File No. 211087 **Committee Item No.** 3
Board Item No.

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee **Date** November 17, 2021
Board of Supervisors Meeting **Date**

Cmte Board

Cmte	Board	
☐	☐	**Motion**
☒	☐	**Resolution**
☐	☐	**Ordinance**
☐	☐	**Legislative Digest**
☒	☐	**Budget and Legislative Analyst Report**
☐	☐	**Youth Commission Report**
☐	☐	**Introduction Form**
☒	☐	**Department/Agency Cover Letter and/or Report**
☐	☐	**MOU**
☐	☐	**Grant Information Form**
☐	☐	**Grant Budget**
☐	☐	**Subcontract Budget**
☒	☐	**Contract/Agreement**
☒	☐	**Form 126 – Ethics Commission**
☐	☐	**Award Letter**
☐	☐	**Application**
☐	☐	**Public Correspondence**

OTHER **(Use back side if additional space is needed)**

☒	☐	Draft Architect Contract
☒	☐	Draft Ground Lease
☒	☐	Draft Construction Contract
☒	☐	Draft Management Agreement
☒	☐	Draft Completion Guaranty
☒	☐	Draft Reciprocal Easement
☒	☐	Draft First Amendment to Conditional Property Exchange Agreement
☒	☐	Draft Estoppel Certificate - Tenant
☒	☐	Draft Estoppel Certificate - Landlord
☒	☐	Planning Commission Motion No. 20956 7/29/21
☒	☐	General Plan Referral 10/22/21
☒	☐	Draft Estoppel Certificate - Landlord
☒	☐	CEQA Determination 11/2/21
☐	☐	

Completed by: Brent Jalipa **Date** November 12, 2021
Completed by: Brent Jalipa **Date**

[Conditional Property Exchange Agreement - EQX Jackson SQ Holdco LLC - Potential Exchange of 530 Sansome Street for a Portion of 425-439 Washington Street]

Resolution ratifying the Conditional Property Exchange Agreement and Related Transaction Documents with EQX Jackson SQ Holdco LLC for a transfer of City real property at 530 Sansome Street (Assessor's Parcel Block No. 0206, Lot No. 017), under the jurisdiction of the Fire Department, in exchange for a portion of the real property at 425-439 Washington Street (Assessor's Parcel Block No. 0206, Lot Nos. 013 and 014); authorizing the Director of Property and City staff to proceed with the proposed Fire Station development project, subject to several conditions, as defined herein; adopting findings pursuant to the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

WHEREAS, The City and County of San Francisco, under the jurisdiction of the Fire Department, owns certain real property known as 530 Sansome Street (Assessor's Parcel Block No. 0206, Lot No. 017; the "City Property"), an approximately 8,700 square foot parcel improved with Fire Station 13; and

WHEREAS, EQX Jackson SQ Holdco LLC, a Delaware limited liability company ("Developer"), owns certain adjacent real property known as 425-439 Washington Street, Assessor's Parcel Block No. 0206, Lot Nos. 013 and 014 ("Developer's Property"); and

WHEREAS, The City wishes to replace the existing fire station located on the City Property; and

WHEREAS, On April 30, 2019, the Board of Supervisors adopted Resolution No. 220-19 approving a conditional property exchange agreement (the "Conditional Exchange

Agreement") for the planning and potential exchange of the City Property for a new fire station to be completed by Developer; and

WHEREAS, On June 02, 2020, the Board of Supervisors adopted Resolution No. 242-20 approving certain updates to the Conditional Exchange Agreement; and

WHEREAS, Under the Conditional Exchange Agreement, Developer intends to build a new four-story, 19,266 gross square foot fire station building (the "New Fire Station") on a future legal parcel of approximately 5,643 square feet at Washington Street mid-block between Sansome Street and Battery Street (the "Exchange Parcel"), and a new vertically-integrated mixed-use high-rise at the southeast corner of Sansome Street and Washington Street to contain either lower level lobby space, ground floor and rooftop restaurant spaces, a health club of approximately 35,000 square feet, a 200 room hotel and approximately 40,000 square feet of offices, or a proposed residential variant of similar building design, height and bulk, but with approximately 256 residential units instead of the hotel, office, fitness center, and retail/restaurant uses (the "Tower Project"; together with the New Fire Station development project, the "Combined Project"); and

