

**LEASE AMENDMENT**

THIS AMENDMENT (this "Amendment") is made as of January 8, 2021, in San Francisco, California, by and between Sum M. Seto Properties, LLC, a Delaware limited liability company, and Jenny P. Seto Properties, LLC, a Delaware limited liability company corporation, as successor to Seto Family Trust (collectively, the "Landlord") and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Tenant").

**RECITALS**

THIS AMENDMENT is made with reference to the following facts and circumstances:

A. City and Landlord previously entered into a lease agreement dated as of January 15, 2001 (the "Lease") with Sum M. Seto and Jenny P. Seto, Co-Trustees of the Seto Family Trust, who was then the owner, for the lease of the "Building" located at 1421 Broderick Street, being a portion of Lot 033, in Assessor's Block 1080, San Francisco, California 94115. City exercised an option to extend the Term to January 31, 2021. Subsequent to the execution of the Lease, the ownership of the Property was transferred to the Landlord identified in the preamble to this Amendment. Any capitalized term used in this Amendment that is not defined will have the meaning given to such term in the Lease.

B. City is using the Premises for a facility to provide long and short-term housing to persons with chronic medical and mental health issues and such other uses as specified in the Basic Lease Information.

C. The parties now desire to modify the Lease on the terms and conditions as set forth herein, including but not limited to: extending the Term, adjusting the base rent, modifying the early termination provision, revising Section 8 of the Lease, and updating the Lease to include City contracting requirements.

ACCORDINGLY, in consideration of the matters described in the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the City and Landlord agree as follows as of the Effective Date:

1. Basic Lease Information. The subsections in Section 1 (Basic Lease Information) listed below are amended to read as follows:

Term (Section 3): Estimated commencement date: February 1, 2001

Expiration date: January 31, 2024

Base Rent (Section 4.1): For year starting February 1, 2021:

Annual Base Rent : \$372,510 (\$30.00/sq. ft./yr.)

Monthly Base Rent: \$31,042.50 (\$2.50/sq. ft./yr.)

Notice Address for Landlord: 3775 Balboa Street; San Francisco, CA 94121-2605

Key Contact for Landlord: K. Joe Nanya  
Landlord Contact Telephone No. 415-387-1600  
Notice Address for Tenant: 25 Van Ness Avenue, Suite 400; San Francisco, CA 94102  
Key Contact for Tenant: David Borgognoni  
Tenant Contact Telephone No. 415-255-3405

2. Termination. Section 3.5 (Termination) is amended and restated to read as follows:

In addition to other termination rights specifically provided in this Lease, City shall have the right to terminate this Lease for any reason upon three hundred sixty-five (365) days' prior written notice to Landlord. Such termination shall be effective as of the date indicated in such written notice, which date shall be at least three hundred sixty-five (365) days after the effective date of such notice, as described in Section 23.1. The parties' rights and obligations under this Lease shall terminate as of the date of such termination, except as expressly provided in this Lease.

3. Late Charges. Section 4.1(b) of the Lease is deleted in its entirety.

4. Base Rent. The following language is added to the end of Section 4.2 (Base Rent for Second and Subsequent Years):

Notwithstanding anything to the contrary above, beginning on February 1, 2022 and again on February 1, 2023 (each an "Adjustment Date"), the Base Rent payable under Section 4.1 (Base Rent) will be adjusted to equal one hundred three percent (103%) of the Base Rent for the lease year preceding the Adjustment Date.

5. Interest. Section 4.3 (Interest on Past Due Obligations) is deleted in its entirety.

6. Landlord Obligations. Section 8.1 (Landlord's Obligations) is deleted in its entirety and is replaced as follows:

### **8.1. Landlord's Obligations**

- (a) Regarding "Base Building" expenses: Landlord shall, at Landlord's sole cost and expense, regardless of the cost associated with the following "Base Building" expenses, (i) maintain, replace, repair and keep the Building's foundation, interior and exterior roof, trusses, and support system, structural walls, all exterior walls and surfaces (except graffiti and painting required solely for aesthetic purposes), and main sewer and water and gas pipes (i.e., the pipes connected to the utility delivery system) in a water-proof, leak-free, good condition and repair, except and to the extent any such maintenance, replacement or repair is required due to any willful misconduct or negligent act or omission of the City or any Subtenants; and (ii) promptly and diligently make any structural seismic, engineering and other upgrades or improvements to the Building as are required by any law, statute, ordinance, rule or regulation now in force or hereafter adopted by any governmental body or agency, unless such upgrade or improvement was

