

AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE

between

2558 MISSION LLC,
A California limited liability company
as Seller

and

CITY AND COUNTY OF SAN FRANCISCO,
A Municipal Corporation
as Buyer

For the purchase and sale of:

1296 Shotwell Street
San Francisco, California

May 1, 2013

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AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE
(1296 Shotwell Street, San Francisco)

THIS AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE (this "**Agreement**") dated for reference purposes only as of May 1, 2013 is by and between 2558 MISSION LLC, a California limited liability company ("**Seller**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**Buyer**" or "**City**").

RECITALS

This Agreement is made with reference to the following:

A. Seller is a residential developer in the City and County of San Francisco and is the project sponsor for a residential and mixed-use project located at 2554-2558 Mission Street in San Francisco.

B. On January 10, 2013, pursuant to Planning Commission Motion No. 18775, the San Francisco Planning Commission approved Seller's development application for construction of a new eight story mixed-use building containing approximately 114 dwelling units, 14,750 square feet of ground floor commercial uses, and 89 off-street parking spaces (the "**2558 Mission Project**").

C. The San Francisco Planning Code ("**Planning Code**") requires market rate residential projects to comply with certain Residential Inclusionary Housing rules designed to create affordable housing in San Francisco ("**Affordability Requirement**"). Seller desires to satisfy the Affordability Requirement for the 2558 Mission Project through a land dedication pursuant to Planning Code Section 419.6 and 419.5(a)(2)(A)-(J) ("**Land Dedication Option**"). In the event the Land Dedication Option is not successfully consummated for any reason, Seller has the right to satisfy the Affordability Requirement for the 2558 Mission Project by producing the required units onsite within the 2558 Mission Project ("**Onsite Option**").

D. Seller and THOMAS F. MURPHY AND MARTINA MURPHY, TRUSTEES OF THE MURPHY TRUST UDT DATED OCTOBER 03, 2003 ("**Owner**"), are parties to a Purchase and Sale Agreement and Joint Escrow Instructions the Effective Date of which is September 29, 2011 ("**Owner PSA**"). Pursuant to the Owner PSA, Owner has agreed to sell to Seller, and Seller has agreed to purchase, certain real property and improvements in the City and County of San Francisco, State of California commonly known as 1296 Shotwell Street, San Francisco, California together with certain personal property and intangibles all of which are more particularly described in the Owner PSA ("**Shotwell Property**").

E. Seller entered into the Owner PSA to acquire the Shotwell Property for the sole purpose of using the Shotwell Property to comply with the Affordability Requirement for the 2558 Mission Project through the Land Dedication Option. Seller has provided Buyer with a copy of the Owner PSA, receipt of which Buyer acknowledges;

F. Owner's obligation to sell and Seller's obligation to purchase the Shotwell Property are subject to the satisfaction or waiver of certain conditions set forth in the Owner PSA ("**Shotwell PSA Conditions of Closing**") and Seller's right to terminate the Owner PSA under certain conditions, and if the Shotwell PSA Conditions of Closing are not satisfied or waived, or if Seller exercises its right to terminate the Owner PSA, Seller will not acquire and become the owner of the Shotwell Property or any interests therein.

G. Seller and Buyer are entering into this Agreement in order to facilitate satisfaction of the Affordability Requirement for the 2558 Mission Project under the Land Dedication Option

through a transfer to Buyer of the Shotwell Property should the purchase and sale of the Shotwell Property pursuant to the Owner PSA be consummated.

H. By letter dated January 6, 2012, which was amended in part by letter dated December 20, 2012, from the Mayor's Office of Housing and Planning, City and County of San Francisco, City, based on its review of all due diligence documents and information requested by City and provided by Seller, verified the Property as acceptable for dedication pursuant to the Land Dedication Option described above, subject to satisfaction of certain conditions set forth in the December 20, 2012 letter ("**Dedication Approval Conditions**").

WHEREFORE, IN CONSIDERATION of the payment of the non-refundable sum of One Dollar (\$1.00) by City, the receipt of which is hereby acknowledged by Seller ("**Independent Consideration**"), which is fully earned by Seller and not refundable under any circumstances, and the respective agreements contained hereinbelow, Seller and City agree as follows:

1. PURCHASE AND SALE

1.1 Property Included in Sale

Seller agrees to sell and convey to City, and City agrees to purchase from Seller, all of the following, subject, however, to the terms, covenants and conditions hereinafter set forth (including, without limitation, the condition that Seller acquires the Shotwell Property pursuant to the Owner PSA described in the Recitals above):

(a) the real property consisting of approximately 11,672 square feet of land, located in the City and County of San Francisco, commonly known as 1296 Shotwell Street and more particularly described in Exhibit A attached hereto (the "**Land**");

(b) all improvements and fixtures located on the Land, including, without limitation, all other buildings and structures located on the Land and all apparatus, equipment and appliances located on and affixed to the Land and used in connection with the operation or occupancy of the Land and its improvements (collectively, the "**Improvements**");

(c) all of Seller's right, title and interest, if any, in and to (i) any and all rights, privileges, and easements incidental or appurtenant to the Land or Improvements, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Land, (ii) any and all development rights, air rights, water, water rights, riparian rights and water stock relating to the Land, and any and all easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land or Improvements, and (iii) all roads and alleys adjoining or servicing the Land or Improvements (collectively, the "**Appurtenances**");

(d) all Personal Property (as that term is defined in the Owner PSA) which is acquired by Seller from the Owner pursuant to the Owner PSA (the "**Personal Property**").

All of the items referred to in Subsections (a), (b), (c), and (d) above are collectively referred to as the "Property."

1.2 Seller's Rights to the Property

Seller and City hereby acknowledge that Seller does not own the Property and that this Agreement is entered into for the purpose of satisfying the Affordability Requirements for the 2558 Mission Project through exercise by Seller of the Land Dedication Option should Seller

acquire the Shotwell Property pursuant to the Owner PSA. City further acknowledges that should the Seller acquire the Shotwell Property and transfer the Property to City pursuant to this Agreement, the Affordability Requirement will be fully satisfied by such transfer. However, nothing in this Agreement is intended to compel Seller to either purchase the Shotwell Property or to pursue the Land Dedication Option in order to satisfy the Affordability Requirement for the 2558 Mission Project in lieu of the Onsite Option, and if for any reason Seller in its sole discretion elects to terminate this Agreement, does not acquire the Shotwell Property or the Closing under this Agreement does not occur, Seller may, nonetheless, satisfy the Affordability Requirement through the Onsite Option.

In addition, Seller and City hereby acknowledge and agree that should the Seller acquire the Shotwell Property, Seller may arrange with Owner to have the Property conveyed to City directly from Owner, in accordance with Section 3.1 below.

2. PURCHASE PRICE

2.1 Purchase Price

The total purchase price for the Property is One Dollar (\$1.00) (the "**Purchase Price**") and is in addition to the Independent Consideration.

2.2 Payment

The Purchase Price shall be paid at the Closing. At such time as is required by the Escrow Holder for Closing to occur on the Closing Date, Purchaser shall deposit with Escrow Holder, in good funds, the Purchase Price reduced or increased by such amounts as are required to take into account any prorations, credits, costs or other adjustments which are required by this Agreement and which can be computed and determined as of the time for the required deposit hereunder.

2.3 Funds

All payments made by any party hereto shall be in legal tender of the United States of America, paid by Controller's warrant or in cash or by wire transfer of immediately available funds to the Escrow Agent.

3. TITLE TO THE PROPERTY

3.1 Conveyance of Title to the Property

At the Closing, Seller or Owner shall convey to City marketable and insurable fee simple title to the Land, the Improvements and the Appurtenances, by duly executed and acknowledged grant deed in the form attached hereto as Exhibit C (the "**Deed**"), subject to the Accepted Conditions of Title (as defined in Section 3.2 [Title Insurance]).

3.2 Title Insurance

Delivery of title in accordance with the preceding Section shall be evidenced and satisfied by the commitment of First American Title Insurance Company (the "**Title Company**") to issue to City as of the Closing Date an ALTA extended coverage owner's policy of title insurance (Form B - 1970 amended 4-6-90) (the "**Title Policy**") in the amount of \$4,200,000.00, insuring fee simple title to the Land, the Appurtenances and the Improvements in City, free of the liens of any and all deeds of trust, mortgages, assignments of rents, financing statements, creditors' claims, rights of tenants or other occupants (except for the tenants under the Approved Leases), and all other exceptions, liens and encumbrances except solely for the following (such

exceptions approved by City are collectively referred to herein as the "**Accepted Conditions of Title**"): (i) the lien of real property taxes, not yet due or payable, provided City shall be shown as exempt from such taxes in the Title Policy; (ii) applicable zoning and building ordinances and land use regulations; (iii) standard printed exceptions and exclusions set forth in the jacket of the Title Policy; (iv) any exceptions caused or created by Buyer, its agents, representatives or employees; (v) such other exceptions as the Title Company shall commit to insure over without any additional cost to Buyer; and (vi) exception numbers _____ in Schedule B of the preliminary title report attached hereto as Exhibit K (the "**Preliminary Report**"). The Title Policy shall provide full coverage against mechanics' and materialmen's liens arising out of the construction, repair or alteration of any of the Property, shall not contain any exclusion from coverage for creditor's rights or bankruptcy, and shall contain an affirmative endorsement that there are no violations of restrictive covenants, if any, affecting the Property such special endorsements as City may reasonably request. The Title Policy shall also provide for reinsurance with direct access with such companies and in such amounts as City may reasonably request.

3.3 Bill of Sale

At the Closing Seller or Owner shall transfer title to the Personal Property and Intangibles (as defined in the Owner PSA) by bill of sale in the form attached hereto as Exhibit D (the "**Bill of Sale**").

3.4 Assignment of Leases

At the Closing Seller or Owner shall assign all of Seller's, or Owner's, right, title and interest in and to the Leases by an assignment of leases in the form attached hereto as Exhibit F (the "**Assignment of Leases**").