WHEREAS, Upon completion of the proposed New Fire Station and the satisfaction of closing conditions, the City will convey the City Property to Developer and Developer will convey the Exchange Parcel to the City, with the New Fire Station, as described in the Conditional Exchange Agreement; and

WHEREAS, In accordance with the Property Exchange Agreement, the City and Developer negotiated the Architect Contract, the Ground Lease, the Construction Contract, the Construction Management Agreement, the Completion Guaranty, and the Reciprocal Easement Agreement, as well as an amendment of the Conditional Exchange Agreement to extend the time periods for the approval of the above documents (collectively, the "Related

Transaction Documents"), copies of which are on file with the Clerk of the Board of Supervisors in File No. 211087 and are incorporated herein by reference; and

WHEREAS, At the time the City approved the Conditional Exchange Agreement, the City had not yet completed environmental review under the California Environmental Quality Act ("CEQA") (California Public Resources Code, Sections 21000 et seq.), the CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code (hereinafter referred to as "Environmental Review") for the Combined Project; and

WHEREAS, Under the Conditional Exchange Agreement, Developer was required to complete Environmental Review and seek numerous project entitlements for the Combined Project; and

WHEREAS, Upon the City's completion of Environmental Review, the City's Director of Property and Developer committed to seek certification of the adequacy of the Environmental Review documents and approval of the proposed entitlements for the Combined Project, and the Board of Supervisors were to take action, by Resolution, to either (i) ratify the Conditional Exchange Agreement, remove the CEQA contingency, and ratify specified project documents and proceed with the property exchange (initially through the entering into a ground lease and, thereafter, through the transfer of fee title), subject only to satisfaction or waiver of the conditions precedent set forth in the Property Exchange Agreement, or (ii) reject the Property Exchange Agreement and elect not to proceed with the proposed transaction solely on the basis of the impacts of the project disclosed in the Environmental Review Documents that have not been adequately avoided, mitigated or overridden, or disapproval of the Related Transaction Documents; and

WHEREAS, On April 28, 2021, the City's Planning Department issued a notice of availability and a Preliminary Mitigated Negative Declaration ("PMND") for the Combined Project which was duly published, distributed and posted in accordance with law; and

WHEREAS, On July 29, 2021, in response to an appeal of the PMND, the City's Planning Commission adopted Motion No. 20956 to make findings related to the PMND and confirm that the Combined Project would not have a significant effect on the environmental, and accordingly, issued a final mitigated negative declaration ("FMND"); and

WHEREAS, The Planning Commission adopted Motion No. 20956, making findings that the Combined Project is in conformity with the General Plan, and the eight priority policies of Planning Code, Section 101.1 (the "GP Consistency Findings"), a copy of which findings are on file with the Clerk of the Board of Supervisors in File No. 211087 and are incorporated herein by reference; and

WHEREAS, The Planning Department has determined that the actions contemplated in this Resolution comply with the California Environmental Quality Act (California Public Resources Code, Sections 21000 et seq.), which determination is on file with the Clerk of the Board of Supervisors in File No. 211087 and is incorporated herein by reference; and

WHEREAS, After carefully considering the appeal of the FMND, the Board of Supervisors concluded that the Combined Project qualifies for a Mitigated Negative Declaration and that no fair argument supported by substantial evidence in the record was presented that the Combined Project as proposed would result in any significant impact on the environment (the "CEQA Appeal Determination"); now, therefore, be it

RESOLVED, That the Board of Supervisors adopts the CEQA findings as set forth in the CEQA Appeal Determination, and finds that there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the FMND due to the involvement of new significant environmental effects or a

substantial increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the CEQA Appeal Determination; and, be it

FURTHER RESOLVED, That the Board of Supervisors affirms the GP Consistency Findings and incorporates such findings in this Resolution; and, be it

FURTHER RESOLVED, That the Board of Supervisors ratifies the Conditional Exchange Agreement, as amended, removes the CEQA Contingency, and authorizes the Director of Property and City staff to proceed with the proposed transaction in accordance with the terms of the Conditional Exchange Agreement; and, be it