required as a result of (A) Tenant's particular use of the Premises, as opposed to general residential use, or (B) Alterations performed by or on behalf of Tenant. Notwithstanding the foregoing, Landlord's obligations under this subsection shall not extend to uninsured costs of repair or replacement of systems or facilities where such uninsured costs are required on account of a casualty event such as earthquake, flood, or act of God. As used in this subsection "uninsured costs" shall not include deductibles or self-insured retentions in any applicable insurance policy. In the event that Landlord fails or refuses to repair or replace systems or facilities damaged or destroyed by such casualty event on account of uninsured costs, Tenant may at its sole discretion terminate this Lease immediately with no further obligation to Landlord of any kind.

- (b) Regarding "Major Systems" expenses; Landlord shall, at Landlord's sole cost and expense (subject to Tenant reimbursement under Section 8.2(c)), be responsible for performing all replacement and/or repair of the elevator, HVAC system (including without limitation the boiler), electrical system, and plumbing system (including without limitation the fire safety/sprinkler system) (collectively, the "Major Systems"). Landlord will be responsible for any extraordinary maintenance associated with any repair or replacement but will not be responsible for routine maintenance of the Major Systems.
- (c) Tenant shall notify Landlord of the necessity of any maintenance or repairs under Subsections (a) or (b). Within ten (10) days of receipt of such notice, Landlord shall commence any required maintenance or repairs and shall notify Tenant of Landlord's anticipated schedule for performing any of the required maintenance or repairs. However, if an Essential Service, as defined in Section 9.3 of the Lease is disrupted, the ten (10) days period in the previous sentence of this Section shall be reduced to two (2) business days of Landlord's receipt of the notice from Tenant as required by this Section. Landlord shall use its commercially reasonable efforts to complete all such maintenance or repairs as promptly as possible, and shall, in consultation with Tenant but at Landlord's sole expense, take commercially reasonable interim measures to ensure the habitability of the affected portions of the Premises pending completion of such maintenance activities or repairs.

7. City Obligations. Section 8.2 (City's Obligations) is deleted in its entirety and is replaced as follows:

## **8.2. Tenant's Obligations**

- (a) Except to the extent that maintenance or repair responsibilities are assigned by this Lease to Landlord, such as the repairs and/or replacement of Base Building and Major Systems, City shall, at City's expense, keep the Premises and the common areas in good repair, in a clean condition, and properly maintained at all times. Tenant shall be responsible for the cost of routine maintenances, which includes but is not limited to, obtaining and maintaining service contracts for each Major System during the Term of the Lease, and any extension of the Term of Lease, (but not associated replacement or repair) of Major Systems along with overall routine maintenance of the Premises (hereinafter, City's Obligations with respect to this section are known as "Non-Major Repairs"). Notwithstanding the foregoing, Tenant's obligations under this Section 8.2(a) shall not extend to maintenance or uninsured costs or repair of systems or facilities required on

account of a casualty event such as fire, earthquake, flood, or other act of God. Tenant shall be responsible for the cost and performance of such maintenance and repair assigned to Tenant in this section, except to the extent caused by intentional or negligent act or omission of Landlord or its agents or Contractors. City shall maintain records of any repairs performed by City on the Premises and shall make those records available to Landlord for inspection at Landlord's reasonable request.