4. INTENTIONALLY OMITTED.

5. ENTRY & CONDITIONS TO CLOSING

Until the earlier of (i) the date on which the Board of Supervisors of the City and the Mayor, in their respective sole discretion, shall have enacted a resolution approving, adopting and authorizing this Agreement and the transactions set forth herein ("**Inspection Contingency Date**") or (ii) the termination of this Agreement, Seller shall afford City and its Agents reasonable access to the Property for the purposes of satisfying City with respect to the representations, warranties and covenants of Seller contained herein and the satisfaction of the Buyer's Conditions Precedent. For purposes of this Agreement, "**reasonable access**" shall mean the access to the Property that Seller and its agents are afforded pursuant to Article 3 of the Owner PSA (subject to the requirements and conditions set forth in said Article 3), limited, however, as follows: Seller has conducted certain examinations of the Property and other environmental investigations which included soil and groundwater sampling and other invasive testing to determine the presence and extent, if any, of Hazardous Materials on the site. Such matters are described in Seller's Environmental Disclosure (detailed in Section 8.1 (l) of this Agreement) a copy of which has been given to Buyer and Buyer acknowledges receipt thereof. Buyer shall not conduct any additional invasive testing of the Property unless Buyer reasonably determines that the testing and/or test results and conclusions provided by Seller in Seller's Environmental Disclosure are materially inadequate, incomplete or incorrect or that Buyer requires verification of any material aspect of the test results. Should Buyer make any such determination, any additional invasive testing of the Property shall be conducted by Buyer in accordance with the provisions of Article 3 of the Owner PSA and subject to the Owner's approval and monitoring as provided therein. All inspections, investigations and other due diligence conducted by Buyer shall be at Buyer's sole cost and expense. Buyer, before undertaking any inspections of the Property, shall provide the insurance required by Article 3 of

the Owner PSA naming both Seller and Owner as additional insureds. Buyer shall maintain such insurance coverage until the later of (i) the Closing under this Agreement or (ii) sixty (60) days after the termination of this Agreement. Buyer shall restore the Property to substantially the condition it was found prior to any investigations or testing by Buyer or its agents or consultants, subject to applicable laws.

Except to the extent resulting from Seller's negligence or willful misconduct or from the negligence or willful misconduct of an employee, contractor or agent of Seller, City hereby agrees to indemnify, defend by counsel reasonably acceptable to Seller, and hold Seller harmless from any Claims arising out of or resulting from the investigations and inspections of the Property by Buyer or its agents or consultants (other than matters arising as a result of Buyer's discovery of existing conditions within or beneath the Property). In addition, except to the extent resulting from Owner's negligence or willful misconduct or from the negligence or willful misconduct of an employee, contractor or agent of Owner, City hereby agrees to indemnify, defend by counsel reasonably acceptable to Owner, and hold Owner harmless from any Claims arising out of or resulting from the investigations and inspections of the Property by Buyer or its agents or consultants (other than matters arising as a result of Buyer's discovery of existing conditions within or beneath the Property). These indemnities shall survive the termination of this Agreement or the Closing, as applicable, provided that Seller or Owner, as the case may be, must give notice of any Claim it may have against Buyer under such indemnity (i) within six (6) months of such termination if the claim is brought by a third party against Seller or Owner or (ii) within three (3) months of such termination or the Closing Date, as applicable, if the Claim involves damage to the Property or any other Claim not brought by a third party against the Seller or Owner. For purposes of this Agreement the term "**Claim**" when capitalized shall mean any action, assertion of damage or liability, cause of action, loss, damage, fine, judgment, cost, attorney's fee, liability or obligation.

5.1 City's Conditions to Closing

The following are conditions precedent to City's obligation to purchase the Property (collectively, "**Buyer's Conditions Precedent**"):

(a) City acknowledges that it has received from Seller (i) copies of the leases for the Current Tenants of the Property as represented to Seller by Owner in Section 1.10 of the Owner PSA ("**Leases**") and (ii) copies of the Seller's Notice and Relocation Agreements delivered by Owner to Seller pursuant to Section 1.10 of the Owner PSA. City hereby desires to have the Leases with Chu Chu's Goods, Inc., dba Harvest Hills Market and Auto Smog and Oil Changes, Inc., continue in effect in accordance with its terms following the Closing ("**Approved Leases**"). Except for the Approved Leases, all Leases shall be terminated as of the Closing.

(b) Seller shall use commercially reasonable efforts to obtain and deliver to City, before the Closing Date, tenant estoppel certificates in form and substance satisfactory to City from any and all tenants occupying any portion of the Property. Such certificates shall be substantially in the form attached hereto as Exhibit G and shall be dated no earlier than thirty (30) days prior to the Closing Date.

(c) Seller shall not be in default in the performance of any covenant or agreement to be performed by Seller under this Agreement or the Owner PSA, and all of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date. At the Closing Seller shall deliver to City a certificate certifying that each of its representations and warranties contained in Section 8 below are true and correct as of the Closing Date.

(d) Seller shall use commercially reasonable efforts to cause Owner to maintain the physical condition of the Property in substantially the same condition on the Closing Date as on the date of City's execution of this Agreement, reasonable wear and tear and loss by casualty excepted (subject to the provisions of Section 9.1 [Risk of Loss]), and, as of the Closing Date, there shall be no litigation or administrative agency or other governmental proceeding, pending or threatened, which after the Closing would materially adversely affect the value of the Property or the ability of City to operate the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the change, redesignation or other modification of the zoning classification of, or of any building or environmental code requirements applicable to, any of the Property.

(e) Title Company shall be committed at the Closing to issue to City the Title Policy as provided in Section 3.2.

(f) The City's Mayor and the Board of Supervisors, in the respective sole discretion of each, shall have enacted a resolution approving, adopting and authorizing this Agreement and the transactions.

(g) Seller shall have delivered the items described in Section 6.3 below on or before the Closing.

(h) On or before the Closing Date, the final parcel map for the Property shall have been recorded.

(i) On or before the Closing Date, Seller shall have deposited the Remediation Funds into the Remediation Escrow Account pursuant to the Remediation Funds Agreement and Escrow Instructions as further described in Section 8.6 below.

(j) Seller shall have delivered notice to Owner of its assignment of the Owner representations and warranties in the Owner PSA, as required under Section 10.1(b) of the Owner PSA, and shall have obtained Owner's consent to the assignment agreement to be executed by Seller and City in the form attached hereto as Exhibit J ("**Assignment of Owner Representations**").

The Buyer's Conditions Precedent contained in the foregoing Subsections (a) through (j) are solely for the benefit of City. If any Buyer's Condition Precedent is not satisfied, City shall have the right in its sole discretion either to waive in writing the Buyer's Condition Precedent in question and proceed with the purchase or, in the alternative, terminate this Agreement, provided that the Buyer's Condition Precedent described in item (f) may not be waived.

5.2 Cooperation with City

Seller shall cooperate in a commercially reasonable manner with City and do all acts as may be reasonably requested by City with regard to the fulfillment of any Buyer's Condition Precedent including, without limitation, execution of any documents, applications or permits. Seller hereby irrevocably authorizes City and its Agents, at their sole cost and expense, to make all inquiries with and applications to any person or entity, including, without limitation, any regulatory authority with jurisdiction as City may reasonably require to complete its due diligence investigations.

5.3 Seller's Conditions to Closing.

The following are conditions precedent to Seller's obligation to sell the Property (collectively, "**Seller's Conditions Precedent**"):

- (a) Seller, in Seller's sole discretion, shall have purchased the Shotwell Property pursuant to the Owner PSA.
- (b) Seller, in Seller's sole discretion, shall have elected to satisfy the Affordability Requirement for the 2558 Mission Project by conveying the Property to the City pursuant to the Land Dedication Option.
- (c) On or before June 1, 2013, the City's Mayor and the Board of Supervisors, in the respective sole discretion of each, shall have enacted a resolution approving, adopting and authorizing this Agreement and the transactions herein.
- (d) On or before the Closing Date, the final parcel map for the Property shall have been recorded.
- (e) City shall not be in default in the performance of any covenant or agreement to be performed by City under this Agreement and all of Buyer's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date.

The Seller's Conditions Precedent contained in the foregoing Subsections (a) through (e) are solely for the benefit of Seller. If any Seller's Condition Precedent is not satisfied, Seller shall have the right in its sole discretion either to waive in writing the Seller's Condition Precedent in question and proceed with the sale or, in the alternative, terminate this Agreement.

6. ESCROW AND CLOSING

6.1 Opening of Escrow

Not later than five (5) business days after the date on which this Agreement has been executed by both Seller and City ("**Escrow Opening Date**"), the parties shall open escrow by depositing an executed counterpart of this Agreement with Title Company, and this Agreement shall serve as instructions to Title Company as the escrow holder for consummation of the purchase and sale contemplated hereby. Seller and City agree to execute such additional or supplementary instructions as may be appropriate to enable the escrow holder to comply with the terms of this Agreement and close the transaction; provided, however, that in the event of any conflict between the provisions of this Agreement and any additional supplementary instructions, the terms of this Agreement shall control.

6.2 Closing Date

The consummation of the purchase and sale contemplated hereby (the "**Closing**") shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of Title Company located at 901 Mariners Island Boulevard, Suite 380, San Mateo, CA 94404 on the date ("**Closing Date**") designated by Seller in writing ("**Notice of Closing Date**") delivered to Buyer and the Title Company not less than five (5) business days prior to the Closing Date so designated. The Seller may, by further Notice of Closing Date, extend the Closing Date. Closing shall occur on the Closing Date, subject to the provisions of Article 5 [Conditions Precedent]. Notwithstanding the foregoing, in no event shall the Closing Date occur until at least five (5) business days after the Buyer's Condition Precedent set forth in Section 5.1 (f) shall have been satisfied. In the event the Closing does not occur on the Closing Date, as extended, Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the depositor thereof items which may have been deposited hereunder. Any such return shall not, however, limit the provisions hereof or otherwise relieve either party hereto of any liability it may have for its wrongful failure to close.