FURTHER RESOLVED, That the Board of Supervisors approves and ratifies the Related Transaction Documents, and authorizes the Director of Property and City staff to enter into the Related Transaction Documents; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of Property to take such actions as are necessary or prudent to perform the City's obligations and enforce the City’s rights and remedies under the Property Exchange Agreement and the Related Transaction Documents in accordance with their respective terms, and to effectuate the purpose and intent of this Resolution; and, be it

FURTHER RESOLVED, The Director of Property, at his or her discretion and in consultation with the City Attorney, is authorized to enter into any additions, amendments or other modifications to the Conditional Exchange Agreement and Related Transaction Documents that the Director of Property determines are in the best interests of the City and that do not materially increase the obligations or liabilities of the City or materially decrease the benefits to the City; and, be it

FURTHER RESOLVED, That within thirty (30) days of the Conditional Property Exchange agreement being fully executed by all parties, the Director of Property shall provide a copy of the agreement to the Clerk of the Board to include into the official file.

RECOMMENDED:

_____/s/_____
Andrico Q. Penick
Director of Property
Real Estate Division

CONSULTANT CONTRACT

CONSULTANT: Skidmore, Owings & Merrill, LLP CONTRACT AMOUNT: $1,080,924.00

PROJECT: Equinox Hotel Jackson Square-Fire Station-Architecture

THIS CONSULTANT CONTRACT ("**Contract**") is entered as of **May 25, 2021** ("**Effective Date**") by and between EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company ("**Client**"), and SKIDMORE, OWINGS & MERRILL LLP ("**Consultant**"). Client and Consultant are sometimes hereinafter referred to singularly as the "**Party**" or collectively as the "**Parties**."

R E C I T A L S

A. Client is involved with the development of that certain mixed-use project located in the City of San Francisco, and commonly referred to as Equinox Hotel Jackson Square Fire Station ("**Project**").

B. In connection with development of the Project as a mixed-use development, Client and Consultant intend to enter into this Contract whereby Consultant will perform the Services (defined below) more particularly described on Exhibit "A" attached hereto, which Services represent Consultant's area of expertise, in exchange for compensation, as set forth in Exhibit "B" attached hereto, and in accordance with the Project schedule as identified in Exhibit "C" attached hereto, as may be revised pursuant to the terms herein.

NOW, THEREFORE, the Parties hereto, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree to the following:

1.0 SCOPE OF SERVICES

1.1 Services. Consultant shall cause to be completed the Services described in Exhibit "A" attached hereto, including all labor, materials and other items required to complete such services ("**Services**") for the compensation referenced herein Consistent with the Services described on Exhibit "A," Consultant agrees to provide Services which include, to the extent applicable, revisions to all plans and specifications necessary to receive final plan check approval from the responsible city, county or independent third party consultant hired by the responsible governmental authority. In connection with obtaining final plan check approval, Consultant's Services shall include attendance at a reasonable number of meetings with the applicable city, county staff, or independent third party consultant which are deemed necessary by Client to obtain approval**.** Consultant agrees to perform such Services within a set time frame as an independent contractor, and is not an employee, partner, agent, or principal of Client.

1.2 Minor Modifications in Services. Consultant may be ordered by Client, without invalidating this Contract, to make changes in the Services. Consultant, prior to the commencement of such changed or revised Services, shall promptly submit to Client, written copies of the claim for adjustment to the compensation amount set forth on Exhibit "B" and time of completion (e.g., modification to the Project Schedule in Exhibit "C") for such revised Services. Such claim for adjustment shall be in a manner consistent with the requirements of this Contract. Any change in Services from those described in Exhibit "A" shall be considered additional services and are subject to additional compensation to Consultant if such revisions in the Services are required due to: (1) the need for such additional services to accommodate services inconsistent with approvals or instructions previously given by Client, including

revisions made necessary by adjustment in Client's Project or Project budget, (2) the enactment, or revision of codes, zoning or building ordinances, laws or regulations subsequent to the preparation of documents referenced in Exhibit "A" or performance of Services described therein, and (3) the need to provide services not otherwise included in this Contract, or services requested by Client beyond the scope of the Services described herein and listed on Exhibit "A" including, but not limited to, additional Client meetings, consultant review and coordination, and document revisions.

Consultant agrees that no claim for payment for additional or revised Services shall be valid unless Consultant obtains written approval from Client regarding such additional or revised Services. Absolutely no invoices for services outside the scope of Services set forth on Exhibit "A" will be paid unless such written approval has been obtained.

