

## EXHIBIT H

### REMEDICATION AND DEMOLITION FUNDS AGREEMENT AND ESCROW INSTRUCTIONS

THIS REMEDIATION AND DEMOLITION FUNDS AGREEMENT (this "Agreement") is entered into as of \_\_\_\_\_, 2017 (the "Effective Date") by and among the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), \_\_\_\_\_, a \_\_\_\_\_ ("Developer"), and First American Title Company ("Escrow Agent").

#### RECITALS

A. Bryant Street Holdings LLC, a Delaware limited liability company, Developer's predecessor-in-interest, 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 2070 Bryant Street, being a portion of Assessor's Block 4022, Lot 21, located in the City and County of San Francisco and identified as Parcel B on the Lot Line Adjustment drawing attached hereto as **Exhibit A** (the "Property").

B. As set forth in the documents listed in Schedule 1 to the Purchase Agreement, certain hazardous materials have been identified under the Property and mitigation measures associated with future development on the Property have been recommended.

D. As set forth in other documents listed in Schedule 1 to the Purchase Agreement, the estimated cost of such mitigation measures will be \$955,267.

E. Developer has delivered to City the Demolition Plan and Notes identified in Schedule 1, and the costs of demolition of improvements that remain on the Property to eventually be removed in connection with future construction of a building on the Property has been estimated in other documents listed in Schedule 1 to be \$51,685.

F. As part of the Purchase Agreement, Developer has agreed to contribute funds for the costs of the mitigation measures and for the cost of completion of demolition, as more particularly described in this Agreement.

G. 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.

H. 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 and Demolition Funds. On or prior to the Closing Date, Developer shall deposit with Escrow Agent: (a) Nine Hundred Fifty Five Thousand, Two Hundred Sixty Seven Dollars (\$955,267) (the "**Remediation Funds**") to be applied towards the costs of remediating hazardous materials contamination at the Property ("**Remediation Activities**"), plus

(b) Fifty One Thousand, Six Hundred Eighty Five Dollars (\$51,685) (the “**Demolition Funds**”) to be applied towards the costs of demolishing the improvements that remain at the Property (the “**Demolition Activities**”). Developer makes no representation or warranty, explicit or implied, regarding the accuracy of the estimates which are the bases of the amounts of the Remediation Funds and the Demolition Funds.

2. Escrow Account. The Remediation Funds and Demolition Funds shall be held by Escrow Agent in an interest-bearing account (the “**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 Escrow Account shall be paid by Developer.

3. Use of Remediation Funds and Demolition Funds. The Remediation Funds shall be made available to the City and its agents or assigns to pay for the Remediation Activities and the Demolition Funds shall be made available to the City and its agents or assigns to pay for the Demolition Activities. The Site Remediation Funds are intended to cover only those costs associated with the handling, off-haul and disposal of contaminated soil in excessive of the cost of handling, off-haul and disposal of non-contaminated soil. In order to ensure this is properly accounted for City and its contractor shall obtain a unit price for the handling, loading, trucking and disposal of clean soil. This unit price shall be applied as a credit against the actual costs incurred to ensure the Remediation Funds are not used to pay for work that would otherwise be required in the absence of contamination.

4. Disbursement of Remediation Funds and Demolition Funds. Developer and the City agree that the Escrow Agent is hereby authorized to release to City or its agents or assigns the Remediation Funds to be applied towards the cost of the Remediation Activities and the Demolition Funds to be applied towards the cost of the Demolition Activities, within five (5) business days of submittal by City to Developer and Escrow Agent of evidence in the form of invoices of contractors which relate solely to the Remediation Activities or the Demolition Activities, respectively. Developer shall have no obligation to increase the amount of the Remediation Funds or the Demolition Funds if they are insufficient to cover the actual costs of the Remediation Activities or the Demolition Activities.

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 and the Demolition Funds pursuant to Section 4 above, the Escrow Account shall be closed and this Agreement and all rights and obligations under this Agreement which have not previously accrued shall terminate. Notwithstanding to the contrary in this Agreement or the Purchase Agreement, on the date that is the earlier of (a) the fifth (5<sup>th</sup>) anniversary of the Effective Date or (b) issuance by the San Francisco Department of Public Health of a written acknowledgment that the installation of a vapor mitigation system associated with subsequent development on the Property has been completed and the Demolition Activities have been completed, any funds remaining in the Escrow Account shall be disbursed to Developer and the Escrow Account shall be closed and neither City nor Developer shall have any obligations or rights under this Agreement that have not accrued or arisen prior to such date.