6.3 Seller's Delivery of Documents

At or before the Closing, Seller shall deliver to City through escrow, the following:

- (a) a duly executed and acknowledged Deed;
- (b) a duly executed Bill of Sale;
- (c) a duly executed counterpart of the Assignment of Leases;
- (d) copies of duly executed tenant estoppel certificates as required pursuant to Subsection 5.1(b) hereof;
- (e) originals of the Approved Leases and any other items relating to the ownership or operation of the Property not previously delivered to City which are required to be delivered to Buyer at Closing under this Agreement;
- (f) a properly executed affidavit pursuant to Section 1445(b)(2) of the Federal Tax Code in the form attached hereto as Exhibit H, and on which City is entitled to rely, that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code;
- (g) a properly executed California Franchise Tax Board Form 590 certifying that Seller is a California resident if Seller is an individual or Seller has a permanent place of business in California or is qualified to do business in California if Seller is a corporation or other evidence satisfactory to City that Seller is exempt from the withholding requirements of Section 18662 of the State Tax Code;
- (h) such resolutions, authorizations, or other partnership documents or agreements relating to Seller and its partners as City or the Title Company may reasonably require to demonstrate the authority of Seller to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individuals executing any documents or other instruments on behalf of Seller to act for and bind Seller;
- (i) closing statement in form and content satisfactory to City and Seller;

(j) the duly executed certificate regarding the continued accuracy of Seller's representations and warranties as required by Subsection 5.1(c) hereof;

(k) originals of the following documents to the extent such documents exist and are in the possession or control of Seller: structural calculations for the Improvements; site plans; certified copies of the as-built plans and specifications for the Improvements; recent inspection reports by Seller's engineers; service contracts; utility contracts; maintenance contracts; employment contracts, management contracts; brokerage and leasing commission agreements which may continue after Closing; certificates of occupancy; presently effective warranties or guaranties received by Seller from any contractors, subcontractors, suppliers or materialmen in connection with any construction, repair or alteration of the Improvements or any tenant improvements; insurance policies, insurance certificates of tenants, and reports of insurance carriers insuring the Property and each portion thereof respecting the claims history of the Property; environmental reports, studies, surveys, tests and assessments; soils and geotechnical reports; and any other contracts or documents of significance to the Property (collectively, the "**Documents**");

(l) a duly executed counterpart of the Remediation Funds Agreement and Escrow Instructions as further described in Section 8.6 below; and

(m) a duly executed counterpart of the Assignment of Owner Representations.

6.4 City's Delivery of Documents and Funds

At or before the Closing, City shall deliver to Seller through escrow the following:

(a) an acceptance of the Deed executed by City's Director of Property;

(b) duly executed counterparts of the Assignment of Leases;

(c) the Purchase Price, as provided in Article 2 hereof;

(d) closing statement in form and content satisfactory to City and Seller;

(e) a duly executed counterpart of the Remediation Funds Agreement and Escrow Instructions as further described in Section 8.6 below; and

(f) a duly executed counterpart of the Assignment of Owner Representations.

6.5 Other Documents

Seller and City shall each deposit such other instruments as are reasonably required by Title Company as escrow holder or otherwise required to close the escrow and consummate the purchase of the Property in accordance with the terms hereof, including, without limitation, an agreement (the "**Designation Agreement**") designating Title Company as the "Reporting Person" for the transaction pursuant to Section 6045(e) of the Federal Tax Code and the regulations promulgated thereunder, and executed by Seller, City and Title Company. The Designation Agreement shall be substantially in the form attached hereto as Exhibit I and, in any event, shall comply with the requirements of Section 6045(e) of the Federal Tax Code and the regulations promulgated thereunder.

7. EXPENSES AND TAXES

7.1 Rent and Other Apportionments

The following are to be apportioned through escrow as of the Closing Date:

(a) Rent

Rent under the Approved Leases shall be apportioned as of the Closing Date, regardless of whether or not such rent has been paid to Seller. With respect to any rent arrearage arising under the Leases, after the Closing, City shall pay to Seller any rent actually collected which is applicable to the period preceding the Closing Date; provided, however, that all rent collected by City shall be applied first to all unpaid rent accruing on and after the Closing Date, and then to unpaid rent accruing prior to the Closing Date. City shall not be obligated to take any steps to recover any rent arrearage.

(b) Leasing Costs

Seller shall, or shall use commercially reasonable efforts to cause Owner to, pay all leasing commissions and tenant improvement costs accrued in connection with any Lease executed on or before the Closing (including, without limitation, leasing commissions attributable to expansion or extension options which are not exercised until after the Closing). City shall be entitled to a credit against the Purchase Price for the total sum of all security deposits paid to Seller by tenants under any Approved Leases, as well as for any free rent, operating expense abatements, or other unexpired concessions under any Approved Leases to the extent they apply to any period after the Closing.

(c) Other Tenant Charges

Where the Approved Leases contain tenant obligations for taxes, common area expenses, operating expenses or additional charges of any other nature, and where Seller shall have collected any portion thereof in excess of amounts owed by Seller for such items for the period prior to the Closing Date, there shall be an adjustment and credit given to City on the Closing Date for such excess amounts collected. City shall apply all such excess amounts to the charges owed by City for such items for the period after the Closing Date and, if required by the Leases, shall rebate or credit tenants with any remainder. If it is determined that the amount collected during Seller's ownership period exceeded expenses incurred during the same period by more than the amount previously credited to City at Closing, then Seller shall promptly pay the deficiency to City.

(d) Utility Charges

Seller shall cause all utility meters which are in Seller's name to be read, and will be responsible for the cost of all utilities used on such meters prior to the Closing Date. All utility deposits paid by Seller shall remain the property of Seller and City shall reasonably cooperate to cause such deposits to be returned to Seller to the extent Seller is entitled thereto.

(e) Other Apportionments

Amounts payable under any contracts assumed pursuant hereto, annual or periodic permit or inspection fees (calculated on the basis of the period covered), and liability for other normal Property operation and maintenance expenses and other recurring costs shall be apportioned as of the Closing Date.

7.2 Closing Costs

Seller shall pay (i) the cost of the Title Policy including the Survey and any endorsements reasonably requested by City; (ii) Escrow fees ; (iii) the cost of any transfer taxes applicable to the sale; and(iv) the sales tax on any Personal Property. Seller shall be responsible for all costs incurred in connection with the prepayment or satisfaction of any loan, bond or other indebtedness secured by the Property including, without limitation, any prepayment fees, penalties or charges. Any other costs and charges of the escrow for the sale not otherwise provided for in this Section or elsewhere in this Agreement shall be borne by Seller

7.3 Real Estate Taxes and Special Assessments

General real estate taxes payable for the tax year prior to year of Closing and all prior years shall be paid by Seller at or before the Closing. General real estate taxes payable for the tax year of the Closing shall be prorated through escrow by Seller and City as of the Closing Date. City acknowledges that in connection with the lot split Seller paid both installments of the fiscal year 2013-2014 taxes and that Seller shall be entitled to a credit for the portion of such taxes applicable to the period from and after the Closing. At or before the Closing, Seller shall pay the full amount of any special assessments against the Property, including, without limitation, interest payable thereon, applicable to the period prior to the Closing Date.

7.4 Post-Closing Reconciliation

If any of the foregoing prorations cannot be calculated accurately on the Closing Date, then they shall be calculated as soon after the Closing Date as feasible. Either party owing the other party a sum of money based on such subsequent prorations shall promptly pay such sum to the other party.

7.5 Survival

The provisions of this Section shall survive the Closing.

8. COVENANTS, REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of Seller

Seller makes the following representations and warranties to Buyer which, unless expressly stated to the contrary herein, shall be true and correct as of the Effective date and true and correct in all material respects as of the Closing Date:

(a) To the best of Seller's knowledge, Seller has received no notices of outstanding violations of any laws, rules or regulations applicable to the Property, including, without limitation, any earthquake, life safety and handicap laws (including, but not limited to, the Americans with Disabilities Act).

(b) To the best of Seller's knowledge, the Leases, Documents and any other information furnished to City are all of the relevant documents and information pertaining to the condition and operation of the Property to the extent available to Seller, and are true, correct and complete copies of such documents.

(c) To the best of Seller's knowledge, no document or instrument furnished or to be furnished by the Seller to the City in connection with this Agreement contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to

make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

(d) To the best of Seller's knowledge, no condemnation action is either instituted or planned to be instituted by any governmental or quasi-governmental agency other than City, which could detrimentally affect the use, operation or value of the Property.

(e) To the best of Seller's knowledge, all water, sewer, gas, electric, telephone, and drainage facilities and all other utilities required by law or by the normal use and operation of the Property are installed to the property lines of the Property and are adequate to service the Property.

(f) To the best of Seller's knowledge, there are no easements or rights of way which have been acquired by prescription or which are otherwise not of record with respect to the Property, and there are no easements, rights of way, permits, licenses or other forms of agreement which afford third parties the right to traverse any portion of the Property to gain access to other real property. To the best of Seller's knowledge, there are no disputes with regard to the location of any fence or other monument of the Property's boundary nor any claims or actions involving the location of any fence or boundary.

(g) To the best of Seller's knowledge, there is no litigation pending or threatened against Seller or any basis therefor that arises out of the ownership of the Property or that might detrimentally affect the use or operation of the Property for its intended purpose or the value of the Property or the ability of Seller to perform its obligations under this Agreement.

(h) To the best of Seller's knowledge, Owner is the legal and equitable owner of the Property, with full right to convey the same, and without limiting the generality of the foregoing, neither Seller nor, to the best of Seller's knowledge, Owner has granted any option or right of first refusal or first opportunity to any third party to acquire any interest in any of the Property.

(i) Seller is a limited liability company duly organized and validly existing under the laws of the State of California and is in good standing under the laws of the State of California; this Agreement and all documents executed by Seller which are to be delivered to City at the Closing are, or at the Closing will be, duly authorized, executed and delivered by Seller, are, or at the Closing will be, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, are, and at the Closing will be, sufficient to convey good and marketable title (if they purport to do so), and do not, and at the Closing will not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

(j) Seller has not been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. In the event Seller has been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension, debarment, discipline or prohibition may result in the termination or suspension of this Agreement.

(k) To the best of Seller's knowledge, there are no facts that would prevent City from using and operating the Property after Closing in the normal manner in which it is intended.