If the Client makes a material change to the Services or related projects, such as retaining a separate tower EOR or elects to develop the tower as for-sale residential, Consultant shall retain a right to negotiate the terms of Contract, including additional services or invalidating this Contract as if it is a Client Termination for Convenience under Section 8.2

1.2.1 Cost Adjustment. The cost or credit to Client resulting from changes affecting the Services under this Contract shall be determined in one (1) or more of the following ways:

A. By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluations by Client;

B. By hourly prices stated in this Contract (e.g., Exhibit "B") or subsequently agreed upon by the Parties; or

C. By cost determined in a manner agreed upon by the Parties in a mutually acceptable fixed or percentage fee.

1.3 Correction of Services. Consultant shall promptly correct all Services identified by Client as failing to conform to the Contract. Consultant shall bear all costs of correcting such non-conforming Services.

1.3.1 Failure to Correct. If Consultant does not proceed with correction of such nonconforming Services within a reasonable time as fixed by written notice from Client, Client may terminate this Contract.

1.4 Compliance. Consultant shall comply with all federal, state, and local laws, rules and regulations, including tax laws, social security acts, unemployment compensation acts, and worker's or workman's compensation acts, including without limitation, the Americans with Disabilities Act, 42 U.S.C. 12181 et seq., and the Standard of Care as defined in section 4.3, insofar as the foregoing are applicable to the performance of this Contract.

1.4.1 Failure to Comply. If Consultant performs any Services knowingly and negligently contrary to applicable laws, statutes, ordinances, rules, regulations, or the Standard of Care, Consultant shall assume full responsibility therefore and shall bear all costs attributable thereto.

1.5 Instruments of Service. Any drawings, specifications, work product and other instruments of the professional services prepared by and on behalf of Consultant pursuant to this Contract (the "**Instruments of Service**") shall, upon payment of the undisputed related fees, be assigned via a license to Client as the sole and exclusive property of Client and Client's assigns, nominees, and successors. Consultant shall retain all copyright interests. If Client should use or allow the use of the Instruments of Service without

Consultant's participation for other Projects, then Client shall assume all risks attendant in such use and waive any related liability against Consultant, and shall, to the fullest extent allowed by law, release Consultant from and against any and all claims, liability, costs and/or loss related to such use. The foregoing notwithstanding, Consultant may at all times retain possession of any and all Instruments of Service fixed in any electronic medium, and copies of said Instruments of Service provided to Client. At Client's request, Consultant shall furnish to Client instruments of service in electronic form and Client shall accept such instruments of service "AS IS" and release Consultant from any claims as a result of differences between Consultant's hard copy drawings and the electronic form of Consultant's instruments of service. Client will and will require any third party, including the Contractor, to execute Consultant's electronic data transfer agreement prior to receipt of any electronic documents.

2.0 COMPENSATION

2.1 Amount. Subject to the provisions herein regarding changed or revised Services, Client shall pay Consultant, for the performance of the Contract, the compensation amount more particularly specified in Exhibit "B" attached hereto.

2.1.1 Travel Time. Consultant will from time to time be required to travel to the Project site, Client's office in San Francisco and other locations in San Francisco for meetings relating to the rendition of Services by Consultant. Such occasional travel is included in Consultant's fee, if a fixed fee. Consultant shall be entitled to bill Client for mileage at the then-current standard business mileage rate established by the Internal Revenue Service. Travel beyond the San Francisco area shall be subject to client approval and a reimbursable expense.

2.2 Not Used .

2.2.1 Non-Acceptance. Payment to Consultant does not constitute or imply acceptance of any portion of Consultant's Services.

2.2.2 Timing. Consultant shall invoice Client on a monthly basis in proportion to Services completed and expenses accumulated. Each invoice or request for payment by Consultant, together with all required supporting documentation, shall be submitted in electronic format through Client's Textura-CPM payment system described on Exhibit "B" and shall indicate the percentage of completion of each portion of Consultant's Services as of the end of the period covered by the invoice or request for payment. As long as Consultant is not in default under this Contract (e.g., failure to provide proof of insurance, non-performance of the Services, failure to comply with the Project Schedule or with other provisions of this Contract), invoices are payable within sixty (60) days of receipt and approval by Client. Unpaid invoices submitted to Client from Consultant which are over ninety (90) days old are subject to a service charge of one percent (1%) per month.

