any such enforcement action against any Lessees, Service Providers or Professional Service Providers, provided in no event shall Port, Developer or Vertical Developer, as applicable, be liable for any breach by a Lessees, Service Providers or Professional Service Providers.

10. If Port, Developer or Vertical Developer, as applicable, fulfills its obligations as set forth in this Section A, it shall not be held responsible for the failure of Lessee, Service Provider or Professional Service Provider or any other person or party to comply with the requirements of Chapter 83, their applicable First Source Hiring Agreement or this Section A. If Developer or Vertical Developer, as applicable, fails to fulfill its obligations under this Section A, the applicable provisions of Chapter 83 shall apply as to Developer or Vertical Developer, as applicable, though the Port and Developer shall have the right to invoke the dispute resolution process set forth in Article 10 of the DDA.

11. This Section A is an approved "First Source Hiring Agreement" as referenced in Sections 83.9 and 83.11 of the Administrative Code.

B. Local Hiring Agreement.

1. Developer, with respect to each Horizontal Improvement, shall, and the Port shall require that each Vertical Developer, with respect to each Vertical Improvement, shall (i) include in each Contract for construction work a provision requiring each Contractor to enter into a Local Hiring Agreement in the form attached hereto as Attachment B before beginning any construction work, and (ii) provide a signed copy thereof to the Office of Economic and Workforce Development ("**OEWD**") and CityBuild within 10 business days of execution, provided, however, that no person or entity entering into leases or other occupancy contracts for commercial space at a Vertical Improvement within the Project site ("**Commercial Tenant**") which occupies less than 15,000 square feet in floor area within such Vertical Improvement shall have an obligation to enter into a Local Hiring Agreement or be subject to the Local Hiring Program pursuant to Chapter 82, as defined below.[2] All future tenant improvements performed subsequent to any initial tenant improvements within such Vertical Improvement shall be subject to the local hiring requirement within Attachment B on a good faith basis only. The Port shall cause (i) Developer to comply with the above requirements by including such requirements as a

[2] Any capitalized term used in this Section B that is defined in Attachment B will have the definition given to such term in such Attachment.

material term in the Master Lease applicable to such Contract and (ii) each Vertical Developer to comply with the above requirements by including such requirements as a material term in the Vertical DDA applicable to such Contract.

2. CityBuild shall represent OEWD and will provide referrals of Targeted Workers for positions on the construction work for Improvements subject to a Local Hiring Agreement in accordance with San Francisco Administrative Code Chapter 82 ("**Chapter 82**").

3. Incorporation into contract provisions. Developer and Vertical Developer, as applicable, shall include in their respective contracts provisions that require prospective Contractors and Subcontractors to comply with the requirements set forth in the Local Hiring Agreement Attachment B.

4. Tenant improvements performed within any residential units within the Project shall not be subject to any obligations under this Section B and the tenants of such residential units shall have no obligation to enter into a Local Hiring Agreement.

5. Compliance with the construction requirements of Chapter 82 for Horizontal Improvements shall be determined on a Phase by Phase basis. Compliance will be measured by dividing the number of Construction Work Hours performed by Local Residents or Apprentices, as applicable, by the total number of Construction Work Hours performed on Horizontal Improvements within a Phase. If Developer exceeds its obligations set forth in its applicable Local Hiring Agreement with respect to an individual Horizontal Improvement, Developer may, at its option, allocate such excess towards the compliance of another Horizontal Improvement within the Project Site, subject to the requirements of Attachment B. Notwithstanding anything to the contrary, Developer may, at its election, require that compliance be determined on a Project-wide basis by giving notice to OEWD and the Port of such election during the submission of the penultimate Phase Submittal.

6. Compliance with the construction requirements of Chapter 82 for Vertical Improvements shall be determined on an individual Vertical Improvement basis. Compliance will be measured by dividing the number of Construction Work Hours performed by Local Residents or Apprentices, as applicable, by the total number of Construction Work Hours performed on the Vertical Improvement. If a Vertical Developer exceeds its obligations set forth in its applicable Local Hiring Agreement with respect to an individual Vertical Improvement, the Vertical Developer of such Vertical Improvement may, at its option, allocate such excess towards the compliance of another Vertical Improvement within the Project Site, subject to the requirements of Attachment B. Notwithstanding anything to the contrary, Developer may, at its election, require that compliance be determined on a Phase-wide basis by giving notice to OEWD and the Port of such election during the submission of a Phase Submittal.

7. OEWD shall notify Contractor, Subcontractor and Commercial Tenant, as applicable, in writing, with a copy to the Port and Developer or Vertical Developer, as applicable, of any alleged breach on the part of that entity of its obligations under Chapter 82 or its Local Hiring Agreement, as applicable, and provide such entity an opportunity to cure its obligations before seeking an assessment of liquidated damages pursuant to Section 82.8 of the Administrative Code. OEWD's sole remedies against a Contractor, Subcontractor or Commercial

Tenant shall be as set forth in Chapter 82, including the enforcement process. Upon OEWD's request, Port, Developer or Vertical Developer, as applicable, shall reasonably cooperate with OEWD in any such enforcement action against any Contractor, Subcontractor or Commercial Tenant, provided that in no event shall Port, Developer or Vertical Developer, as applicable, be liable for any breach by a Contractor, Subcontractor or Commercial Tenant.

8. If Port, Developer or Vertical Developer, as applicable, fulfills its obligations as set forth in this Section B, it shall not be held responsible for the failure of a Contractor, Subcontractor, Commercial Tenant or any other person or party to comply with the requirements of Chapter 82 or this Section B. If Developer or Vertical Developer, as applicable, fails to fulfill its obligations under this Section B, the applicable provisions of Chapter 82 shall apply, though the Port and Developer, as applicable, shall have the right to invoke the process set forth in Article 10 of the DDA.

9. This Section B complies with the requirements of Chapter 82, including Sections 82.5 and 82.7 and the requirements of Chapter 83 related to construction work.

C. Workforce Job Readiness and Training Funds.

Vertical Developers, on behalf of the Project, shall contribute to OEWD $1,000,000 (One Million Dollars) to support workforce job readiness and training ("Workforce Job Readiness and Training Funds") for allocation to OEWD's CityBuild and First Source Hiring programs and qualified local community based organizations. Such funds shall be paid to OEWD, and used as provided below, over the course of the Project on a Development Parcel by Development Parcel basis in eleven equal installments. Each equal installment shall be paid by a Vertical Developer at issuance of site permit for the development of Vertical Improvements upon a Development Parcel, except for the development of the parking garage parcel, pursuant to a Vertical DDA.

Priority for OEWD's use and allocation of Workforce Job Readiness and Training Funds shall be to organizations that have backgrounds in workforce readiness and training, an established program with a demonstrated history of performing workforce readiness and training and an existing track record of working in economically disadvantaged communities within San Francisco, including, but not limited to the Bayview/Hunters Point, Chinatown, Mission, South of Market, Tenderloin, Visitacion Valley and Western Addition neighborhoods.

1. **Community Based Organizations**: $500,000 (Five Hundred Thousand Dollars) of the Workforce Job Readiness and Training Funds shall be dedicated to funding community-based organizations that provide services which seek to: reduce barriers to employment for individuals within at-risk populations (the "**Barrier Removal Funds**"); and/or provide job readiness and training ("**Job Readiness Training Funds**") (together, the "**CBO Funds**"). OEWD shall allocate the CBO Funds to qualified local community based organizations based on a competitive process, and distribute the CBO Funds during the construction and operation of the Project until exhausted. The funds will be primarily targeted to support Bayview/Hunters Point, Chinatown, Mission, South of Market, Tenderloin, Visitacion Valley and Western Addition neighborhood residents and residents of surrounding areas. OEWD shall prioritize allocating funds to organizations that have a background in workforce readiness and training, an established program with a demonstrated history of performing workforce readiness and training and an

existing track record of working in economically disadvantaged communities. OEWD shall use good faith efforts to promptly initiate and complete the competitive process and begin distribution of the Barrier Removal Funds within one hundred and eighty (180) days after OEWD's initial receipt of such funds, but in a manner that ensures the resulting programs and services will correspond directly to preparing participants for the jobs created by the project.

i. CBO Funds. OEWD shall allocate a portion of the CBO Funds to support the delivery of services to assist individuals within at-risk populations, including low-income youth and adults with histories of incarceration, homelessness, substance abuse or other factors that may create barriers to employment, with reducing barriers to employment and/or providing job readiness and training. The CBO Funds shall fund programs that provide case management, supportive services (i.e. union dues, tools, uniform/boots), life skills training, basic education, barrier removal (including assistance with attaining a GED or driver's license, if applicable), wrap-around social services, job training, job placement or retention services with a goal of allowing participants to become CityBuild or First Source Hire-ready.

2. **OEWD**: $500,000 (Five Hundred Thousand Dollars) of the Workforce Job Readiness and Training Funds shall be dedicated to OEWD's programs that train economically disadvantaged adults, workers and local residents in the fields of construction, end use operations and hospitality (the "**OEWD Funds**"). OEWD shall identify and partner with local community-based organizations to promote the programs and identify and recruit program participants. OEWD shall allocate the funds throughout the construction and operation of the Project until exhausted. The resources shall be primarily targeted to support and prepare individuals in the Bayview/Hunters Point, Chinatown, Mission, South of Market, Tenderloin, Visitacion Valley and Western Addition and surrounding areas for construction and operation jobs at the Project. OEWD shall partner with organizations that have a background in workforce readiness and training, an established program with a demonstrated history of performing workforce readiness and training and an existing track record of working in economically disadvantaged communities. OEWD shall use good faith efforts to promptly begin distribution of the OEWD Funds within one hundred eighty (180) days after OEWD's initial receipt of such funds, but in a manner that ensures the resulting programs and services will correspond directly to preparing participants for the jobs created by the project.

i. Operations Training Resources. OEWD, in its discretion, shall dedicate a portion of the OEWD Funds to support programs that provide end use operations job training programs for economically disadvantaged adults, including individuals designated as a targeted population by the San Francisco Workforce Development Board, as an individual who is, or is at risk of, relying upon, or returning to, public assistance, including unemployment benefits, formerly incarcerated, homeless, veterans, out-of-school youth, pregnant or parenting teens, youth in the juvenile justice or foster care systems, people with disabilities, limited English populations, dislocated workers, or residents of public housing (the "**Operations Training Resources Funds**"). OEWD shall allocate Operations Training Resources Funds to programs performing vocational training in the retail, food service, janitorial, landscaping, facilities/open space operations and maintenance employment sectors. The intended use of the Operations Training Resources Funds is to provide additional training tailored towards future employment opportunities at the Project. The programs may also include working with potential

employers regarding any necessary accommodations or additional training, and ongoing support following job placement.

ii. Construction Training Resources. OEWD, in its discretion, shall dedicate a portion of the OEWD Funds to support programs that train disadvantaged workers and local residents in the field of construction work (the "**Construction Training Resources**"). OEWD shall allocate the Construction Training Resources Funds to programs such as the CityBuild Academy, an 18-week pre-apprenticeship training program that prepares citywide residents for entry into the trades, the Construction Administration & Professional Service Academy, an 18-week program offered at City College of San Francisco that prepares San Francisco residents for entry-level careers as professional construction office administrators, or the CityBuild Women's Mentorship Program, a volunteer program that connects women construction leaders with experienced professional and mentors.

iii. Pile Driving Training Program. OEWD, in its discretion, shall dedicate a portion of the OEWD Funds to support the development and implementation of a pile driving training program for disadvantaged workers and local residents, including individuals that have formerly been incarcerated or are experiencing homelessness (the "**Pile Driver Training Funds**"). The Pile Driving Training Funds shall be managed and implemented by OEWD in conjunction with local unions and community-based organizations. The programs may also include working with potential employers regarding any necessary accommodations or training, and ongoing support following job placement. The Pile Driving Training Program will address the shortage of skilled pile drivers in San Francisco and will augment the pipeline of skilled workers by providing specific training in a high-demand trade. By providing training in a high-demand trade, the program will help to ensure that more local residents are equipped with the education and skills necessary to be successful in the construction industry, thereby supporting local economic empowerment and upward mobility.

3. Accounting. Developer shall have no right to challenge the appropriateness of or the amount of any expenditure, so long as it is used in accordance with the provisions of this Exhibit b^-A. The Workforce Job Readiness and Training Funds may be commingled with other funds of the City for purposes of investment and safekeeping, but the City shall maintain records as part of the City's accounting system to account for all the expenditures for a period of four (4) years following the date of the expenditure, and make such records available upon Developer's request.

4. In the event individuals trained by the programs supported by the Workforce Job Readiness and Training Funds are hired to perform work at the Project, Developer may receive credit toward First Source and Local Hire obligations under San Francisco Administrative Code Chapters 82 and 83, as mutually determined with OEWD.

5. Board Authorization. Any interest earned on the Workforce Job Readiness and Training Funds shall remain in designated accounts for use by OEWD for workforce readiness and training consistent with this Exhibit B6-A and shall not be transferred to the City's general fund.

City and County of San Francisco First Source Hiring Program

Office of Economic and
Workforce
Development
Workforce
Development Division

London N. Breed, Mayor

Attachment A: First Source Hiring Agreement

**For Operations and
Preconstruction Services**

This First Source Hiring Agreement (this "FSHA Agreement"), is made as of , by and between **[(the "Lessee"/ "Service Provider"/ "Professional Service Provider")]**, and the Office of Economic and Workforce Development, ("OEWD"), collectively the "Parties":

RECITALS

[**Use for Lessee -** WHEREAS, [Lessee has plans to occupy a portion of the Vertical Improvement at [Address] (the "Premises") which requires a First Source Hiring Agreement with OEWD because the Premises is subject to a property contract between [Developer/Vertical Developer] and the City acting through the San Francisco Port Commission;

WHEREAS, the [Developer/Vertical Developer] was required to provide notice in leases, subleases and other, occupancy contracts for use of the Premises; and

WHEREAS, as a material part of the consideration given by Lessee under such contract, Lessee has agreed to execute this FSHA Agreement and participate in the First Source Hiring Program managed by OEWD as established by the City and County of San Francisco pursuant to Chapter 83 of the San Francisco Administrative Code ("Chapter 83"), as modified herein;]

[**Use for Service Providers contracts -** WHEREAS, [Service Provider has plans to provide [___] services to the [Horizontal Improvement/ Vertical Improvement] at [Address] (the "Premises") which requires a First Source Hiring Agreement with OEWD because the Premises is subject to a property contract between [Developer/Vertical Developer] and the City acting through the San Francisco Port Commission;

WHEREAS, the [Developer/Vertical Developer] was required to provide notice in janitorial, security, landscape, or operations and maintenance contracts that provide services to the Premises; and

WHEREAS, as a material part of the consideration given by Service Provider under such contract, Service Provider has agreed to execute this FSHA Agreement and participate in the First Source Hiring Program managed by OEWD as established by the City and County of San Francisco pursuant to Chapter 83 of the San Francisco Administrative Code ("Chapter 83");]

[**Use for Professional Service Providers contracts -** WHEREAS, [Professional Service Provider has plans to provide [___] services to the [Horizontal Improvement/ Vertical Improvement] at [Address] (the "Premises") which requires a First Source Hiring Agreement with OEWD because the Premises is subject to a property contract between [Developer/Vertical Developer] and the City acting through the San Francisco Port Commission;

WHEREAS, the [Developer/Vertical Developer] was required to provide notice in architectural or engineering contracts that provide services to the Premises; and

WHEREAS, as a material part of the consideration given by Professional Service Providers under such contract, Professional Service Providers has agreed to execute this FSHA Agreement and participate in the First Source Hiring Program managed by OEWD as established by the City and County of San Francisco pursuant to Chapter 83 of the San Francisco Administrative Code ("Chapter 83");]

[**Use for [Developer/Vertical Developer] operations of Vertical Improvement -** WHEREAS, Lessee has plans to operate the building at [Address] (the "Premises") which required a First Source Hiring Agreement between Lessee and FSHA because the Premises is subject to a property contract between Lessee and the City acting through the San Francisco Port Commission; and

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

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

1. DEFINITIONS

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

a. "Entry Level Position" shall mean any non-managerial position that requires no education above a high school diploma or certified equivalency, and less than two (2) years training or specific preparation, and shall include temporary, permanent, trainee and intern positions

b. "Contract" shall mean: (a) any commercial lease or other commercial occupancy agreement with respect to the Vertical Improvement; and (b) any contract for janitorial, security, landscape, or operations and maintenance services performed at the Horizontal Improvement or Vertical Improvement.

c. "DA" means that certain Development Agreement between Developer and the City and County of San Francisco, acting by and through the San Francisco Port Commission with respect to the Project Site.

d. "DDA" means that certain Disposition and Development Agreement between Developer and the City and County of San Francisco, acting by and through the San Francisco Port Commission with respect to the Project Site.

e. "Developer" has the meaning set forth in the DDA, including any successor during the term of this FSHA Agreement.

f. "Horizontal Improvement" has the meaning set forth in the DDA.

g. "Lessee" includes every commercial tenant, subtenant, or any other entity occupying a Vertical Improvement for the intent of doing business in the City and County of San Francisco and possessing a Business Registration Certificate with the Office of Treasurer required to enter into a First Source Hiring Agreement as defined in Chapter 83, provided, however, that in no event shall the meaning of Lessee include a commercial tenant, subtenant, or any other entity occupying less than 5,000 square feet in floor area within the Vertical Improvement.

h. "OEWD Resume Database" shall mean the web portal administered by OEWD that connects Lessees, Service Providers and Professional Service Providers with qualified job seekers. The web portal is a free recruiting service to all Lessees, Service Providers and Professional Service Providers and is to be used by the Lessees, Service Providers and Professional Service Providers as part of their FSHA Agreement.

i. "Professional Service Contract" shall mean any contract for architectural or engineering services performed with respect to a Horizontal Improvement or Vertical Improvement, except for contracts for architectural or engineering services related to the construction of any tenant improvements within a leased premises comprised of less than 15,000 square feet in floor area within a Vertical Improvement.

j. "Professional Service Provider" shall mean any person(s), firm, partnership, corporation, government agency, nonprofit or combination thereof, who owns or operates a commercial business that enters into a Contract to perform architectural or engineering services with respect the Horizontal Improvement or Vertical Improvement, provided, however, that no professional services firm performing work through a contract valued at less than $500,000 shall have an obligation to enter into this First Source Hiring Agreement.

k. "Project Site" shall mean the area consisting of an approximately 16-acre parcel located south of Mission Creek/China Basin Channel, bordered by Third Street on the west, Mission Rock Street on the south, and Terry Francois Boulevard on the east, as reconfigured in accordance with AB 2797.

l. "Service Provider" shall mean any person(s), firm, partnership, corporation, government agency, nonprofit or combination thereof, who owns or operates a commercial business that enters into a Contract to perform janitorial, security,

landscape, or operations and maintenance with respect the Horizontal Improvement or Vertical Improvement.

m. "Referral" shall mean a qualified job seeker identified by OEWD as having the appropriate training, background and skill sets for a [Lessee/ Service Provider] specified Entry Level Position.

n. "Vertical Developer" shall mean [*insert name of applicable Vertical Developer]*, including any successor during the term of a FSHA Operations Agreement.

o. "Vertical Improvement" has the meaning set forth in the DDA.

2. LESSEE AND SERVICE PROVIDER OEWD WORKFORCE PARTICIPATION

a. Lessee or Service Provider, as applicable, shall contact OEWD's Business Services team to provide headcount projections for Entry Level Positions and register with the OEWD Resume Database upon execution of its Contract.

b. Lessee or Service Provider, as applicable, shall notify OEWD's Business Team of every available Entry Level Position by posting job openings for Entry Level Positions on the OEWD Resume Database. Lessee or Service Provider, as applicable, shall provide OEWD a period of time to recruit and refer qualified candidates prior to advertising such position to the general public, starting on the date that the Lessee or Service Provider, as applicable, posts the job opening on the OEWD Resume Database, and ending on the earlier of: (i) 10 business days; or (ii) the date upon which such Lessee or Provider has received OEWD's list of Referrals and has considered such Referrals for the available Entry Level Position in good faith, subject to Section 5 below. OEWD shall develop a pipeline of potential candidates and shall develop a staffing and implementation plan that is generally designed to allow OEWD to provide Lessee or Service Provider, as applicable, with its list of Referrals within 3 business days after such Lessee or Service Provider has posted a job opening. In the event the OEWD Resume Database is inaccessible, Lessee or Service Provider, as applicable, shall contact OEWD directly regarding their FSHA obligations by emailing Business.Services@sfgov.org, or other email address as may be mutually agreed upon by Professional Service Provider's single point of contact and OEWD, and submitting Attachment A-1.

c. Lessee or Service Provider, as applicable, shall consider and screen all Referrals that meet the minimum qualifications of a Lessee's or Service Provider's, as applicable, job opening and shall use the OEWD Resume Database to provide feedback regarding Referrals that were screened, interviewed and hired. Hiring decisions shall be entirely at the discretion of Lessee or Service Provider, as applicable.

3. LESSEE AND SERVICE PROVIDER GOOD FAITH EFFORT TO COMPLY WITH ITS OBLIGATIONS HEREUNDER

Lessee or Service Provider, as applicable, will make good faith efforts to comply with its obligations under this FSHA Agreement. Determination of good faith efforts shall be based on all of the following:

a. Lessee or Service Provider, as applicable, shall execute this FSHA Agreement and Attachment A-1 upon entering into Contracts. Lessee or Service Provider will also accurately complete and submit Attachment A-1 annually to reflect employment conditions.

b. Lessee or Service Provider, as applicable, shall register with the OEWD Resume Database. Lessee or Service Provider, as applicable, using a resume database not associated with OEWD will not be considered towards the requirements of the FSHA Agreement.

c. Lessee or Service Provider, as applicable, shall provide OEWD a period of time to recruit and refer qualified candidates prior to advertising such position to the general public, starting on the date that the Lessee or Service Provider, as applicable, posts the job opening on the OEWD Resume Database, and ending on the earlier of: (i) 10 business days; or (ii) the date upon which such Lessee or Provider has received OEWD's list of Referrals and has considered such Referrals for the available Entry Level Position in good faith, subject to Section 5 below. Lessee or Service Provider, as applicable, must identify a single point of contact responsible for communicating Entry Level Positions and take active steps to ensure continuous communication with OEWD's Business Services Team. Lessee or Service Provider, as applicable, shall use the OEWD Resume Database to provide feedback regarding Referrals that were screened, interviewed and hired.

4. PROFESSIONAL SERVICES - ARCHITECTURAL AND ENGINEERING SERVICE PROVIDERS

a. This section incorporates additional requirements for Professional Service Providers performing architectural or engineering services. Professional Service Providers obligations relate only to preconstruction work and shall terminate upon the completion of the Professional Service Provider's Professional Service Contract.

b. Participation.

i. Professional Service Provider shall contact OEWD's Business Services team to provide headcount projections for Entry Level Positions and register with the OEWD Resume Database upon execution of its Professional Services Contract.

ii. Professional Service Provider shall notify OEWD's Business Team of every available Entry Level Position by posting job openings for Entry Level Positions on the OEWD Resume Database. Professional Service Provider shall provide OEWD a period of time

to recruit and refer qualified candidates prior to advertising such position to the general public, starting on the date that the Lessee or Service Provider, as applicable, posts the job opening on the OEWD Resume Database, and ending on the earlier of: (i) 10 business days; or (ii) the date upon which such Lessee or Provider has received OEWD's list of Referrals and has considered such Referrals for the available Entry Level Position in good faith, subject to Section 5 below. In the event the OEWD Resume Database is inaccessible, Professional Service Provider shall contact OEWD directly regarding their FSHA obligations and submit Attachment A-1.

iii. Professional Service Provider shall consider and screen all Referrals that meet the minimum qualifications of a Professional Service Provider's, as applicable, job opening and shall use the OEWD Resume Database to provide feedback regarding Referrals that were screened, interviewed and hired. Hiring decisions shall be entirely at the discretion of Professional Service Provider.

iv. Within 30 days of executing a Professional Services Contract, Professional Service Provider will email OEWD and schedule to meet with staff from the First Source Hiring Program. At the meeting, the Professional Service Provider will provide information on new and available Entry Level Positions, anticipated job opening projections, start dates and rate of pay.

c. Good Faith Compliance.

Compliance with the requirements of subsections i through iv below shall demonstrate Professional Service Provider's good faith compliance with its obligations under this FSHA Agreement.

i. Over the life of the Contract, Professional Service Provider shall make good faith efforts to hire Referrals from the First Source Hiring Program to fulfill new and available Entry Level Positions. Professional Service Provider may decline to hire a Referral if the Contractor considers the Referral in good faith and deems the Referral is not qualified. The final decision to hire a Referral shall be made by the Professional Service Provider.

ii. Professional Service Provider, as applicable, shall execute this FSHA Agreement and Attachment A-1 upon entering into Professional Service Contracts. Professional Service Provider will also accurately complete and submit Attachment A-1 annually to reflect employment conditions.

iii. Professional Service Provider shall register with the OEWD Resume Database. Professional Service Provider using a resume database not associated with OEWD will not be considered towards the requirements of the FSHA Agreement.

iv. Professional Service Provider shall notify OEWD's Business Services Team of all available Entry Level Positions by posting job openings for Entry Level Positions on the OEWD Resume Database. Professional Service Provider shall provide OEWD a period of time to recruit and refer qualified candidates prior to advertising such position to the general public, starting on the date that the Lessee or Service Provider, as applicable, posts the job opening on the OEWD Resume Database, and ending on the earlier of: (i) 10 business days; or (ii) the date upon which such Lessee or Provider has received OEWD's list of Referrals and

has considered such Referrals for the available Entry Level Position in good faith, subject to Section 5 below. OEWD shall develop a pipeline of potential candidates and shall develop a staffing and implementation plan that is generally designed to allow OEWD to provide Lessee or Service Provider, as applicable, with its list of Referrals within 3 business days after such Lessee or Service Provider has posted a job opening. Professional Service Provider must identify a single point of contact responsible for communicating Entry Level Positions and take active steps to ensure continuous communication with OEWD's Business Services Team. Professional Service Provider shall use the OEWD Resume Database to provide feedback regarding Referrals that were screened, interviewed and hired. In the event the OEWD Resume Database is inaccessible, Professional Service Provider shall contact OEWD directly regarding their FSHA obligations by emailing Business.Services@sfgov.org, or other email address as may be mutually agreed upon by Professional Service Provider's single point of contact and OEWD, and submitting Attachment A-1.

d. OEWD Requirements. OEWD's Referrals to such Professional Service Provider s shall be economically disadvantaged workers identified by OEWD that either: (a) graduated from OEWD's Entry Level Professional Services Training Program; or (b) have the appropriate training, employment background and skill set for any new and available Entry Level Position specified by the Professional Service Provider.