(l) Seller hereby represents and warrants to and covenants with City that the following statements are true and correct and will be true and correct as of the Closing Date:

(i) except as may be shown in the Seller's Environmental Disclosure, neither the Property nor to the best of Seller's knowledge any real estate adjacent to the Property is in violation of any Environmental Laws; (ii) the Property is not now nor to the best of Seller's knowledge has it ever been, used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material, except as described in "Phase I Environmental Site Assessment, 1294 –1298 Shotwell Street, San Francisco, California," completed by Treadwell and Rollo on 8 December 2011 as Project No. 731576201; "Hazardous Materials Pre-Demolition Survey Report, 1296 Shotwell Avenue, San Francisco, California," completed by RGA Environmental on February 4, 2013, as Project No: OYSTER31930; "Environmental Site Characterization of the Property," completed by Treadwell and Rollo on March 6, 2013; and "Preliminary Estimate of Volume and Disposal Cost of Class I Fill Material," completed by Treadwell and Rollo on March 5, 2013; (together, "**Seller's Environmental Disclosure**"); (iii) except as may be shown in the Seller's Environmental Disclosure, there has been no release and there is no threatened release of any Hazardous Material in, on, under or about the Property; (iv) except as may be shown in the Seller's Environmental Disclosure, there have not been and there are not now any underground storage tanks, septic tanks or wells or any aboveground storage tanks at any time used to store Hazardous Material located in, on or under the Property, or if there have been or are any such tanks or wells located on the Property, their location, type, age and content has been specifically identified in Seller's Environmental Disclosure, they have been properly registered with all appropriate authorities, they are in full compliance with all applicable statutes, ordinances and regulations, and they have not resulted in the release or threatened release of any Hazardous Material into the environment; (v) except as may be shown in the Seller's Environmental Disclosure, the Property does not consist of any landfill or of any building materials that contain Hazardous Material; and (vi) except as may be shown in the Seller's Environmental Disclosure, the Property is not subject to any claim by any governmental regulatory agency or third party related to the release or threatened release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in, on, under or about the Property, or the migration of Hazardous Material from or to other property. As used herein, the following terms shall have the meanings below:

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

(ii) "**Hazardous Material**" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Improvements or are naturally occurring substances on or about the Property; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids; and "source," "special nuclear" and "by-product" material as defined in the Atomic Energy Act of 1985, 42 U.S.C. Section 3011 et seq.

(iii) "**Release**" or "**threatened release**" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring,

emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any of the improvements, or in, on, under or about the Property. Release shall include, without limitation, "release" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601).

(m) At the time of Closing there will be no outstanding written or oral contracts made by Seller for any of the Improvements that have not been fully paid for and Seller shall cause to be discharged all mechanics' or materialmen's liens arising from any labor or materials furnished to the Seller in respect of the Property prior to the time of Closing. There are no obligations in connection with the Property which will be binding upon City after Closing except for matters which are set forth in the Preliminary Report and except for the Approved Leases.

(n) Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code.

(o) No brokerage or similar fee is due or unpaid by Seller with respect to any Lease. To the best of Seller's knowledge, no brokerage or similar fee shall be due or payable on account of the exercise of, without limitation, any renewal, extension or expansion options arising under any Approved Leases.

(p) To the best of Seller's knowledge, the copies of the Leases and other related documents delivered by Seller to City contain all of the information pertaining to any rights of any parties to occupy the Property, including, without limitation, all information regarding any rent concessions, over-standard tenant improvement allowances or other inducements to lease. Except as shown in the Seller's Notice referenced in Section 5.1 (a) none of the tenants of the Property has indicated to Seller either orally or in writing its intent to terminate its respective Lease prior to expiration of the respective term of such Lease.

(q) To the best of Seller's knowledge, the lease (the "**Octaviano Lease**") entered into between Owner (as Landlord) and Octaviano Inc., Marvin John Octaviano and Leonida M. Octaviano (as Tenants) has been terminated and is of no further force or effect, all of tenant's rights under the Octaviano Lease (as amended) have been terminated, and as of the date of this Agreement, no third party has any right to occupy the portion of the Property associated with the Octaviano Lease.

8.2 Limitation on Representations, Warranties and Covenants of Seller

(a) For purposes of this Agreement and any document delivered at Closing, whenever the phrase "to Seller's knowledge," or "to the best of Seller's knowledge" or the "knowledge" of Seller or words of similar import are used, they shall be deemed to refer to facts within the actual knowledge only of Dean Givas and no other, at the times indicated only, without duty of inquiry whatsoever.

(b) Buyer acknowledges that the individual named above is named solely for the purpose of defining and narrowing the scope of Seller's knowledge and not for the purpose of imposing any liability on or creating any duties running from such individual to Buyer. Buyer covenants that it will bring no action of any kind against such individual, any shareholder, manager, officer partner or member of Seller, as applicable, or related to or arising out of these representations and warranties.

(c) The representations and warranties of Seller set forth in Section 8.1 will survive the Closing for a period of twenty four (24) months. Buyer will not have any right to bring any action against Seller as a result of any untruth or inaccuracy of such representations and warranties or any breach thereof unless such action is commenced within such twenty four (24) month period. In addition, except for fraud or an intentional misrepresentation by Seller, in no event shall Seller's liability (including, without limitation, claims for indemnification, defense and attorney's fees) for all such breaches exceed, in the aggregate, Five Hundred Thousand Dollars (\$500,000.00) ("**Liability Limit**"). Seller shall have no liability with respect to any of Seller's representations and warranties herein if, prior to the Closing, Buyer has actual knowledge of any breach of a representation or warranty of Seller herein, or Buyer obtains actual knowledge (from whatever source, including, without limitation, written disclosure by Seller or Seller's agents and employees) that contradicts any of Seller's representations and warranties herein, and Buyer nevertheless consummates the transaction contemplated by this Agreement.

8.3 Indemnities of Seller

(a) Subject to the Liability Limit, Seller on behalf of itself and its successors and assigns, hereby agrees to indemnify, defend and hold harmless City, its Agents and their respective successors and assigns, from and against any and all liabilities, claims, demands, damages, liens, costs, penalties, losses and expenses, including, without limitation, reasonable attorneys' and consultants' fees, resulting from any misrepresentation or breach of warranty made by Seller in Section 8.1 of this Agreement or in any document, certificate, or exhibit given or delivered to City pursuant to or in connection with this Agreement. The foregoing indemnity includes, without limitation, costs incurred in connection with the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, cleanup, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material. The indemnification provisions of this Section 8.3 (a) shall survive the Closing for a period of twenty four (24) months.

(b) Subject to the Liability Limit, in addition, and notwithstanding the scope of the warranty set forth in Section 8.1 (q), Seller on behalf of itself and its successors and assigns, hereby agree to indemnify, defend and hold harmless City, its Agents and their respective successors and assigns, from and against any and all liabilities, claims, demands, damages, liens, costs, penalties, losses and expenses, including, without limitation, reasonable

attorneys' and consultants' fees, arising out of any claim or demand by Octaviano, Inc., Marvin John Octaviano and Leonida M. Octaviano, or any of them, asserting that the Octaviano Lease has not terminated and/or that they or any one or more of them has an existing right to use or occupy any portion of the Property. The indemnification provisions of this Section 8.3 (b) shall survive the Closing for a period of twenty four (24) months.

8.4 Representations, Warranties and Covenants of Buyer

Buyer makes the following representations and warranties to Seller which, unless expressly stated to the contrary herein, shall be true and correct as of the Effective Date and true and correct in all material respects as of the Closing Date:

(a) Subject to Section 5.1(f) of this Agreement, the execution and delivery of this Agreement and the performance of Buyer's obligations hereunder have been or will be duly authorized by all necessary action on the part of Buyer and this Agreement constitutes the legal, valid and binding obligation of Buyer.

(b) EXCEPT FOR THE MATTERS SET FORTH IN SECTION 8.1, 8.3 AND THE OWNER'S PSA, BUYER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF SELLER OR ANY OF SELLER'S AGENTS OR REPRESENTATIVES, AND BUYER HEREBY ACKNOWLEDGES THAT NO SUCH REPRESENTATIONS HAVE BEEN MADE. EXCEPT FOR THE MATTERS SET FORTH IN SECTION 8.1, 8.3 AND THE OWNER'S PSA, SELLER SPECIFICALLY DISCLAIMS, AND NEITHER IT NOR ANY OTHER PERSON ACTING ON SELLER'S BEHALF IS MAKING, ANY REPRESENTATION, WARRANTY OR ASSURANCE WHATSOEVER TO BUYER AND NO WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EITHER EXPRESS OR IMPLIED, ARE MADE BY SELLER OR RELIED UPON BY BUYER WITH RESPECT TO THE STATUS OF TITLE TO OR THE MAINTENANCE, REPAIR, CONDITION, DESIGN OR MARKETABILITY OF THE PROPERTY, OR ANY PORTION THEREOF, INCLUDING BUT NOT LIMITED TO (a) ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, (b) ANY IMPLIED OR EXPRESS WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (c) ANY IMPLIED OR EXPRESS WARRANTY OF CONFORMITY TO MODELS OR SAMPLES OF MATERIALS, (d) ANY RIGHTS OF BUYER UNDER APPROPRIATE STATUTES TO CLAIM DIMINUTION OF CONSIDERATION, (e) ANY CLAIM BY BUYER FOR DAMAGES BECAUSE OF DEFECTS, WHETHER KNOWN OR UNKNOWN, LATENT OR PATENT, WITH RESPECT TO THE IMPROVEMENTS, (f) THE FINANCIAL CONDITION OR PROSPECTS OF THE PROPERTY AND (g) THE COMPLIANCE OR LACK THEREOF OF THE REAL PROPERTY OR THE IMPROVEMENTS WITH GOVERNMENTAL REGULATIONS, IT BEING THE EXPRESS INTENTION OF SELLER AND BUYER THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE PROPERTY WILL BE CONVEYED AND TRANSFERRED TO BUYER IN ITS PRESENT CONDITION AND STATE OF REPAIR, "AS IS" AND "WHERE IS", WITH ALL FAULTS. BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSING, BUYER WILL ACCEPT THE PROPERTY, "AS IS, WHERE IS," WITH ALL FAULTS. BUYER FURTHER ACKNOWLEDGES AND AGREES

THAT OTHER THAN THE OWNER'S PSA, THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE PROPERTY, BY SELLER, ANY AGENT OF SELLER OR ANY THIRD PARTY. SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON, UNLESS THE SAME ARE SPECIFICALLY SET FORTH OR REFERRED TO HEREIN. BUYER, WITH BUYER'S COUNSEL, HAS FULLY REVIEWED THE DISCLAIMERS AND WAIVERS SET FORTH IN THIS AGREEMENT, AND UNDERSTANDS THE SIGNIFICANCE AND EFFECT THEREOF. BUYER ACKNOWLEDGES AND AGREES THAT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH HEREIN ARE AN INTEGRAL PART OF THIS AGREEMENT. THE TERMS AND CONDITIONS OF THIS SECTION 8.4 (c) WILL EXPRESSLY SURVIVE THE CLOSING AND WILL NOT MERGE WITH THE PROVISIONS OF ANY CLOSING DOCUMENTS

8.5 Release of Seller

Upon Closing, except for its indemnification obligations and liability for a breach of a representation or warranty as set forth in this Agreement, and except for allegations of fraud or intentional misconduct, Seller is released from all responsibility and liability to Buyer regarding the condition (including the presence in the soil, air, structures and surface and subsurface waters, of Hazardous Materials or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Property under current or future federal, state and local laws, regulations or guidelines), valuation, salability or utility of the Property, or its suitability for any purpose whatsoever. In that connection, Buyer, on behalf of itself, its successors, assigns and successors-in-interest and such other persons and entities, waives the benefit of 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 his or her settlement with the debtor."