2.3 Waivers. As a prerequisite for payment and if applicable, Consultant shall provide, in form satisfactory to Client, partial lien or claim waivers and affidavits from Consultant and Consultant's suppliers or subcontractors for the completed Consultant's Services. Such waivers may be made conditional upon payment.

2.4 Final Payment. Before Client is required to pay Consultant's request for final payment, Consultant shall submit to Client the following:

2.4.1 Affidavit. An affidavit that all payables, bills, materials, and equipment, and other indebtedness connected with Consultant's Services for which the Project or Client might in any way be liable, have been completely paid or otherwise fully satisfied;

2.4.2 Certification. Certification that insurance required by the Contract remains in effect beyond final payment for the period specified in Exhibit "E" and will not be canceled or allowed to expire without at least thirty (30) days written notice to Client; and

2.4.3 Other Data. Other data if required by Client, such as receipts, releases, waivers or liens to the extent and in such form as may be designated by Client and agreed upon mutually with both parties acting reasonably.

2.5 Remedies for Nonpayment. If Client does not pay Consultant through no fault of Consultant, within ten (10) days from the date payment should be made as provided in Section 2.2.2 of this Contract, Consultant may, without prejudice or other available remedies, upon seven (7) additional days written notice to Client, stop performance of the Services until payment of the amount owing has been received by Consultant.

2.6 Retainer. Consultant shall not require a retainer fee be paid as a precondition to the commencement of services rendered under this Contract.

2.7 Maintenance of Records. Consultant agrees that, as a material consideration for Client entering into this Contract, Consultant shall maintain adequate accounting and financial records related to Consultant's Compensation and the Reimbursable Expenses with respect to Consultant's providing the Services, and shall retain those financial records for a period of at least five (5) years from the date of completion of the Services or other termination of this Contract, and to maintain adequate records relating to Consultant's performance of the Services, including final copies of all Instruments of Service, and shall retain those professional service records until the later of the expiration of the longest period of limitations for latent construction defects affecting the Project in any manner or one (1) year after the entry of any final, non-appealable judgment of a court of competent jurisdiction, including appellate level courts, with respect to the latest concluded litigation relating to latent construction defects affecting the Project. Client may audit any and all such records of Consultant and its subcontractors after reasonable written notice.

3.0 CLIENT OBLIGATIONS

3.1 Binding Effect. This Contract is binding on Client.

3.2 Construction Schedule. If necessary, as soon as practical after execution of this Contract, Client shall provide Consultant copies of Client's construction schedule (i.e., an addendum to Exhibit "C"), together with such additional scheduling details as will enable Consultant to plan and perform Consultant's Services.

3.3 Communication. Client shall promptly make available to Consultant information which affects Consultant and which becomes available to Client subsequent to execution of this Contract. Client shall not give instructions or orders directly to employees of Consultant, except to persons designated as authorized representatives of Consultant.

4.0 CONSULTANT OBLIGATIONS/REPRESENTATIONS

4.1 Binding Effect. This Contract is binding on Consultant and Consultant agrees to perform the Services set forth in Exhibit "A" for the amount set forth in Exhibit "B" attached hereto.

4.2 Scope. Consultant shall furnish all the labor, materials and services as are necessary for the proper performance of Consultant's Services in strict accordance with and reasonably inferable from this Contract, and shall complete such Services in accordance with the time frame set forth in Exhibit "C" attached hereto.

4.3 Qualifications/Representations. Consultant represents to Client that (a) Consultant has the requisite qualifications and skills necessary to perform the Services with reasonable care, skill, and diligence, in a competent and professional manner in accordance with applicable industry standards and currently accepted design professional principles and practices of Consultant's profession, (the "**Standard of Care**"), (b) Consultant currently owns and holds, and at all times during the term of this Contract will own and hold, all licenses required by applicable law with respect to the performance of all or any of the Services, and (c) all Services shall conform to and comply with all applicable federal, state and local building codes. Consultant's failure to perform the Services in such a manner shall be deemed a material breach of this Contract.