5. COMPLIANCE AND ENFORCEMENT

a. Compliance with the operational goals of Chapter 83 shall be determined on an individual Contract basis and compliance with the voluntary professional service goals within this FSHA Agreement shall be determined on an individual Professional Service Contract basis.

b. Lessee's, Service Provider's or Professional Service Provider's failure to meet the criteria set forth in Section 3 or 4 above, as applicable, does not impute "bad faith", but shall trigger a review of the Referral process and compliance with this FSHA Agreement. Failure and noncompliance with this FSHA Agreement may result in penalties as defined in Chapter 83, provided, however, that Lessee, Service Provider or Professional Service Provider shall be provided notice and a reasonable opportunity to cure such noncompliance prior to the assessment of any penalties. Lessee or Service Provider, as applicable, agrees to review SF Chapter 83, and execution of the FSHA Agreement denotes that Lessee or Service Provider agrees to its terms and conditions. OEWD agrees and acknowledges that Professional Service Provider's obligations hereunder are opted into voluntarily and such obligations are not based on the requirements of Chapter 83.

c. Notwithstanding anything to the contrary herein, nothing in this FSHA Agreement precludes Lessees, Service Providers or Professional Service Providers from immediately advertising and filling an Entry Level Position that performs essential functions of its operation prior to notifying OEWD provided, however, the obligations of this FSHA Agreement to make good faith efforts to fill such vacancies permanently with Referrals remains in effect. For these

purposes, "essential functions" means those functions necessary to remain open for business. If Lessee, Service Provider or Professional Service Provider has an immediate need to fill an Entry Level Position that perform essential functions, Lessee, Service Provider or Professional Service Provider shall provide OEWD notice of such position, and the fact that there is an immediate need to fill such position, on or before the date such position is advertised to the general public.

d. Nothing in this FSHA Agreement shall be interpreted to prohibit the continuation of existing collective bargaining agreements or existing employment policies, including, but not limited to, advertising job openings to existing employees. In the event of a conflict between this FSHA Agreement and an existing collective bargaining agreement, the terms of the existing agreement shall supersede this FSHA Agreement.

6. FSHA AGREEMENT DURATION

a. Lessees and Service Providers: This FSHA Agreement shall be in full force and effect up to 10 years from the date of the temporary certificate of occupancy of the Vertical Improvement or the earlier termination of Lessee's Contract with regard to Lessee and 10 years from the date of substantial completion of the Horizontal Improvement or the earlier termination of Service Provider's Contract with regard to Services Provider. Upon termination of this FSHA Agreement, the Project will be subject to Existing City Laws, as defined in the DA, including the applicable requirements of Chapter 83.

b. Professional Service Providers: This FSHA Agreement shall be in full force and effect up to the completion of a Professional Service Contract or the earlier termination of such Professional Service Contract.

7. NOTICE

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

If to OEWD:

ATTN:

If to Lessee:

ATTN:

If to Service Provider:

ATTN:

If to Professional Service Provider:

ATTN:

If to Port

ATTN:

If to Developer:

ATTN:

If to Vertical Developer:

ATTN:

8. ENTIRE AGREEMENT

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

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

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

Date: _____ Signature: _____

Name of Authorized Signer: _____

Company: _____

Address: _____

Phone: _____

Email: _____

Attachment A-1 Employer Services Form

The First Source Hiring Program is administered by the Office of Economic and Workforce Development *(OEWD)* and provides recruiting services at no cost to the employer. To find out how we can support your hiring needs, please visit our website at www.oewd.org/workforce.

Instructions: Please complete this form and email to Business.Services@sfgov.org

Step 1: Employer Info

Employer Name: _____

Contact Name: _____ Phone: _____

Job Title: _____ Email: _____

Step 2: Check all that apply to your business

☐ Auto Repair	☐ Entertainment	☐ Personal Services
☐ Business Services	☐ Elder Care	☐ Professionals
☐ Consulting	☐ Financial Services	☐ Real Estate
☐ Construction	☐ Healthcare	☐ Retail
☐ Government Contract	☐ Insurance	☐ Security
☐ Education	☐ Manufacturing	☐ Wholesale
☐ Food and Drink	☐ Operations & Maintenance	☐ Janitorial
☐ Landscape	☐ Technology	☐ I don't see my industry *(Please Describe)*

Step 3: Tell me about your Entry Level Positions

Job Title	Number of Job Openings	Projected Start Date

Done! Thank you for taking the time to complete the form.

Please email to Business.Services@sfgov.org and a representative will follow up on how we can best support your hiring needs.

Office of Economic and Workforce Development
1 South Van Ness Avenue, 5th Floor, San Francisco, CA 94103
Tel: 415-701-4848 Fax: 415-701-4897
Email : Business.Services@sfgov.org Website: www.oewd.org/workforce

Attachment B: Local Hiring Agreement

This Local Hiring Agreement ("Local Hiring Agreement") is made as of , by and between , the San Francisco Office of Economic and Workforce Development, (the "OEWD"), and the undersigned contractor ("Contractor"):

RECITALS

WHEREAS, Contractor has executed or will execute an agreement (the "Contract") to construct or oversee a portion of the Project to construct **[Horizontal Improvements, including [specify improvements]]** OR **[Vertical Improvements, including [specify improvements]]** ("Construction Work") at , Lots in Assessor's Block , San Francisco California ("Site"), and a copy of this Local Hiring Agreement is attached as an exhibit to, and incorporated in, the Contract; and

WHEREAS, as a material part of the consideration given by Contractor under the Contract, Contractor has agreed to execute this Local Hiring Agreement and comply with the local hiring requirements established by the City and County of San Francisco, pursuant to Chapter 82 of the San Francisco Administrative Code ("Chapter 82"), as further modified herein;

WHEREAS, the provisions of the San Francisco Local Hiring Policy for Construction (the "Policy") as set forth in Chapter 82, as modified herein, are hereby incorporated as a material term of the Contract. Where used in this Attachment B, "Policy" shall include the modifications herein.

WHEREAS, Contractor agrees that (i) Contractor shall comply with all applicable requirements of the Policy; (ii) the provisions of this Local Hiring Agreement are reasonable and achievable by Contractor and its Subcontractors; and (iii) they have had a full and fair opportunity to review and understand the terms of the Policy.

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

1.1 SUMMARY

A. This Local Hiring Agreement incorporates applicable requirements consistent with the Policy as set forth in Chapter 82. The provisions of the Policy are hereby incorporated as a material term of the DDA. Contractor agrees that (i) Contractor shall comply with all applicable requirements of the Policy; (ii) the provisions of the Policy are reasonable and achievable by Contractor and its Subcontractors; and (iii) they have had a full and fair opportunity to review and understand the terms of the Policy.

B. OEWD is responsible for administering the Policy and will be administering the applicable requirements for the Contract. For more information on the Policy and its implementation, please visit the OEWD website at: www.workforcedevelopmentsf.org.

C. Capitalized terms not defined herein shall have the meanings ascribed to them in the DDA.

1.2 DEFINITIONS

A. "Apprentice" means any worker who is indentured in a construction apprenticeship program that maintains current registration with the State of California's Division of Apprenticeship Standards.

B. "Area Median Income (AMI)" means unadjusted median income levels derived from the Department of Housing and Urban Development ("HUD") on an annual basis for the San Francisco area, adjusted solely for household size, but not high housing cost area.

C. "Construction Work" means: (i) in the case of Horizontal Improvements, the construction of all Horizontal Improvements required or permitted to be made to the Project Site during a Phase and to be carried out by Developer under the DDA; or (ii) in the case of Vertical Improvements, the construction of a Vertical Improvement to be carried out by a Vertical Developer on a Development Parcel pursuant to an applicable Vertical DDA and Parcel Lease and all tenant improvements therein, except for the construction of any tenant improvements within a leased premises comprised of less than 15,000 square feet in floor area.

D. "Construction Work Hours" means the total onsite work hours worked on a construction contract for a Construction Work by all apprentices and journey-level workers, whether those workers are employed by the Contractor or any Subcontractor.

E. "Contractor" means a prime contractor, general contractor, or construction manager contracted by Developer or aVertical Developer who performs Construction Work on the Project.

F. "DDA" means that certain Disposition and Development Agreement between Developer and the City and County of San Francisco, acting by and through the San Francisco Port Commission.

G. "Disadvantaged Worker" means a local resident, who (i) resides in a census tract within the City with a rate of unemployment in excess of 150% of the City unemployment rate; or (ii) at the time of commencing work on a covered project has a household income of less than 80% of the AMI, or (iii) faces or has overcome at least one of the following barriers to employment: being homeless; being a custodial single parent; receiving public assistance; lacking a GED or high school diploma; participating in a vocational English as a second language program; or having a criminal record or other involvement with the criminal justice system.

H. "Developer" has the meaning set forth in the DDA, including any successor during the term of this Local Hiring Agreement.

I. "Development Parcel" has the meaning set forth in the DDA.

J. "Excess Credit Hours" shall mean the number of Construction Work Hours performed within a trade by Local Residents or Apprentices, as applicable, on a Construction Work that exceed the obligations set forth in Section 1.3.

K. "Horizontal Improvement" has the meaning set forth in the DDA.

L. "Job Notification" means the written notice of any Hiring Opportunities from Contractor to CityBuild. Contractor shall provide Job Notifications to CityBuild with a minimum of 3 business days' notice.

M. "Local Resident" means an individual who is domiciled, as defined by Section 349(b) of the California Election Code, within the City at least seven (7) days prior to commencing work on a portion of the Project.

N. "Non-Covered Construction Work" means any construction work not covered by the San Francisco Local Hiring Policy and the construction of any tenant improvements within a leased premises comprised of less than 15,000 square feet in floor area.

O. "Parcel Lease" has the meaning set forth in the DDA.

P. "Phase" has the meaning set forth in the DDA.

Q. "Project Site" has the meaning set forth in the DDA.

R. "Specialized Trades" means a list of trades designated as "Specialized Trades" published by OEWD for which the local hiring requirements of the Policy will not apply.

S. "Targeted Worker" means any Local Resident or Disadvantaged Worker.

T. "Vertical DDA" has the meaning set forth in the DDA.

U. "Vertical Developer" has the meaning set forth in the DDA.

V. "Vertical Improvement" has the meaning set forth in the DDA.

1.3 LOCAL HIRING PARTICIPATION

A. The Contractor will work with OEWD's CityBuild Program to achieve the following employment participation levels for all Construction Work:

1. Total Construction Work Hours By Trade. For all contracts for Construction Work, the mandatory participation level in terms of Construction Work Hours within each trade to be performed by Local Residents is 30%, with a goal, which is not mandatory under this

agreement, of no less than 15% of Construction Work Hours within each trade to be performed by Disadvantaged Workers.

2. Apprentices. For all Construction Work, at least 30% of the Construction Work Hours performed by apprentices within each trade is required to be performed by local residents. OEWD has a goal of 50%, which is not mandatory under this agreement, and OEWD will work with contractors to look for feasible opportunities by trade to achieve the 50% goal. Where the candidate pool at a given time includes both apprentices referred by CityBuild and other apprentices, Contractors, shall undertake reasonable efforts to interview the apprentices referred by CityBuild first. This Local Hiring Agreement also establishes a goal, which is not mandatory under this agreement, of no less than 15% of Construction Work Hours performed by apprentices within each trade to be performed by Disadvantaged Workers.

3. Out-of-State Workers. For all Construction Works, Construction Work Hours performed by residents of states other than California will not be considered in calculation of the number of Construction Work Hours to which the local hiring requirements apply. Contractors and Subcontractors shall report to OEWD the number of Construction Work Hours performed by residents of states other than California.

B. Pre-construction or other Local Hire Meeting. Prior to commencement of construction on Construction Works, Contractor and its Subcontractors whom have been engaged by contract and, identified in the forms required under Section 1.6 below as contributing toward the mandatory local hiring requirement, shall attend a preconstruction or other Local Hire meeting convened by OEWD staff. Representatives from Contractor and the Subcontractor(s) who attend such pre-construction or other Local Hire meeting will have hiring authority. OEWD shall approve applicable Construction Work-specific Specialized Trade exemptions, in addition to the list of trades designated by OEWD as Specialized Trades in accordance with the Section 82.5 of the Policy, during such meeting. Contractor and its Subcontractors who are engaged after the commencement of construction shall attend a future preconstruction meeting or meetings as mutually agreed by Contractor and OEWD staff.

C. The Policy does not limit Contractor's or its Subcontractors' ability to assess qualifications of prospective workers, and to make final hiring and retention decisions. In no event shall hiring preferences required hereunder prevent Contractor's or its Subcontractors' ability to comply with applicable labor agreements or union dispatch procedures. No provision of the Policy shall be interpreted so as to require a Contractor or Subcontractor to employ a worker not qualified for the position in question, or to employ any particular worker.

D. Tenant Improvements. All future tenant improvements performed within a Construction Work subsequent to any initial tenant improvements within such

Construction Work ("Subsequent Tenant Improvements") shall not be subject to the mandatory participation levels set forth in subsection A above. With respect to Subsequent Tenant Improvements, Contractor or Subscontractor, as applicable, are required only to make good faith efforts to hire Local Residents and Disadvantaged Workers to perform construction work for Subsequent Tenant Improvements. Good faith efforts shall include Contractor's or Subconstractor's, as applicable, attendance at a pre-construction or other Local Hire meeting, requesting to connect with potential workers through Citybuild, considering Targeted Workers provided by CityBuild and submitting Local Hiring Forms 1 and 2.

1.4 COMPLIANCE WITH PARTICIPATION OBLIGATIONS CITYBUILD WORKFORCE DEVELOPMENT PROGRAM: EMPLOYMENT NETWORKING SERVICES

A. OEWD administers the CityBuild Program. CityBuild shall be the primary resource for Contractor and Subcontractors to use to meet Contractor's local hiring requirements under the Policy. CityBuild has two main goals:

1. Assist with local hiring requirements under the Policy by connecting Contractor and Subcontractors with qualified journey-level, apprentice, and pre-apprentice local residents.

2. Promote training and employment opportunities for disadvantaged workers of all ethnic backgrounds and genders in the construction work force.

B. Where Contractor's or its Subcontractors' preferred or preexisting hiring or staffing procedures or labor agreements for a Construction Work do not enable Contractor to satisfy the local hiring requirements of the Policy, the Contractor or Subcontractor shall use other procedures to identify and retain Targeted Workers, including the following:

1. Requesting to connect with workers through CityBuild, with qualifications described in the request limited to skills directly related to performance of job duties.

2. Considering Targeted Workers networked through CityBuild within three business days of the request and who meet the qualifications described in the request. Such consideration may include in-person interviews. All workers networked through CityBuild will qualify as Disadvantaged Workers under the Policy. Neither Contractor nor its Subcontractors are required to make an independent determination of whether any worker is "disadvantaged" as defined in the Policy.

C. **Basis of Compliance**:

1. With regard to Horizontal Improvements, OEWD shall determine compliance with this Agreement for each trade on a Phase by Phase basis. OEWD shall measure compliance by dividing the number of Construction Work Hours performed by Local Residents or Apprentices, as applicable, within a trade by the total number of Construction Work Hours performed within the same trade on the Horizontal Improvements within a Phase. In lieu of a Phase by Phase basis, Developer may determine that it can best achieve compliance with this Local Hire Agreement on a Project-wide basis, and may elect to comply on a Project-wide basis by delivering notice to OEWD and the Port of such election during the submission of the penultimate Phase Submittal. After such election, compliance shall be established upon the completion of the Project. In each case, once compliance is established, any Excess Credit Hours shall be confirmed by OEWD and shall be available for Developer, provided developer remains a Giants Affiliate, as defined in the DDA, to use to offset shortfalls in the same trade elsewhere on the Project Site, provided, however that Excess Credits may only be transferred to Horizontal Improvements that complied with the procedures set forth in Sections 1.3B, 1.4B and 1.6 and at completion are still short of attaining the particiapation levels set forth in Section 1.3A.

2. With regard to Vertical Improvements,OEWD shall determine compliance with this Agreement for each trade on an individual Vertical Improvement basis. OEWD shall measure compliance by dividing the number of Construction Work Hours performed by Local Residents or Apprentices, as applicable, within a trade by the total number of Construction Work Hours performed within the same on the Vertical Improvement. In lieu of an individual Vertical Improvement basis, Developer may determine that it can best achieve compliance with this Local Hire Agreement on a Phase by Phase basis, and may elect to comply on a Phase by Phase basis by delivering notice to OEWD and the Port of such election during the submission of a Phase Submittal. After such election, compliance shall be established upon the completion of the Phase, as applicable. In each case, once compliance is established, any Excess Credit Hours shall be confirmed by OEWD and shall be available to the Vertical Developer of the Vertical Improvement that generated such Excess Credit Hours, to transfer to another Vertical Developer, provided that such Vertical Developer is a Giants Affiliate, as defined in the DDA, to offset shortfalls in the same trade on a Vertical Improvements elsewhere on the Project Site, provided, however that Excess Credits may only be transferred to Vertical Improvements that complied with the procedures set forth in Sections 1.3B, 1.4B and 1.6 and at completion are still short of attaining the particiapation levels set forth in Section 1.3A.

1.5 WAIVER FROM LOCAL HIRING REQUIREMENTS

A. Contractor or the Subcontractor may request waivers as follows: (1) Requests for waivers based on Specialized Trades or other non-availability of workers (subsection 1); and (2) other requests for waivers, which may may be considered as conditional waivers by OEWD in its discretion, or based on credit for Non-Covered Construction Work or other construction work specified in subsection 3, and/or participation in the programs described in subsections 4 and 5 below or alternative programs identified by OEWD (subsection 2).

1. Specialized Trades and Other Non-Availability Waivers. Specialized Trades are exempt from local hiring requirements and established in accordance with Section 1.3(B). OEWD shall grant waivers based on a Specialized Trades exemption, provided that (a) the Specialized Trade appears on OEWD's approved list or has been approved as a Construction Work-specific Specialized Trade exemption, and (b) notwithstanding the exemption, Contractor and its Subcontractors have reported to OEWD for its records any Construction Work Hours utilized in each designated Specialized Trade and in each OEWD-approved Construction Work-specific Specialized Trade. As of the date of this Agreement, Specialized Trades include any marine diving, underwater, or marine-related pile-driving work, helicopter pilot, crane operators and oilers, boat, barge, dredge, and/or floating equipment operators, deck engineers, oilers, tunnel/underground work performed by operating engineers and laborers, lineman/cable splicer, stainless steel welders, ironworker connectors and millwrights.

   In addition to Specialized Trades, Contractor or Subcontractor may from time to time seek a waiver based on non-availability of workers in one or more other trades ("Non-availability Waiver"). OEWD may apply any Excess Credit Hours (on a 1:1 basis of Excess Credit Hours to shortfall hours) to address any shortfalls identified with respect to a completed Construction Work that would otherwise be entitled to request a Non-availabilty Waiver under this subsection. At OEWD's discretion, Excess Credit Hours may be allocated anywhere within the Project Site, and to either the same or a different trade. Once Excess Credit Hours are allocated by OEWD such Excess Credit Hours shall no longer be available to Developer elsewhere on the Project Site. OEWD shall grant a Non-Availability Waiver pursuant to this subsection regardless of whether Excess Credit Hours are available to address any shortfall in a trade's Construction Work Hours with respect to a Construction Work, provided that Contractor or Subcontractor has submitted evidence of compliance with the procedures set forth in Sections 1.3B, 1.4B and 1.6.

2. Other Non-Compliance and Corrective Action Plan. In the event Contractor or Subcontractor fails to meet the requirements of Section 1.3 on a basis other than as set forth in subsection 1, OEWD may, in its discretion, negotiate a Corrective Action Plan with the Contractor or Subcontractor. The Corrective Action Plan may include a conditional

waiver that allows the Contractor or Subcontractor to avoid financial penalties. In determining whether to approve the waiver, OEWD may establish alternative means to achieve the participation levels set forth in Section 1.3, including, but not limited to, credit accumulated pursuant to subsection 3 or participation in the programs specified in subsections 4 and 5.

3. Credit for Hiring on Non-Covered Construction Work. Contractor and its Subcontractors may accumulate credit hours for hiring Targeted Workers on Non-Covered Construction Work or on other construction work for which for which the Contractor has exceeded project goals in the nine-county San Francisco Bay Area and apply those credit hours to contracts for Construction Work to meet the mandatory local hiring requirement. For hours performed by Targeted Workers on Non-Covered Construction Work, the hours shall be credited toward the local hiring requirement for the Contract provided that:

   a. the Targeted Workers are paid the prevailing wages or union scale for work on the Non-Covered Construction Work; and

   b. such credit hours shall be committed to by the Contractor on future projects to satisfy any short fall the Contractor may have on a Construction Work. Such commitment shall be in writing by the Contractor, shall extend for a period of time negotiated between the contractor and OEWD, and shall commit to satisfying any assessed penalties should Contractor fail to achieve the required credit hours.

4. Sponsoring Apprentices. Contractor or a Subcontractor may agree to sponsor new apprentices in trades in which noncompliance is likely and retain those apprentices for the period of Contractor's or a Subcontractor's work on the Construction Work, provided that OEWD verifies with the California Department of Industrial Relations that the new apprentices are registered and active apprentices. Contractor will be required to write a sponsorship letter on behalf of the identified candidate to the appropriate Local Union and will make the necessary arrangements with the Union to hire the candidate as soon as s/he is indentured.

5. Direct Entry Agreements. OEWD is authorized to negotiate and enter into direct entry agreements with apprenticeship programs that are registered with the California Department of Industrial Relations' Division of Apprenticeship Standards. Contractor may avoid assessment of penalties for non-compliance with the Policy by Contractor or Subcontractor hiring and retaining apprentices who are enrolled through such direct entry agreements. Contractor may also utilize OEWD-approved organizations with direct entry agreements with Local Unions, such as Helmets to

Hardhats, to hire and retain Targeted Workers. Such exception from assessments of penalties is subject to review and approval by OEWD.

1.6 LOCAL HIRING FORMS

A. The Contractor shall provide CityBuild with information about the Contractor's employment needs under the Contract for each Construction Work by utilizing the City's online Project Reporting System ("PRS"). Contractor shall submit the following forms, as applicable, to OEWD:

1. Form 1: Local Hiring Workforce Projection. This Form 1 shall be initially submitted prior to the start of construction and updated quarterly by the Contractor until all subcontracting is completed.

2. Form 2: Local Hiring Plan. For Construction Works estimated to cost more than $1,000,000, Contractor shall prepare and submit to Contracting City Agency and OEWD for approval a Local Hiring Plan for the Construction Work using OEWD Form 2. Form 2 shall be initially submitted prior to the start of construction and updated quarterly by the Contractor until all subcontracting is completed. Upon commencement of work, Contractor and its Subcontractors may submit Job Notifications to CityBuild to connect with local trades workers.

3. Form 3: Intentionally Omitted.

4. Form 4: Waivers. To be completed by Contractor in the event that Contractor or a Subcontractor believes the local hiring requirements cannot be met. Refer to Articles 1.4 and 1.5 for more information regarding such waivers.

1.7 ENFORCEMENT, RECORD KEEPING, NONCOMPLIANCE AND PENALTIES

A. Subcontractor Compliance. Each Contractor and Subcontractor shall ensure that all Subcontractors agree to comply with applicable requirements of this Local Hiring Agreement. All Subcontractors performing construction work on the Construction Work shall be responsible for complying with the recordkeeping and reporting requirements set forth in this Local Hiring Agreement.

B. Recordkeeping. Contractor and each Subcontractor shall keep, or cause to be kept, for a period of four years from the date of Substantial Completion of the Construction Work, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Construction Work.

1. Such records shall include the name, address and social security number of each worker who worked on the Construction Work, his or her

classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident, and the referral source or method through which the contractor or subcontractor hired or retained that worker for work on the Construction Work (e.g., core workforce, name call, union hiring hall, CityBuild referral source, or recruitment or hiring method).

2. Contractor and Subcontractors may verify that a worker is a Local Resident by following OEWD's domicile policy.

3. All records described in this subsection shall at all times be open to inspection and examination by the duly authorized officers and agents of the City, including representatives of the OEWD.

C. Reporting. Contractor shall submit certified payrolls to the City electronically using the Project Reporting System. OEWD and will monitor compliance with the Policy electronically.

D. Monitoring. From time to time and in its sole discretion, OEWD may monitor and investigate compliance of Contractor and Subcontractors working on a Construction Work with requirements of this Local Hiring Agreement and the Policy. Contractor shall allow representatives of OEWD, in the performance of its duties, to engage in random inspections of a Construction Work. Contractor and all Subcontractors shall also allow representatives of OEWD to have access to employees of Contractor and Subcontractors and the records required to be maintained under this Local Hiring Agreement.