8.6 Remediation Agreement, Remediation Funds and Remediation Escrow Agreement

In February 2013, Treadwell and Rollo ("**Treadwell**") conducted an Environmental Site Characterization of the Property, published on March 6, 2013, in order to evaluate potential contaminated soil at the Property. Treadwell collected soil samples of the fill materials from five environmental borings, conducted chemical testing of selected samples, and evaluated the results. The report found soluble lead concentrations exceeding the State of California waste criteria in two borings, necessitating disposal to a Class I facility in the event that the future development of the Property will require excavation of approximately 10 feet below the ground surface. On March 5, 2013, Treadwell issued a memorandum to Seller, entitled "Preliminary Estimate of Volume and Disposal Cost of Class I Fill Material" in which Treadwell estimated the

costs of 500 tons of hazardous materials disposal to a Class I facility. Seller has agreed with Buyer to provide an allowance toward transportation and disposal costs. The terms and conditions of the agreement between Seller and Buyer are set forth in the Remediation Funds Agreement and Escrow Instructions (“**Remediation Funds Agreement**”) which is attached hereto as Exhibit K and will be executed and delivered by the parties at Closing as provided herein.

9. RISK OF LOSS AND POSSESSION

9.1 Risk of Loss

If any of the Property is damaged or destroyed prior to the Closing Date, or if condemnation proceedings are commenced against any of the Property, then the rights and obligations of Seller and City hereunder shall be as follows:

(a) If the Owner PSA is terminated by reason of any such occurrence, this Agreement shall terminate and Seller and Buyer shall be released from all obligations hereunder except for those which expressly survive termination.

(b) If the Owner PSA is not terminated by reason of such occurrence, this Agreement shall remain in full force and effect and City shall acquire the Property upon the terms and conditions set forth herein and Seller shall assign to City at Closing all of Seller's right, title and interest in and to all proceeds of insurance on account of such damage or destruction pursuant to an instrument satisfactory to City.

(c) If the Owner PSA is not terminated by reason of such occurrence, and if condemnation proceedings are commenced against any of the Property, then, City shall have the right, at its election, either to terminate this Agreement in its entirety or to not terminate this Agreement and purchase the Property. City shall have fifteen (15) days after Seller notifies City that an event described in this Subsection (c) has occurred to make such election by delivery to Seller of an election notice. City's failure to deliver such notice within such fifteen (15)-day period shall be deemed City's election not to terminate this Agreement. If this Agreement is terminated by City's delivery of notice of termination to Seller, then City and Seller shall each be released from all obligations hereunder except for those which expressly survive termination. If City elects or is deemed to have elected not to terminate this Agreement, this Agreement shall remain in full force and effect, City shall acquire the Property upon the terms and conditions set forth herein and Seller shall assign to City at Closing all of Seller's right, title and interest in and to all condemnation awards.

9.2 Possession

Possession of the Property shall be delivered to City on the Closing Date.

10. MAINTENANCE; CONSENT TO NEW CONTRACTS

10.1 Maintenance of the Property by Seller

Between the Effective Date and the Closing hereunder, Seller shall use commercially reasonable efforts to cause Owner to maintain the Property in substantially its current condition, reasonable wear and tear excepted, and otherwise operate the Property in the same manner as the Property was maintained by the Owner prior to the Effective Date. For the purposes of this Section 10.1 only, “commercially reasonable efforts” shall include but not be limited to enforcing the Owner covenants set forth in the Owner PSA.

10.2 City's Consent to New Contracts Affecting the Property; Termination of Existing Contracts

After the date this Agreement is executed by Seller, Seller shall not waive any rights of Seller under any Lease, without in each instance obtaining City's prior written consent thereto, which consent in the case of any Lease shall include approval of the financial condition of the proposed tenant, the configuration of the space to be leased, and the terms of such Lease or contract. City agrees that it shall not unreasonably withhold or delay any such consent. Seller shall terminate prior to the Closing, at no cost or expense to City, any and all management agreements affecting the Property that City does not agree in writing prior to the Closing to assume. In addition, after the date this Agreement is executed by Seller, Seller shall use commercially reasonable efforts to prevent Owner from entering into any Lease or contract, or any amendment thereof, or permit any tenant of the Property to enter into any sublease, assignment or agreement pertaining to the Property, without in each instance obtaining City's prior written consent thereto, which consent in the case of any Lease shall include approval of the financial condition of the proposed tenant, the configuration of the space to be leased, and the terms of such Lease or contract.

11. GENERAL PROVISIONS

11.1 Notices

Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, against receipt, (ii) one (1) day after being deposited with a reliable overnight courier service, or (iii) two (2) days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

City:

Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property
Re: 1296 Shotwell
Facsimile No.: (415) 552-9216

with copy to:

Evan Gross
Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Re: 1296 Shotwell
Facsimile No.: (415) 554-4755

Seller: 2558 Mission LLC
c/o Oyster Development Corp.
355 1st Street, #809
San Francisco, CA 94105
Attention: Dean Givas
Facsimile No.: (415) 447-8578

With a copy to: Tricon Fund IX LP
c/o Tricon Capital Group, Inc.
1067 Yonge Street
Toronto, Ontario, Canada M4W2L2
Attention: Jonathan Ellenzweig

or to such other address as either party may from time to time specify in writing to the other upon five (5) days prior written notice in the manner provided above. For convenience of the parties, copies of notices may also be given by telefacsimile, to the telephone number listed above, or such other numbers as may be provided from time to time. However, neither party may give official or binding notice by facsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile copy of the notice.

11.2 Brokers and Finders

No party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the purchase and sale contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his or her claim shall be responsible for such commission or fee and shall indemnify and hold harmless the other party from all claims, costs, and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the indemnified party in defending against the same. The provisions of this Section shall survive the Closing.

11.3 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

11.4 Amendments

Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by City and Seller.

11.5 Continuation and Survival of Representations and Warranties

All representations and warranties by the respective parties contained herein or made in writing pursuant to this Agreement are intended to be, and shall remain, true and correct as of the Closing, shall be deemed to be material, and, together with all conditions, covenants and indemnities made by the respective parties contained herein or made in writing pursuant to this Agreement (except as otherwise expressly limited or expanded by the terms of this Agreement), shall survive the execution and delivery of this Agreement and the Closing, or, to the extent the context requires, beyond any termination of this Agreement.

11.6 Governing Law

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

11.7 Merger of Prior Agreements

The parties intend that this Agreement (including all of the attached exhibits and schedules, which are incorporated into this Agreement by reference) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. The parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

11.8 Parties and Their Agents; Approvals

The term "Seller" as used herein shall include the plural as well as the singular. If there is more than one (1) Seller, then the obligations under this Agreement imposed on Seller shall be joint and several. As used herein, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors and representatives of such party. All approvals, consents or other determinations permitted or required by City hereunder shall be made by or through City's Director of Property unless otherwise provided herein, subject to applicable law.

11.9 Interpretation of Agreement

The article, section and other headings of this Agreement and the table of contents are for convenience of reference only and shall not affect the meaning or interpretation of any provision contained herein. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa, and each gender reference shall be deemed to include the other and the neuter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

11.10 Attorneys' Fees

In the event that any party hereto fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the non-prevailing party in such dispute, as the case may be, shall pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For purposes of this Agreement, reasonable attorneys' fees of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney. The term "attorneys' fees" shall also include,

without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

11.11 Sunshine Ordinance

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

11.12 Conflicts of Interest

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

11.13 Notification of Limitations on Contributions

Through its execution of this Agreement, Seller acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Seller acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Seller each further acknowledges that the prohibition on contributions applies to Seller, each member of Seller's board of directors, and Seller's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Seller; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Seller. Additionally, Seller acknowledges that Seller must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Seller further agrees to provide to City the names of each person, entity or committee described above.

11.14 Non-Liability of City Officials, Employees and Agents

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

11.15 Earned Income Credit (EIC) Forms

San Francisco Administrative Code Section 12O requires that employers provide their employees with IRS Form W-5 (Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

(a) Seller shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty (30) days following the date on which this Agreement becomes effective (unless Seller or Developer has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Seller; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement.

(b) Failure to comply with any requirement contained in Subsection (a) of this Section shall constitute a material breach by Seller of the terms of this Agreement. If, within thirty (30) days after Seller receives written notice of such a breach, Seller fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Seller fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law.

(c) Any Subcontract entered into by Seller shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this Section.

(d) Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

11.16 Counterparts

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

11.17 Effective Date

As used herein, the term "**Effective Date**" shall mean the date on which the City's Board of Supervisors and Mayor enact a resolution approving and authorizing this Agreement and the transactions contemplated hereby, following execution of this Agreement by both parties.

11.18 Severability

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law, except to the extent that enforcement of this Agreement without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Agreement.

11.19 Cooperative Drafting.

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

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

[SIGNATURES ON FOLLOWING PAGES]

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

SELLER:

2558 MISSION LLC
a California limited liability company

By: Van Ness Clay Corp.,
a California corporation
Its Managing Member

By: _____
Dean Givas
President

CITY:

CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Evan A. Gross
Deputy City Attorney

Title Company agrees to act as escrow holder in accordance with the terms of this Agreement and to execute the Designation Agreement (attached hereto as Exhibit J) and act as the Reporting Person (as such term is defined in the Designation Agreement). Title Company's failure to execute below shall not invalidate the Agreement between City, Seller and Developer.