- (b) During any twelve-month period (starting February 1, 2021, and each February 1 thereafter during the Term), Tenant will be responsible for reimbursing Landlord for up to Fifteen Thousand Dollars (\$15,000.00) (the "Annual Cap") of the aggregate cost during such twelve-month period, for Landlord's maintenance and repair obligations of the Major Systems under Section 8.1(b). Landlord shall submit a statement of reimbursable costs within 60 days following completion of the work. Tenant shall pay any verified costs up to the Annual Cap, with commercially reasonable documentation, within thirty (30) days of Landlord's written request. For avoidance of doubt, Landlord will be responsible for all such Major Systems costs in excess of the Annual Cap.
- (c) In addition to any other obligations of City under this Lease, City shall, at its sole cost and expense, employ a licensed pest control vendor to provide pest control services to the Premises on a monthly basis, and shall provide Landlord upon request with a copy of its vendor's contract and such other reasonable evidence of compliance as Landlord may reasonably request.
- (d) Should City fail to make repairs or otherwise comply with its obligations under this Section 8.2 within ten (10) days after written notice by Landlord, Landlord, in addition to all other remedies available hereunder or by law or equity and without waiving any remedy, may make the repairs. In that event, City shall reimburse Landlord, as Additional Charges, for such amounts paid, with the next monthly payment of Base Rent payable no more than thirty (30) days after the payment made by Landlord.

**8. No Joint Venture.** This Amendment or any activity by the City hereunder does not create a partnership or joint venture between the City and Landlord relating to the Lease or otherwise. This Amendment does not constitute authorization or approval by the City of any activity conducted by Landlord, and the City shall in no way be responsible for the acts or omissions of Landlord on the Premises or otherwise.

**9. Attorneys' Fees.** In the event a dispute arises concerning this Amendment, the party not prevailing in such dispute shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees. For purposes of this Amendment, reasonable fees of attorneys of City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

**10. City Contracting Provisions.** The provisions set forth in Exhibit A are included in the Lease.

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

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

13. **Effective Date.** The date of which this Amendment shall become effective as of the date this Amendment is duly executed and exchanged by the parties hereto, following adoption of a resolution by the City’s Board of Supervisors approving this Amendment.

14. **Miscellaneous.** Except as expressly modified herein, the terms, covenants and conditions of the Lease shall remain unmodified and in full force and effect. The Lease as amended by this Amendment constitutes the entire agreement of the parties concerning the subject matter hereof, and supersedes and conceals any and all previous negotiations, agreements, or understandings, if any, regarding the matters contained herein. The execution of this Amendment shall not constitute a waiver of relinquishment of any rights which the City may have relating to the Lease. Landlord and City hereby ratify and confirm all of the provisions of the Lease as amended by this Amendment.

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

LANDLORD: Sum M. Seto Properties, LLC, a Delaware limited liability company

DocuSigned by:  
By: Kazuo Joe Nanya  
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Its: \_\_\_\_\_

Jenny P. Seto Properties, LLC, a Delaware limited liability company

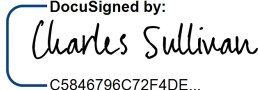
DocuSigned by:  
By: Kazuo Joe Nanya  
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TENANT: CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

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

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By:  \_\_\_\_\_  
Charles Sullivan  
Deputy City Attorney

## Exhibit A

### City Contracting Provisions

The following provisions are added to the Lease. The parties understand that some of these provisions are new, and some replace existing provisions as an update:

**1. Notification of Prohibition on Contributions.** By executing this Lease, Landlord acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who leases, or seeks to lease, to or from any department of the City any land or building from making any campaign contribution to **(a)** a City elected official if the lease must be approved by that official, **(b)** a candidate for that City elective office, or **(c)** a committee controlled by that elected official or a candidate for that office, at any time from the submission of a proposal for the lease until the later of either the termination of negotiations for the lease or twelve (12) months after the date the City approves the lease.

Landlord acknowledges that the foregoing restriction applies only if the lease or a combination or series of leases or other contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of one hundred thousand dollars (\$100,000) or more. Landlord further acknowledges that **(i)** the prohibition on contributions applies to each prospective party to the lease; any person with an ownership interest of more than 10 percent (10%) in Landlord; any subcontractor listed in the lease; and any committee that is sponsored or controlled by Landlord; and **(ii)** within thirty (30) days of the submission of a proposal for the Lease, the City department with whom Landlord is leasing is obligated to submit to the Ethics Commission the parties to the lease and any subcontractor. Additionally, Landlord certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the lease and has provided the names of the persons required to be informed to the City department with whom it is leasing.