E. Noncompliance and Penalties. Failure of Contractor and/or its Subcontractors to comply with the requirements of this Local Hiring Agreement and the obligations set forth in the Local Hiring Plan may subject Contractor to the consequences of noncompliance, including but not limited to the assessment of penalties if a waiver is not granted. The assessment of penalties for noncompliance shall not preclude the City from exercising any other rights or remedies to which it is entitled.

a. **Penalties Amount.** Any Contractor or Subcontractor who fails to satisfy Local Hiring Requirements of this agreement applicable to Construction Work Hours performed by Local Residents and who does not receive a waiver shall forfeit to the City, and, in the case of any Subcontractor so failing, the Contractor and Subcontractor shall jointly and severally forfeit to the City, an amount equal to the journeyman or Apprentice prevailing wage rate, as applicable, with such wage as established by the Board of Supervisors or the California Department of Industrial Relations under subsection 6.22(e)(3) of the Administrative Code, for the primary trade

used by the Contractor or Subcontractor on the Construction Work for each hour by which the Contractor or Subcontractor fell short of the Local Hiring Requirement. The assessment of penalties under this subsection shall not preclude the City from exercising any other rights or remedies to which it is entitled under this agreement.

b. **Assessment of Penalties.** OEWD shall determine whether a Contractor and/or any Subcontractor has failed to comply with the Local Hire Requirement. If after conducting an investigation, OEWD determines that a violation has occurred, OWED shall provide Contractor or Subcontractor, as applicable, notice of such failure and provide such entity a reasonable opportunity to cure its failure. If such entity does not cure such failure, OEWD shall issue and serve an assessment of penalties to the Contractor and/or any Subcontractor that sets forth the basis of the assessment and orders payment of penalties in the amounts equal to the journeyman or apprentice prevailing wage rates, as applicable, for the primary trade used by the Contractor or Subcontractor on the Construction Work for each hour by which the Contractor or Subcontractor fell short of the Local Hiring Requirement. Assessment of penalties under this subsection shall be made only upon an investigation by OEWD and upon written notice to the Contractor or Subcontractor identifying the grounds for the penalty and providing the Contractor or Subcontractor with the opportunity to respond pursuant to the recourse procedures prescribed in this agreement.

c. **Recourse Procedure.** If the Contractor or Subcontractor disagrees with the assessment of penalties, then the following procedure applies:

   i. The Contractor or Subcontractor may request a hearing in writing within 15 days of the date of the final notification of assessment. The request shall be directed to the City Controller. Failure by the Contractor or Subcontractor to submit a timely, written request for a hearing shall constitute concession to the assessment and the forfeiture shall be deemed final upon expiration of the 15-day period. The Contractor or Subcontractor must exhaust this administrative remedy prior to commencing further legal action.

   ii. Within 15 days of receiving a proper request, the Controller shall appoint a hearing officer with knowledge and not less than five years' experience in labor law, and shall so advise the enforcing official and the Contractor or Subcontractor, and/or their respective counsel or authorized representative.

   iii. The hearing officer shall promptly set a date for a hearing. The hearing must commence within 45 days of the notification of the appointment of the hearing officer and conclude within 75 days of such notification unless all parties agree to an extended period.

iv. Within 30 days of the conclusion of the hearing, the hearing officer shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the hearing officer shall consist of findings and a determination. The hearing officer's findings and determination shall be final.

v. The Contractor or Subcontractor may appeal a final determination under this by filing in the San Francisco Superior Court a petition for a writ of mandate under California Code of Civil Procedure Section 1084 *et seq.*, as applicable and as may be amended from time to time.

1.8 COLLECTIVE BARGAINING AGREEMENT

Nothing in this Local Hiring Agreement shall be interpreted to prohibit the continuation of existing workforce training agreements or to interfere with consent decrees, collective bargaining agreements, project labor agreements or existing employment contracts (Collective Bargaining Agreements"). In the event of a conflict between this Local Hiring Agreement and a Collective Bargaining Agreement, the terms of the Collective Bargaining Agreement shall supersede this Local Hiring Agreement.

1.9 DURATION OF THIS AGREEMENT

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

1.10 NOTICE

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

If to OEWD: OEWD
1 South Van Ness 5th Fl. San Francisco, CA 94103
Attn: Ken Nim, Compliance Manager,
ken.nim@sfgov.org

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

If to Port:

Attn:

If to Developer:

Attn:

If to Vertical Developer:

Attn:

If to Contractor:

Attn:

If to Subcontractor:

Attn:

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

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

1.11 ENTIRE AGREEMENT

This Local Hiring Agreement and the Transaction Documents contain the entire agreement between the parties to this Local Hiring Agreement and shall not be modified in any manner except by an instrument in writing executed by the parties or their respective successors in interest. This Local Hiring Agreement shall inure to the benefit of and be binding on the parties and their respective successors and assigns. If there is more than one party comprising Contractor, their obligations shall be joint and several.

1.12 SEVERABILITY

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

1.13 COUNTERPARTS

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

1.14 HEADINGS

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

1.15 GOVERNING LAW

This Local Hiring Agreement shall be governed and construed by the laws of the State of California, and interpreted consistent with the requirements of Chapter 82.

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

CONTRACTOR:

Date: _____ Signature: _____

Name of Authorized Signer: _____

Company: _____

Address: _____

Phone: _____

Email: _____

SAN FRANCISCO

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT
CITYBUILD PROGRAM

LOCAL HIRING PROGRAM
OEWD FORM 1
CONSTRUCTION CONTRACTS

FORM 1: LOCAL HIRING WORKFORCE PROJECTION

Contractor: _____ **Project Name:** _____

The Contractor must complete and submit this *Local Hiring Workforce Projection* (Form 1) prior to the start of construction and quarterly until all subcontracting is complete. The Contractor must include information regarding all of its Subcontractors who will perform construction work on the project regardless of Tier and Value Amount.

Will you be able to meet the mandatory Local Hiring Requirements?

☐ **YES** (***Please provide information for all contractors performing construction work in Table 1 below.)***

☐ **NO** (***Please complete Table 1 below and Form 4: Conditional Waivers.***)

INSTRUCTIONS FOR COMPLETING TABLE 1:

1. Please organize the contractors' information based on their Trade Craft work.
2. For contractors performing work in various Trade Craft, please list contractor name in each Trade Craft (*i.e. if Contractor X will perform two trades, list Contractor X under two Trade categories.*)
3. If you anticipate utilizing apprentices on this project, please note the requirement that 30% of apprentice hours must be performed by San Francisco residents.
4. Additional blank form is available at our Website: www.workforcedevelopsf.org. For assistance or questions in completing this form, contact (415) 701-4894 or Email @ Local.hire.ordinance@sfgov.org.

TABLE 1: WORKFORCE PROJECTION

Trade Craft	Contractor *List contractors by Trade Craft*		Est. Total Work Hours	Est. Total Local Work Hours	Est. Total Local Work Hours %
Example: *Laborer*	*Contractor X*	*Journey*	800	250	31%
		Apprentice	200	100	50%
Example:Laborer	*Contractor Y*	*Journey*	500	100	20%
		Apprentice	0	0	0
Example:	**TOTAL LABORER**	*Journey*	1300	350	**27%**
		Apprentice	200	100	**50%**
Example:	**TOTAL**		**1500**	**450**	**30%**
		Journey			
		Apprentice			
		Journey			
		Apprentice			
		Journey			
		Apprentice			

DISCLAIMER: *If the Total Work Hours for a Trade Craft are less than 5% of the Total Construction Work Hours, the Trade Craft is exempt from the Mandatory Requirement. Subsequently, if the Trade Craft exceeds 5% of the Total Construction Work Hours at any time during the project, the Trade Craft is subject to the Mandatory Requirement.*

Name of Authorized Representative _____ Signature _____ Date _____ Phone _____ Email _____

SAN FRANCISCO

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT
CITYBUILD PROGRAM

LOCAL HIRING PROGRAM
OEWD FORM 2
CONSTRUCTION CONTRACTS

FORM 2: LOCAL HIRING PLAN

Contractor: _____ **Project Name:** _____

If the Estimate for this Project exceeds **$1 million**, then Contractor must submit a *Local Hiring Plan* using this Form 2 through the City's Project Reporting System. Form 2 shall be initially submitted prior to the start of construction and include all known subcontractors. Contractor shall update this Form 2 quarterly as subcontractors are identified and shall continue with updates until all subcontracting is complete. The OEWD-approved Local Hiring Plan will be a Contract Document and will be the basis for determining Contractor's and its Subcontractors' compliance with the local hiring requirements. Any OEWD-approved *Conditional Waivers* (Form 4) will be incorporated into the OEWD-approved Local Hiring Plan.

COMPLETE AND SUBMIT A SEPARATE FORM 2 FOR EACH TRADE THAT WILL BE UTILIZED ON THIS PROJECT.

INSTRUCTIONS:

1. Please complete tables below for Contractor and all Subcontractors that will be contributing Construction Work Hours to meet the Local Hiring Requirement.
2. Please note that a Form 2 will need to be developed and approved separately for each trade craft that will be utilized on this project.
3. If you anticipate utilizing apprentices on this project, please note the requirement that 30% of apprentice hours must be performed by San Francisco residents.
4. The Contractor and each Subcontractor identified in the Local Hiring Plan must sign this form before it will be considered for approval by OEWD.
5. If applicable, please attach all OEWD-approved Form 4 Conditional Waivers.
6. Additional blank form is available at our Website: www.workforcedevelopsf.org. For assistance or questions in completing this form, contact (415) 701-4894 or Email @ Local.hire.ordinance@sfgov.org.

List Trade Craft. Add numerical values from Form 1: Local Hiring Workforce Projection and input in the table below.

Trade Craft	Total Work Hours	Total Local Work Hours	Local Work Hours%	Total Apprentice Work Hours	Total Local Apprentice Work Hours	Local Apprentice Work Hours %
Example: *Laborer*	*1500*	*450*	*30%*	*200*	100	50%

List all contractors contributing to the Construction Work Hours to meet the Local Hiring Requirements for the above Trade Craft

Contractor and Authorized Representative	Local Journey Hours	Local Apprentice Hours	Total Local Work Hours	Start Date	Number of Working Days	*Contractor Signature
Contractor X Joe Smith	250	100	350	3/25/13	60	*Joe Smith*
Contractor Y Michael Lee	100	0	100	5/25/13	30	*Michael Lee*

We the undersigned, have reviewed Form 2 and agree to deliver the hours set forth in this document.

City Use Only	
OEWD Approval	☐ Yes ☐ No
Signature and Date:	

SAN FRANCISCO
Office of Economic and Workforce Development

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT
CITYBUILD PROGRAM

LOCAL HIRING PROGRAM
OEWD FORM 4
CONSTRUCTION CONTRACTS

FORM 4: WAIVERS

Contractor: _____ **Project Name:** _____

Upon approval from OEWD, Contractors and Subcontractors may use one or more of the following pipeline and retention compliance mechanisms to receive a Conditional Waiver from the Local Hiring Requirements on a project-specific basis. Conditional Waivers must be approved by OEWD. If applicable, each subcontractor must submit their individual Waiver request to OEWD and copy their Prime Contractor.

TRADE WAIVER INFORMATION: Please provide information on the Trades you are requesting Waivers for:

Laborer Trade Craft	Est. Total Work Hours	Projected Deficient Local Work Hours	Laborer Trade Craft	Est. Total Work Hours	Projected Deficient Local Work Hours
1.			3.		
2.			4.		

Please check any of the following Waivers and complete the appropriate boxes for approval:

☐ **1. SPECIALIZED TRADES** ☐ **2. SPONSORING APPRENTICES** ☐ **3. CREDIT FOR NON-COVERED PROJECTS**

1. SPECIALIZED TRADES: Will your firm be requesting Waivers for "Specialized Trades" designated by OEWD and listed on OEWD's website or project-specific Specialized Trades approved by OEWD during the bid period? ☐ Yes ☐ No

Please CHECK off the following Specialized Trades you are claiming for Condition Waiver:

☐ MARINE PILE DRIVER ☐ HELICOPTER, CRANE, OR DERRICK BARGE OPERATOR ☐ IRONWORKER CONNECTOR
☐ STAINLESS STEEL WELDER ☐ TUNNEL OPERATING ENGINEER ☐ ELECTRICAL UTILITY LINEMAN ☐ MILLWRIGHT
☐ TRADE CRAFT IS LESS THAN 5% OF TOTAL WORK HOURS. ***LIST:***

a. List OEWD-approved project-specific Specialized Trades approved during the bid period:

OEWD APPROVAL: ☐ **Yes** ☐ **No** **OEWD Signature:**

2. SPONSORING APPRENTICES: Will you be able to work with OEWD to sponsor an OEWD-specified number of new apprentices in the agreeable trades into California Department of Industrial Relations' Division of Apprenticeship Standards approved apprenticeship programs? ☐ Yes ☐ No

PLEASE PROVIDE DETAILS: Construction Trade	Est. # of Sponsor Positions	Union (Yes / No)	If Yes, Local #	Est. Start Date	Est Duration of Working Days	Est Total Work Hours Performed
		Y ☐ N ☐				
		Y ☐ N ☐				

OEWD APPROVAL: ☐ **Yes** ☐ **No** **OEWD Signature:**

3. CREDIT for HIRING on NON-COVERED PROJECTS: If your firm cannot meet the mandatory local hiring requirement, will you be requesting credit for hiring Targeted Workers on Non-covered Projects? ☐ Yes ☐ No

PLEASE PROVIDE DETAILS: Labor Trade, Position, or Title		Est. # of Off-site Hires	Est Total Work Hours Performed	Offsite Project Name	Project Address
	Journey				
	Apprentice				

	OEWD APPROVAL: ☐ Yes ☐ No	OEWD Signature:

DDA Exhibit B6 - B

Local Business Enterprise (LBE) Utilization Program.

The development plan for Mission Rock under the Transaction Documents provides for the development of a new mixed-use neighborhood composed of commercial/office, retail, garage, market rate and affordable residential uses and major new and expanded parks. This Workforce Development Plan sets forth the activities Developer and Vertical Developer shall undertake, and require their Contractors, Consultants, Subcontractors, Subconsultants, and Commercial Tenants, as applicable, to undertake, to support local business enterprises in both the construction and operations phases of the Project, as set forth in this Exhibit B6-B.[1]

The Port and Developer shall enter into the DDA which will provide for the development of the Project in a series of Phases. In connection with the DDA, the Port and the Developer will enter into a Master Lease providing Developer the right to construct Horizontal Improvements within the Project. Developer will enter into contracts with Contractors and Consultants to construct all Horizontal Improvements allowed under the Master Lease.

Developer will submit Phase Submittals to the Port pursuant to the Transaction Documents. Following each Phase Approval, the Port will authorize the Chief Harbor Engineer to issue Port permits necessary for Developer to begin to construct Horizontal Improvements in accordance with the DDA and the Master Lease. Upon exercise of an Option in accordance with the DDA, the Port will convey each Development Parcel through Parcel Leases to a Vertical Developer. A Vertical Developer will enter into contracts with Contractors and Consultants to construct the Vertical Improvements, including residential and commercial improvements, in accordance with the Parcel Lease and Vertical DDA. Upon completion of the Vertical Improvements, the applicable Parcel Lease, between the Port and the Vertical Developer, shall govern the operation and use of the Vertical Improvements.

The foregoing summary is provided for convenience and for informational purposes only. In case of any conflict, the provisions of the DDA and each Vertical DDA shall control.

[1] Any capitalized term used in this Exhibit B6-B, including its Attachments, that is not defined herein, or in such Attachments, or in the referenced Administrative Code Sections, shall have the meaning given to such term in the DDA.

LBE Utilization Plan.

Developer, with respect to Horizontal Improvements, shall, and the Vertical Developer, with respect to each Vertical Improvement, shall comply and require their respective Contractors and Consultants to comply with the Local Business Enterprise Utilization Plan (the "LBE Utilization Plan") set forth in Attachment A hereto. The Port shall cause (i) Developer, pursuant to the DDA and Master Lease, to comply with the Plan by including such requirements as a material term in the DDA and Master Lease applicable to all phases of Horizontal Improvements and (ii) each Vertical Developer to comply with the Plan by including such requirements as a material term in the VDDA and Parcel Lease applicable to each Vertical Improvement. The Port and Developer will seek to, whenever practicable, engage contracting teams to reflect the diversity of the City and include participation of both businesses and residents from the City's most disadvantaged communities including, but not limited to the Bayview/Hunters Point, Chinatown, Mission, South of Market, Tenderloin, Visitacion Valley and Western Addition neighborhoods.

Compliance with the construction requirements of the LBE Utilization Plan for Horizontal Improvements shall be determined on a Phase by Phase basis. Compliance will be measured by dividing the cost of all Contracts for a Phase of Horizontal Improvement awarded to LBE Prime Contractors, Subcontractors, Prime Consultants or Subconsultants divided by the total cost of all Contracts awarded to Prime Contractors, Subcontractors, Prime Consultants or Subconsultants for such Phase of Horizontal Improvement. If Developer exceeds the goals set forth in the LBE Utilization Plan with respect to an individual Horizontal Improvement, Developer may, at its option, allocate such excess, subject to terms outlined below, towards the compliance of another Horizontal Improvement within the Project Site, subject to the requirements of Attachment A. Notwithstanding anything to the contrary, Developer may, at its election, require that compliance be determined on a Project-wide basis by giving notice to CMD and the Port of such election during the submission of the penultimate Phase Submittal.

Compliance with the construction requirements of the LBE Utilization Plan for Vertical Improvements shall be determined on an individual Vertical Improvement basis. Compliance will be measured by dividing the cost of all Contracts for a Vertical Improvement awarded to LBE Prime Contractors, Subcontractors, Prime Consultants or Subconsultants divided by the total cost of all Contracts awarded to Prime Contractors, Subcontractors, Prime Consultants or Subconsultants for such Vertical Improvement. If a Vertical Improvement exceeds goals set forth in the LBE Utilization Plan, the Vertical Developer of such Construction Work may, at its option, allocate such excess towards the compliance of another Vertical Improvement within the Project Site or transfer such excess to another Vertical Developer within the Project Site, subject to the requirements of Attachment A. Notwithstanding anything to the contrary, Developer may, at its election, require that compliance be determined on a Phase-wide basis by giving notice to CMD and the Port of such election, pursuant to Attachment A, during the submission of a Phase Submittal.

The Developer, Vertical Developer(s) and CMD seek to reduce barriers to LBE participation, cost, and time. As such, the Developer and Vertical Developer(s) shall work in

good faith with CMD to design and implement for each Horizontal and Vertical Improvement insurance programs which provides to LBE participating subcontractors access to the required coverage through either the owner, Owner-Controlled Insurance Policy (OCIP), general contractor, Contractor-Controlled Insurance Policy (CCIP), or such other insurance program as may become reasonably commercially available.

CMD shall notify Contractors, Consultants, Subcontractors and Subconsultants, as applicable, in writing, with a copy to the Port and Developer or Vertical Developer, as applicable, of any alleged breach on the part of that entity of its obligations under San Francisco Administrative Code Chapter 14B ("Chapter 14B") or its LBE Utilization Plan, as applicable, and provide such entity an opportunity to cure its failure before seeking an assessment of liquidated damages. CMD's sole remedies against a Contractor, Consultant, Subcontractor and Subconsultant shall be as set forth in the applicable LBE Utilization Plan, including the enforcement process. Upon CMD's request, Port, Developer or Vertical Developer, as applicable, shall reasonably cooperate with CMD in any such enforcement action against any Contractors, Consultants, Subcontractors and Subconsultants, provided that in no event shall Port, Developer or Vertical Developer, as applicable, be liable for any breach by a Contractor, Consultant, Subcontractor or Subconsultant.

If the Port, Developer or Vertical Developer, as applicable, fulfills its obligations as set forth in this Exhibit B2, it shall not be held responsible for the failure of a Contractor, Consultant, Subcontractor and Subconsultant or any other person or party to comply with the requirements of San Francisco Administrative Code Chapter 14B ("Chapter 14B") or this Exhibit B2. If Developer or Vertical Developer, as applicable, fails to fulfill its obligations under this Exhibit B6-B, the applicable provisions of Chapter 82 shall apply, though the Port and Developer, as applicable, shall have the right to invoke the process set forth in Article 10 of the DDA.

This Exhibit B6-B complies with the requirements of Chapter 14B, including Sections 14B.20.

Attachment A

Local Business Enterprise Utilization Plan

1. Purpose and Scope. This Local Business Enterprise Utilization Plan (this "LBE Utilization Plan") governs the Local Business Enterprise obligations of the Workforce Improvement or the Construction Work pursuant to San Francisco Administrative Code Section 14B.20 and satisfies the obligations of Developer, Vertical Developer and their Contractors and Consultants for a LBE Utilization Plan as set forth herein. In the event of any conflict between San Francisco Administrative Code Chapter 14B ("Chapter 14B") and this attachment, this LBE Utilization Plan shall govern.

2. Roles of Parties. In connection with the design and construction phases of each Construction Work (as defined below) and the operations of each Workforce Improvement, the Project will provide community benefits designed to foster employment opportunities for disadvantaged individuals by offering contracting and consulting opportunities to local business enterprises ("LBEs"). Developer and Vertical shall participate in a local business enterprise program, and the City's Contract Monitoring Division ("CMD") will serve the roles as set forth below.

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

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

b. "Commercially Useful Function" shall mean that the business is directly responsible for providing the materials, equipment, supplies or services to Developer, Vertical Developer, Contractor or professional services firm retained to work on a Construction Work or Workforce Improvement, as the case may be (each, a "Contracting Party") as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a "commercially useful function" unless the brokerage, referral or temporary employment services are those required and sought by Developer or Vertical Developer or a Contractor or professional services firm. When Developer or Vertical Developer or a Contractor or professional services firm requires and seeks products from an LBE supplier or distributor, no more than sixty percent of the cost of the product shall be credited towards LBE participation goals. If the listed supplier or distributor does not regularly stock or is a specially manufactured item(s), the required product, no more than five percent of the cost of the product shall be credited towards LBE participation goals.

c. "Consultant" shall mean a person or company that has entered into a professional services contract for monetary consideration with Developer or Vertical Developer to provide advice or services to Developer directly related to the architectural or landscape design, physical planning, and/or civil, structural or

environmental engineering of a Construction Work or Workforce Improvement.

d. "Construction Work" shall mean: (i) in the case of Horizontal Improvements, construction of all Horizontal Improvements required or permitted to be made to the Project Site during a Phase and to be carried out by Developer under the DDA subject to Chapter 14B; or (ii) in the case of Vertical Improvements, a Vertical Improvement and all tenant improvements therein, except for the construction of any tenant improvements within a leased premises comprised of less than 15,000 square feet in floor area, to be constructed by a Vertical Developer on a Development Parcel pursuant to an applicable Vertical DDA and Parcel Lease.

e. "Contract(s)" shall mean an agreement, whether a direct contract or subcontract, for Consultant or Contractor services for all or a portion of a Construction Work or Workforce Improvement.

f. "Contractor" shall mean a person or entity that enters into a direct Contract with Developer or Vertical Developer to build or construct all or a portion of a Construction Work or operate a Workforce Improvement.

g. "DDA" means the Disposition and Development Agreement between Developer and the City and County of San Francisco, acting by and through the San Francisco Port Commission.

h. "Developer" has the meaning set forth in the DDA, including any successor during the term of this LBE Utilization Plan.

i. "Development Parcel" has the meaning set forth in the DDA.

j. "Excess Credit" shall mean the total cost of all Contracts for a Construction Work awarded to LBE Prime Contractors, Subcontractors, Prime Consultants or Subconsultants that are Small and Micro-LBEs that exceeds the goals set forth in Section 4.

k. "Horizontal Improvement" has the meaning set forth in the DDA.

l. "Good Faith Efforts" shall mean procedural steps taken by Developer, Vertical Developer, Contractor or Consultant with respect to the attainment of the LBE participation goals, as set forth in Section 6 below.

m. "Local Business Enterprise" or "LBE" means a business that is certified as an LBE under Chapter 14B.3.

n. "LBE Liaison" shall mean Developer's and Vertical Developer's primary point of contact with CMD regarding the obligations of this LBE Utilization Plan. Each prime Contractor(s) shall likewise have a LBE Liaison.

o. "Parcel Lease" has the meaning set forth in the DDA.

p. "Phase" has the meaning set forth in the DDA.

q. "Port" has the meaning set forth in the DDA.

r. "Project" has the meaning set forth in the DDA.

s. "Project Site" has the meaning set forth in the DDA.

t. "Subconsultant" shall mean a person or entity that has a direct Contract with a Consultant to perform a portion of the work under a Contract fora Construction Work or Workforce Improvement.

u. "Subcontractor" shall mean a person or entity that has a direct Contract with a Contractor to perform a portion of the work under a Contract fora Construction Work or Workforce Improvement.

v. "Vertical DDA" has the meaning set forth in the DDA.

w. "Vertical Developer" has the meaning set forth in the DDA.

x. "Workforce Improvement" shall mean all completed Vertical Improvements, but excluding within: (a) any commercial premises occupying less than 15,000 square feet in floor area, and (b) any residential units therein, subject to Chapter 14B.

4. LBE Participation Goal. Developer and Vertical Developer agree to participate in this LBE Utilization Plan and CMD agrees to work with Developer and Vertical Developer in this effort, as set forth in this LBE Utilization Plan. As long as this LBE Utilization Plan remains in full force and effect, Developer, with respect to the construction of Horizontal Improvements, and Vertical Developer, with respect to the construction of Vertical Improvements, shall make good faith efforts as defined below to achieve an overall LBE participation goal of 20% of the total cost of all Contracts for a Construction Work awarded to LBE Prime Contractors, Subcontractors, Prime Consultants or Subconsultants that are Small and Micro-LBEs, as set forth in Administrative Code Section 14B.8(A) and a participation goal of 10% during the pre-construction phase of the Project.

5. Developer/Vertical Developer Obligations. Developer, with respect to the construction of Horizontal Improvements, and Vertical Developer, with respect to the construction of Vertical Improvements, shall comply with the requirements of this Attachment A as follows: Upon entering into a Contract with a Contractor or Consultant, Developer or Vertical Developer, as applicable, will include each such Contract a provision requiring the Contractor or Consultant to comply with the terms of this Attachment A, and setting forth the applicable percentage goal for such Contract, and provide a signed copy thereof to CMD and the Port within 10 business days of execution. Such Contract shall specify the notice information for the

Contractor or Consultant to receive notice pursuant to Section 16.Developer and each Vertical Developer shall identify a "LBE Liaison" as its main point of contact for outreach/compliance concerns and shall be available to meet with CMD staff on a regular basis or as necessary regarding the implementation of this Attachment A. If Developer, with respect to Horizontal Improvements, or a Vertical Developer, with respect to construction of the Vertical Improvements, fulfills its obligations as set forth in this Section 5 and otherwise cooperates in good faith at CMD's request with respect to any meet and confer process or enforcement action against a non-compliant Contractor, Consultant, Subcontractor or Subconsultant, then Developer or Vertical Developer, as applicable, shall not be held responsible for the failure of a Contractor, Consultant, Subcontractor or Subconsultant or any other person or party to comply with the requirements of this Attachment A.

6. Good Faith Efforts. City acknowledges and agrees that Developer, Vertical Developer, Contractor, Subcontractor, Consultant and Subconsultant shall have the sole discretion to qualify, hire or not hire LBEs. If a Contractor or Consultant does not meet the LBE hiring goal set forth above in Section 5, it will nonetheless be deemed to satisfy the good faith effort obligation of this Section 6 and thereby satisfy the requirements and obligations of this Attachment A if the Contractor, Consultants and their Subcontractors and Subconsultants, as applicable, perform the good faith efforts set forth in this Section 6 as follows:

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

b. Contract Size. Where practicable, Developer, Vertical Developer, Contractor, Consultant, Subcontractor or Subconsultant will divide the work in order to encourage maximum LBE participation or, encourage joint venturing. The Contracting Party will identify specific items of each Contract that may be performed by Subcontractors.

c. Advertise. Developer, Vertical Developer, Contractor, Consultant, Subcontractor or Subconsultant will advertise for at least 30 days prior to the opening of bids or proposals, for professional services and contracting opportunities in media focused on small businesses including the Bid and Contract Opportunities website through the City's Office of Contract Administration (http://mission.sfgov.org/OCABidPublication) and other local and trade publications, and allowing subcontractors to attend outreach events, pre-bid meetings, and inviting LBEs to submit bids to Developer or Vertical Developer or their respective Prime Contractor or Consultant, as applicable. As practicable, convene pre-bid or pre-solicitation meetings no less than 15 days prior to the opening of bids and proposals to all for LBEs to ask questions about the selection process and technical specifications/requirements. Developer or Vertical Developer may request CMD's permission to award a contract without advertising if the work consists of specialty services or otherwise does not provide

opportunities for LBE participation.