TITLE COMPANY:

FIRST AMERICAN TITLE INSURANCE
COMPANY

By: _____

Its: _____

Date: _____

EXHIBIT A

REAL PROPERTY DESCRIPTION

All that certain real property located in the County of San Francisco, State of California, described as follows:

Parcel A, Assessor's Block No. 6571, Lot No. 51 as shown on Parcel Map No. 7207, filed April 25, 2013 in Book 48 of Parcel Maps, at Pages 130 & 131, in the Office of the Recorder of the City and County of San Francisco, State of California, and more particularly described as follows:

Beginning at a point on the westerly line of Shotwell Street (59.09 feet wide), distant thereon North 04°15'00" West, 30.02 feet from the intersection of the southerly line of Cesar Chavez Street (100.00 feet wide) and the westerly line of Shotwell Street (59.09 feet wide); thence North 84°25'49" West, 101.36 feet; thence 04°15'00" West, 25.74 feet; thence North 14°49'38" East, 107.24 feet; thence North 88°41'39" East, 64.91 feet to the westerly line of Shotwell Street; thence along said westerly line South 04°15'00" East, 141.04 feet to the Point of Beginning.

Being a portion of Mission Block No. 200. Containing 11,672.2 sq. ft.

EXHIBIT B

PERSONAL PROPERTY DESCRIPTION

[TO COME FROM SELLER]

EXHIBIT C

GRANT DEED

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

The undersigned hereby declares this instrument to be
exempt from Recording Fees (CA Govt. Code § 27383)
and Documentary Transfer Tax (CA Rev. & Tax Code
§ 11922 and S.F. Bus. & Tax Reg. Code § 1105)

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

GRANT DEED

(Assessor's Parcel No. _____)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, THOMAS F. MURPHY AND MARTINA MURPHY, TRUSTEES OF THE MURPHY TRUST UDT DATED OCTOBER 3, 2003, hereby grant to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the real property located in the City and County of San Francisco, State of California, described on Exhibit A attached hereto and made a part hereof (the "Property").

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

[SIGNATURES ON FOLLOWING PAGE]

Executed as of this _____ day of _____, 2013.

Thomas F. Murphy, Trustee of the Murphy
Trust UDT dated October, 03,2003

Martina Murphy, Trustee of the Murphy
Trust UDT dated October 03, 2003

State of California)
) ss
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Grant Deed to the City and County of San Francisco, a municipal corporation, is hereby accepted pursuant to Board of Supervisors' Resolution No. 18110 Series of 1939, approved August 7, 1957, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

By: _____

Director of Property

EXHIBIT D

BILL OF SALE & ASSIGNMENT OF INTANGIBLES

For good and valuable consideration the receipt of which is hereby acknowledged, THOMAS F. MURPHY AND MARTINA MURPHY, TRUSTEES OF THE MURPHY TRUST UDT DATED OCTOBER 3, 2003 ("**Seller**"), does hereby sell, transfer, assign and convey to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**Buyer**"), all Personal Property and Intangibles owned by Seller (each as defined in the Purchase and Sale Agreement and Joint Escrow Instructions between Seller and 2558 MISSION LLC, a California limited liability company dated September 29, 2011) and located on or in and used in connection with the Land and Improvements (as such terms are defined in that certain Agreement of Purchase and Sale of Real Estate dated as of May 1, 2013, between 2558 MISSION LLC, a California limited liability company and Buyer.

Seller does hereby represent to Buyer that Seller is the lawful owner of such Personal Property and Intangibles, that such Personal Property and Intangibles are free and clear of all encumbrances, and that Seller has good right to sell the same as aforesaid and will warrant and defend the title thereto unto Buyer, its successors and assigns, against the claims and demands of all persons whomsoever.

DATED this _____ day of _____, 2013.

SELLER:

Thomas F. Murphy, Trustee of the Murphy
Trust UDT dated October, 03,2003

Martina Murphy, Trustee of the Murphy
Trust UDT dated October 03, 2003

EXHIBIT E
INTENTIONALLY OMITTED

EXHIBIT F

ASSIGNMENT OF LEASES

THIS ASSIGNMENT is made and entered into as of this ___ day of _____, 20___, by and between THOMAS F. MURPHY AND MARTINA MURPHY, TRUSTEES OF THE MURPHY TRUST UDT DATED OCTOBER 3, 2003 ("Assignor"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Assignee").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, effective as of the Effective Date (as defined below), Assignor hereby assigns and transfers to Assignee all of Assignor's right, title, claim and interest in and under certain leases executed with respect to that certain real property commonly known as 1296 Shotwell Street, San Francisco, CA (the "Property") as more fully described in Schedule 1 attached hereto (collectively, the "Leases").

ASSIGNOR AND ASSIGNEE FURTHER HEREBY AGREE AND COVENANT AS FOLLOWS:

1. Assignor represents and warrants that as of the date of this Assignment and the Effective Date, there are no assignments of or agreements to assign the Leases to any other party except 2558 Mission LLC, a California limited liability company ("Mission"), who consents to this Assignment.

2. Assignor hereby agrees to indemnify Assignee against and hold Assignee harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees), originating prior to the Effective Date (as defined below) and arising out of the landlord's obligations under the Leases.

3. Except as otherwise set forth in the Purchase Agreement (as defined below), effective as of the Effective Date (as defined below), Assignee hereby assumes all of the landlord's obligations under the Leases and agrees to indemnify Assignor against and hold Assignor harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees), originating on or subsequent to the Effective Date (as defined below) and arising out of the landlord's obligations under the Leases.

4. Any rental and other payments under the Leases shall be prorated between the parties as provided in the Purchase and Sale Agreement and Joint Escrow Instructions between Assignor, as Seller, and Mission, as Purchaser, dated as of September 29, 2011 (the "Purchase Agreement").

5. In the event of any litigation between Assignor and Assignee arising out of this Assignment, the losing party shall pay the prevailing party's costs and expenses of such litigation, including, without limitation, attorneys' fees.

6. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

7. This Assignment shall be governed by and construed in accordance with the laws of the State of California.

8. For purposes of this Assignment, the "Effective Date" shall be the date of the Closing (as defined in the Purchase Agreement).

9. This Assignment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

Assignor and Assignee have executed this Assignment as of the day and year first written above.

ASSIGNOR:

Thomas F. Murphy, Trustee of the Murphy
Trust UDT dated October, 03,2003

Martina Murphy, Trustee of the Murphy
Trust UDT dated October 03, 2003

CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation

By: _____
John Updike, Director of Property

ASSIGNEE:

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Evan A. Gross
Deputy City Attorney

EXHIBIT G

TENANT'S ESTOPPEL CERTIFICATE

DATE: _____

TENANT: _____

PREMISES: _____

LEASE DATE: _____

COMMENCEMENT DATE: _____

EXPIRATION DATE: _____

TERM IN MONTHS: _____

DATE RENT AND OPERATING EXPENSE
PARKING: _____

PAYMENTS ARE DUE: _____

OPTIONS: Check if you have any of these options or rights, and provide details in Sections 5 or 9 below.

_____ Extension Option
_____ Termination Option
_____ Expansion Option
_____ Purchase Option

CURRENT MONTHLY PAYMENTS:

BASE RENTAL:

TAXES:

OP. EXP. CAP:

_____ Check here if you have rental escalations and provide details in Section 6 below:

SECURITY DEPOSIT:

THE UNDERSIGNED, AS TENANT OF THE ABOVE REFERENCED PREMISES ("PREMISES") UNDER THE LEASE DATED AS OF THE ABOVE-REFERENCED LEASE DATE, BETWEEN _____ ("LANDLORD") AND TENANT, HEREBY CERTIFIES, REPRESENTS AND WARRANTS TO THE CITY AND COUNTY OF SAN FRANCISCO ("CITY"), AND ITS ASSIGNEES, AS FOLLOWS:

1. Accuracy. All of the information specified above and elsewhere in this Certificate is accurate as of the date hereof.
2. Lease. The copy of the Lease attached hereto as Exhibit A is a true and correct copy of the Lease. The Lease is valid and in full force and effect. The Lease contains all of the understandings and agreements between Landlord and Tenant and has not been amended, supplemented or changed by letter agreement or otherwise, except as follows (if none, indicate so by writing "NONE" below):
3. Premises. The Premises consist of _____, and Tenant does not have any options to expand the Premises except as follows (if none, indicate so by writing "NONE" below):

4. Acceptance of Premises. Tenant has accepted possession of the Premises and is currently occupying the Premises. There are no unreimbursed expenses due Tenant including, but not limited to, capital expense reimbursements.

5. Lease Term. The term of the Lease commenced and will expire on the dates specified above, subject to the following options to renew or rights to terminate the Lease (if none, indicate so by writing "NONE" below):

6. Rental Escalations. The current monthly base rental specified above is subject to the following escalation adjustments (if none, indicate so by writing "NONE" below):

7. No Defaults/Claims. Neither Tenant nor Landlord under the Lease is in default under any terms of the Lease nor has any event occurred which with the passage of time (after notice, if any, required under the Lease) would become an event of default under the Lease. Tenant has no claims, counterclaims, defenses or setoffs against Landlord arising from the Lease, nor is Tenant entitled to any concession, rebate, allowance or free rent for any period after this certification. Tenant has no complaints or disputes with Landlord regarding the overall operation and maintenance of the property within which the Premises are located (the "Property"), or otherwise.

8. No Advance Payments. No rent has been paid in advance by Tenant except for the current month's rent.

9. No Purchase Rights. Tenant has no option to purchase, or right of first refusal to purchase, the Premises, the Property or any interest therein (if none, indicate so by writing "NONE" below):

10. Notification by Tenant. From the date of this Certificate and continuing until, Tenant agrees to notify City immediately of the occurrence of any event or the discovery of any fact that would make any representation contained in this Certificate inaccurate as of the date hereof or as of any future date.

11. No Sublease/Assignment. Tenant has not entered into any sublease, assignment or any other agreement transferring any of its interest in the Lease or the Premises.