4.4 Assignment of Contract. Consultant expressly acknowledges that Client has entered into this Contract based upon and in reliance on the particular reputation and expertise of Consultant. Consultant shall not assign the whole or any part of Consultant's Services, or enter into any sub-consultant contracts with respect to all or any part of Consultant's Services, in either case without prior written approval of Client. Client may withhold approval of such assignment in Client's sole and absolute discretion. Client shall be permitted to freely assign the Contract including Client's lender(s) and investor(s) and equity partner(s). Notwithstanding any approval by Client of an assignment or sub-consultancy contract, Consultant shall remain fully liable and responsible for the performance of any Consultant's Services in accordance with this Contract performed by an assignee or sub-consultant.

Notwithstanding anything to the contrary in this Contract, Client may assign its rights and obligations under this Contract to any entity in which Client or any of its affiliates is a member, manager, shareholder or partner. From and after any such assignment by Client, Client's assignee shall be deemed to be Client hereunder for all purposes, entitled to all of the rights and benefits of Client hereunder.

4.5 Project Financing. Consultant hereby acknowledges that Client intends to finance the development of the Project by obtaining an equity investment from one (1) or more investors and loans from one (1) or more lenders. As a condition precedent to making such investments and/or loans, such investors and lenders may require that Consultant execute and deliver (a) reliance letters, permitting such investors and/or lenders to rely on work product produced by Consultant hereunder (the "**Reliance Letters**"), and (b) consents to collateral assignments of this Contract by Client as security for such investment and/or loans (the "**Consents to Assignment**"). Consultant hereby agrees to promptly execute and deliver any and all such Reliance Letters and/or Consents to Assignment upon request of Client so long as Consultant is provided at least 14 days review and comment prior to any execution and nothing contained therein shall increase the scope or liability of Consultant than that set forth under this Agreement. Consultant shall not be entitled to any further compensation in connection with the execution and delivery of any such Reliance Letters and/or Consents to Assignment.

5.0 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

5.1 Commencement. Consultant's date of commencement shall be the date of this Contract, as first written above.

5.2 Completion. The Services of the Contract shall be completed no later than the date set forth in Exhibit "C". Time is of the essence for performance of the Services, and Consultant agrees to the performance of its Services in accordance with the Project schedule set forth in Exhibit "C". Consultant shall not be liable for any delay in Services to the extent caused by third parties, events or circumstances outside of the Consultant's reasonable control.

5.3 Delays. If Consultant does not commence the Services in accordance with the Project schedule, or if at any time the Services are not performed in accordance with such schedule, then to the extent the delay is caused by Consultant's negligence or breach of this Agreement, the Consultant agrees, upon five (5) days written notice from Client, to provide the necessary personnel to complete the designs and to provide such services as necessary so as to expedite the Services. Consultant shall work overtime, at the direction of Client, without additional costs to Client, if such overtime work is necessary to cure delinquency in maintaining the Project schedule and such delinquency is due to delays by Consultant. Consultant shall be responsible for delays to the extent due to Consultant's negligence.

5.4 Schedule of Work. Consultant shall be bound by the Project schedule. Consultant shall provide Client with any requested scheduling information for Consultant's work. The Project Schedule and all subsequent changes thereto shall be submitted to Consultant in advance of the required performance. Revisions thereto may occur, in which event, the revised schedule shall be messengered to Consultant's office as necessary, and, to the extent the revised schedule decreases Consultant's time for performance hereunder, shall be subject to Consultant's consent, which consent shall not be unreasonably withheld.

6.0 INSURANCE AND BONDS

6.1 Types and Coverages. Prior to start of Consultant's Services, Consultant shall procure and maintain in force during the performance of such work, insurance coverage as set forth on Exhibit "E" attached hereto. Coverages shall be maintained without interruption from date of commencement of Consultant's Services until the date of final payment, and Consultant shall not terminate any coverage required to be maintained after final payment, unless otherwise approved in writing by Client.

6.1.1 Failure to Issue. In the event Consultant fails to obtain or maintain any insurance coverage required under this Contract, Client may purchase such coverage and charge the expense thereof to Consultant, terminate this Contract, or waive such condition.