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

e. Public Solicitation. Developer or Vertical Developer or their respective Prime Contractor(s) and/or Consultants, as applicable, will work with CMD to follow up on initial solicitations of interest by contacting LBEs to determine with certainty whether they are interested in performing specific items in a project.

f. Outreach and Other Assistance. Developer or Vertical Developer or their respective Prime Contractor (s) and/or Consultants, as applicable, will a) provide LBEs with plans, specifications and requirements for all or part of the project; b) notify LBE trade associations that disseminate bid and contract information and provide technical assistance to LBEs. The designated LBE Liaison(s) shall be or work with a LBE Consultant with experience in and responsibility for making recommendations on how to maximize engagement of local small businesses from disadvantaged communities including, but not limited to the Bayview/Hunters Point, Chinatown, Mission, South of Market, Tenderloin, Visitacion Valley and Western Addition neighborhoods, and willwork with CMD to conduct outreach to LBEs for all consulting/contracting opportunities in the applicable trades and services in order to encourage them to participate on the project.

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

h. Good Faith/Nondiscrimination. Make good faith efforts to enter into Contracts with LBEs and give good faith consideration to bids and proposals submitted by LBEs. Use nondiscriminatory selection criteria (for the purpose of clarity, exercise of subjective aesthetic taste in selection decisions for architect and other design professionals shall not be deemed discriminatory and the exercise of its commercially reasonable judgment in all hiring decisions shall not be deemed discriminatory).

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

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

procurement opportunities.

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

l. Maintain Records and Cooperation. Maintain records of LBEs that are awarded Contracts, not discriminate against any LBEs, and, if requested, meet and confer with CMD as reasonably required in addition to the meet and confer sessions described in Section 9 below to identify a strategy to meet the LBE goal;

m. Quarterly Reports. During design and construction, the LBE Liaison(s) shall prepare a quarterly report of LBE participation goal attainment and submit to CMD as required by Section 9 herein; and

n. Meet and Confer. Attend the meet and confer process described in Section 9.

7. Good Faith Outreach. Good faith efforts shall be deemed satisfied solely by compliance with Section 6. Contractors and Consultants, and Subcontractors and Subconsultants as applicable shall also work with CMD to identify from CMD's database of LBEs those LBEs who are most likely to be qualified for each identified opportunity under Section 6.b, and following CMD's notice under Section 8.a, shall undertake reasonable efforts at CMD's request to support CMD's outreach identified LBEs as mutually agreed upon by CMD and each Contractor or Consultant and its Subcontractors and Subconsultants, as applicable.

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

a. During the fifteen (15) business day notification period for upcoming Contracts required by Section 6.b, CMD will work with Developer or its prime Contractor and/or Consultant as applicable to send such notification to qualified LBEs to alert them to upcoming Contracts.

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

c. Review quarterly reports of LBE participation goals; when necessary give

suggestions as to how best to maximize LBEs ability to compete and win procurement opportunities.

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

9. Meet and Confer Process. Commencing with the first Contract that is executed for a Construction Work, and every six (6) months thereafter, or more frequently if requested by either CMD, Developer or a Contractor or Consultant each Contractor and Consultant and the CMD shall engage in an informal meet and confer to assess compliance of such Contractor and Consultants and its Subcontractors and Subconsultants as applicable with this Attachment A. When deficiencies are noted, meet and confer with CMD to ascertain and execute plans to increase LBE participation.

10. Prohibition on Discrimination. Developer and Vertical Developer shall not discriminate in its selection of Contractors and Consultants, and such Contractors and Consultants shall not discriminate in their selection of Subcontractors and Subconsultants against any person on the basis of race, gender, or any other basis prohibited by law. As part of its efforts to avoid unlawful discrimination in the selection of Subconsultants and Subcontractors, Contractors and Consultants will undertake the Good Faith Efforts and participate in the meet and confer processes as set forth in Sections 6 and 9 above.

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

12. Reporting and Monitoring. Each Contractor, Consultant, and its Subcontractors and Subconsultants as applicable shall maintain accurate records demonstrating compliance with the LBE participation goals, including keeping track of the date that each response, proposal or bid that was received from LBEs, including the amount bid by and the amount to be paid (if different) to the non-LBE contractor that was selected, documentation of any efforts regarding good faith efforts as set forth in Section 6. Developer and Vertical Developer shall create a reporting method for tracking LBE participation. Data tracked shall include the following (at a minimum):

a. Name/Type of Contract(s) let (e.g. Civil Engineering contract, Environmental Consulting, etc.)
b. Name of prime Contractors (including identifying which are LBEs and non-LBEs)
c. Name of Subcontractors (including identifying which are LBEs and non-LBEs)
d. Scope of work performed by LBEs (e.g. under an Architect, an LBE could be procured to provide renderings)

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

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

13. Basis of Compliance:

a. With regard to Horizontal Improvements, CMD shall determine compliance with this Agreement on a Phase-wide basis and measure compliance by dividing the cost of all Contracts for a Construction Work awarded to LBE Prime Contractors, Subcontractors, Prime Consultants or Subconsultants divided by the total cost of all Contracts awarded to Prime Contractors, Subcontractors, Prime Consultants or Subconsultants for such Construction Work. Notwithstanding anything to the contrary, Developer may, at its election, require that compliance be determined on a Project-wide basis by giving notice to CMD and the Port of such election not later than the submission of the penultimate Phase Submittal. After such election, compliance shall be measured upon the completion of the Project. In each case, once compliance is established, any Excess Credit shall be confirmed by CMD and shall be available for Developer, provided Developer remains a Giants Affiliate, as defined in the DDA, to offset shortfalls elsewhere on the Project Site, provided, however that Excess Credits may only be transferred to Horizontal Improvements that complied with the procedures set forth in Section 6 and at completion are short of attaining the participation levels set forth in Section 4.

b. With regard to Vertical Improvements, CMD shall determine compliance with this Agreement on an individual Vertical Improvement basis and measure compliance by dividing the cost of all Contracts for a Construction Work awarded to LBE Prime Contractors, Subcontractors, Prime Consultants or Subconsultants divided by the total cost of all Contracts awarded to Prime Contractors, Subcontractors, Prime Consultants or Subconsultants for such Vertical Improvement. Notwithstanding anything to the contrary, Developer may, at its election, require that compliance be determined on a Phase-wide basis, as Developer plans to develop each Vertical Improvement in such Phase, by giving notice to CMD and the Port of such election during the submission of a Phase Submittal. After such election, compliance shall be measured upon the completion of the Phase, as applicable. In each case, once compliance is established, any Excess Credits shall be confirmed by CMD and shall be available to the Vertical Developer of the Vertical Improvement that generated such Excess Credits to transfer to another Vertical Developer, provided that such Vertical Developer is a Giants Affiliate, as defined in the DDA, to offset shortfalls in the same trade on Vertical Improvements elsewhere on the Project Site, provided, however that Excess Credits may only be transferred to Vertical Improvements that complied with the procedures set forth in Section 6 and at completion are still short of attaining the participation levels set forth in Section 4.

14. Workforce Improvement Operations. Each Vertical Developer will use good faith efforts to hire LBEs for ongoing service contracts within Workforce Improvements and advertise such contracting opportunities with CMD except to the extent impractical or infeasible. If a master association is responsible for the operation and maintenance of publicly owned improvements within the Project Site, CMD shall refer LBEs to such association for consideration with regard to contracting opportunities for such improvements. Such association will consider in good faith such LBE referrals, but hiring decisions shall be entirely at the discretion of such association.

15. Monitoring and Enforcement. CMD shall both monitor and enforce the standards and requirements, including the good faith efforts, of this Program. CMD Compliance Officers shall schedule meetings with the LBE Liaison(s) through the term of this Program to promote consistent communication and practice.

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

17. Remedies. Notwithstanding anything to the contrary in the DDA, the following process and remedies shall apply with respect to any alleged violation of this Attachment A:

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

Non-binding arbitration shall be the administrative procedure of second resort utilized by CMD for resolving the issue of whether a Developer, Contractor, Consultant, Subcontractor or Subconsultant discriminated in the award of one or more LBE Contracts to the extent that such issue is not resolved through the mediation and conciliation procedure described above. Obtaining a final judgment through arbitration on LBE contract related disputes shall be a condition precedent to the ability of the City or Developer, Contractor, Consultant, Subcontractor or Subconsultant to file a request for judicial relief.

If a Developer, Vertical Developer, Contractor, Consultant, Subcontractor or Subconsultant is found to be in willful breach of the obligations set forth in this Attachment A, assess against the noncompliant Developer, Vertical Developer, Contractor, Consultant, Subcontractor or Subconsultant liquidated damages not to exceed $25,000 or 5% of the Contract, whichever is less, for each such willful breach. In determining the amount of any liquidated damages to be assessed within the limits described above, the arbitrator or court of competent jurisdiction shall consider the

financial capacity of Developer, Vertical Developer, Contractor, Consultant, Subcontractor or Subconsultant. For purposes of this paragraph, "willful breach" means a knowing and intentional breach. For all other violations of this Attachment A, the sole remedy for violation shall be specific performance.

18. Duration of this Agreement. This Attachment A shall terminate (i) at the expiration of the Development Agreement, as defined in the DDA, and; (ii) for any Construction Work that has commenced before the termination of the Development Agreement, but is not yet complete upon the termination of the Development Agreement, upon the completion of such Construction Work. Upon such termination, this Attachment A shall be of no further force and effect.

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

If to CMD: _____
_____
_____
Attn: _____

If to the Port: _____
_____
_____
Attn: _____

If to Developer: _____
_____
_____
Attn: _____

If to Vertical Developer: _____
_____
_____
Attn: _____

If to Contractor: _____
_____
_____
Attn: _____

If to Consultant: _____
_____
_____
Attn: _____

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

EXHIBIT Q

DEVELOPMENT AGREEMENT SECTION 5.8(F) (ELECTRICITY)

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MASTER LEASE EXHIBIT Q

Development Agreement Section §5.8(f) (Electricity)

5.8 Future City Approvals

(f) SFPUC Power.

(i) In accordance with Administrative Code chapter 99, the SFPUC has performed a feasibility study and has determined that it will be able to provide electric power to the Project. SFPUC agrees that applicable SFPUC service will be reasonably available to meet the Project's needs and Developer's schedule, and that the projected price for applicable SFPUC service and related Utility Infrastructure cost allocations are comparable to rates in San Francisco for comparable service. SFPUC will work with Developer to provide applicable SFPUC service for temporary construction and permanent use pursuant to SFPUC *Rules and Regulations for Electric Service*.

(ii) Developer understands and agrees that all applicable SFPUC service for the Project Site will be provided by SFPUC Power under the terms of an ESA to be completed between SFPUC Power and Developer. Among other things, the ESA, in addition to the ESA's standard terms and conditions, will address some or all of the following:

(1) development schedules and milestones for applicable SFPUC service;

(2) termination rights and costs;

(3) offsite Utility Infrastructure requirements, development, costs, and any cost allocation;

(4) onsite Utility Infrastructure requirements, development, costs, and cost allocations; and

(5) Developer-provided space for SFPUC electric facilities.

(iii) The Parties agree to act in good faith to finalize the ESA within 180 days after the Reference Date. If the Parties' good faith efforts do not result in a final ESA within 180 days, the Parties will agree to a reasonable extension of time to complete the ESA. If the Parties' diligent good faith negotiations to enter into an ESA as set forth above are unsuccessful, Developer may elect to pursue alternative service arrangements.

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EXHIBIT R

FORM OF PRE-APPROVED SUBTENANT ESTOPPEL

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MASTER LEASE EXHIBIT R

FORM OF PRE-APPROVED SUBTENANT ESTOPPEL CERTIFICATE

[_____], a [_____] ("**Subtenant**"), is the subtenant of the real property having an address at [_____] [_____] within the mixed-use development commonly known as "**Mission Rock**" in San Francisco, California (the "**Property**"), and hereby certifies to the **City and County of San Francisco**, a municipal corporation, operating by and through the **San Francisco Port Commission** ("**Port**") [and to _____] the following as of [_____], 20XX:

1. That there is presently in full force and effect that certain Sublease [_____] dated as of [_____], 20[XXX], (as modified, assigned, supplemented and/or amended as set forth in ***paragraph 3 below***, the "**Sublease**"), between Subtenant, as tenant, and [_____], as landlord ("**Landlord**"), covering the Property and other improvements, as further described in the Sublease (the "**Subleased Premises**").

2. The Sublease is subject to that certain Master Lease No. L-[XXX] dated as of [_____], 2018, as amended from time to time, between Landlord, as tenant, and Port, as landlord.

3. That, to Subtenant's knowledge, the Sublease, attached hereto as ***Exhibit A*** is true, correct and complete and has not been modified, assigned, supplemented or amended except as follows: _____. [**Note: add if Sublease has been amended**: The dates of Port approval for such amendments are as follows: [_____].]

4. That Subtenant has not sub-subleased any portion of the Subleased Premises other than to [_____] pursuant to that certain [insert description of the sub-subleases].

5. That the Sublease [and the following documents: [_____]] represents the entire agreement between Landlord and Subtenant with respect to the Subleased Premises.

6. That the commencement date under the Sublease was [_____], 20[XXX], and the expiration date of the Sublease is [_____], 20[XXX].

7. That the present minimum monthly base rent which Subtenant is paying under the Sublease is $_____.

8. That the percentage rent paid by Subtenant for the most recent full calendar month prior to the date set forth above was $_____.] [**Insert "Not Applicable" if no percentage rent due under the Sublease.**]

9. That the security deposits held by Landlord under the terms of the Sublease are as follows: $_____.

10. That Subtenant has accepted possession of the Subleased Premises and that, to the best of Subtenant's actual knowledge after diligent inquiry, all conditions of the Sublease to be satisfied by Landlord have been completed or satisfied to the satisfaction of Subtenant.

11. That, to Subtenant's actual knowledge after diligent inquiry, Subtenant, as of the date set forth above, has no right or claim of deduction, charge, lien or offset against Landlord under the Sublease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Sublease other than _____.

12. That, to Subtenant's actual knowledge after diligent inquiry, Landlord is not in default or breach of the Sublease, nor has Landlord committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Sublease by Landlord.

13. That, to Subtenant's actual knowledge after diligent inquiry, Subtenant is not in default or in breach of the Sublease, nor has Subtenant committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Sublease by Subtenant.

14. Except for the following: _____, (i) Subtenant is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money, (ii) Subtenant has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code, (iii) there has been no event that has materially adversely affected Subtenant's ability to meet its Sublease obligations hereunder, and (iv) to Subtenant's knowledge, no involuntary petition naming Subtenant as debtor has been filed under any chapter of the U.S. Bankruptcy Code.

This Certificate is binding upon Subtenant and will inure to the benefit of Port, [ ] and their respective successors and assigns.

[_____],

a [_____]

By: _____

Name: _____

Title: _____

EXHIBIT S-1

FORM OF PHASE SUBTENANT ESTOPPEL (FOR DEVELOPMENT PARCEL CLOSING)

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MASTER LEASE EXHIBIT S-1

FORM OF MASTER DEVELOPER/MASTER TENANT/PHASE SUBTENANT ESTOPPEL CERTIFICATE IN CONNECTION WITH VERTICAL DEVELOPER/DEVELOPMENT PARCEL CLOSING

Seawall Lot 337 Associates, LLC, a Delaware limited liability company ("**Master Developer**" or "**Master Tenant**"), is the master tenant of the real property commonly known as Parcel [XX] (the "**Development Parcel**"). The Development Parcel is located within the mixed-use development commonly known as "**Mission Rock**" in San Francisco, California. [**Note: Use only if Development Parcel is s.t. Phase Sublease**: [_____], a [_____] ("**Phase Subtenant**") subleased the Development Parcel from Master Developer.] The undersigned [Master Developer] [Phase Subtenant] hereby certifies to the City and County of San Francisco, a municipal corporation, operating by and through the **San Francisco Port Commission** ("**Port**"), to _____ ("**Vertical Developer**")] [and to _____] the following as of [_____] ("**Certification Date**") [**Note: certification date will be the Development Parcel Closing Date**]:

1. That there is presently in full force and effect Master Lease No. L-[_____] dated as of [_____], 2018 (as may be modified, assigned, supplemented and/or amended, the "**Master Lease**"), between Master Developer, as tenant, and Port, as landlord, covering portions of the Mission Rock development, as further described in the Master Lease (the "**Master Premises**"), which Master Premises includes the Development Parcel. [**Note: Use only for Phase Subtenant**: That there is presently in full force and effect Sublease Agreement dated as of [_____], 20[XXX] (as may be modified, assigned, supplemented and/or amended, the "**Phase Sublease**"), between Phase Subtenant, as subtenant, and Master Developer, as sublandlord, covering Phase [XXX] of the Mission Rock development, which Phase includes the Development Parcel, as further described in the Phase Sublease.

2. That there is presently in full force and effect a Disposition and Development Agreement dated as of [_____], 2018 (as may be modified, assigned, supplemented and/or amended, the "**DDA**"), between Master Developer, as master developer of the Master Premises, and Port, as further described in the DDA, a copy of which was recorded in the official records of the City and County of San Francisco ("**Official Records**") as Instrument No. _____.

3. That there is presently in full force and effect a Development Agreement dated as of [_____], 2018 (as may be modified, assigned, supplemented and/or amended, the "**DA**"), between Master Developer, as master developer of the Master Premises, and the City and County of San Francisco, a municipal corporation (the "**City**"), as further described in the DA, a copy of which was recorded in the Official Records as Instrument No. _____.

4. [**Include if Phase Sublease in effect**: That Master Developer and Phase Subtenant have entered into that certain [DDA and DA Assignment and Assumption Agreement dated as of [_____], 20[XX]], pursuant to which Master Developer has assigned to, and Phase Subtenant has assumed, certain rights and obligations under the DDA and DA, as more specifically set forth therein.]

5. That the undersigned has executed, acknowledged, and delivered into escrow as of [_____], 20[XX], the DDA and Master Lease Partial Release (as required under Section 5.3 of the Master Lease [**Insert for Phase Sublease**: 18.5 of the Master Lease]), releasing the Development Parcel from the Master Premises and any rights it has in the Development Parcel, which DDA and Master Lease Partial Release will be effective as of the Closing Date. The undersigned also has consented to the recordation of the DDA and Master Lease Partial Release

in the Official Records. The undersigned has no claim, interest, or right to any interest in the Development Parcel as of the Closing Date.

6. That the undersigned has executed, acknowledged, and delivered into escrow as of [_____], 20[XX], the Development Agreement Assignment and Assumption Agreement, assigning to Vertical Developer certain specified rights and obligations under the DA, which Development Agreement Assignment and Assumption Agreement will be effective as of the Closing Date. The undersigned also has consented to the recordation of the Development Agreement Assignment and Assumption Agreement in the Official Records.

7. That, to the undersigned's actual knowledge, there does not exist an Event of Default, or Prospective Breach or Prospective Default (as to which [Master Developer][Phase Subtenant] has given Port a notice of such Prospective Breach or Prospective Default), of Port under the DDA except as follows: [_____].

8. That, to the undersigned's actual knowledge, there does not exist an Event of Default, or Prospective Breach or Prospective Default (as to which [Master Developer][Phase Subtenant] has received a notice from Port of such Prospective Breach or Prospective Default), of [Master Developer][Phase Subtenant]under the DDA except as follows: [_____].

9. That, to the undersigned's actual knowledge, there does not exist any default (as to which [Master Developer][Phase Subtenant] has given City a notice of such default), of City under the DA except as follows: [_____].

10. That, to the undersigned's actual knowledge, there does not exist any default (as to which [Master Developer][Phase Subtenant]has received a notice from City of default), of [Master Developer][Phase Subtenant] under the DA except as follows: [_____].

11. That, to the undersigned's actual knowledge after diligent inquiry, Port is not in default or breach of the Master Lease, nor has Port committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Master Lease by Port. [**Note: Use only for Phase Subtenant:**] That, to the undersigned's actual knowledge after diligent inquiry, Master Developer is not in default or in breach of the Phase Sublease, nor has Master Developer committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Phase Sublease by Master Developer.

12. That, to the undersigned's actual knowledge after diligent inquiry, Master Developer is not in default or in breach of the Master Lease, nor has Master Developer committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Master Lease by Master Developer. [**Note: Use only for Phase Subtenant**:] That, to the Phase Subtenant's actual knowledge, after diligent inquiry, Phase Subtenant is not in default or in breach of the Phase Sublease, nor has the undersigned committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Phase Sublease by the undersigned.

13. The undersigned has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code and to the undersigned's current actual knowledge, no involuntary petition naming [Master Developer] [Phase Subtenant] as debtor has been filed under any chapter of the U.S. Bankruptcy Code..

14. That, to the undersigned's actual knowledge there are no unrecorded leases, license or agreements affecting the Development Parcel, or parties in possession of the Development Parcel, that will remain in effect or in possession following the Closing Date, other than _____.

15. That, to the undersigned's actual knowledge after diligent inquiry, there are no unrecorded claims against the Development Parcel, nor any set of facts by reason of which the undersigned's [ground leasehold] [sublease hold] interest in the Development Parcel might be disputed or questioned, and the [Master Developer] [Phase Subtenant] has been in peaceable and undisputed possession of the Development Parcel since its leasehold interest in the Development Parcel was acquired.

16. That there has not been any construction, repairs, alterations or improvements made, ordered or contracted to be made on or to the Development Parcel, nor materials ordered therefor within the last six months which have not been paid for in full except as follows: _____; nor are there any fixtures attached to the Development Parcel which have not all been paid for in full except as follows: _____.

17. That, to the undersigned's actual knowledge, there has been no violation of any covenants, conditions or restrictions of record affecting the Development Parcel and that there are no disputes with any adjoining property owners or tenants as to the location of Development Parcel lines, or the encroachment of any improvements.

This Certificate shall be binding upon the undersigned and inure to the benefit of Port, Vertical Developer [,] and their respective successors and assigns.

[ ], a [_____]

By: _____

Name: _____

Title: _____

EXHIBIT S-2

FORM OF PHASE SUBTENANT ESTOPPEL

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MASTER LEASE EXHIBIT S-2

FORM OF MASTER TENANT/PHASE SUBTENANT ESTOPPEL CERTIFICATE

Seawall Lot 337 Associates, LLC, a Delaware limited liability company ("**Master Tenant**"), is the master tenant of the real property located at [_____] [_____] (the "**Property**"). The Property is located within the mixed-use development commonly known as "**Mission Rock**" in San Francisco, California. [**Note: Use only for Phase Subtenant**: [_____], a [_____] ("**Phase Subtenant**") subleased a portion of the Property that includes Parcels [XXXXXXXXXX] within Mission Rock from Master Tenant.] [Master Tenant] [Phase Subtenant] hereby certifies to the **City and County of San Francisco**, a municipal corporation, operating by and through the **San Francisco Port Commission** ("**Port**") [and to _____] the following as of [_____], 20XX:

1. [**Note: Use for Master Tenant**: That there is presently in full force and effect that certain Master Lease No. L-[_____] dated as of [_____], 2018 (as modified, assigned, supplemented and/or amended as set forth in ***paragraph 2 below***, the "**Master Lease**"), between Master Tenant, as tenant, and Port, as landlord, covering the Property and other improvements, as further described in the Master Lease (the "**Master Premises**"). [**Note: Use is there is a Phase Sublease**: That there is presently in full force and effect that certain Sublease Agreement [_____] dated as of [_____], 20[XXX] (as modified, assigned, supplemented and/or amended as set forth in ***paragraph 2 below***, the "**Phase Sublease**"), between Master Tenant, as sublandlord, and Phase Subtenant, as subtenant, covering the a portion of the Master Premises, as further described in the Phase Sublease (the "**Subleased Property**").

2. [**Note: Use for Master Tenant:** That to Master Tenant's knowledge, a true, correct, and complete Master Lease is attached hereto as Exhibit A and has not been modified, assigned, supplemented or amended except as follows: _____. [**Note: Use only if Phase Subtenant is signing when Master Lease terminates**] That to Phase Subtenant's knowledge after diligent inquiry, (A) a true, correct, and complete Phase Sublease is attached hereto as Exhibit A, is in full force and effect, and has not been modified, assigned, supplemented or amended except as follows: _____;] [**Note: add if initial Phase Sublease has been amended**: and (B) the following amendments to the Phase Sublease and dates of Port approval for such amendments are as follows: [_____].]

3. [**Note: Use only in connection with Phase Sublease**:] That the attached Sublease and summary of basic terms attached hereto as Exhibit XXX are both true, correct and complete and that there have been no changes in the executed Sublease and summary from the electronic copies previously delivered to Port on [_____], [20XX].

4. That the commencement date under the Master Lease was [_____], 2018. [**Note: Use only for Phase Sublease**: The expiration date of the Phase Sublease is [_____], 20[__].

5. That the present minimum monthly base rent which [Master Tenant] [Phase Subtenant] is paying under the [Master Lease] [Phase Sublease] is $_____ and has been paid in full as of [_____].

6. That the Percentage Rent paid by [Master Tenant] [Phase Subtenant] for the most recent full calendar [month] [quarter] [year] prior to the date set forth above was $_____.]

7. **[Note: Use only for Master Lease:** That the security deposits held by Port under the terms of the Master Lease are as follows: $_____. [**Note: Use only for Phase Sublease**: That the security deposits held by Master Tenant under the terms of the Phase Sublease are as follows: $_____.

8. [**Note: Use only for Master Tenant**: That Master Tenant has accepted possession of the Master Premises and that, to Master Tenant's actual knowledge, after diligent inquiry, all conditions of the Master Lease to be satisfied by Port have been completed or satisfied to the satisfaction of Master Tenant.] [**Note: Use only for Phase Subtenant**: That Phase Subtenant has accepted possession of the Subleased Property and that, to Phase Subtenant's actual knowledge, after diligent inquiry, all conditions of the Phase Sublease to be satisfied by Master Tenant have been completed or satisfied to the satisfaction of Phase Subtenant.]