**2. Landlord's Compliance with City Business and Tax and Regulations Code.** Landlord acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to Landlord under this Lease is withheld, then City will not be in breach or default under this Lease, and the Treasurer and Tax Collector will authorize release of any payments withheld under this paragraph to Landlord, without interest, late fees, penalties, or other charges, upon Landlord coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

**3. Taxes, Assessments, Licenses, Permit Fees, and Liens.** San Francisco Administrative Code Sections 23.38 and 23.39 require that certain information relating to the creation, renewal, extension, assignment, sublease, or other transfer of this Lease be provided to the County Assessor within sixty (60) days after the transaction. Accordingly, Tenant must provide a copy of this Lease to the County Assessor not later than sixty (60) days after the Effective Date, and any failure of Tenant to timely provide a copy of this Lease to the County Assessor will be a default under this Lease.

**4. Consideration of Salary History.** Tenant shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." For each employment application to Tenant for work that relates to this Agreement or for work to be performed in the City or on City property, Tenant is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant. Tenant shall not (1) ask such applicants about their current or past salary or (2) disclose a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Tenant is subject to the enforcement and penalty provisions in Chapter 12K. Information about Chapter 12K is available on the web at <https://sfgov.org/olse/consideration-salary-history>.

**5. Non Discrimination in City Contracts and Benefits Ordinance.**

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

(b) **Subcontracts.** Landlord will include in all subcontracts relating to the Premises a non-discrimination clause applicable to the subcontractor in substantially the form of subsection (a) above. In addition, Landlord will incorporate by reference in all subcontracts the provisions of San Francisco Administrative Code Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 and require all subcontractors to comply with those provisions. Landlord's failure to comply with the obligations in this subsection will constitute a material breach of this Lease.

(c) **Non-Discrimination in Benefits.** Landlord does not as of the date of this Lease, and will not during the Term, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of the employees, where the domestic partnership has been registered with a governmental entity under state or local law authorizing that registration, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2(b).

(d) **CMD Form.** As a condition to this Lease, Landlord will execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division (the "CMD"). Landlord represents that before execution of the Lease: (i) Landlord executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and (ii) the CMD approved the form.

(e) **Incorporation of Administrative Code Provisions by Reference.** The provisions of San Francisco Administrative Code Chapters 12B and 12C relating to non-discrimination by parties contracting for the lease of property to City are incorporated into this Section by reference and made a part of this Lease as though fully set forth. Landlord will comply fully with and be bound by all of the provisions that apply to this Lease under Administrative Code Chapters 12B



and 12C, including the remedies provided in those Chapters. Without limiting the foregoing, Landlord understands that under San Francisco Administrative Code Section 12B.2(h) a penalty of Fifty Dollars (\$50) for each person for each calendar day during which that person was discriminated against in violation of the provisions of this Lease may be assessed against Landlord and/or deducted from any payments due Landlord.

**6. Bicycle Parking Facilities.** San Francisco Planning Code (the “**Planning Code**”) Article 1.5, Section 155.3 requires that bicycle parking must be provided at City-leased buildings at no cost to Landlord. During the Term, City will have the right to install and maintain, at no cost to Landlord, all Class 1 Bicycle Parking Spaces (as defined in the Planning Code) and all Class 2 Bicycle Parking Spaces (as defined in the Planning Code) in the Building locations required under the Planning Code.

**7. Resource-Efficient City Buildings.** Landlord acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction, and operation of City buildings. Landlord will comply with all applicable provisions of those code sections.

**8. Preservative-Treated Wood Containing Arsenic.** Landlord may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment under Environment Code Section 1304. The term “preservative-treated wood containing arsenic” means wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Landlord may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of Environment. This provision does not preclude Landlord from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.