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, 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  
    Re: 2070 Bryant

with a copy to:                Office of the City Attorney  
    City Hall, Room 234  
    1 Dr. Carlton B. Goodlett Place  
    San Francisco, CA 94102-4682  
    Re: 2070 Bryant  
    Attn: Real Estate/Finance Team

and to:                            Mayor's Office of Housing and Community  
    Development

Remediation and Demolition Funds and Escrow Agreement 2070 Bryant

One South Van Ness Avenue, Suite 500  
San Francisco, CA 94103  
Attn: Director of MOHCD  
Re: 2070 Bryant

If to Developer: Bryant Midblock Holdings LLC  
c/o Nick Podell Company  
22 Battery Street, Suite 404  
San Francisco, CA 94111  
Attn: Nick Podell

with a copy to: Bryant Midblock Holdings LLC  
c/o Junius Real Estate Partners  
320 Park Avenue, 14<sup>th</sup> Floor  
New York, New York 10022  
Attn: John R. Fraser

If to Escrow Agent: First American Title Company  
2755 Campus Dr. Suite 125  
San Mateo, CA 94403  
Attn: Erwin J. Broekhuis

(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.

(e) Successors. This Agreement shall not be assigned by City without the consent of Developer, which consent shall not unreasonably be withheld. This Agreement may be assigned by Developer upon notice to City and provided that the assignee assumes all of the Seller's obligations under this Agreement arising or accruing from and after such assignment, and upon such assignment, the assigning Developer shall be released from any liability arising or accruing

under this Agreement from and after such assignment. Subject to the foregoing, this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

(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. 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. 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 Agreement 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 Agreement. Public benefit recipients of the Agreement are: 1) the individual, corporation, firm, partnership, association, or other person or entity that is a party to the Agreement; 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 Agreement 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 Agreement. Upon request, Developer and Escrow Agent each agrees to furnish, before this Agreement is entered into, such information as any public official approving this Agreement may require in order to ensure such official's compliance with the Conduct Code. Upon request, the City agrees to provide, before this Agreement is entered into, Developer and Escrow Agent with a list of public officials who, under the Conduct Code, approved this Agreement. Failure of any public official who approved this Agreement to abide by the Conduct Code shall not constitute a breach by either the City, Escrow Agent or Developer of this Agreement. Notwithstanding anything to the contrary in this Agreement, no party hereto shall have the right to terminate the Agreement due to any failure by the other party to provide the information described in this paragraph.

(p) General Provisions. (1) 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. (2) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. (3) Time is of the essence in all matters relating to this Agreement. (4) If Developer or Escrow Agent, respectively, consists of more than one person then the obligations of each such person shall be joint and several. (5) Developer or Escrow Agent may not record this Agreement or any memorandum hereof.

[SIGNATURES ON FOLLOWING PAGES]

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

DEVELOPER:

a \_\_\_\_\_

By: Junius Bryant Mission SPV JV LLC  
a Delaware limited liability company  
Its Managing Member

By: \_\_\_\_\_  
Alex Mitzner, Authorized Signatory

By: Super Deluxe With Cheese LLC  
a California limited liability company  
Member

By: \_\_\_\_\_  
Nick Podell, 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: \_\_\_\_\_  
Michelle Sexton  
Deputy City Attorney

**TITLE COMPANY**

FIRST AMERICAN TITLE COMPANY

Date: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Exhibit A

Lot Line Adjustment Drawing

S-9299  
12-22-16

NEW PARCEL DESCRIPTIONS

PARCEL A: APN 4022-\_\_\_\_ (FORMER APNS 4022-001, 4022-002, AND A PORTION OF 4022-021)

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF 18<sup>TH</sup> STREET (66.00 FEET WIDE) WITH THE EASTERLY LINE OF FLORIDA STREET (80.00 FEET WIDE); THENCE EASTERLY ALONG SAID SOUTHERLY LINE OF 18<sup>TH</sup> STREET 200.00 FEET TO THE WESTERLY LINE OF BRYANT STREET (80.00 FEET WIDE); THENCE AT A RIGHT ANGLE SOUTHERLY ALONG SAID WESTERLY LINE OF BRYANT STREET 230.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET TO SAID EASTERLY LINE OF FLORIDA STREET; THENCE AT A RIGHT ANGLE NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 230.00 FEET TO THE POINT OF BEGINNING.

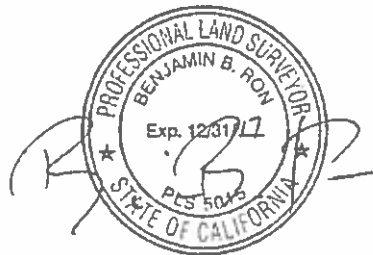
BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.