9. That, to [Master Tenant's] [Phase Subtenant's] actual knowledge, after diligent inquiry, [Master Tenant] [Phase Subtenant], as of the date set forth above, has no right or claim of deduction, charge, lien or offset against [**Note: Use only for Master Tenant**: Port under the Master Lease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Master Lease other than _____.] [**Note: Use only for Phase Subtenant**: Master Tenant under the Phase Sublease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Phase Sublease other than _____.]

10. [**Note: Use for Master Tenant**:] That, to Master Tenant's actual knowledge, after diligent inquiry, Port is not in default or breach of the Master Lease, nor has Port committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Master Lease by Port. [**Note: Use for Phase Subtenant**: That, to Phase Subtenant's actual knowledge, after diligent inquiry, Master Tenant is not in default under the Phase Sublease, nor has Master Tenant committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Phase Sublease by Master Tenant, respectively, which have not been cured, except as follows: [_____].

11. That, to Master Tenant's actual knowledge, after diligent inquiry, Master Tenant is not in default or in breach of the Master Lease [or the Phase Sublease], nor has Master Tenant committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Master Lease [or the Phase Sublease] by Master Tenant. [**Note: Use only for Phase Subtenant**:] That, to the best of Phase Subtenant's actual knowledge, after diligent inquiry, Phase Subtenant is not in default or in breach of the Phase Sublease, nor has Phase Subtenant committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Phase Sublease by Phase Subtenant.

12. Except for the following: _____, (i) [Master Tenant] [Phase Subtenant] is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money, (ii) [Master Tenant] [Phase Subtenant] has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code, (iii) there has been no event that has materially adversely affected [Master Tenant's] [Phase Subtenant's] ability to meet its [Master Lease] [Phase Sublease] obligations hereunder, and (iv) to [Master Tenant's] [Phase Subtenant's] knowledge, no involuntary petition naming [Master Tenant] [Phase Subtenant] as debtor has been filed under any chapter of the U.S. Bankruptcy Code.

13. **[Note: Use for Master Tenant:]** That, to Master Tenant's actual knowledge, after diligent inquiry, there has been no violation of any covenants, conditions or restrictions of record affecting the Property and that there are no disputes with any

adjoining property owners or tenants as to the location of property lines, or the encroachment of any improvements.

[*the remainder of this page left intentionally blank*]

This Certificate shall be binding upon [Master Tenant] [Phase Subtenant] and inure to the benefit of Port, [ ] and their respective successors and assigns.

[ ], a [_____]

By: _____

Name: _____

Title: _____

EXHIBIT T

FORM OF NON-DISTURBANCE AGREEMENT

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MASTER LEASE EXHIBIT T

FORM OF NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This **NON-DISTURBANCE AND ATTORNMENT AGREEMENT** (this "**Agreement**") is made as of [_____, 20XXX] (the "**Effective Date**"), by and among the **CITY AND COUNTY OF SAN FRANCISCO** ("**City**"), operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), **SEAWALL LOT 337 ASSOCIATES**, a Delaware limited liability company ("**Master Tenant**" or "**Horizontal Developer**"), and [_____], a [_____] ("**Subtenant**"). The exhibits and the recitals and this Agreement are construed as a single instrument and are referred herein as this "**Agreement**."

RECITALS

A. Port and Master Tenant entered into that certain Lease No. L-XXXX as may be amended from time to time dated [_____], 2018, ("**Master Lease**") pursuant to which Port leased to Master Tenant that certain premises commonly referred to as "**Mission Rock**" and located on an approximately 28-acre site on and around seawall lot 337, located in the City and County of San Francisco, California, and as further described in the Master Lease (the "**Master Premises**").

B. Port and Master Developer are parties to that certain Disposition and Development Agreement dated as of [ ], 2018 (the "**DDA**") that governs the mixed-use development on the Master Premises and commonly known as "**Mission Rock**."

C. Master Developer has an obligation under the DDA, among other things, to subdivide the Master Premises and create separate legal parcels to allow for development of new open space and parks and commercial and residential buildings within the Master Premises, and to construct new and upgraded Horizontal Improvements on the Master Premises that support such development, all in accordance with the DDA.

D. The DDA also sets forth a parcel disposition process under which Port will enter into a ground lease with a Vertical Developer for each of the Development Parcels within the Master Premises. Upon conveyance of a Development Parcel to a Vertical Developer, the Master Premises will be adjusted to remove the applicable Development Parcel from the Master Lease and Master Premises.

E. Pursuant to the terms of the Sublease Agreement between Master Tenant and Subtenant dated as of [_____] (the "**Sublease**"), Subtenant has assumed Master Tenant's and Master Developer's obligations under the Master Lease and Master Premises to [**Note: describe Subtenant obligations related to construction of Horizontal Improvements, etc.**] and desires to sublease from Master Tenant the portion of the Master Premises commonly known as Phase [XXX] of Mission Rock, as further described in the Sublease (the "**Subleased Premises**"). A summary of the basic terms of the Sublease certified an authorized representative of Master Tenant as true, correct, and complete, is attached hereto as ***Exhibit A*** ("**Sublease Summary**"). A true, correct, and complete copy of the Sublease is attached hereto as ***Exhibit B***.

F. All capitalized terms not defined in this Agreement are defined in the Master Lease.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, Port, Master Tenant and Subtenant agree as follows:

1. SUBLEASE SUBJECT TO MASTER LEASE.

The Sublease is subordinate at all times to the Master Lease and subject to all of the applicable provisions, covenants and conditions thereof.

2. PRE-CONDITIONS TO RECOGNITION.

Port has no obligation to recognize Subtenant's rights under the Sublease or otherwise comply with ***Section 4*** unless all of the following conditions are satisfied as of the effective date the Master Lease terminates ("**Master Lease Termination Date**"):

(a) there is no uncured Subtenant event of default, giving effect to any notice and cure period provided therein;

(b) Subtenant delivers to Port, promptly following Port's notice to Subtenant that the Master Lease has terminated, an executed estoppel certificate, substantially in the form attached hereto as ***Exhibit C*** certifying as of the Master Lease Termination Date, among other things:

(i) that the attached Sublease and Sublease Summary are true, correct, and complete copies, and that the Sublease is in full force and effect, or if such Sublease is not in full force and effect, so stating;

(ii) which amendments, if any, to the Sublease have been previously approved by Port in writing, including the dates of approval;

(iii) the dates, if any, to which any rent and other sums payable thereunder have been paid;

(iv) that Master Tenant is not in default, nor is it aware of any events which, with the passage of time or notice or both, would result in a default, except as to those specified in said certificate;

(v) that Subtenant is not in default, nor is it aware of any events which, with the passage of time or notice or both, would result in a default, except as to those specified in said certificate;

(vi) that the Sublease requires the Subtenant to, or if the Sublease does not so require, then Subtenant will, deliver all of the following into Escrow no less than five (5) business days prior to the Anticipated Conveyance Date of each Development Parcel within the Subleased Premises:

(1) a duly executed and acknowledged Partial Release of Sublease and if the rights to the applicable Phase under the DDA were assigned to and assumed by Subtenant, a Partial Release of DDA;

(2) a duly executed estoppel certificate for the benefit of Port, the Vertical Developer and Vertical Developer's lenders, in the form attached hereto as ***Exhibit XX***;

(3) a duly executed ground lessee's affidavit and, if required by the title insurance company, a mechanic's lien indemnity (excluding any work performed by Port) reasonably acceptable to Subtenant and the title insurance company issuing title insurance on the applicable Development Parcel;

(4) if applicable, a duly executed Vertical Coordination Agreement reasonably acceptable to both Tenant and Vertical Developer; and

(5) such other documents reasonably requested by Port, or Vertical Developer, to consummate the delivery of the applicable Development Parcel to Vertical Developer.

(vii) Upon request from each Vertical Developer, Subtenant reaffirms that it will also enter into a license with each applicable Vertical Developer, on the form attached as ***Exhibit XX*** to the Master Lease, to provide Vertical Developer access to the applicable

Development Parcel within the applicable Phase, for Vertical Developer to perform due diligence and site investigation prior to the Anticipated Conveyance Date.

(c) Without limiting ***Section 1***, from and after the Master Lease Termination Date, Subtenant hereby agrees that the provisions of ***Article 41*** (Other City Requirements) of the Master Lease (collectively, the "**Other City Requirements**") are deemed to be incorporated by reference and made a part of the Sublease as if set forth in full in the Sublease, except that the term "**Tenant**" in such sections will mean the Subtenant;

(d) As described in [***Section 1.3*** of the Master Lease], Subtenant hereby agrees that Port will have the continuing rights described in such section (without being in default under the Sublease) and in the event of any conflict with the Sublease, the terms of such section of the Master Lease will control;

(e) The Sublease complies with all the conditions of [***Section 18.4*** of the Master Lease], provided that references in such section to Pre-Approved Sublease will mean the Sublease;

(f) The Subleased Premises does not extend beyond the boundaries of applicable Phase (other than any construction staging area for the Horizontal Improvements applicable to such Phase, the boundaries of which are approved by Port and Master Developer);

(g) Any Transfer by Subtenant of its interest in the Sublease will require Port's prior approval, which approval may be withheld in Port's sole discretion before Completion of the Shared Public Way and the Parcel D2 Garage, and in its reasonable discretion after Completion of the Shared Public Way and the Parcel D2 Garage;

(h) Port will not be liable for or bound by any act, omission, default, misrepresentation, or breach of warranty of any previous sublandlord or obligations accruing prior to the Master Lease Termination Date; provided however, the foregoing will not limit Port's obligations to correct any conditions that existed as of the date of attornment that violate Port's obligations as the sub landlord under the Sublease.

3. NO OBLIGATION TO RECOGNIZE CERTAIN SUBLEASE PROVISIONS.

Notwithstanding ***Section 4***, Subtenant agrees and acknowledges that Port's recognition of the Sublease from and after the Master Lease Termination Date, does not include, and in no event will Port be subject to, liable for, or bound by, any term or condition in the Sublease for any of the following:

(a) Any security deposit, prepaid rent or other charges previously paid by Subtenant to Master Tenant, unless such deposits, prepaid rents, or other charges are transferred to Port;

(b) Any sublandlord indemnity obligation or sublandlord waiver or release of claims under the Sublease for the benefit of Subtenant or any other party;

(c) Any requirement or obligation to pay any amount of money to the Subtenant;

(d) Any Subtenant right of first offer to purchase, first negotiation to purchase, or first refusal to purchase, Master Tenant's interest in the Subleased Premises;

(e) Any Sublease term, including options to renew, that extend beyond the scheduled expiration date of the Master Lease;

(f) Any sublandlord obligation to pay (or be liable for) any indirect, consequential, incidental, punitive or special damages;

(g) Any limitation on Subtenant's obligation to indemnify any sublandlord parties based on Subtenant's insurance coverage;

(h) Any limitation on the sublandlord's ability to transfer its interest in the Sublease (including any requirement to deliver prior notice to Subtenant or obtain Subtenant's prior approval);

(i) Any requirement or obligation to keep records or documents confidential that violates the Public Records Act or the City's Sunshine Ordinance; and

(j) Subject to the provisions of ***Section 18.6*** of the Master Lease, any modification or amendment of the Sublease made without Port's written consent that increase Master Tenant's obligations under the Sublease or decrease the Subtenant's obligations under the Sublease or modify Subtenant's obligations under ***Section 2(b)(vi)***, unless such amendment or modification has previously been approved by Port in writing.

(k) Any sublease provision that conflicts with ***Section 18.4*** (Pre-Approved Subleases) of the Master Lease.

4. RECOGNITION OF SUBTENANT RIGHTS.

Provided all the conditions set forth in ***Section 2*** are fully satisfied, and further subject to the limitations set forth in ***Sections 3 and 5***, if the Master Lease terminates for any reason other than Master Tenant terminating the Master Lease due to condemnation, all as further described in ***Section 2***, Port agrees that from and after the Master Lease Termination Date: Port will (i) not disturb Subtenant's tenancy under the Sublease, (ii) perform the obligations of sublandlord under the Sublease arising after the Master Lease Termination Date until such obligations are assumed by another sublandlord or other transferee of Port's interest in the Sublease, and (iii) recognize Subtenant's rights under the Sublease with respect to the Subleased Premises.

5. ATTORNMENT.

Following the Master Lease Termination Date, Subtenant will attorn to Port and continue to perform all of Subtenant's obligations under the Sublease for the benefit of Port or any future sublandlord or other assignee of Port's rights under the Sublease. For such purposes, as between Port and Subtenant, notwithstanding the termination of the Master Lease as between Port and Master Tenant, the provisions of the Master Lease will be deemed to continue to apply to, and will continue to be incorporated by reference into, the Sublease, and Subtenant will continue to comply with such provisions, to the same extent that such provisions were incorporated into and Subtenant was required to comply with such provisions pursuant to the terms of the Sublease prior to the Master Lease Termination Date; provided, however, if there is any conflict between Subtenant's obligation to comply with such provisions in the Sublease and the Other City Requirements, the Other City Requirements will control.

6. SELF-OPERATIVE PROVISIONS.

The provisions contained in ***Sections 2(c)***, [**Note: insert as applicable: *2(d)***], ***3***, ***4***, ***5*** are to be effective and self-operative without the necessity of the execution or delivery of any other documents on the part of either Port or Subtenant.

7. NOTICE AND OPPORTUNITY TO CURE UNDER SUBLEASE.

Port will be entitled to notice and the opportunity to cure any default by Master Tenant under the Sublease as follows:

(a) Subtenant will give Port a copy of any and all notices of an event of default (*i.e.*, following the expiration of any notice and cure period) from time to time given to Master Tenant as sublandlord under the Sublease, by Subtenant at the same time as and whenever any such notice will thereafter be given by Subtenant to Master Tenant. Such notice will be addressed to Port in the manner for delivery of notices provided in the Master Lease.

(b) In the case of any notice of default given by Subtenant to Master Tenant and Port in accordance with ***Section 7(a)***, Port will have the same right (and time period) to cure

Sublandord's default as given to any mortgagee under the Sublease, and Subtenant will accept such performance by or at the instance of Port as if the same had been made by Master Tenant.

8. BROKERAGE FEES.

Master Tenant and Subtenant each acknowledge that Port's execution hereof does not operate to impose on Port any liability or obligation whatsoever in connection with the payment of any brokerage or finder's fees or commissions in connection with or relating to the Sublease. In the event any broker, agent or finder makes a claim against Port for payment of any such fees or commission, Master Tenant will indemnify, defend, and hold harmless Port from any losses arising out of such claim.

9. NO ASSUMPTION OF SUBLEASE.

Except to the extent specifically provided under ***Section 4***, Port will have no liability or obligation to Subtenant relating to Subtenant's occupation of the Subleased Premises under the Sublease, and Port does not assume any of the obligations of Master Tenant set forth therein.

10. REPRESENTATIONS AND WARRANTIES.

10.1. ***Summary of Basic Terms***. Master Tenant and Subtenant each represent and warrant to Port that the Sublease Summary is true and correct in all material respects, and includes all of the basic terms of the Sublease.

10.2. ***Copy of Sublease***. Master Tenant and Subtenant each represent and warrant to Port that attached as ***Exhibit B*** is a true, correct, and complete copy of the Sublease and that the Sublease complies with ***Sections 18.3*** (Subletting by Tenant) and ***18.4(b)*** (Conditions for Issuance of Non-Disturbance Agreements) of the Master Lease.

10.3. ***Master Tenant Representations and Warranties***. Master Tenant represents and warrants to Port that as of the Effective Date:

(a) to Master Tenant's actual knowledge after diligent inquiry, the Master Lease is unmodified, except for the following: _____, and is in full force and effect:;

(b) to Master Tenant's actual knowledge after diligent inquiry, Master Tenant is not in default or in breach of the Master Lease except for the following: _____, nor has Master Tenant committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Master Lease by Master Tenant, except for the following: _____;

(c) to Master Tenant's actual knowledge after diligent inquiry, Rent and other sums payable under the Master Lease have been paid through _____ and Master Tenant has no right or claim of deduction, charge, lien or offset against Port under the Master Lease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Lease;

(d) to Master Tenant's actual knowledge after diligent inquiry, Port is not in default or breach of the Master Lease, nor has Port committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Master Lease by Port; and

(e) Except for the following:_____, (i) Master Tenant is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money, (ii) Master Tenant has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code, (iii) there has been no event that has materially adversely affected Master Tenant's ability to meet its Master Lease obligations thereunder, and (iv) to Master Tenant's knowledge, no involuntary petition naming Master Tenant as debtor has been filed under any chapter of the U.S. Bankruptcy Code.

11. EXCULPATION.

Master Tenant and Subtenant each covenant and agree that Port and City will not be responsible for or liable for, and, to the fullest extent allowed by law, each waives all rights against City, Port and their agents and release City, Port and their agents from any and all losses or liabilities relating to any disputes that may exist between Master Tenant and Subtenant relating to the Sublease or the Subleased Premises.

12. GENERAL.

12.1. ***Successors and Assigns***. This Agreement will be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

12.2. ***Counterparts***. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument.

12.3. ***Amendment***. Neither this Agreement nor any of its terms may be terminated, amended, or modified except by a written instrument executed by the parties.

12.4. ***Governing Law; Selection of Forum***. This Agreement will be governed by, and interpreted in accordance with, the laws of the State of California and the City Charter. As part of the consideration for Port's entering into this Agreement, Master Tenant and Subtenant agree that all actions or proceedings arising directly or indirectly under this Agreement may, at the sole option of Port, be litigated in courts within the State of California, and Master Tenant and Subtenant consents to the jurisdiction of any such state or federal court, and consents that any service of process in such action or proceeding may be made by personal service upon Master Tenant or Subtenant wherever Master Tenant or Subtenant, as applicable, may then be located, or by certified or registered mail directed to Master Tenant at the address set forth in the Master Lease for the delivery of notices and Subtenant at the address set forth below (or at such other address as may from time to time be specified by written notice to all parties to this Agreement):

To Subtenant:	
With a copy to:	

12.5. ***Attorneys' Fees***. If any party brings an action or proceeding (including any cross-complaint or counterclaim) against any other party by reason of a default, or otherwise arising out of this Agreement, the prevailing party in such action or proceeding will be entitled to recover from the other party its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which will be payable whether or not such action is prosecuted to judgment. "**Prevailing party**" will include a party who substantially obtains or defeats, as the case may be, the relief sought in the action, whether by compromise, settlement, judgment or the abandonment by the other party of its claim or defense. Attorneys' fees under this ***Section 12.5*** will include reasonable attorneys' fees and all other reasonable costs and expenses incurred in connection with any appeal. For purposes of this Agreement, reasonable fees of attorneys of the Office of the City Attorney will be based on the fees regularly charged by private attorneys with an equivalent number of years of professional experience (calculated by reference to earliest year of admission to the Bar of any State) who practice in San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

Port: **CITY AND COUNTY OF SAN FRANCISCO,**
a municipal corporation, operating by and through the
SAN FRANCISCO PORT COMMISSION

By: _____

Name: _____

Title: _____

Master Tenant: **[INSERT MASTER TENANT SIGNATURE BLOCK]**

By: _____

Name: _____

Title: _____

Subtenant: **[INSERT SUBTENANT SIGNATURE BLOCK]**

By: _____

Name: _____

Title: _____

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EXHIBIT A
SUBLEASE SUMMARY

[TO BE ATTACHED]

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EXHIBIT B
COPY OF SUBLEASE

[TO BE ATTACHED]

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EXHIBIT C
SUBTENANT ESTOPPEL CERTIFICATE

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EXHIBIT C

FORM OF MASTER TENANT/PHASE SUBTENANT ESTOPPEL CERTIFICATE

Seawall Lot 337 Associates, LLC, a Delaware limited liability company ("**Master Tenant**"), is the master tenant of the real property located at [_____] [_____] (the "**Property**"). The Property is located within the mixed-use development commonly known as "**Mission Rock**" in San Francisco, California. [**Note: Use only for Phase Subtenant**: [_____], a [_____] ("**Phase Subtenant**") subleased a portion of the Property that includes Parcels [XXXXXXXXXX] within Mission Rock from Master Tenant.] [Master Tenant] [Phase Subtenant] hereby certifies to the **City and County of San Francisco**, a municipal corporation, operating by and through the **San Francisco Port Commission** ("**Port**") [and to _____] the following as of [_____], 20XX:

1. [**Note: Use for Master Tenant**: That there is presently in full force and effect that certain Master Lease No. L-[_____] dated as of [_____], 2018 (as modified, assigned, supplemented and/or amended as set forth in ***paragraph 2 below***, the "**Master Lease**"), between Master Tenant, as tenant, and Port, as landlord, covering the Property and other improvements, as further described in the Master Lease (the "**Master Premises**"). [**Note: Use is there is a Phase Sublease**: That there is presently in full force and effect that certain Sublease Agreement [_____] dated as of [_____], 20[XXX] (as modified, assigned, supplemented and/or amended as set forth in ***paragraph 2 below***, the "**Phase Sublease**"), between Master Tenant, as sublandlord, and Phase Subtenant, as subtenant, covering the a portion of the Master Premises, as further described in the Phase Sublease (the "**Subleased Property**").

2. [**Note: Use for Master Tenant:** That to Master Tenant's knowledge, a true, correct, and complete Master Lease is attached hereto as Exhibit A and has not been modified, assigned, supplemented or amended except as follows: _____. [**Note: Use only if Phase Subtenant is signing when Master Lease terminates**] That to Phase Subtenant's knowledge after diligent inquiry, (A) a true, correct, and complete Phase Sublease is attached hereto as Exhibit A, is in full force and effect, and has not been modified, assigned, supplemented or amended except as follows: _____;] [**Note: add if initial Phase Sublease has been amended**: and (B) the following amendments to the Phase Sublease and dates of Port approval for such amendments are as follows: [_____].]

3. [**Note: Use only in connection with Phase Sublease**:] That the attached Sublease and summary of basic terms attached hereto as Exhibit XXX are both true, correct and complete and that there have been no changes in the executed Sublease and summary from the electronic copies previously delivered to Port on [_____], [20XX].

4. That the commencement date under the Master Lease was [_____], 2018. [**Note: Use only for Phase Sublease**: The expiration date of the Phase Sublease is [____], 20[__].

5. That the present minimum monthly base rent which [Master Tenant] [Phase Subtenant] is paying under the [Master Lease] [Phase Sublease] is $_____ and has been paid in full as of [_____].

6. That the Percentage Rent paid by [Master Tenant] [Phase Subtenant] for the most recent full calendar [month] [quarter] [year] prior to the date set forth above was $_____.]

7. **[Note: Use only for Master Lease:** That the security deposits held by Port under the terms of the Master Lease are as follows: $_____. [**Note: Use only for Phase Sublease**: That the security deposits held by Master Tenant under the terms of the Phase Sublease are as follows: $_____.

8. [**Note: Use only for Master Tenant**: That Master Tenant has accepted possession of the Master Premises and that, to Master Tenant's actual knowledge, after diligent inquiry, all conditions of the Master Lease to be satisfied by Port have been completed or satisfied to the satisfaction of Master Tenant.] [**Note: Use only for Phase Subtenant**: That Phase Subtenant has accepted possession of the Subleased Property and that, to Phase Subtenant's actual knowledge, after diligent inquiry, all conditions of the Phase Sublease to be satisfied by Master Tenant have been completed or satisfied to the satisfaction of Phase Subtenant.]

9. That, to [Master Tenant's] [Phase Subtenant's] actual knowledge, after diligent inquiry, [Master Tenant] [Phase Subtenant], as of the date set forth above, has no right or claim of deduction, charge, lien or offset against [**Note: Use only for Master Tenant**: Port under the Master Lease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Master Lease other than _____.] [**Note: Use only for Phase Subtenant**: Master Tenant under the Phase Sublease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Phase Sublease other than _____.]

10. [**Note: Use for Master Tenant**:] That, to Master Tenant's actual knowledge, after diligent inquiry, Port is not in default or breach of the Master Lease, nor has Port committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Master Lease by Port. [**Note: Use for Phase Subtenant**: That, to Phase Subtenant's actual knowledge, after diligent inquiry, Master Tenant is not in default under the Phase Sublease, nor has Master Tenant committed an act or failed to act in such a manner, which, with the passage of time or notice or both, would result in a default or breach of the Phase Sublease by Master Tenant, respectively, which have not been cured, except as follows: [_____].

11. That, to Master Tenant's actual knowledge, after diligent inquiry, Master Tenant is not in default or in breach of the Master Lease [or the Phase Sublease], nor has Master Tenant committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Master Lease [or the Phase Sublease] by Master Tenant. [**Note: Use only for Phase Subtenant**:] That, to the best of Phase Subtenant's actual knowledge, after diligent inquiry, Phase Subtenant is not in default or in breach of the Phase Sublease, nor has Phase Subtenant committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Phase Sublease by Phase Subtenant.

12. Except for the following: _____, (i) [Master Tenant] [Phase Subtenant] is not in default under, and has not received notice asserting that it is in default under, any agreement for borrowed money, (ii) [Master Tenant] [Phase Subtenant] has not filed a petition for relief under any chapter of the U.S. Bankruptcy Code, (iii) there has been no event that has materially adversely affected [Master Tenant's] [Phase Subtenant's] ability to meet its [Master Lease] [Phase Sublease] obligations hereunder, and (iv) to [Master Tenant's] [Phase Subtenant's] knowledge, no involuntary petition naming [Master Tenant] [Phase Subtenant] as debtor has been filed under any chapter of the U.S. Bankruptcy Code.

13. **[Note: Use for Master Tenant:]** That, to Master Tenant's actual knowledge, after diligent inquiry, there has been no violation of any covenants, conditions or restrictions of record affecting the Property and that there are no disputes with any

adjoining property owners or tenants as to the location of property lines, or the encroachment of any improvements.

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This Certificate shall be binding upon [Master Tenant] [Phase Subtenant] and inure to the benefit of Port, [ ] and their respective successors and assigns.