12. No Notice. Tenant has not received notice of any assignment, hypothecation, mortgage, or pledge of Landlord's interest in the Lease or the rents or other payments payable thereunder, except those listed below (if none, indicate so by writing "NONE" below):

13. Hazardous Materials. Tenant has not used, treated, stored, disposed of or released any Hazardous Materials on or about the Premises or the Property. Tenant does not have any permits, registrations or identification numbers issued by the United States Environmental Protection Agency or by any state, county, municipal or administrative agencies with respect to its operation on the Premises, except for any stated below, and except as stated below no such governmental permits, registrations or identification numbers are required with respect to Tenant's operations on the Premises. For the purposes hereof, the term "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the

California Health & Safety Code; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids, and "source," "special nuclear" and "by-product" material as defined in the Atomic Energy Act of 1985, 42 U.S.C. Section 3011 et seq.

14. Reliance. Tenant recognizes and acknowledges it is making these representations to City with the intent that City, and any of its assigns, will fully rely on Tenant's representations.

15. Binding. The provisions hereof shall be binding upon and inure to the benefit of the successors, assigns, personal representatives and heirs of Tenant and City.

16. Due Execution and Authorization. The undersigned, and the person(s) executing this Certificate on behalf of the undersigned, represent and warrant that they are duly authorized to execute this Certificate on behalf of Tenant and to bind Tenant hereto.

EXECUTED BY TENANT ON THE DATE FIRST WRITTEN ABOVE.

By:

[NAME]

[TITLE]

By:

[NAME]

[TITLE]

EXHIBIT H

**CERTIFICATE OF TRANSFEROR
OTHER THAN AN INDIVIDUAL
(FIRPTA Affidavit)**

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the transferee of certain real property located in the City and County of San Francisco, California, that withholding of tax is not required upon the disposition of such U.S. real property interest by 2558 Mission LLC, a California limited liability company ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. Transferor's U.S. employer identification number is _____; and

3. Transferor's office address is c/o Oyster Development Corp., 355 1st Street, #809, San Francisco, CA 94105, Attention: Dean Givas

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated: _____, 20____.

On behalf of:

2558 MISSION LLC,
a California limited liability company

By: Van Ness Clay Corp.,
a California corporation
Its Managing Member

Name: Dean Givas

Its: President

EXHIBIT I

DESIGNATION AGREEMENT

This DESIGNATION AGREEMENT (the "Agreement") dated as of _____, 20____, is by and among 2558 Mission LLC, a California limited liability company ("Seller"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), and _____ TITLE INSURANCE COMPANY ("Title Company").

A. Pursuant to that certain Purchase Agreement entered into by and amongst Seller and City, dated _____, 20____ (the "Purchase Agreement"), Seller has agreed to sell to City, and City has agreed to purchase from Seller, certain real property located in City and County of San Francisco, California, more particularly described in Exhibit A attached hereto (the "Property"). The purchase and sale of the Property is sometimes hereinbelow referred to below as the "Transaction").

B. Section 6045(e) of the United States Internal Revenue Code of 1986 and the regulations promulgated thereunder (collectively, the "Reporting Requirements") require an information return to be made to the United States Internal Revenue Service, and a statement to be furnished to Seller, in connection with the Transaction.

C. Pursuant to Subsection 2(b)(i) of the Purchase Agreement, an escrow has been opened with Title Company, Escrow No. _____, through which the Transaction will be or is being accomplished. Title Company is either (i) the person responsible for closing the Transaction (as described in the Reporting Requirements) or (ii) the disbursing title or escrow company that is most significant in terms of gross proceeds disbursed in connection with the Transaction (as described in the Reporting Requirements).

D. Seller and City and Title Company desire to designate Title Company as the "Reporting Person" (as defined in the "Reporting Requirements") with respect to the Transactions.

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Seller, Developer, City and Title Company agree as follows:

1. Title Company is hereby designated as the Reporting Person for the Transaction. Title Company shall perform all duties that are required by the Reporting Requirements to be performed by the Reporting Person for the Transaction.

2. Seller and City shall furnish to Title Company, in a timely manner, any information requested by Title Company and necessary for Title Company to perform its duties as Reporting Person for the transaction.

3. Title Company hereby requests Seller to furnish to Title Company Seller's correct taxpayer identification number. Seller acknowledges that any failure by Seller to provide Title Company with Seller's correct taxpayer identification number may subject Seller to civil or criminal penalties imposed by law. Accordingly, Seller hereby certifies to Title Company, under penalties of perjury, that Seller's correct taxpayer identification number is _____.

4. The names and addresses of the parties hereto are as follows:

SELLER:

2558 Mission LLC

c/o Oyster Development Corp.
355 1st Street, #809
San Francisco, CA 94105
Attention: Dean Givas

CITY:

Director of Property
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Facsimile No.: () _____

TITLE COMPANY:

Attn: _____
Facsimile No.: () _____

5. Each of the parties hereto shall retain this Agreement for a period of four (4) years following the calendar year during which the date of closing of the Transaction occurs.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date and year first above written.

SELLER:

2558 MISSION LLC,

a California limited liability company

By: Van Ness Clay Corp.,

a California corporation

Its Managing Member

By: _____

Name: Dean Givas

Its: President

CITY:

CITY AND COUNTY OF
SAN FRANCISCO, a municipal corporation

By: _____

JOHN UPDIKE
Director of Property

Date: _____

Title Company:

_____ TITLE
INSURANCE COMPANY

Date: _____

By: _____

Its: _____

EXHIBIT J

ASSIGNMENT OF OWNER REPRESENTATIONS

THIS ASSIGNMENT is made and entered into as of this ____ day of _____, 20____, by and between 2558 Mission LLC, a California limited liability company ("Assignor"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Assignee").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, effective as of the Effective Date (as defined below), Assignor hereby assigns and transfers to Assignee all of Assignor's right, title, claim and interest in the Seller's representations and warranties set forth in Article 5 of the Purchase and Sale Agreement and Joint Escrow Instructions between THOMAS F. MURPHY AND MARTINA MURPHY, TRUSTEES OF THE MURPHY TRUST UDT DATED OCTOBER 03, 2003, as Seller, and Assignor, as Purchaser, dated as of September 29, 2011 (the "Owner PSA").

ASSIGNOR AND ASSIGNEE FURTHER HEREBY AGREE AND COVENANT AS FOLLOWS:

1. Effective as of the Effective Date (as defined below), Assignor hereby assigns and transfers, and Assignee hereby assumes, all of Assignor's rights and interest in the representations and warranties provided by the "Seller" in Article 5 of the Owner PSA (the "Owner Representations").
2. Assignor hereby agrees to reasonably cooperate in good faith, at no expense to Assignor (including but not limited to all costs associated with any litigation brought by Assignee arising out of a breach of the Owner's Representations), with Assignee in any effort by Assignee to enforce the terms of the Owner Representations prior to expiration of the Survival Period (as defined in the Owner PSA), including but not limited to being named as a party in any litigation brought by Assignee arising out of a breach of the Owner's Representations.
3. In the event of any litigation between Assignor and Assignee arising out of this Assignment, the losing party shall pay the prevailing party's costs and expenses of such litigation, including, without limitation, attorneys' fees.
4. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.
5. This Assignment shall be governed by and construed in accordance with the laws of the State of California.
6. For purposes of this Assignment, the "Effective Date" shall be the date of the Closing (as defined in the Purchase Agreement).
7. This Assignment may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

[SIGNATURES ON FOLLOWING PAGE]

Assignor and Assignee have executed this Assignment as of the day and year first written above.

ASSIGNOR:

2558 MISSION LLC,
a California limited liability company

By:

Van Ness Clay Corp.,
a California corporation

Its: Managing Member

By:

Name: Dean Givas

Its: President

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By:

John Updike, Director of Property

a

By:

[NAME]

Its:

By:

[NAME]

Its:

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

By:

John Updike, Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:

Evan A. Gross

Deputy City Attorney

ACKNOWLEDGED AND CONSENTED TO BY:

Thomas F. Murphy, Trustee of the Murphy
Trust UDT dated October, 03,2003

Martina Murphy, Trustee of the Murphy
Trust UDT dated October 03, 2003

EXHIBIT K

REMEDIATION FUNDS AGREEMENT AND ESCROW INSTRUCTIONS

THIS REMEDIATION FUNDS AGREEMENT (this "**Agreement**") is entered into as of May _____, 2013 by and among the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), 2558 MISSION LLC, a California limited liability company ("**Developer**"), and _____ ("**Escrow Agent**").

RECITALS

A. Developer and City have entered into that certain Purchase and Sale Agreement and Joint Escrow Instructions (the "**Purchase Agreement**") for the transfer from Developer to City of that certain real property known as 1296 Shotwell Street, Assessor's Block [x], Lot [x], located in the City and County of San Francisco and shown on the map attached hereto as Exhibit A (the "**Property**").

B. In February 2013, Treadwell and Rollo ("**Treadwell**") conducted an Environmental Site Characterization of the Property, published on March 6, 2013, attached hereto as Exhibit B, in order to evaluate potential contaminated soil at the Property. Treadwell collected soil samples of the fill materials from five environmental borings, conducted chemical testing of selected samples, and evaluated the results.

C. The report found soluble lead concentrations exceeding the State of California waste criteria in two borings, necessitating disposal to a Class I facility in the event that the future development of the Property will require excavation of approximately 10 feet below the ground surface.

D. On March 5, 2013, Treadwell issued a memorandum to Developer, entitled "Preliminary Estimate of Volume and Disposal Cost of Class I Fill Material," attached hereto as Exhibit C ("**Treadwell Memorandum**"), in which Treadwell estimated the costs of 500 tons of hazardous materials disposal to a Class I facility.

E. As part of the Purchase Agreement, Developer has agreed to contribute funds towards the costs to transport and dispose of Class I fill excavated and removed from the Property, as more particularly described in this Agreement.

F. Developer and City now wish to enter into this Agreement to set forth the terms regarding the manner in which the funds contributed by Developer will be disbursed by Escrow Agent to City or Developer in accordance with this Agreement.