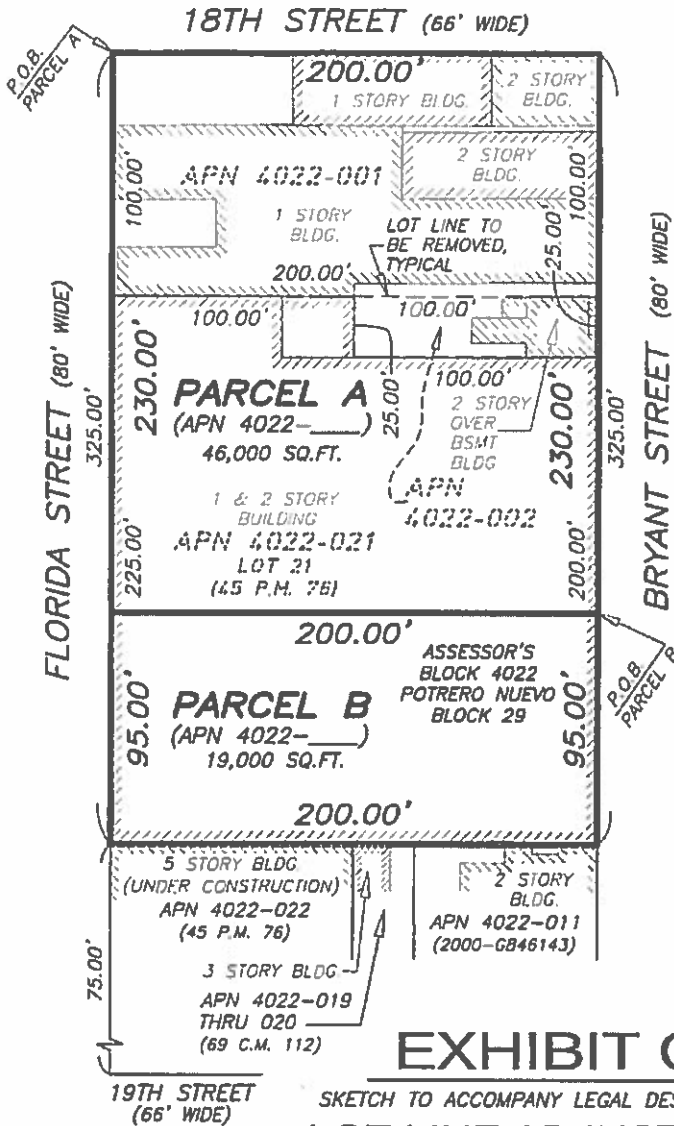
PARCEL B: APN 4022-\_\_\_\_ (FORMER PORTION OF APN 4022-021)

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF BRYANT STREET (80.00 FEET WIDE), DISTANT THEREON 230.00 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF 18<sup>TH</sup> STREET (66.00 FEET WIDE); THENCE SOUTHERLY ALONG SAID LINE OF BRYANT STREET 95.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET TO THE EASTERLY LINE OF FLORIDA STREET (80.00 FEET WIDE); THENCE AT A RIGHT ANGLE NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 95.00 FEET; THENCE AT A RIGHT ANGLE EASTERLY 200.00 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.





**LEGEND**

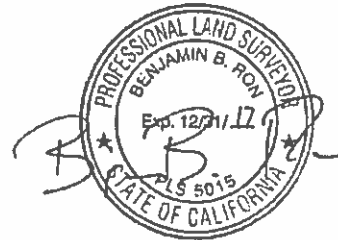
C.M.	CONDOMINIUM MAPS
P.M.	PARCEL MAPS
APN	ASSESSOR'S PARCEL NO.
P.O.B.	POINT OF BEGINNING
BLDG.	BUILDING
BSMT.	BASEMENT

**GENERAL NOTES**

1. ALL PROPERTY LINE ANGLES ARE 90 DEGREES UNLESS NOTED OTHERWISE.
2. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

**NOTE**

ALL ON-SITE BUILDINGS TO BE DEMOLISHED



**EXHIBIT C**

SKETCH TO ACCOMPANY LEGAL DESCRIPTIONS

**LOT LINE ADJUSTMENT**

BEING A LOT LINE ADJUSTMENT OF THAT REAL PROPERTY DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED SEPTEMBER 3, 2014 IN DOCUMENT NO. 2014-J946006, OFFICIAL RECORDS AND LOT 21 OF THAT CERTAIN PARCEL MAP RECORDED APRIL 18, 2002 IN BOOK 45 OF PARCEL MAPS, PAGE 76, SAN FRANCISCO COUNTY RECORDS BEING A PORTION OF POTRERO NUEVO BLOCK NO. 29 CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA

BY JP CHKD. BR DATE 12-22-16 SCALE 1"=60' SHEET 1 OF 1 JOB NO. S-9299

MARTIN M. RON ASSOCIATES, INC.  
LAND SURVEYORS

859 HARRISON STREET  
SAN FRANCISCO, CA. 94107  
(415) 543-4500  
S-8316\_S-9299LLA LOTS 1\_2\_21.dwg