[ ], a [_____]

By: _____

Name: _____

Title: _____

EXHIBIT U

LIST OF PRE-EXISTING HAZARDOUS MATERIALS

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MASTER LEASE EXHIBIT U

Table 1

Previously Detected Contaminants in Soil and Groundwater

Mission Rock Development

Seawall Lot 337

San Francisco, California

June 2018

Langan 750604207

Contaminant of Concern (CoC)	Maximum Detected Concentration	[units]	Sample ID	Date
SOIL				
Non-Metals				
Acenaphthene	85+	(mg/kg)	EB-1-2	Mar-95
Acenaphthylene	1.5	(mg/kg)	8 SCU-018	Jan-98
Anthracene	59+	(mg/kg)	EB-1-2	Mar-95
Benzo (a) anthracene	25	(mg/kg)	EB-1-2	Mar-95
Benzo (b) anthracene	10	(mg/kg)	EB-1-2	Mar-95
Benzo (k) fluoranthene	13	(mg/kg)	EB-1-2	Mar-95
Benzo (b&k) fluoranthene	2.6	(mg/kg)	8 SCU-018	Jan-98
Benzo (g,h,i) perylene	0.66	(mg/kg)	8 SCU-018	Jan-98
Benzo (a) pyrene	11	(mg/kg)	EB-1-2	Mar-95
Bis (2-ethylhexyl) phthalate	0.83	(mg/kg)	EB-17-4	Mar-95
Chrysene	27	(mg/kg)	EB-1-2	Mar-95
Dibenzo (a,h) anthracene	0.37	(mg/kg)	8 SCU-018	Jan-98
Dibenzo-furan	51+	(mg/kg)	EB-1-2	Mar-95
4,4'-DDE	0.039	(mg/kg)	EB-1-2	Mar-95
4,4'-DDD	0.06	(mg/kg)	EB-6-4	Mar-95
4,4'-DDT	0.031	(mg/kg)	EB-20-4	Mar-95
Cis-1,2-DCE	0.027	(mg/kg)	EB-13-W-2	Mar-95
Endosulfan II	0.0061	(mg/kg)	EB-7W-2	Mar-95
Fluoranthene	130+	(mg/kg)	EB-1-2	Mar-95
Fluorene	70+	(mg/kg)	EB-1-2	Mar-95
Freon 113	0.12	(mg/kg)	EB-5-6	Mar-95
Indeno-(1,2,3-cd) pyrene	2.3	(mg/kg)	EB-20-2	Mar-95
Methylene chloride	0.11	(mg/kg)	EB-13-W-2	Mar-95
2-Methyl naphthalene	63+	(mg/kg)	EB-1-2	Mar-95
Naphthalene	86+	(mg/kg)	EB-1-2	Mar-95
Phenanthrene	270+	(mg/kg)	EB-1-2	Mar-95
Pyrene	120+	(mg/kg)	EB-1-2	Mar-95
1,1,1-Trichlorothane (TCA)	0.029	(mg/kg)	EB-13-W-2	Mar-95
TPH - gasoline	400	(mg/kg)	4 TCA-011	Jan-98
TPH - deisel	2,100	(mg/kg)	4 TCA-011	Jan-98
Toluene	1.3	(mg/kg)	7 TCA-017	Jan-98
Ethyl-Benzene	0.63	(mg/kg)	4 TCA-011	Jan-98
Xylene	9.3	(mg/kg)	4 TCA-011	Jan-98
Tetrachloroethene (PCE)	0.02	(mg/kg)	EB-13-W-4	Mar-95
Toluene	0.037	(mg/kg)	GMX-6-1.0	Apr-99
Ethyl-benzene	0.023	(mg/kg)	GMX-8-1.0	Apr-99
Xylenes	0.17	(mg/kg)	EB-3-2	Mar-95
1,2,4-Trimethyl-benzene	0.036	(mg/kg)	GMX-6-1.0	Apr-99
PCBs	AROCLOR 1260 = 1.0, AROCLOR 1254 = 0.240, AROCLOR 1016 = 0.100	(mg/kg)	EB-2-4, 5 TCA-013	Mar-98, Jan-98
Metals				
Antimony	100	(mg/kg)	EB-5-2D	Mar-95
Arsenic	96	(mg/kg)	EB-5-2D	Mar-95
Barium	680	(mg/kg)	GMX-8-1.0	Apr-99
Beryllium	1.4	(mg/kg)	EB-20-2D	Mar-95
Cadmium	2.5	(mg/kg)	EB-15-6	Mar-95
Chromium	780	(mg/kg)	EB-15-6	Mar-95
Cobalt	89	(mg/kg)	EB-14-6	Mar-95
Copper	220	(mg/kg)	EB-6-4	Mar-95
Lead	3,000	(mg/kg)	EB-1-2	Mar-95
Mercury	5.7	(mg/kg)	GMX-7-1.0	Apr-99
Molybdenum	36	(mg/kg)	EB-6-4	Mar-95
Nickel	1,300	(mg/kg)	EB-14-6	Mar-95
Silver	3	(mg/kg)	3 TCA-007	Jan-98
Thallium	11	(mg/kg)	1 TCA-001	Jan-98
Vanadium	110	(mg/kg)	EB-9-6	Mar-95
Zinc	940	(mg/kg)	EB-12-2	Mar-95

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Table 1
Previously Detected Contaminants in Soil and Groundwater
Mission Rock Development
Seawall Lot 337
San Francisco, California

Contaminant of Concern (CoC)	Maximum Detected Concentration	[units]	Sample ID	Date
GROUNDWATER				
Volitale Organic Compounds (VOCs)				
Carbon Disulfide	11	(µg/L)	GMX-5	Apr-99
TPH- deisel	2,400	(µg/L)	1GW-001	Jan-98
Naphthalene	1.1	(µg/L)	5GW004	Apr-98
Fluorene	1.5	(µg/L)	5GW004	Apr-98
Phenanthrene	1.4	(µg/L)	5GW004	Apr-98
Pyrene	0.81	(µg/L)	5GW004	Apr-98
Benzo(a)-anthracene	0.14	(µg/L)	5GW004	Apr-98
Chrysene	0.38	(µg/L)	5GW004	Apr-98
Benzo(b)-fluoranthene	0.56	(µg/L)	5GW004	Apr-98
Benzo(k)-fluoranthene	0.12	(µg/L)	5GW004	Apr-98
Benzo(a)-pyrene	0.34	(µg/L)	5GW004	Apr-98
Benzo(g,h,i)-perylene	0.59	(µg/L)	5GW004	Apr-98
Metals				
Antimony	100	(µg/L)	GMX-1	Apr-99
Arsenic	9,200	(µg/L)	1GW-001	Jan-98
Barium	5,100	(µg/L)	1GW-001	Jan-98
Beryllium	9.7	(µg/L)	W-2-D	Mar-95
Cadmium	26	(µg/L)	1GW-001	Jan-98
Chromium	4,100	(µg/L)	W-2-D	Mar-95
Cobalt	2,500	(µg/L)	3GW-003	Jan-98
Copper	2,000	(µg/L)	2GW-002	Jan-98
Lead	5,600	(µg/L)	2GW-002	Jan-98
Mercury	2,000	(µg/L)	4GW-004	Jan-98
Molybdenum	51	(µg/L)	GMX-5	Apr-99
Nickel	14,000	(µg/L)	W-2-D	Mar-95
Selenium	25	(µg/L)	W-2-D	Mar-95
Silver	34	(µg/L)	GMX-5	Apr-99
Thallium	150	(µg/L)	1GW-001	Jan-98
Vanadium	520	(µg/L)	W-2-D	Mar-95
Zinc	7,200	(µg/L)	1GW-001	Jan-98

EXHIBIT V

FORM OF PORT ESTOPPEL CERTIFICATE

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MASTER LEASE EXHIBIT V

FORM OF PORT ESTOPPEL CERTIFICATE

The undersigned, the **City and County of San Francisco**, a municipal corporation, operating by and through the **San Francisco Port Commission** ("**Port**"), is the owner of the fee simple estate in the real property [bound by [_____]] [having an address at _____], within the mixed-use development commonly known as "**Mission Rock**" in San Francisco, California (the "**Property**"). Port hereby certifies to [_____], a [_____] ("**Tenant**") [and to _____] the following as of [_____], 20XX:

1. That there is presently in full force and effect Lease No. L-[_____] dated as of [_____], 20[XXX] (as modified, assigned, supplemented and/or amended as set forth in ***paragraph 2*** below, the "**Lease**"), between Port, as landlord, and Tenant, as tenant, for the Property and other improvements, as further described in the Lease (the "**Premises**").

2. That the Lease has not been modified, assigned, supplemented or amended except as follows _____.

3. That the commencement date under the Lease was _____, 20__, and the expiration date of the Lease is _____, 20___.

4. That the present monthly minimum rent under the Lease is $_____ and has been paid through _____, 20__.

5. That the Percentage Rent (as defined in the Lease) paid by Tenant for the most recent full calendar month prior to the date set forth above was $_____(mark N/A if not applicable).

6. That the security deposits held by Port under the terms of the Lease are as follows: $_____.

7. That, to the actual knowledge of Port **[Note: Delete if estoppel is to Mezzanine Lender or prospective Mezzanine Lender]** [after diligent inquiry], Port is not in default or in breach of the Lease, nor has Port committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Lease by Port except as follows: [_____].

8. That, to the actual knowledge of Port **[Note: Delete if estoppel is to Mezzanine Lender or prospective Mezzanine Lender]** [after diligent inquiry], Tenant is not in default or in breach of the Lease, nor has Tenant committed an act or failed to act in such a manner which, with the passage of time or notice or both, would result in a default or breach of the Lease by Tenant except as follows: [_____].

9. That, to the actual knowledge of Port **[Note: Delete if estoppel is to Mezzanine Lender or prospective Mezzanine Lender]** [after diligent inquiry], Tenant, as of the date set forth above, has no right or claim of deduction, charge, lien or offset against Port under the Lease or otherwise against the rents or other charges due or to become due pursuant to the terms of the Lease other than _____.

10. That Port has not assigned, conveyed, transferred, or mortgaged its interest in the Lease or the Premises except as follows: [_____].

11. That Port has not received written notice of any threatened eminent domain proceedings from a governmental entity having eminent domain powers against Port's interest in the Premises.

12. The undersigned hereby certifies that he or she is duly authorized to sign and deliver this Certificate on behalf of Port.

[Note: Use for Mezzanine Lender or prospective Mezzanine Lender] For purposes of this Estoppel Certificate, the term "actual knowledge" shall mean the actual knowledge of [_____], Port's property manager for the Premises without diligent inquiry.

This Certificate shall be binding upon Port and inure to the benefit of Tenant, [_____] and their respective successors and assigns.

Dated: _____, 20____.

CITY AND COUNTY OF SAN FRANCISCO,
A MUNICIPAL CORPORATION, OPERATING BY AND THROUGH THE
SAN FRANCISCO PORT COMMISSION

By: _____
Name: _____
Title: _____

EXHIBIT W

LENDER PROVISIONS

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MASTER LEASE EXHIBIT W

Lender Provisions

37. MORTGAGES.

37.1. Mortgages.

(a) Right to Grant Mortgages. Tenant has the right during the Term, to grant a mortgage, deed of trust or other security instrument (each a "Mortgage") encumbering (i) all or a portion of the Leasehold Estate in all or a portion of the Premises, (ii) Tenant's interest in any permitted Subleases thereon, (iii) any Personal Property of Tenant, (iv) products and proceeds of the foregoing, and (v) any other rights and interests of Tenant arising under this Lease for the benefit of a Bona Fide Institutional Lender (together with its successors in interest, a "Lender") as security for one or more loans related solely to the Project or the Property, the proceeds from which are used to pay or reimburse costs incurred in connection with the Project and/or the Property, subject to the terms and conditions contained in this Article 37.

"Bona Fide Institutional Lender" means any one or more of the following, whether acting in its own interest and capacity or in an agency or a fiduciary capacity for one or more Persons none of which need be Bona Fide Institutional Lenders: (i) a savings bank, a savings and loan association, a commercial bank or trust company or branch thereof, an insurance company, a licensed California finance lender, any agency or instrumentality of the United States government or any state or City governmental authority, a pension fund, an investment banking or merchant banking firm, or any entity directly or indirectly sponsored or managed by any of the foregoing, or other lender, all of which, at the time a Mortgage is recorded in favor of such entity, owns or manages assets of at least Five Hundred Million Dollars ($500,000,000) in the aggregate (or the equivalent in foreign currency), or (ii) a Low Income Housing Credit investor or Affiliate thereof that has given a loan to Tenant to optimize or utilize effectively the Low Income Housing Tax Credits.

(b) Restrictions on Financing. No Mortgage will be granted to secure obligations unrelated to the Project and/or the Property or to provide compensation or rights to a Lender in return for matters unrelated to the Project and/or the Property.

(c) Leasehold Mortgages Subject to this Lease. With the exception of the rights expressly granted to Lenders in this Article 37, the execution and delivery of a Mortgage will not give or be deemed to give a Lender any greater rights than those granted to Tenant hereunder.

(d) Transfer by Lenders. A Lender may transfer or assign all or any part of or interest in any Mortgage to a Bona Fide Institutional Lender without the consent of or notice to any Party; provided, however, that Port will have no obligations under this Agreement to a Lender unless Port is notified of such Lender. Furthermore, Port's receipt of notice of a Lender following Port's delivery of a notice or demand to Tenant or to one or more Lenders under Section 37.4 will not result in an extension of any of the time periods in this Article 37, including the cure periods specified in Section 37.5.

(e) No Subordination of Fee Interest or Rent. Under no circumstance whatsoever will a Lender place or suffer to be placed any lien or encumbrance on Port's fee interest in the Land in connection with any financing permitted hereunder, or otherwise. Port will not subordinate its interest in the Premises, nor its right to receive Rent, to any Lender.

(f) Violation of Covenant. Any Mortgage not permitted by this Article 37 will be deemed to be a violation of this covenant on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

37.2. Copy of Notice of Default to Lender.

(a) Copy to Lender. Whenever Port delivers any notice or demand to Tenant for any breach or default by Tenant in its obligations or covenants under this Lease, Port will at the same time forward a copy of such notice or demand to each Lender that has previously made a written request to Port for a copy of any such notices in accordance with Section 37.2(b). A delay or failure by Port to provide such notice or demand to any Lender that has previously made a written request therefor will extend, by the number of days until notice is given, the time allowed to such Lender to cure.

(b) Notice from Lender to Port. Each Lender is entitled to receive notices in accordance with Section 37.2(a) provided such Lender has delivered a notice to Port in substantially the following form:

"The undersigned does hereby certify that it is a Lender, as such term is defined in that certain lease entered into by and between the City and County of San Francisco, operating by and through the San Francisco Port Commission, as landlord, and [insert name of Tenant], as tenant (the "Lease"), of tenant's interest in the Lease demising the property, a legal description of which is attached hereto as Exhibit A and made a part hereof by this reference. The undersigned hereby requests that copies of any and all notices from time to time given under the Lease to tenant by Port be sent to the undersigned at the following address: _____."

If Lender desires to have Port acknowledge receipt of Lender's name and address delivered to Port pursuant to this Section 37.2(b), then such request must be made in bold, underlined and in capitalized letters.

37.3. Lender's Option to Cure Defaults.

(a) Before or after receiving any notice of failure to cure referred to in Section 37.2, Lender will have the right (but not the obligation), at its option, to commence to cure or cause to be cured any Event of Default, within the same period afforded to Tenant hereunder plus an additional period of (a) fifteen (15) days with respect to a monetary Event of Default and (b) forty-five (45) days with respect to a non-monetary Event of Default that is susceptible of cure by such Lender without obtaining title to the applicable property subject to the applicable Mortgage or acquiring the ownership interests in Tenant, as applicable.

(b) If a non-monetary Event of Default cannot be cured by Lender without obtaining title to the Leasehold Estate, or applicable portion thereof, Port will refrain from exercising its right to terminate this Lease and will permit the cure by a Lender of such Event of Default if, within the cure period set forth in Section 37.3(a): (i) such Lender notifies Port in writing that such Lender intends to proceed with due diligence to foreclose the Mortgage or otherwise obtain title to the subject property or ownership interests, as applicable; (ii) such Lender commences foreclosure proceedings whether by non-judicial foreclosure, judicial foreclosure, by appointment of a receiver, or deed (or assignment) in lieu of foreclosure, within sixty (60) days after giving such notice, and diligently pursues such proceedings to completion; and (iii) after obtaining title, such Lender, subject to Section 37.4, diligently proceeds to cure those Events of Default that are susceptible of cure by such Lender. The period from the date Lender so notifies Port until a Lender acquires and succeeds to the interest of Tenant under this Lease or some other party acquires such interest through Foreclosure is herein called the "Foreclosure Period."

(c) Nothing in this Article 37 will preclude Port from exercising any rights or remedies under this Lease against Tenant (other than a termination of this Lease) with respect to any other Events of Default during the Foreclosure Period.

(d) Notwithstanding the foregoing, no Lender will be required to cure any non-monetary Event of Default that is specific or personal to Tenant which cannot be cured by Lender (by way of example and not limitation, Tenant bankruptcy, or the failure to submit required information in the possession of Tenant). Lender's acquisition of title to the Leasehold

Estate, or the completion of a foreclosure (or assignment in lieu thereof), as applicable, will be deemed to be a cure of such Events of Default specific or personal to Tenant. The foregoing will not excuse a Lender's failure to cure any continuing default that is curable by Lender.

37.4. Lender's Obligations with Respect to the Property.

(a) Rights and Obligations upon Lender Acquisition. Except as set forth in this Article 37, no Lender will have any obligations or other liabilities under this Lease unless and until it acquires title by any method to the Leasehold Estate (referred to as "Foreclosed Property"). Except as otherwise provided herein (including, without limitation, Sections 37.4(b)—(d), a Lender (or its designee, successor or assign) or other winning bidder at a foreclosure sale (collectively, a "Successor Owner") that acquires title to any Foreclosed Property (a "Lender Acquisition") will take title subject to all of the terms and conditions of this Lease to the extent applicable to the Foreclosed Property, including any claims for payment or performance of obligations that are due as a condition to enjoying the benefits under this Lease from and after the Lender Acquisition. Upon completion of a Lender Acquisition, Port will recognize the Successor Owner as Tenant under this Agreement. Such recognition will be effective and self-operative without the execution of any further instruments; provided, upon request, at no cost to Port, Port will execute a written agreement recognizing Successor Owner. A Successor Owner, upon a Lender Acquisition, will be required promptly to cure all monetary defaults and all other defaults then reasonably susceptible of being cured by such Lender to the extent not cured prior to completion of the Lender Acquisition. The foregoing obligation includes any obligation to Restore, except as set forth in Section 37.4(c).

(b) Obligations by Lender Prior to Lender Acquisition. Prior to a Lender Acquisition, Port will have no right to enforce any obligation under this Lease against any Lender unless such Lender expressly assumes and agrees to be bound by this Lease in a form reasonably approved in writing by Lender and Port, which form will be consistent with the terms of this Lease (for the avoidance of doubt, the foregoing will not limit Port's rights and remedies against Tenant notwithstanding any interest Lender may have in Tenant or any right against any successor owner of the Property for a continuing default, as set forth in and subject to the limitations of this Article 37). However, Lender agrees to comply during a Foreclosure Period with the terms, conditions and covenants of this Lease that are reasonably susceptible of being complied with by Lender, including the payment of all Impositions and any other sums due and owing hereunder.

(c) No Obligation to Restore. Subject to Sections 37.4(d) and (e), Lender, including any Lender who obtains title to Foreclosed Property through a Lender Acquisition will not be obligated by the provisions of this Lease to Restore any damage or destruction to the Improvements beyond the extent necessary to preserve or protect the Improvements already made, to remove any debris and to perform other reasonable measures to protect the public; provided, however, any other Person who thereafter obtains title to the Leasehold Estate, or any interest therein from or through such Lender (or its designee), or any other Successor Owner (other than such Lender) will be obligated to Restore any damage or destruction to the Improvements in accordance with this Lease, except that any time period for such Restoration shall be reset as if the applicable casualty or condemnation occurred as of the date of the Mortgagee Acquisition.

(d) Obligation to Sell If Not Restore. In the event that Lender acquires the Foreclosed Property through a Lender Acquisition and chooses not to complete or Restore the Improvements, it will notify Port in writing of its election within one hundred twenty (120) days following the Lender Acquisition and will sell its interest with reasonable diligence to a purchaser that will be obligated to Restore the Improvements, but in any event Lender will use good faith efforts to cause such sale to occur within nine (9) months following Lender's written notice to Port of its election not to Restore (the "Sale Period").

(e) Lender Agreement to Complete or Restore. If Lender fails to sell its interest in the Leasehold Estate within the Sale Period, such failure will not constitute a default hereunder but Lender will be obligated to Restore the Improvements to the extent this Lease obligates Tenant to so Restore. In the event Lender agrees, or is deemed to have agreed, to Restore the Improvements, all such work will be performed in accordance with all the requirements set forth in this Lease, and Lender must submit evidence reasonably satisfactory to Port that it has the qualifications and financial responsibility necessary to perform such obligations.

37.5. Provisions of Any Mortgage. Each Mortgage must provide that Lender will during the Term, (i) promptly provide Port by registered or certified mail a copy of any notice delivered by Lender to Tenant of a borrower default under the Mortgage, and (ii) give Port prior notice before Lender initiates any Mortgage foreclosure action with respect to the Property or the Project. The exercise by a Lender of any of its remedies under its Mortgage will not, in and of itself, constitute a default under this Lease.

37.6. No Impairment of Mortgage. No default by Tenant under this Lease will invalidate or defeat the lien of any Lender. Neither a breach of any obligation in a Mortgage, nor a foreclosure under any Mortgage will defeat, diminish, render invalid or unenforceable or otherwise impair Tenant's rights or obligations under this Lease or constitute, by itself, a default under this Lease.

37.7. Multiple Mortgages.

(a) If at any time there is more than one Mortgage constituting a lien on a single portion of the Property or any interest therein, the lien of Lender prior in time to all others (the "Senior Lender") will be vested with the rights under Sections 37.3, 37.10, 37.13, and 37.14 to the exclusion of the holder of any other Mortgage except if the Senior Lender fails to exercise the rights set forth in Sections 37.3 and 37.10, as applicable, then the holder of a junior Mortgage that has provided notice to Port in accordance with Section 37.2 will succeed to the rights set forth in Sections 37.3 and 37.10, as applicable, only if the holders of all Mortgages senior to it have failed to exercise the rights set forth in Sections 37.3 and 37.10, as applicable.

(b) A Senior Lender's failure to exercise its rights under Sections 37.3, 37.10, 37.13, or 37.14, as applicable, or any delay in the response of any Lender to any notice by Port will not extend (i) any cure period, (ii) period to enter into a New Lease, or (iii) Tenant's or any Lender's rights under this Article 37. For purposes of this Section 37.7, in the absence of an order of a court of competent jurisdiction that is served on Port, a title report prepared by a reputable title company licensed to do business in the State of California and having an office in the City, setting forth the order of priorities of the liens of Mortgages on real property, may be relied upon by Port as conclusive evidence of priority.

37.8. Cured Defaults. Port will accept performance by a Lender with the same force and effect as if performed by Tenant. No such performance on behalf of Tenant in and of itself will cause Lender to become a "mortgagee in possession" or otherwise cause it to be bound by or liable under this Lease.

37.9. Limitation on Liability of Lender. No Lender will become liable under the provisions of this Lease unless and until such time as it becomes the owner of the Leasehold Estate and then only for so long as it remains the owner of the Leasehold Estate and only with respect to the obligations arising during such period of ownership.

If a Lender becomes the owner of the Leasehold Estate under this Lease or under a New Lease, (i) except as set forth in Sections 37.4(c) and 37.4(d), such Lender will be liable to Port for the obligations of Tenant hereunder only to the extent such obligations arise during the period that such Lender remains the owner of the Leasehold Estate, and (ii) in no event will Lender have personal liability under this Lease or New Lease, as applicable, greater than Lender's interest in this Lease or such New Lease, and Port will have no recourse against Lender's assets other than its interest herein or therein.

37.10. New Lease. In the event of the termination of this Lease before the expiration of the Term, including, without limitation, the rejection of this Lease by a trustee of Tenant in bankruptcy or by Tenant as a debtor-in-possession, except (i) by Total Condemnation, (ii) as the result of damage or destruction as provided in Article 14, or (iii) as a result of Tenant exercising its option to terminate this Lease due to change in Laws as provided in Section 7.3, Port will serve upon Lender written notice that this Lease has been terminated, together with a statement of any and all sums which would at that time be due under this Lease but for such termination, and of all other defaults, if any, under this Lease then known to Port. The Senior Lender will thereupon have the option to obtain a new lease in accordance with and upon the following terms and conditions ("New Lease"):

(i) Upon the written request of Lender, within thirty (30) days after service of such notice that this Lease has been terminated ("New Lease Execution Period"), Port will enter into a New Lease of the Premises with the most senior Lender giving notice within such period or its designee, provided that Lender assumes Tenant's obligations as Sublandlord under any Subleases then in effect; and

(ii) Such New Lease will be entered into at the Lender's cost, will be effective as of the date of termination of this Lease, and will be for the remainder of the Term and at the Rent and upon all the agreements, terms, covenants and conditions hereof, including any applicable rights of renewal and in substantially the same form as this Lease (except for any requirements or conditions which Tenant has satisfied prior to the termination). The New Lease will have the same priority as this Lease, including priority over any mortgage or other lien, charge or encumbrance on the title to the Premises. The New Lease will require Lender to perform any unfulfilled monetary obligation of Tenant under this Lease that would, at the time of the execution of the New Lease, be due under this Lease if this Lease had not been terminated and to perform as soon as reasonably practicable any unfulfilled non-monetary obligation which is continuing and is reasonably susceptible of being performed by such Lender, including any obligation to Restore. If Lender elects not to Restore, then it will follow the procedures set forth in Sections 37.4(d) and (e). Upon the execution of the New Lease, Lender will pay any and all sums which would at the time of the execution thereof be due under this Lease but for such termination, and will pay all expenses, including reasonable Attorneys' Fees and Costs incurred by Port in connection with such defaults and termination, the recovery of possession of the Premises, and the preparation, execution and delivery of such New Lease. The provisions of this Section 37.10(ii) will survive any termination of this Lease (except as otherwise expressly set out in the first sentence of 37.10), and will constitute a separate agreement by Port for the benefit of and enforceable by Lender.

37.11. Nominee. Any rights of a Lender under this Article 37, as amended hereby, may be exercised by or through its nominee or designee (other than Tenant) which is an Affiliate of Lender; provided, however, no Lender will acquire title to the Lease through a nominee or designee which is not a Person otherwise permitted to become Tenant hereunder; provided, further that a Lender may acquire title to the Lease through a wholly owned (directly or indirectly) subsidiary of Lender.