G. Capitalized terms not otherwise defined in this Agreement shall have the meanings given to such terms in the Purchase Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of and in reliance on the mutual promises and undertakings herein made and made in the Purchase Agreement and the mutual benefits to be derived therefrom, Developer, City and Escrow Agent agree as follows:

1. Remediation Funds. On or prior to the Closing Date, Developer shall deposit Ninety Two Thousand Two Hundred Thirty Dollars (\$92,230) (the "**Remediation Funds**") with Escrow Agent. Developer and City hereby agree that consistent with the Treadwell Memorandum, the Remediation Funds are sufficient to cover the costs for the transportation and offsite disposal (namely, the dump fees and generator fees exclusive, however, of all costs of excavation) of the Class I fill in approximately 500 tons of lead-contaminated soil at the Property to the level necessary to comply with Environmental

Laws (the “**Soil Disposal**”); provided, however, that Developer does not guaranty that the Remediation Funds will cover all such costs.

2. Remediation Escrow Account. The Remediation Funds shall be held by Escrow Agent in an interest-bearing account (the “**Remediation Escrow Account**”), and all interest thereon shall be deemed a part of the Remediation Funds. All costs and expenses of Escrow Agent with respect to the establishment, holding and administering of the Remediation Escrow Account shall be paid by Developer.
3. Use of Remediation Funds. The Remediation Funds shall be made available to the City to pay for the Soil Disposal.
4. Disbursement of Remediation Funds. Developer and City agree that the Escrow Agent is hereby authorized to disburse the Remediation Funds as follows:
 - (a) Upon completion of the Soil Disposal, Escrow Agent shall release to City that portion of the Remediation Funds that is sufficient to cover the cost of the Soil Disposal, as evidenced by invoices of contractors submitted by City to Developer and Escrow Agent which relate solely to the Class I fill. Developer shall have no obligation to increase the amount of the Remediation Funds if they are insufficient to cover the actual costs of the Soil Disposal.
 - (b) Any unused remaining Remediation Funds after disbursement under (a) above shall be disbursed to Developer.
 - (c) In the event the Soil Disposal is not completed by December 31, 2018, then upon demand of Developer, Escrow Agent shall disburse the Remediation Funds to Developer.
5. Term of Agreement. The obligations and rights under this Agreement shall survive the termination of the Purchase Agreement; provided however that upon disbursement of all of the Remediation Funds pursuant to Section 4 above, the Remediation Escrow Account shall be closed and this Agreement and all rights and obligations hereunder shall terminate.
6. Obligations of Escrow Agent. By joining herein, Escrow Agent undertakes only to perform the specific duties and obligations imposed on the Escrow Agent under the terms of this Agreement. Developer and City hereby agree and acknowledge that Escrow Agent shall not at any time be held liable for actions taken or omitted to be taken under this Agreement, except for liability related to the gross negligence or willful misconduct of Escrow Agent. If any controversy arises between the parties to this Agreement, or with any other party, concerning the subject matter of this Agreement, its terms or conditions, Escrow Agent will not be required to determine the controversy or to take any action regarding it. Escrow Agent may hold all documents and funds and may wait for settlement of any such controversy by (a) final appropriate legal proceedings; or (b) by written agreement and notification in writing thereof by Developer and City. In such event, unless due to the gross negligence or willful misconduct of Escrow Agent, Escrow Agent will not be liable for interest or damages. Furthermore, Escrow Agent may at its

option, file an action of interpleader requiring the parties to answer and litigate any claims and rights among themselves. Escrow Agent is authorized to deposit with the clerk of the court all documents and funds held in escrow, except all costs, expenses, charges and reasonable attorney fees incurred by Escrow Agent due to the interpleader action and which Developer and City jointly and severally agree to pay.

7. Miscellaneous.

(a) Notices. Any notice pursuant to this Agreement shall be given in writing by (a) personal delivery, (b) reputable overnight delivery service with proof of delivery, (c) United States mail, postage prepaid, certified mail, return receipt requested, or (d) legible facsimile transmission, sent to the intended addressee at the address set forth below, or to such other address or to the attention of such other person as the addressee shall have designated by written notice sent in accordance herewith, and shall be deemed to have been given upon receipt or refusal to accept delivery, or, in the case of facsimile transmission, as of the date of the facsimile transmission provided that an original of such facsimile is also sent to the intended address by means described in clauses (a), (b) or (c) above. Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:

If to City: Real Estate Division
 City and County of San Francisco
 25 Van Ness Avenue, Suite 400
 San Francisco, CA 94102
 Attn: Director of Property
 Telephone No. (415) 554-9875
 Facsimile No. (415) 552-9216

If to Developer: 2558 Mission LLC
 c/o Oyster Development Corp.
 355 1st Street, #809
 San Francisco, CA 94105
 Attention: Dean Givas
 Facsimile No.: (415) 447-8578

With copy to:

Tricon Fund IX LP
c/o Tricon Capital Group, Inc.
1067 Yonge Street
Toronto, Ontario, Canada M4W2L2
Attention: Jonathan Ellenzweig

If to Escrow Agent: First American Title Company____
901 Mariner's Island Blvd
Suite 380
San Mateo, CA 94404
(650) 356-1732

(b) Attorneys' Fees. In the event of the bringing of any action or suit by a party hereto against another party hereunder by reason of any breach of any of the covenants or agreements contained herein, then in that event, the prevailing party in such action or dispute, whether by formal judgment or out of court settlement, shall be entitled to have and recover of and from the other party all costs and expenses of suit, including actual attorneys' fees. For purposes hereof and for purposes set forth herein, reasonable attorneys' fees of City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience notwithstanding the City's use of its own attorneys.

(c) Entire Agreement and Amendments. This Agreement constitutes the entire understanding between the parties hereto with respect to the transaction contemplated herein and supersedes any and all prior arrangements or understandings between the parties with respect thereto. Any amendment or modification of the provisions of this Agreement shall only be effective upon execution and delivery, by all parties hereto, of a writing incorporating all of the terms of such amendment or modification. No oral amendment or modification of this Agreement shall be binding on any party.

(d) Choice of Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California and the Charter of City and County of San Francisco.

(e) Successors. The provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties hereto.

(f) Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Agreement shall be made against either party except on the basis of a written instrument executed by or on behalf of such party, unless expressly provided to the contrary in the Agreement. The party for whose benefit a condition is herein inserted shall have the unilateral right to waive such condition.

(g) Further Actions. The parties agree to execute such further documents, and take such further actions, as may reasonably be required to carry out the provisions of this Agreement.

(h) Validity of Provisions. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provisions of this Agreement but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein and the same shall be enforceable to the fullest extent permitted by law.

(i) Counterparts. This Agreement may be executed in one or more counterparts and shall become effective when one or more counterparts have been signed

by all of the parties; each counterpart shall be deemed an original but all counterparts shall constitute a single instrument.

(j) Business Days. In the event any date described in this Agreement relative to the performance of actions hereunder by City, Developer and/or Escrow Agent falls on a Saturday, Sunday or legal holiday, such date shall be deemed postponed until the next business day thereafter.

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

(l) Non Discrimination In City And County Of San Francisco Contracts.

(i) In the performance of this Agreement, Developer and Escrow Agent each covenants and agrees not to discriminate 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, height, weight or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Developer or Escrow Agent, respectively, in any of such party's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by such party.

(ii) If applicable, Developer and Escrow Agent each shall include in any subcontract with an environmental consultant relating to this Agreement a non-discrimination clause applicable to such subcontractor in substantially the form of subsection (a) above.

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

(n) Conflicts Of Interests. Developer and Escrow Agent each states that it is familiar with the provisions of Section 15.103 and C8.105 of the San Francisco Charter and certifies that it knows of no facts which would constitute a violation of such provisions. Developer and Escrow Agent each further certifies that it has made a complete disclosure to the City of all facts bearing on any possible interests, direct or indirect, which Developer or Escrow Agent, respectively, believes any officer or employee of the City presently has or will have in this Agreement or in the performance thereof.

(o) Taxpayer Notification of Limitations on Contributions. San Francisco Campaign and Governmental Conduct Code (the "Conduct Code") Section 3.700 et. seq., and San Francisco Ethics Commission Regulations 3.710(a)-1 – 3.730-1, prohibit the public officials who approved this contract from receiving 1) gifts, honoraria, emoluments or pecuniary benefits of a value in excess of \$50; 2) any employment for compensation; or 3) any campaign contributions for any elective office for a period of up to six years from individuals and entities who are "public benefit recipients" of the contract. Public benefit recipients of the contract are: 1) the individual, corporation, firm, partnership, association, or other person or entity that is a party to the contract; 2) an individual or entity that has a direct 10% equity, or direct 10% participation, or direct 10% revenue interest in that party at the time the public benefit is awarded; or 3) an individual who is a trustee, director, partner or officer of the contracting party at the time the public benefit is awarded. Developer and Escrow Agent each understands that any public official who approved this contract may not accept campaign contributions, gifts, or future employment from Developer or Escrow Agent except as provided under the Conduct Code. Developer and Escrow Agent each agrees to notify any other individuals or entities that may be deemed "public benefit recipients" under the Conduct Code because of this contract. Upon request, Developer and Escrow Agent each agrees to furnish, before this contract is entered into, such information as any public official approving this contract may require in order to ensure such official's compliance with the Conduct Code. Upon request, the City agrees to provide, before this contract is entered into, Developer and Escrow Agent with a list of public officials who, under the Conduct Code, approved this contract. Failure of any public official who approved this contract to abide by the Conduct Code shall not constitute a breach by either the City, Escrow Agent or Developer of this contract. Notwithstanding anything to the contrary in this contract, no party hereto shall have the right to terminate the contract due to any failure by the other party to provide the information described in this paragraph.

(p) General Provisions. (a) Except as expressly provided to the contrary, all approvals, consents and determinations to be made by City hereunder may be made in the reasonable discretion of City. (b) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. (c) Time is of the essence in all matters relating to this Agreement. (d) If Developer or Escrow Agent, respectively, consists of more than one person then the obligations of each such person shall be joint and several. (e) Developer or Escrow Agent may not record this Agreement or any memorandum hereof.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

DEVELOPER:

2558 MISSION LLC
a California limited liability company

By: Van Ness Clay Corp.,
a California corporation
Its Managing Member

By: _____
Dean Givas
President

CITY:

City and County of San Francisco,
a municipal corporation

By: _____
John Updike, Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Evan A. Gross
Deputy City Attorney