6.2 Proof. Certificates of insurance acceptable to the Client shall be filed with the Client prior to commencement of the Consultant's Services and execution of this Contract, and upon request of Client, Consultant shall promptly deliver Declaration Pages to Client that reflect the insurance required under this Contract. The approved Certificates of Insurance are attached hereto as Exhibit "G"

7.0 INDEMNIFICATION

7.1 Indemnification.

A. To the fullest extent permitted by law, Consultant shall indemnify, protect, hold harmless (but not defend) Client and its employees, Client's partners, managers and members, and their respective officers, directors, employees, successors and assigns (collectively, the "**Indemnitees**") from and against any claims, damages, judgments, losses, liabilities, costs, actions, causes of action, suits,

penalties, fines and expenses, including but not limited to reasonable attorneys' fees ("**Claims**"), arising out of or, resulting directly or indirectly from Consultant's and/or its subcontractors' violation of the professional Standard of Care, except to the extent that such indemnification is void or otherwise unenforceable under applicable law.

B. General Liability. To the extent of its general liability insurance hereunder, if any, and to the fullest extent permitted by law, Consultant shall indemnify, defend, and hold harmless, Client and its employees, Client's partners, managers and members, and their respective officers, directors, employees, successors and assigns (collectively, the "Indemnitees") from and against any Claims to the extent the Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant's and/or its subcontractors' work or performance of the Services including, without limitation, Consultant's and its subcontractors' use of equipment provided by Client or others, except to the extent that such indemnification is void or otherwise unenforceable under applicable law. Consultant's duty to defend Client under its general liability insurance shall be triggered by the presentation of any Claim to Client which results from, arises out of or occurs in connection with Consultant's or any of its subcontractor's work or performance of the Services.

7.1.2 Limitations. Except as set forth below, no insurance policy covering the Architect's performance under this agreement shall operate to limit the indemnity under this Section, nor shall the amount of insurance coverage operate to limit the extent of the Liabilities. The Architect assumes no liability whatsoever for the negligence, active negligence, or willful misconduct of any Indemnitee or the contractors of any Indemnitee.

7.1.3 Coverage. In claims against any person or entity indemnified under this Contract by employees of Consultant, Consultant's subcontractors, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for Consultant or for Consultant's subcontractors or other workers or workmen's compensation acts, labor code limitations or disability benefit acts or other employee benefit acts. Further, except as set forth herein, the insurance provisions and required coverages set forth in Exhibit "E" hereto shall in no way limit Consultant's obligations of indemnity stated in this Contract except as set forth below.

7.1.4 Limitation of Liability. To the fullest extent permitted by law, the total aggregate liability of Consultant to Client, and anyone claiming by, through or under Client in connection with or in any way related to the Project shall in no event exceed the required insurance limits of $ $3,000,000 per claim and $5,000,000 aggregate. The parties may enter into separate agreements for this Project for the convenience of the Client. The parties agree that the limitation of liability in this Contract and any separate related contract(s) for this Project (the Fire Station) are intended to apply as a single limitation of liability of $3,000,000 per claim and $5,000,000 in the aggregate and there is not a separate limitation under each various contract for the Fire Station. The parties agree that claims under the various contracts for the Fire Station shall be aggregated together to reach the limitation of liability set forth herein and the total limitation of liability shall be limited to a single limitation of the required insurance of $3,000,000_per claim and $5,000,000 regardless of whether arising under this Contract or any separate related contract for the Fire Station. Identical terms clarifying the limitation of liability shall be included in any separate contract(s) for the Fire Station.

7.1.5 To the fullest extent permitted by law, Client shall indemnify, and hold harmless Consultant and its employees, but not be obligated to defend, Consultant's partners, managers and members, and their respective officers, directors, employees, successors and assigns (collectively, the "SOM Indemnitees") from and against any claims, damages, judgments, losses, liabilities, costs, actions, causes of action, suits,

penalties, fines and expenses, including but not limited to reasonable attorneys' fees ("Claims"), to the extent the Claims arise out of, pertain to, or relate to the gross negligence, recklessness or willful misconduct of Client, or the negligence, recklessness, or willful misconduct of Client and/or its Client's subcontractors' work or performance of services.

7.1.6 In connection with the Services for the Fire Station 13, the Consultant agrees to provide the indemnity obligations set forth in Exhibit "H" directly to the City of San Francisco.