37.12. Subleases and Other Property Agreements. Effective upon the commencement of the term of any New Lease executed pursuant to Subsection 37.10, any Sublease then in effect will be assigned and transferred without recourse by Port to Lender. Between the date of termination of this Lease and expiration of the New Lease Execution Period, Port will not (1) enter into any new management agreements or agreements for the maintenance of the Premises or the supplies therefor (collectively, "Other Property Agreements") or Subleases which would be binding upon Lender if Lender enters into a New Lease, (2) cancel or materially modify any of the existing Subleases, management agreements or agreements for the maintenance of the Premises or the supplies therefor or any other agreements affecting the Premises, or (3) accept any cancellation, termination or surrender of any Subleases which were not automatically terminated upon termination of the Lease as a result of the absence of a

Non-Disturbance Agreement with the Subtenant of such Sublease (unless all the conditions to Port's recognition of the Sublease under the Non-Disturbance Agreement have not been met) or Other Property Agreement without the written consent of Lender, which consent will not be unreasonably withheld or delayed; provided, however Lender's prior approval will not be required for any Other Property Agreement entered into, cancelled, or modified by Port due to an emergency. Effective upon the commencement of the term of the New Lease, Port will also quitclaim to Lender, its designee or nominee (other than Tenant), without recourse, all of Tenant's Personal Property remaining on the Premises.

37.13. Consent of Lender. Port will not (i) modify this Lease in a manner that increases base rent or percentage rent owed to Port, decreases the Term or otherwise amends the terms of this Lease in a manner that creates a material adverse effect upon Senior Lender, or (ii) terminate or cancel this Lease without Senior Lender's prior written consent, which consent will not be unreasonably withheld, conditioned or delayed. Any such modification, termination or cancellation of this Lease without Senior Lender's consent will be effective against Senior Lender.

No merger of this Lease and the fee estate in the Premises will occur on account of the acquisition by the same or related parties of the leasehold estate created by this Lease and the fee estate in the Premises without the prior written consent of Lender.

37.14. Cooperation. Port, through its Executive Director, and Tenant will cooperate in including in this Lease by suitable written amendment or agreement from time to time any provision which may be reasonably requested by the Senior Lender and customarily included in such amendment or agreement to implement the provisions and intent of this Article 37, provided, however, that any such amendment or agreement will not adversely affect in any material respect any of Port's rights and remedies under this Lease. Port's execution of any such amendment or agreement is conditioned on Port's receipt of its share of Net Refinancing Proceeds (if any), and Attorneys' Fees and Costs incurred in connection with the review and negotiation of such document.

EXHIBIT X

OTHER CITY REQUIREMENTS

For purposes of this ***Exhibit X*** only, the term "Developer" will mean Seawall Lot 337 Associates, LLC, as "Tenant" under this Lease.

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MASTER LEASE EXHIBIT X
Other City Requirements

The Municipal Code (available at www.sfgov.org) and City and Port policies described in this Exhibit are incorporated by reference as though fully set forth in the DDA (collectively, the "**Other City Requirements**"). Developer is charged with full knowledge of and compliance with each applicable ordinance and policy and any related implementing regulations as amended, subject to ***DA § 5.3*** *(New City Laws)*.

In Ordinance No. 33-18, a copy of which is attached as **Exhibit A**, the Board of Supervisors waived the application to the Mission Rock Project of the following provisions of the Administrative Code (collectively, the "**DA Waivers**"):

1. Chapter 6 (Public Works Contracting Policies and Procedures) other than the payment of prevailing wages as required in Chapter 6;
2. to the extent inconsistent with Developer's approved LBE Utilization Program, Chapter 14B (Local Business Enterprise Utilization and Non-Discrimination in Contracting);
3. Competitive Bidding Procedures and Additional Appraisal Review as defined in Section 23.3 (Chapter Definitions) and required by Section 23.3 (Conveyance and Acquisition of Real Property);
4. Section 23.31 (Year-to-Year and Shorter Leases);
5. Section 23.30 (Lease of Real Property);
6. Section 23.33 (Competitive Bidding Procedures);
7. Section 23A. 7 (Transfer of Jurisdiction Over Surplus Properties to the Mayor's Office of Housing and Community Development);
8. Subsection (c)(2) of Section 61.5 (Listing of Unacceptable Non-Maritime Land Uses); and
9. contract termination, liquidated damages, and debarment remedies under Section 4.9-1(c) (Nutritional Standards and Guidelines), Section 12Q.5(f) (Health Care Accountability), and Section 2T (Criminal History in Hiring and Employment).

The descriptions below are not comprehensive but are provided for notice purposes only. Developer understands that its failure to comply with any applicable provision of the Other City Requirements will give rise to the specific remedies described in the applicable Other City Requirements (which may include penalties) and in certain cases give rise to a default under the DDA, which could result in a default under the DA as well. References to Developer in the Other City Requirements will apply to Developer, its successors under the DDA, and DA Successors under the DA.

All statutory references in this Exhibit are to the Municipal Code as in effect on the DA Ordinance Effective Date unless specified otherwise. Initially capitalized or highlighted terms used in this Exhibit and not defined in the Appendix have the meanings ascribed to them in the cited ordinance.

Contracting, Hiring, and Construction

1. **Nondiscrimination in Contracts and Property Contracts.** (Admin. Code ch. 12B, ch. 12C)

(a) Covered Contracts. All provisions in this Section regarding the Nondiscrimination in Contracts and Property Contracts ordinance apply to "subcontracts to contracts" and "property contracts" as defined in Administrative Code sections 12B.2 and 12C.2.

(b) Covenant Not to Discriminate. In its development of the Project Site, Developer covenants and agrees not to discriminate against or segregate any person or group of persons on any basis listed in section 12955 of the California Fair Employment and Housing Act (Cal. Gov. Code §§ 12900-12996), or on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, AIDS/HIV status, weight, height, association with members of protected classes, or in retaliation for opposition to any forbidden practices against any employee of, any City employee working with, or applicant for employment with Developer, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in the business, social, or other establishment or organization operated by Developer.

(c) Requirement to Include. Developer must: (i) include a nondiscrimination clause in substantially the form of **Subsection (a)** (Covenant Not to Discriminate); and (ii) incorporate by reference Administrative Code sections 12B.2(a), 12B.2(c)-(k), and 12C.3(a) in all contracts, subcontracts, and subleases and require all contractors, subcontractors, and subtenants to comply with those provisions.

(d) Nondiscrimination in Benefits. Developer agrees not to discriminate between employees with domestic partners and employees with spouses, or between the domestic partners and spouses of employees, where the domestic partnership has been registered with any governmental entity under state or local law authorizing registration, subject to the conditions set forth in Administrative Code section 12B.2. Developer's agreement relates to bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, and travel benefits (collectively "**Core Benefits**"), as well as other employee benefits described in section 12B.1(b), during the term of each covered contract.

(e) Form. On or before the Reference Date, Developer must complete, execute, deliver to, and obtain approval of its completed *Nondiscrimination in Contracts and Benefits* form CMD-12B-101 from CMD. The form is available on CMD's website.

(f) Penalties. Developer understands that under Administrative Code section 12B.2(h), the City may assess against Developer or deduct from any payments due Developer a penalty for each person for each calendar day during which Developer or its subcontractor, property contractor, or other contractor discriminated against a protected person in violation of this Section.

2. Health Care Accountability Ordinance.
(Admin. Code ch. 12Q)

(a) Developer agrees to comply fully with and be bound by the Health Care Accountability Ordinance ("**HCAO**"), as set forth in Administrative Code chapter 12Q, unless exempt.

(b) Covered Employees. For each Covered Employee, Developer must provide the appropriate health benefit set forth in HCAO section 12Q.3, unless it is exempt as a small business under HCAO section 12Q.3(e).

(c) Notice and Opportunity to Cure. If Developer fails to cure a violation of the HCAO after receiving notice of a violation and an opportunity to cure the violation, the City will have the remedies set forth in HCAO section 12Q.5(f), subject to the DA Waivers, which the City may exercise individually or in combination with any of its other rights and remedies.

(d) Covered Contracts. Any Contract, Subcontract, or Sublease, as defined in Chapter 12Q, that Developer enters into for public works, public improvements, or for services that the City will pay directly or reimburse Developer for must require the Contractor, Subtenant, or Subcontractor, as applicable, to comply with the applicable provisions of the HCAO and must contain contractual obligations substantially the same as those set forth in the HCAO. Developer agrees to notify the Contracting Department promptly of any Subcontractors performing services covered by Chapter 12Q and certify to the Contracting Department that Developer has notified the Subcontractors of their HCAO obligations under this Chapter.

(e) Noncompliance. Developer will be responsible for monitoring compliance with the HCAO by each Subcontractor, Subtenant, and Contractor performing services on the Project Site. But the City agrees that Developer will not be liable for the noncompliance of its Subcontractors, Subtenants, or Contractors. The City's remedies for Developer's noncompliance with the HCAO are subject to the DA Waivers.

(f) Retaliation Prohibited. Developer must not discharge, reduce in compensation, or otherwise discriminate against any Employee for notifying the City of any issue regarding noncompliance or anticipated noncompliance with the HCAO, for opposing any practice proscribed by the HCAO, for participating in any proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(g) Representation and Warranty. Developer represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(h) Reporting. Upon request, Developer must provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO.

(i) Records. After receiving a written request from the City to inspect pertinent payroll records and after at least 10 days to respond have elapsed, Developer agrees to provide the City with access to pertinent payroll records relating to the number of employees employed and terms of medical coverage. In addition, the City and its Agents, in consultation with the Department of Public Health, may conduct audits of Contracting Parties, although such audits shall be conducted through an examination of records at a mutually agreed upon time and location within 10 days after written notice. Developer agrees to cooperate with the City in connection with these audits.

(j) Threshold. If a Subcontractor, Subtenant, or Contractor is exempt from the HCAO because the amount payable to the Subcontractor, Subtenant, or Contractor under all of its contracts with the City or relating to City-owned property is less than $25,000 (or $50,000 for nonprofits) in that City Fiscal Year, but the Subcontractor, Subtenant, or Contractor later enters into one or more agreements with the City or relating to City-owned property that cause the payments to the Subcontractor, Subtenant, or Contractor to equal or exceed $75,000 in that City Fiscal Year, then all of the Contractor's, Subtenant's, or Subcontractor's contracts with the City and relating to City-owned property will become subject to the HCAO from the date on which the later agreement is executed.

3. Prevailing Wages and Working Conditions in Construction Contracts.
(Calif. Labor Code §§ 1720 *et seq.*; Admin. Code § 6.22(e))

(a) Labor Code Provisions. Certain contracts for work at the Project Site may be public works contracts if paid for in whole or part out of public funds, as the terms "**public work**" and "**paid for in whole or part out of public funds**" are defined in and subject to exclusions and further conditions under California Labor Code sections 1720-1720.6.

(b) Requirement. Developer must comply with the prevailing wage requirements in *ML §13.3(f) (Prevailing Wages)*.

(c) Penalties. The Port has designated OLSE as the agency responsible for ensuring that prevailing wages are paid and other payroll requirements are met, subject to the DA Waivers.

4. Other Prevailing Wage Rate Requirements.
(Admin. Code §§ 21C.3, 21C.4)

(a) Under Administrative Code section 21C.4, individuals engaged in theatrical or technical services related to the presentation of a Show at the Project Site, including rigging, sound, projection, theatrical lighting, videos, computers, draping, carpentry, special effects, and motion picture services, are entitled to be paid not less than the Prevailing Rate of Wages (including fringe benefits or matching equivalents) fixed by the Board of Supervisors, unless the Show is free and open to the public or meets any of the other exemptions in Administrative Code section 21C.4(b)(1).

(b) Individuals employed in the following activities at the Project Site are also entitled to the Prevailing Rate of Wages: (i) a Public Off-Street Parking Lot, Garage or Automobile Storage Facility under Administrative Code section 21C.3; (ii) a Special Event under Administrative Code section 21C.8; and (iii) Broadcast Services under Administrative Code section 21C.9.

(c) Agreement. Developer agrees to comply with the obligations in Administrative Code chapter 21C and to require its tenants, contractors, and any subcontractors to comply with the obligations in chapter 21C. In addition, if Developer or its tenant, contractor, or any subcontractor fails to comply with these obligations, the City will have all available remedies against Developer to secure compliance and seek redress for workers who provided the services as described in section 21C.7, together with the remedies set forth in the DDA.

(d) Payroll Records. Developer will: (i) comply with Administrative Code section 21C.7(c)(4) as to any Covered Contract on the Project Site as defined in Administrative Code section 21C.7(b); and (ii) provide to the City for inspection, after receipt of a Violation Notice (as defined in section 21C.7(c)(4)), payroll records and other documentary evidence necessary to establish that the noticed violation has been cured.

(e) OLSE. For current Prevailing Wage rates, see the OLSE website or call the OLSE at 415-554-6235.

5. First Source Hiring Program.
(Admin. Code §§ 83.1 et seq.)

Developer's obligations to comply with the First Source Hiring Program are set forth in **DDA Exh B6-A** *(Workforce Development Program)*.

6. Criminal History In Hiring And Employment Decisions.
(Admin. Code ch. 12T)

(a) Agreement to Comply. Administrative Code Chapter 12T ("**Chapter 12T**") will only apply to a Contractor's, Subcontractor's, or subtenant's operations to the extent those operations are in furtherance of performing a Contract or Property Contract with the City subject to Chapter 12T. If applicable, Developer will comply with and be bound by Chapter 12T, including the remedies and implementing regulations, with respect to applicants to and employees of Developer who would be or are performing work at the Project Site under the DDA.

(b) Breach. Developer must incorporate Chapter 12T by reference in all contracts related to be performed in furtherance of a Contract or Property Contract with the City, as defined in Administrative Code section 12T.1. Developer will be responsible for monitoring compliance by its Subcontractors, Contractors, and subtenants, but the City agrees that Developer will not be liable for their noncompliance.

(c) Prohibited Activities. Developer and its Subcontractors, Contractors, and subtenants must not inquire about, require disclosure of, or if the information is received, base an Adverse Action on an applicant's or potential applicant's or employee's: (i) Arrest not leading to a Conviction, except under circumstances identified in Chapter 12T as an Unresolved Arrest; (ii) participation in or completion of a diversion or a deferral of judgment program; (iii) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (iv) a Conviction or any other adjudication in the juvenile justice system, or information regarding a matter considered in or processed through the juvenile justice system; (v) a Conviction that is more than seven years old, based on the date of sentencing; or (vi) information pertaining to an offense other than a felony or misdemeanor, such as an infraction, except that a Contractor, Subcontractor, or subtenant may inquire about, require disclosure of, base an Adverse Action on, or otherwise consider an infraction or infractions contained in an applicant or employee's driving record if driving is more than a de minimis element of the employment in question.

(d) Employment Applications. Developer and its Subcontractors, Contractors, and subtenants must not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any Conviction

History or unresolved arrest until either after the first live interview with the person, or after a conditional offer of employment in accordance with section 12T.4(c).

(e) Disclosure. Developer and its Subcontractors, Contractors, and subtenants must state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Developer or its Subcontractors, Contractors, and subtenants at the Project Site that the DDA and all Contracts and Property Contracts will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Posting. Developer and its Subcontractors, Contractors, and subtenants must post the notice prepared by the OLSE, available on OLSE's website, in a conspicuous place at the Project Site and at other workplaces, job sites, or other locations under the Subcontractor's, Contractor's, or subtenant's control at which work is being done or will be done in furtherance of performing a Contract or Property Contract under the DDA with the City. The notice will be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Project Site or other workplace at which it is posted.

(g) Penalties. Developer and its Subcontractors, Contractors, and subtenants understand and agree that upon any failure to comply with Chapter 12T, the City will have the right to pursue any rights or remedies available under Chapter 12T, subject to **Subsection (b)** (Breach) and the DA Waivers, including a penalty of $50 for each employee, applicant or other person as to whom the violation occurred or continued, and thereafter, for subsequent violations, the penalty may increase to no more than $100, for each employee or applicant whose rights were, or continue to be, violated.

(h) Inquiries. If Developer has any questions about the applicability of Chapter 12T, it may contact the Port for additional information. The Port will consult with the Director of the City's Office of Contract Administration, who has authority to grant a waiver under the circumstances set forth in section 12T.8 of Chapter 12T.

7. **Employee Signature Authorization Ordinance.**
(Admin Code §§ 23.50-23.56)

The City has adopted an Employee Signature Authorization Ordinance, which requires employers of employees in hotel or restaurant projects on public property with 50 or more full-time or part-time employees to enter into a "card check" agreement with a labor union regarding the preference of employees to be represented by a labor union to act as their exclusive bargaining representative. Developer agrees to comply with the requirements of the ordinance, if applicable, including any requirements applicable to its successors, as specified in Administrative Code section 23.54.

Use Of City Property

8. **Local Business Enterprises.**
(Admin. Code ch. 14B)

Developer agrees to comply with the LBE Utilization Program, **DDA Exh B6-B**.

9. Tobacco Products and Alcoholic Beverages.
(Admin. Code § 4.20; Health Code art. 19K)

(a) Definitions. For purposes of this Section: (i) "**alcoholic beverage**" is defined in California Business and Professions Code section 23004 and excludes cleaning solutions, medical supplies, and other products and substances not intended for drinking; and (ii) "**tobacco product**" is defined in Health Code section 1010(b).

(b) Advertising Ban. New general advertising signs that are visible to the public are prohibited on the exterior of any City-owned building under Administrative Code section 4.20-1.

(c) Tobacco Sales Ban. No person may sell tobacco products on property owned by or under the control of the City under Health Code article 19K.

(d) Alcoholic Beverage Advertising. Port property used for operation of a restaurant, concert or sports venue, or other facility or event where the sale, production, or consumption of alcoholic beverages is permitted, will be exempt from the alcoholic beverage advertising prohibition in Administrative Code section 4.20(a)-(c).

10. Integrated Pest Management Program.
(Env. Code ch. 3)

(a) IPM Plan. Chapter 3 of the Environment Code (the "**IPM Ordinance**") describes an integrated pest management policy ("**IPM Policy**") to be implemented by all City departments. Except for the permitted uses of pesticides provided in IPM Ordinance section 303, Developer must not use or apply during the DDA term, and must not contract with any party to provide pest abatement or control services to the Project Site, except in compliance with the Port's integrated pest management plan ("**IPM Plan**").

(b) Application. Although not a City Department, Developer agrees to comply, and must require all of Developer's contractors to comply, with the Port's approved IPM Plan and IPM Ordinance sections 300(d), 302, 304, 305(f), 305(g), and 306, as if Developer were a City department. Among other matters, the IPM Ordinance: (i) provides for the use of pesticides only as a last resort; (ii) prohibits the use or application of pesticides on City-owned property except for pesticides granted exemptions under IPM Ordinance section 303 (including pesticides included on the most current Reduced Risk Pesticide List compiled by the Department of the Environment); (iii) imposes certain notice requirements; and (iv) requires Developer to keep certain records and to report to the City all pesticide use by Developer's staff or contractors.

(c) Prior Review. Before Developer or Developer's contractor applies pesticides to outdoor areas, Developer must obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation and any such pesticide application must be made only by or under the supervision of a person holding a valid Qualified Applicator certificate or Qualified Applicator license under California law. The City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the Department of the Environment website, http://sfenvironment.org/ipm.

11. Resource-Efficient Facilities and Green Building Requirements.
(Env. Code ch. 7)

Developer agrees to comply with all applicable provisions of the Environment Code relating to resource-efficiency and green building design requirements.

12. Tropical Hardwood and Virgin Redwood Ban.
(Env. Code ch. 8)

The City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product, except as expressly permitted by the application of Environment Code sections 802(b) and 803(b). Developer agrees that, except as permitted by the application of Environment Code sections 802(b) and 803(b), Developer will not use or incorporate any tropical hardwood or virgin redwood in the construction of the Improvements or provide any items to the construction of the Project, or otherwise in the performance of the DDA that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. If Developer fails to comply in good faith with any of Environment Code chapter 8, Developer will be liable for liquidated damages for each violation in any amount equal to the contractor's net profit on the contract, or 5% of the total amount of the contract dollars, whichever is greater.

13. Diesel Fuel Measures.
(Env. Code ch. 9)

Consistent with the City's Greenhouse Gas Emissions Reduction Plan (Env. Code § 903) to reduce greenhouse gas emissions in the City, Developer must minimize exhaust emissions from operating equipment and trucks during construction. Developer's compliance with MMRP Mitigation Measure M-AQ-1a will satisfy this requirement.

14. Arsenic-Treated Wood.
(Env. Code ch. 13)

Developer must not purchase preservative-treated wood products containing arsenic on behalf of the City in the performance of the DDA without obtaining an exemption under Environment Code section 1304 from the Department of Environment. Developer 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 Developer from purchasing preservative-treated wood containing arsenic for saltwater immersion. In this Section: (a) "**preservative-treated wood containing arsenic**" means wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative; and (b) "**saltwater immersion**" means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

15. Food Service and Packaging Waste Reduction Ordinance.
(Env. Code ch. 16)

Developer agrees to comply fully with and be bound by section 1604(d) of the Food Service and Packaging Waste Reduction Ordinance (Env. Code ch. 16), including the remedies

provided in section 1607 and implementing guidelines and rules. By entering into the DDA and the Development Agreement, Developer agrees that if it breaches this provision, and fails to cure within the cure periods provided herein, the City will suffer actual damages that will be impractical or extremely difficult to determine and that the following amounts of liquidated damage are reasonable estimates of the damage that the City will incur based on any violation, established in light of the circumstances existing on the Reference Date: (a) $100 for the first breach; (b) $200 for the second breach in the same year; and (c) $500 for subsequent breaches in the same year. These liquidated damages will not be considered penalties, but agreed monetary damages sustained by the City because of Developer's noncompliance.

16. Bottled Drinking Water.
(Env. Code ch. 24; Port Reso. No. 12-11)

Developer is subject to all applicable provisions of Environment Code chapter 24 prohibiting the sale or distribution of drinking water in plastic bottles with a capacity of 21 fluid ounces or less at Events held on City Property with attendance of more than 100 people during the DDA Term. Also, Developer must comply with the Port's *Zero Waste Policy for Events and Activities* (Port Reso. No. 12-11) for applicable Events at the Project Site during the DDA Term.

17. Graffiti Removal and Abatement.
(Pub. Works Code Sec. 23)

(a) Requirement. Developer agrees to remove all graffiti from the Project Site, including from the exterior of any structures within the Project Site, consistent with the notice and cure provisions of Public Works Code section 23. If the Director of Public Works determines that any property contains graffiti in violation of section 2303, the Director may issue a notice of violation to Developer and any Offending Party. At the time the notice of violation is issued, the Director will take one or more photographs of the alleged graffiti and make copies of the photographs available to Developer and any Offending Party upon request. The photographs will be dated and retained as a part of the file for the violation. The notice will give Developer and any Offending Party 30 days after the date of the notice to either remove the graffiti or request a hearing on the notice of violation and set forth the procedure for requesting the hearing. This Section is not intended to require a tenant to breach any lease or other agreement that it may have concerning its use of the real property.

(b) Application. In this Section, "**graffiti**" means any inscription, word, figure, marking, or design that is affixed, marked, etched, scratched, drawn, or painted on any building, structure, fixture, or other improvement, whether permanent or temporary, including signs, banners, billboards, and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and that is visible from the public right-of-way, but does not include: (i) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the DDA or the Port Building Code; (ii) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (Calif. Civil Code §§ 987 *et seq.*) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 *et seq.*); (iii) any painting or marking that a City department makes in the course of its official duties or as part of a public education campaign; or (iv) any painting or marking required for compliance with any local, state, or federal law.

18. Drug-Free Workplace.
(41 U.S.C. ch. 81; Police Code art. 40)

To the extent applied by a federal grant or contract for the Project, the Drug-Free Workplace Act of 1988 (41 U.S.C. ch. 81) will apply to Developer. Developer agrees to adopt a Drug-Free Workplace Policy and comply with all other applicable requirements of the drug-free workplace laws under Police Code article 40.

19. Nutritional Standards and Guidelines.
(Admin. Code § 4.9-1)

(a) Definitions. For the purpose of this Section: (i) "**meal**" means "**prepared food**" as defined in Environment Code section 1602(l), which means food or beverages prepared within San Francisco for individual customers or consumers in a form commonly understood to be a breakfast, lunch, or dinner; (ii) "**Nutritional Standards Requirements**" means the food and beverage nutritional standards and calorie labeling requirements set forth in Administrative Code section 4.9-1(c); (iii) "**restaurant**" is defined in Health Code section 451(s) and includes any coffee shop, cocktail lounge, sandwich stand, public school cafeteria, in-plant or employee eating establishment, and any other eating establishment that gives or offers for sale food that requires no further preparation to the public, guests, patrons, or employees for consumption on or off the premises; (iv) "**vending machine**" is defined in Administrative Code section 4.2(a) and means an automated machine dispensing products or services, including food, beverages, tobacco products, newspapers, and periodicals.

(b) Vending Machines. Any permitted vending machine must comply with the Nutritional Standards Requirements in section 4.9-1(c). Developer must incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Project Site or for the supply of food and beverages to that vending machine.

(c) Restaurants. Any restaurant on City property is encouraged to ensure that at least 25% of meals offered on the menu meet the Nutritional Standards Requirements set forth in Administrative Code section 4.9-1(e).

(d) Penalties. Developer's failure to comply with the Nutritional Standards Requirements in section 4.9-1(c) will be considered an Event of Default under the DDA and in addition to its other remedies, which will be subject to the DA Waivers, the City may require the removal of any vending machine on the Project Site that is not permitted or that violates the Nutritional Standards Requirements. Developer will be responsible for monitoring compliance with the Nutritional Standards Requirements by each subcontractor, subtenant, and contractor performing services or occupying premises on the Project Site. But the City agrees that Developer will not be liable for the noncompliance of its subcontractors, subtenants, or contractors.

20. All-Gender Toilet Facilities.
(Admin. Code § 4.1-3)

Developer must include at least one all-gender toilet facility on each floor of any new building on City-owned land or that is constructed by or for the City where toilet facilities are required or provided. Unless not allowed by an existing lease, whenever extensive renovations are made on one or more floors in any building on land that the City owns or in a building that is leased to or by the City, Developer will provide at least one all-gender toilet facility on each

floor where the renovations take place and toilet facilities are required or provided. An "all-gender toilet facility" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures. "Extensive renovations" means any renovation where the construction cost exceeds 50% of the cost of providing the required toilet facilities.

21. Indoor Air Quality.
(Env. Code § 711(g))

Developer agrees to comply with section 711(g) of the Environment Code and regulations adopted under Environment Code section 703(b) relating to construction and maintenance protocols to address indoor air quality.

