

**FIRST AMENDMENT TO CONDITIONAL PROPERTY EXCHANGE AGREEMENT**

**THIS FIRST AMENDMENT TO CONDITIONAL PROPERTY EXCHANGE AGREEMENT** (this “**First Amendment**”) is entered into as of the 27th day of July, 2022 (the “**Effective Date**”), by and between EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company (“**Developer**”), and CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (“**City**”), with reference to the recitals set forth below.

**RECITALS**

A. Developer and City are parties to that Conditional Property Exchange Agreement dated as of July 30, 2020 (the “**CPEA**”). All initially-capitalized terms not otherwise defined herein have the meanings set forth in the CPEA unless the context clearly indicates otherwise.

B. Since execution of the CPEA, Developer and City have both worked in good faith to reach agreement on the documents contemplated by Section 1.7 of the CPEA. However, notwithstanding such good faith efforts on the part of Developer and City, due to COVID 19 and its broad impact on the Country, the State of California and the City and County of San Francisco (including lockdowns and the remote working environment), the parties were delayed, until now, in reaching agreement on the documents referenced in Section 1.7 of the CPEA. In connection with the foregoing, Developer and City have agreed to modify the terms of the CPEA as set forth in this First Amendment.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intended to be legally bound, Developer and City agree as follows:

1. **Recitals.** The Recitals set forth above are hereby incorporated herein by reference as if the same were fully set forth herein.

2. **Amendments.**

(a) **Merger of Tower Project Easement Agreement and Reciprocal Easement Agreement Into One Document.** Developer and City have decided to combine the Project Easement Agreement and the Reciprocal Easement Agreement into one document entitled “Declaration of Easements with Covenants, Conditions and Restrictions” (the “**Declaration of Easements**”), and in furtherance thereof, (i) all references in the CPEA to the Project Easement Agreement and/or the Reciprocal Easement Agreement shall be deemed to be a reference to the Declaration of Easements, and (ii) all of the terms and conditions in the CPEA making reference to the Project Easement Agreement and/or the Reciprocal Easement Agreement shall be interpreted to take into account the merger of the Project Easement Agreement and the Reciprocal Easement Agreement into the Declaration of Easements. As a closing condition to the Final Closing, Developer and City shall have agreed to the legal descriptions for the easements in the Declaration of Easements.

(b) **Extension of Time for Approval of Declaration of Easements, Construction Management Agreement, Ground Lease, Architect Contract and Construction Contract.** Notwithstanding anything stated to the contrary in the CPEA, City and Developer

hereby agree that the time period by which they are required to agree upon the respective forms of the Declaration of Easements, Construction Management Agreement, Ground Lease, Architect Contract and Construction Contract shall be, and hereby is, extended to the Effective Date, and, in furtherance of such extension, (i) all references in the CPEA to the "First Approval Deadline" shall mean the Effective Date, and (ii) the terms and provisions of the CPEA shall be interpreted to take into account the extension provided for in this Paragraph 2(b).

(c) Completion Guaranty. Developer and City have agreed that on or before the Initial Closing Date, Developer will cause The Related Companies, L.P., a New York limited partnership, to deliver a Completion Guaranty in favor of the City in the form approved by Developer and the City as of the Effective Date (the "**Completion Guaranty**"). Accordingly, Section 8.1 of the CPEA is amended to require that, for the Initial Closing, the Developer shall cause to be delivered to the City a duly executed Completion Guaranty, and Section 9.3 of the CPEA is amended to require that, unless Developer has delivered a duly executed original Completion Guaranty to the City outside of escrow, Developer will deliver to escrow a duly executed original Completion Guaranty.

(d) Title Policies. Sections 6.2(a) and 6.2(b) are amended to reflect that the amount of the Developer Leasehold Title Policy and the City Title Policy will be mutually agreed upon by Developer and the City at least sixty (60) days before the Initial Closing (not the First Approval Deadline), provided the City Title Policy shall be in an amount not less than the cost of constructing the Station Project. Section 6.2(c) is amended to reflect that the amount of the Developer Fee Title Policy will be mutually agreed upon by Developer and the City at least sixty (60) days before the Final Closing (not the First Approval Deadline).

(e) Initial Closing Date. Developer and City agree that the Initial Closing will occur on or before December 31, 2023. The first sentence of Section 9.2(a) is amended to read as follows: "The sale and transfer of the leasehold estate in the Existing City Property (including all improvements situated thereon) to the Developer by the City pursuant to the Ground Lease, all as contemplated under this Agreement (the "**Initial Closing**"), shall be held, and delivery of all items to be made at the Initial Closing under the terms of this Agreement shall be made, at the offices of Title Company on a date (the "**Anticipated Initial Closing Date**") that is after the Agreement Ratification Date and before December 31, 2023.

3. Ratification and Agreement Ratification Date. City acknowledges and agrees that it has, pursuant to Resolution No. 543-21, approved and ratified the CPEA and this First Amendment, and has approved and ratified the forms of Architect Contract, Construction Contract, Ground Lease, Construction Management Agreement, Completion Guaranty, and Declaration of Easements attached to the email transmitted to the City by Bruce Fischer on July 27, 2022, and to which Charles Sullivan approved by email, and, in connection with the foregoing, the City and the Developer acknowledge that the "Agreement Ratification Date" and the CEQA Date occurred on the Effective Date.

4. Expiration of Due Diligence Period. City and Developer acknowledge that, as of the Effective Date, the Due Diligence Period has expired, and neither City nor the Developer have any right to terminate the CPEA under the provisions of Section 7.2 of the CPEA.

5. **Effectiveness of Agreement.** Except as modified by this First Amendment, all the terms of the CPEA shall remain unchanged and in full force and effect.

6. **Counterparts.** This First Amendment may be executed in counterparts, and all counterparts together shall be construed as one document.

7. **Scanned/Emailed Signatures.** A counterpart of this First Amendment that is signed by one party to this First Amendment and scanned/mailed to the other party to this First Amendment or its counsel (i) shall have the same effect as an original signed counterpart of this First Amendment, and (ii) shall be conclusive proof, admissible in judicial proceedings, of such party's execution of this First Amendment.

8. **Successors and Assigns.** All of the terms and conditions of this First Amendment shall apply to benefit and bind the successors and assigns of the respective parties.

IN WITNESS WHEREOF, Developer and City have entered into this First Amendment as of the Effective date.

[SIGNATURES ON NEXT PAGE]

Execution Version

“DEVELOPER”

EQX JACKSON SQ HOLDCO LLC,  
a Delaware limited liability company

By:   
Name: Jonathan Shum,  
Its: Vice President

Execution Version

“CITY”

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

By: Andrico Q. Penick  
Andrico Q. Penick,  
Director of Property

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: Charles Sullivan, Deputy City Attorney

“CITY”

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

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

APPROVED AS TO FORM:

DAVID CHOI, City Attorney

By:   
Charles Sullivan, Deputy City Attorney