Other Public Policies

22. Conflicts of Interest.
(Calif. Gov. Code §§ 87100 *et seq.* & §§ 1090 *et seq.*; Charter § 15.103; Campaign and Govt'l Conduct Code art. III, ch. 2)

Through its execution of the DDA, Developer acknowledges that it is familiar with Charter section 15.103, Campaign and Governmental Conduct Code article III, chapter 2, and California Government Code sections 87100 *et seq.* and sections 1090 *et seq.*, certifies that it does not know of any facts that would violate these provisions and agrees to notify the Port if Developer becomes aware of any such fact during the DDA Term.

23. Sunshine.
(Calif. Gov. Code §§ 6250 *et seq.*; Admin. Code ch. 67)

Developer understands and agrees that under the California Public Records Act (Calif. Gov. Code §§ 6250 *et seq.*) and the City's Sunshine Ordinance (Admin. Code ch. 67), the Transaction Documents and all records, information, and materials that Developer submits to the City may be public records subject to public disclosure upon request. Developer may mark materials it submits to the City that Developer in good faith believes are or contain trade secrets or confidential proprietary information protected from disclosure under public disclosure laws, and the City will attempt to maintain the confidentiality of these materials to the extent provided by law. Developer acknowledges that this provision does not require the City to incur legal costs in any action by a person seeking disclosure of materials that the City received from Developer.

24. Contribution Limits-Contractors Doing Business with the City.
(Campaign and Govt'l Conduct Code § 1.126)

(a) Application. Campaign and Governmental Conduct Code section 1.126 ("**Section 1.126**") applies only to agreements subject to approval by the Board of Supervisors, the Mayor, any other elected officer, or any board on which an elected officer serves. Section 1.126 prohibits a person who contracts with the City for the sale or lease of any land or building to or from the City from making any campaign contribution to: (i) any City elective officer if the officer or the board on which that individual serves or a state agency on whose board an appointee of that individual serves must approve the contract; (ii) a candidate for the office held by the individual; or (iii) a committee controlled by the individual or candidate, at

any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for the contract or six months after the date the contract is approved.

(b) Acknowledgment. Through its execution of the DDA, Developer acknowledges the following.

(i) Developer is familiar with Section 1.126.

(ii) Section 1.126 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.

(iii) If applicable, the prohibition on contributions applies to: (1) Developer; (2) each member of Developer's board of directors; (3) Developer's chairperson, chief executive officer, chief financial officer, and chief operating officer; (4) any person with an ownership interest of more than 20% in Developer; (5) any subcontractor listed in the contract; and (6) any committee, as defined in Campaign and Governmental Conduct Code section 1.104, that is sponsored or controlled by Developer.

25. Implementing the MacBride Principles – Northern Ireland.
(Admin. Code ch. 12F)

The Port and the City urge companies doing business in Northern Ireland to move towards resolving employment inequities and encourage them to abide by the MacBride Principles. The Port and the City urge San Francisco companies to do business with corporations that abide by the MacBride Principles.

Exhibit A
to
Master Lease Exhibit X

[Development Agreement - Seawall Lot 337 Associates, LLC - Seawall Lot 337 - Mission Rock Project]

Ordinance approving a Development Agreement between the City and County of San Francisco and Seawall Lot 337 Associates, LLC, for 28 acres of real property known as Seawall Lot 337, located east of Third Street between China Basin Channel and Mission Rock Street, China Basin Park and the portion of Terry A. Francois Boulevard abutting the park, Pier 48, the marginal wharf between Pier 48 and Pier 50, and Parcel P20; for the proposed Mission Rock Mixed-Use Project; waiving certain provisions of the Administrative Code, Planning Code, and Subdivision Code; and adopting findings under the California Environmental Quality Act, public trust findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b).

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font.*
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Background and Findings.

(a) California Government Code Sections 65864 et seq. ("Development Agreement Law") authorize any city, county, or city and county to enter into an agreement for the development of real property within its jurisdiction.

(b) Chapter 56 of the Administrative Code sets forth certain procedures for processing and approving development agreements in the City and County of San Francisco (the "City").

(c) In May 2010, the Port Commission (the "Port") selected SWL 337 Associates, LLC, a Delaware limited liability company ("Developer"), through a competitive process to negotiate exclusively for the mixed-use development (the "Project") of Seawall Lot 337, bounded by Third Street on the west, Parcel P20 and Mission Rock Street on the south, Pier 48 to the east, and China Basin Park on the north, and Pier 48. The Port Commission later added China Basin Park, the marginal wharf between Pier 48 and Pier 50, and Parcel P20 to the development site (collectively, the "Site"), subject to approvals necessary to remove Parcel P20 from the Mission Bay South Redevelopment Project Area. Developer, an affiliate of the San Francisco Giants, will act as the master developer for the Project.

(d) In conjunction with this ordinance, this Board has taken or intends to take a number of other actions in furtherance of the Project, including approval of: (1) a disposition and development agreement ("DDA") between Developer and the Port; (2) amendments to the Planning Code that create the Mission Rock Special Use District (the "SUD amendments") and incorporate the more detailed Mission Rock Design Controls; (3) amendments to the Zoning Maps; (4) a memorandum of understanding for interagency cooperation between the Port and other City agencies (the "ICA") with respect to the subdivision of the Site and construction of public infrastructure and other public facilities; (5) formation proceedings for financing districts covering the Site and a memorandum of understanding between the Port and the Treasurer and Tax Collector and the Controller regarding the assessment, collection, and allocation of ad valorem and special taxes to the financing districts; and (6) a number of related documents and entitlements to govern the Project.

(e) At full build-out, the Project will include: (1) 1.1 million to 1.6 million gross square feet ("gsf") of new residential uses (an estimated 1,000 to 1,950 new residential units), at least 40% of which will be on-site housing affordable to a range of low- to moderate-income households as described in the Housing Plan in the DDA; (2) 972,000 to 1.4 million gsf of new

commercial and office space; (3) 241,000 to 244,800 gsf of active retail and production uses on 11 proposed development blocks on SWL 337 in buildings that would range in height from 90 to 240 feet, consistent with Section 5 of the Mission Rock Affordable Housing, Parks, Jobs and Historic Preservation Initiative (Proposition D, November 2015); (4) rehabilitation and reuse of Pier 48, a significant contributing resource to the Port of San Francisco Embarcadero Historic District; (5) approximately 1.1 million gsf of above- and below-grade parking in one or two garages; (6) transportation demand management on-site and payment of impact fees that the Municipal Transportation Agency will use to improve transportation service in the area; (7) approximately 5.4 acres of net new open space for a total of approximately 8 acres of new and expanded open space, including an expansion of China Basin Park, a new central Mission Rock Square, and waterfront access along the shoreline; (8) public access areas, assembly areas, and an internal grid of public streets, shared streets, and utilities infrastructure; and (9) on-site strategies to protect against sea level rise.

(f) While the DDA binds the Port and Developer, other City agencies retain a role in reviewing and issuing certain later approvals for the Project. Later approvals include approval of subdivision maps and plans for public infrastructure and public facilities, design review and approval of new buildings under the SUD amendments, and acceptance of Developer's dedications of public infrastructure and public facilities for maintenance and liability under the Subdivision Code. Accordingly, the City and Developer negotiated a development agreement for the Project (the "Development Agreement"), a copy of which is in Board File No. 171313 and incorporated in this ordinance by reference. The DDA, the Development Agreement, the ICA, the Tax MOU, and all vertical disposition and development agreements and leases that the Port enters into in accordance with the DDA are referred to collectively as the "Transaction Documents."

(g) Development of the Site in accordance with the DDA and the Development Agreement will help realize and further the City's goals to restore and revitalize Seawall Lot 337 and Pier 48, increase public access to the waterfront, increase public open space and community facilities within the neighborhood, add to the City's affordable and market-rate housing stock, and create a significant number of construction and permanent jobs in and near the Site. In addition, the Project will provide additional benefits to the public that could not be obtained through application of existing City ordinances, regulations, and policies.

Section 2. Environmental Findings.

(a) The Planning Commission has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.) ("CEQA"). A copy of this determination is in Board File No. 171313 and incorporated in this ordinance by reference.

(b) The Board of Supervisors has adopted Resolution No. 36-18, a copy of which is in Board File No. 171286, making CEQA findings for the Project. The Board of Supervisors adopts and incorporates in this ordinance by reference the Planning Commission's findings under CEQA.

Section 3. Consistency Findings.

The Planning Commission recommended that the Board of Supervisors approve the Development Agreement and amendments to the Planning Code and the Zoning Maps at a public hearing on October 5, 2017, by Motion No. 20019 and Resolution No. 20020, copies of which are in Board File No. 171313. This Board adopts and incorporates by reference in this ordinance the Planning Commission's findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1(b).

Section 4. Public Trust Findings.

At a public hearing on January 30, 2018, the Port Commission consented to the Development Agreement and approved the DDA, subject to the Board of Supervisors' approval, finding that the Project would be consistent with and further the purposes of the common law public trust and statutory trust under the Burton Act (Stats. 1968, ch. 1333), as amended by Senate Bill 815 (Stats. 2007, ch. 660) and Assembly Bill 2797 (Stats. 2016, ch. 529), by Resolution Nos. 18-03 and 18-06, copies of which are in Board File No. 171313. The Board of Supervisors adopts and incorporates in this ordinance by reference the Port Commission's public trust findings.

Section 5. Approval of Development Agreement.

The Board of Supervisors:

(a) approves all of the terms and conditions of the Development Agreement in substantially the form in Board File No. 171313;

(b) finds that the Development Agreement substantially complies with the requirements of Administrative Code Chapter 56 (Development Agreements);

(c) finds that the Project is a large multi-phase and/or mixed-use development as defined in Administrative Code Section 56.3(g); and

(d) approves the Workforce Development Plan attached to the DDA in lieu of requirements under Administrative Code Chapter 14B (Local Business Enterprise Utilization and Non-Discrimination in Contracting Ordinance), Article VII of Chapter 23 (Prevailing Wage, Apprenticeship, and Local Hire Requirements in City Real Property Sales Contracts and Leases), Section 56.7(c) (Nondiscrimination/Affirmative Action Requirements), and Chapter 83 (First Source Hiring Program) to the extent that they apply to construction work that is subject to the Local Hiring Requirements of the Workforce Development Plan.

Section 6. Administrative Code Chapter 56 Waivers.

The Board of Supervisors waives the application to the Project of the following provisions of Administrative Code Chapter 56 to the extent inconsistent with the Development Agreement, the DDA, or the ICA, specifically:

(a) Section 56.4 (Application, Forms, Initial Notice, Hearing); Section 56.7(c) (Nondiscrimination/Affirmative Action Requirements); Section 56.8 (Notice); Section 56.10 (Negotiation Report and Documents); Section 56.15 (Amendment and Termination); Section 56.17(a) (Annual Review); Section 56.18 (Modification or Termination); and Section 56.20 (Fee); and

(b) any other procedural or other requirements if and to the extent that they are not strictly followed.

Section 7. Other Administrative Code Waivers.

The Board of Supervisors waives the application to the Project of the following additional provisions of the Administrative Code:

(a) Chapter 6 (Public Works Contracting Policies and Procedures) other than the payment of prevailing wages when required;

(b) remedies and penalties for noncompliance with Chapter 12Q (Health Care Accountability), Chapter 12T (City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions), or Section 4.9-1 (Nutritional Standards for Vending Machines; Nutritional Guidelines for Food Served at City Meetings and Events; Recommended Nutritional Guidelines for Restaurants on City Property) that could result in the termination of any Transaction Document, loss or impairment of Developer's rights under the Transaction Documents or a vertical developer's rights under a property contract for any part of the Site, or debarment of Developer or any vertical developer from future contract opportunities with the City;

(c) Chapter 14B (Local Business Enterprise Utilization and Non-Discrimination in Contracting Ordinance);

(d) Competitive Bidding Procedures and Appraisal Review as defined in Section 23.2 (Chapter Definitions) and required by Section 23.3 (Conveyance and Acquisition of Real Property) or Section 23.33 (Competitive Bidding Procedures);

(e) Section 23.31 (Year-to-Year or Shorter Leases), which limits the Director of Property's authority to enter into leases on behalf of the City as landlord for periods longer than one year;

(f) Chapter23A.7 (Surplus Public Lands Ordinance);

(g) Paragraph (2) of Section 61.5(c) (Listing of Unacceptable Non-Maritime Land Uses); and

(h) solely to the extent inconsistent with Developer's approved Workforce Development Program, Chapter 82 (Local Hiring Policy for Construction) and Chapter 83 (First Source Hiring Program).

Section 8. Subdivision Code Waivers.

(a) The Board of Supervisors waives the application to the Project of time limits under Subdivision Code Section 1346(e) (Improvement Plans) and Section 1355 (Time Limit for Submittal) to the extent that they conflict with the ICA or the Development Agreement.

(b) The Board of Supervisors also waives the application to the Project of Subdivision Code Section 1348 (Failure To Complete Improvements Within Agreed Time), and the following terms shall apply in lieu thereof: The Public Improvement Agreement, as defined in the ICA, shall include provisions consistent with the Transaction Documents and the applicable requirements of the Municipal Code and the Subdivision Regulations regarding extensions of time and remedies that apply when improvements are not completed within the agreed time.

Section 9. Authorization.

(a) The Board of Supervisors affirms that the waivers in this ordinance do not waive requirements under the Development Agreement Law and authorizes the City to execute, deliver, and perform the Development Agreement as follows:

(1) the Director of Planning, the City Administrator, and the Director of Public Works are authorized to execute and deliver the Development Agreement with signed consents of the Port Commission, the Municipal Transportation Agency, and the San Francisco Public Utilities Commission; and

(2) the Director of Planning and other appropriate City officials are authorized to take all actions reasonably necessary or prudent to perform the City's obligations under the Development Agreement in accordance with its terms.

(b) The Director of Planning is authorized to exercise discretion, in consultation with the City Attorney, to enter into any additions, amendments, or other modifications to the Development Agreement that the Director of Planning determines are in the best interests of the City and that do not materially increase the obligations or liabilities of the City or materially decrease the benefits to the City as provided in the Development Agreement. Final versions of any additions, amendments, or other modifications to the Development Agreement shall be provided to the Clerk of the Board of Supervisors for inclusion in Board File No. 171313 within 30 days after execution by all parties.

Section 10. Ratification of Past Actions; Authorization of Future Actions.

All actions taken by City officials in preparing and submitting the Development Agreement to the Board of Supervisors for review and consideration are hereby ratified and confirmed, and the Board of Supervisors hereby authorizes all subsequent action to be taken by City officials consistent with this ordinance.

Section 11. Effective and Operative Dates.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned, or the Mayor does not sign the ordinance within ten days after receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

(b) This ordinance shall become operative only on the effective date of the DDA. No rights or duties are created under the Development Agreement until the operative date of this ordinance.

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

By: _____
JOANNE SAKAI
Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 171313 **Date Passed:** February 27, 2018

Ordinance approving a Development Agreement between the City and County of San Francisco and Seawall Lot 337 Associates, LLC, for 28 acres of real property known as Seawall Lot 337, located east of Third Street between China Basin Channel and Mission Rock Street, China Basin Park and the portion of Terry A. Francois Boulevard abutting the park, Pier 48, the marginal wharf between Pier 48 and Pier 50, and Parcel P20; for the proposed Mission Rock Mixed-Use Project; waiving certain provisions of the Administrative Code, Planning Code, and Subdivision Code; and adopting findings under the California Environmental Quality Act, public trust findings, and findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b).

February 07, 2018 Government Audit and Oversight Committee - RECOMMENDED

February 13, 2018 Board of Supervisors - PASSED ON FIRST READING

Ayes: 9 - Breed, Fewer, Kim, Peskin, Ronen, Sheehy, Stefani, Tang and Yee

Excused: 2 - Cohen and Safai

February 27, 2018 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Breed, Cohen, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Stefani and Yee

Excused: 1 - Tang

File No. 171313

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 2/27/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mark E. Farrell
Mayor

3/6/18
Date Approved

Exhibit A to Master Lease Exhibit X

EXHIBIT Y

FORM OF MEMORANDUM OF LEASE

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EXHIBIT Y
FORM OF MEMORANDUM OF MASTER LEASE

This document is exempt from payment of a recording fee pursuant to California Government Code Section 27383 **RECORDING REQUESTED BY, AND WHEN RECORDED, MAIL TO:** San Francisco Port Commission Pier 1 San Francisco, CA 94111 ATTN: Michael Martin	FOR RECORDER'S USE ONLY

APN: Lot 006, Block 8719
Address: 1051 Third Street

THE UNDERSIGNED GRANTOR(S) DECLARE(S) DOCUMENTARY TRANSFER TAX is $ N/A
[ ] computed on the consideration or full value of property conveyed, OR
[ ] computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,
[ ] unincorporated area [X] City of San Francisco

MEMORANDUM OF MASTER LEASE

THIS MEMORANDUM OF MASTER LEASE (this "**Memorandum**") dated for reference purposes as of [_____], 2018 is by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation (the "**City**"), operating by and through the **SAN FRANCISCO PORT COMMISSION** ("**Port**"), and **SEAWALL LOT 337 ASSOCIATES, LLC**, a Delaware limited liability company (the "**Tenant**").

1. Agreement. Port and Tenant have entered into a Master Lease dated as of [_____], 2018 (the "**Master Lease**"), under which (a) Port agrees to lease to Tenant the initial Premises described in Exhibit A-1 and depicted on Exhibit A-2 attached hereto (the "**Initial Premises**"), and (b) Port agrees to expand the Initial Premises at various times throughout the Master Lease term to include all of the "Master Lease Property" and "Channel Wharf Property" each as described in Exhibit B-1 and depicted on Exhibit B-2 attached hereto (as expanded, the "**Premises**") upon and subject to satisfaction of certain conditions for expansion as set forth in Section 1.5 of the Master Lease. Except as otherwise defined in this Memorandum, capitalized terms shall have the meanings given them in the Master Lease.

2. Term. The term of the Master Lease is thirty (30) years from the effective date of the Disposition and Development Agreement between Port and Tenant dated as of

_____, 2018, unless the Master Lease is earlier terminated or extended in accordance with the provisions of the Master Lease.

3. Effect of Recordation of Partial Release. The Master Lease contemplates that the Port and Tenant will from time to time execute and record a Partial Release of Master Lease covering a certain portion of the Premises in the Official Records of the City and County of San Francisco ("**Released Portion of Premises**"). Recording of a Partial Release of Master Lease will automatically terminate the Master Lease as it applies to the Released Portion of Premises that is the subject of the Partial Release of Master Lease, and after such recording, other than the terms and provisions that survive the expiration or earlier termination of the Master Lease, as to the Released Portion of Premises, the Master Lease shall have no further force or effect on such Released Portion of Premises.

4. Notice. The parties have executed and recorded this Memorandum to give notice of the Master Lease and their respective rights and obligations under the Master Lease to all third parties. The Master Lease is incorporated by reference in its entirety in this Memorandum. In the event of any conflict or inconsistency between this Memorandum and the Master Lease, the Master Lease shall control.

5. Counterparts. This Memorandum 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.

[Remainder of this page left intentionally blank]

IN WITNESS WHEREOF the parties hereto have caused this Memorandum of Master Lease to be executed by their duly appointed representatives as of the date first above written.

TENANT:

SEAWALL LOT 337 ASSOCIATES, LLC,
a Delaware limited liability company

By: **Giants Development Services, LLC**
Its Member

By: _____

Name:
Its:

Date: _____

PORT:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, operating by and through the **SAN FRANCISCO PORT COMMISSION**

By: _____
Elaine Forbes
Its: Executive Director

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Name:
Deputy City Attorney

Port Resolution No. 18—03, adopted on January 30, 2018
Board of Supervisors Resolution No. 36—18, adopted on February 13, 2018

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

State of California)
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____

[Page intentionally left blank]

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

State of California)
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____

EXHIBIT A-1

LEGAL DESCRIPTION (INITIAL PREMISES)

[TO BE ATTACHED]

EXHIBIT A-2

DEPICTION (INITIAL PREMISES)

[TO BE ATTACHED]

EXHIBIT B-1

LEGAL DESCRIPTION (WHOLE)

[TO BE ATTACHED]

EXHIBIT B-2

DEPICTION (WHOLE)

[TO BE ATTACHED]

EXHIBIT Z

FORM OF VARIABLE RENT STATEMENT

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MASTER LEASE
EXHIBIT Z

Parking Percentage Rent		
Base Rent		
High Season - APR:SEP (90%)	**Amount Per Lease**	
Low Season - OCT:MAR (10%)	**Amount Per Lease**	
Parking Base Rent Due	Choose Correct Season	**$X.XX**
	Paid until the Completion of Parcel D2; Then $0.00 Base Rent Due	
Parking Rent		
Gross Revenues from Parking		**$X.XX**
Less Parking Tax	**(Gross Revenues from Parking – Parking Tax collected and paid)**	**$X.XX**
Less Quarterly Extraordinary Expenses:		
High Season - APR:SEP (90%)	**[Extraordinary Expense Cap * (Current Parking Spaces/Original Parking Spaces)]**	
Low Season - OCT:MAR (10%)	**[Extraordinary Expense Cap * (Current Parking Spaces/Original Parking Spaces)]**	
	Choose Correct Season	**$X.XX**
Adjusted Gross Revenues from Parking	(Gross Revenues from Parking - Parking Tax - Quarterly Extraordinary Expenses)	**$X.XX**
Percentage Rent Rate:		
Before Closing of Lead Parcels	**56%**	
After Closing of Lead Parcels	**66%**	
	Choose Correct Percentage Rental Rate	**XX%**
Parking Percentage Rent Due	**[(Adjusted Gross Revenues * Percentage Rent Rate) - Parking Base Rent]**	**$X.XX**
	Paid throughout the Lease Term as a portion of Variable Rent	
Special Event Rent		
Square Footage of Special Event		**X,XXX Sq Ft**

# of Set-Up & Takedown Days		**XX Days**
# of Active Event Days		**XX Days**
Minimum Special Event Rent:	**[All as adjusted over time in lease]**	
Minor Special Events		
Set-up & Take Down Day Rate	**$0.0043 PSF**	
Daily Active Event Rate	**$0.0085 PSF**	
Major Special Events		
Set-up & Take Down Day Rate	**(50% of Average Daily Active Event Rate)**	
1st Day Active Event Rate	**$0.017 PSF**	
2nd Day Active Event Rate	**$0.0128 PSF**	
3rd+ Day Active Event Rate	**$0.0085 PSF**	
	Choose Correct Special Event Rates	**$X.XX PSF**
Set-up & Takedown Rent (Minor)	**(Event Sq Ft * Event Size Rate PSF * Set-Up & Takedown Days)**	**$X.XX**
Set-up & Takedown Rent (Major)	**(50% of Average Daily Active Event Rate)**	**$X.XX**
Active Event Day Rent	**(Event Sq Ft * Event Size Rate PSF * Event Days)**	**$X.XX**
Special Event Rent Due	(Set-up & Takedown Rent + Active Event Day Rent)	$X.XX
Paid throughout the Lease Term as a portion of Variable Rent		
Vertical Improvement Staging Rent		
Square Footage of Vertical Improvement Staging Sublease		**X,XXX Sq Ft**
Vertical Improvement Staging Sublease Rate		**$X.XX PSF**

MASTER LEASE
EXHIBIT Z

Vertical Improvement Staging Rent Calculation Basis:		
Prior to Opening of Parcel D2 Garage		
If Vertical Improvement Staging Rent exceeds per square foot Base Rent, then:	66% of Vertical Improvement Staging Rent (psf) which exceeds Base Rent (psf)	
If Vertical Improvement Staging Rent psf is less psf than Base Rent, then:	100% of Vertical Improvement Staging Rent (psf)	
After to Opening of Parcel D2 Garage	**$X.XX PSF Port Parameter Rent + 66% of amt in excess of Parameter Rent (if any)**	
	Choose Correct Basis	**$X.XX PSF**
Vertical Improvement Staging Calculation	**(VIS Sublease Rate PSF - VIS Calculation Basis)**	**$X.XX PSF**
Vertical Improvement Staging Rent Due	**(VIS Sublease Sq Ft * $ psf Basis)**	**$X.XX**
Repeat for each Applicable Sublease, Paid throughout the Lease Term as a portion of Variable Rent		
Activation Use Rent		
Activation Use Sublease Rent	Gross Lease Revenue Received by Tenant from Sub	**$X.XX**
Activation Use Rent Rate		**66%**
Activation Use Rent	**(Activation Use Sublease Rent * Activation Use Rent Rate)**	**$X.XX**
Less Reimbursements Tenant Receives from Subtenant for Operating Expenses, Taxes, Insurance not in Extraordinary Expenses, if such amounts are included in above row		**$X.XX**
Activation Use Rent Due		**$X.XX**
Repeat for each Applicable Sublease, Paid throughout the Lease Term as a portion of Variable Rent		

MASTER LEASE

EXHIBIT Z

Promotional Signage Rent		
Promotional Signage Sublease Rent	Gross Lease Revenue Received by Tenant from Sub	**$X.XX**
Promotional Signage Rent Rate		**50%**
Promotional Signage Rent Due	(Promotional Signage Sublease Rent * Promotional Signage Rent Rate)	**$X.XX**
Repeat for each Applicable Sublease, Paid throughout the Lease Term as a portion of Variable Rent		
Rent Summary		
Base Rent Due		**$X.XX**
Variable Rent Calculation:		
Parking Percentage Rent Due		**$X.XX**
Special Event Rent Due		**$X.XX**
Vertical Improvement Staging Rent Due		**$X.XX**
Promotional Signage Rent Due		**$X.XX**
Any Other Rent		**$X.XX**
Variable Rent Due		**$X.XX**
Total Rent	(Base Rent Due + Variable Rent Due)	**$X.XX**
Less Alternate Return Credits	Per Section 2.8 of Financing Plan	**$X.XX**
Less Extraordinary Expense Overage Amount	**If Approved PER ANNUAL STATEMENT**	
High Season Calculation	(Current Year Variable Rent - 2017 Variable Rent) * 87.5% * 90%	
Low Season Calculation	(Current Year Variable Rent - 2017 Variable Rent) * 87.5% * 10%	
	Choose Correct Season	**$X.XX**
Total Rent Due	(Total Rent - Alternate Return Costs - Extraordinary Expense Overage Amount)	**$X.XX**

MASTER LEASE
EXHIBIT Z

SCHEDULE 14.3

ENERGY DISCLOSURE SUMMARY SHEET

[N/A]

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