8.0 TERMINATION BY CLIENT

8.1 Termination for Cause. If Consultant fails or neglects to carry out the Services in accordance with the Contract or otherwise to perform in accordance with this Contract and fails within five (5) days after receipt of written or oral notice to commence and continue correction of such default or neglect with diligence and promptness, Client may, after seven (7) days following receipt by Consultant of a written notice, and without prejudice to any other remedy Client may have, terminate the Contract and finish Consultant's Services by whatever method Client may deem expedient. . Within ten (10) days of termination of this Contract by Client and receipt of any undisputed amounts outstanding, Consultant shall deliver complete copies of all Instruments of Service to Client.

8.2 Termination for Convenience. This Contract may be terminated by Client at any time for any reason or for no reason upon ten (10) calendar days' prior written notice to Consultant. Upon the termination of this Contract by Client under this Section 8.2, Client shall pay to Consultant as payment in full for all labor, work, and services performed hereunder, all materials supplied and expenses incurred by Consultant, the following amount: (a) the unpaid prorated compensation set forth in this Contract for all Services actually performed by Consultant under this Contract up to the effective date of termination, plus (b) the amount of all reimbursable expenses (i.e., expenses for which Client has expressly agreed to reimburse Consultant in this Contract) incurred by Consultant up to the effective date of termination for which Client has not previously reimbursed Consultant. Concurrent with Consultant's receipt of payment, Consultant shall sign and deliver to Client a full lien release, along with true, correct and complete copies of Consultant's work product associated with the Services. As used herein, "effective date of termination" means that date which is ten (10) calendar days following Consultant's receipt of the notice of termination, or such later date as may be set forth in the notice of termination.

9.0 ARBITRATION

9.1 Procedures. Except as may otherwise be set forth herein, any controversy or claim between Client and Consultant arising out of or related to this Contract, or the breach thereof shall be settled by arbitration, conducted in accordance with the Comprehensive Arbitration Rules and Procedures of JAMS, Inc. currently in effect. The arbitrator shall also be bound to follow both California substantive and procedural law.

9.2 Awards. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable laws in any court having jurisdiction thereof. The arbitrator shall be required to provide a reasoned decision.

9.3 Attorneys' Fees. In the event Client or Consultant shall, in accordance with the provisions of this Contract, commence arbitration, mediation, or other legal proceedings to resolve any controversy, claim or dispute regarding the provisions set forth in this Contract, the prevailing party shall be entitled to recover from the losing party its costs of suit, including reasonable attorneys' fees.

10.0 MISCELLANEOUS PROVISIONS

10.1 Waiver. The failure to enforce any of the provisions set forth in this Contract shall not constitute a waiver of the right to enforce the same thereafter.

10.2 Construction. The paragraph headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Whenever the context hereof may so require, the singular shall include the plural, and the masculine shall include the feminine and neuter.

10.3 Governing Law. The provisions of this Contract shall be governed by the laws of the State of California, and any legal proceedings shall be conducted in the County of San Francisco.

10.4 Severability. If any provision of this Contract shall be held invalid or unenforceable, the remaining provisions of this Contract shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law. To the extent any court of competent jurisdiction or law invalidates any word, clause, phrase, or sentence in this Section, that word, clause, phrase, or sentence, and no other portion, shall be deemed removed from this Section. All other words, clauses, phrases and/or sentences remain enforceable to the fullest extent permitted by law.

10.5 Amendment. Any amendment to this Contract shall not be effective unless approved in writing by Client and Consultant.

10.6 Notices. Any notice to be given or other document to be delivered by Consultant or Client may be delivered in person or may be deposited in the United States mail, as registered or certified mail, return receipt requested, with postage prepaid or by telecopy or overnight courier, in each case addressed as set forth below each party's signature to this Contract. Client and/or Consultant may, from time to time, by written notice to the other, designate a different address. If any notice or other document is sent by registered or certified mail, as aforesaid, the same shall be deemed served or delivered forty-eight (48) hours after mailing thereof.

10.7 Authorization. The individuals executing this Contract warrant that they have read and understand the provisions of this contract and that they are authorized to bind the parties hereto for which they sign.

10.8 Time. Time is of the essence of this Contract.

10.9 Confidentiality. Consultant acknowledges and understands that all information relating in any way to Client or its business or affairs, whether written or oral, obtained by Consultant in connection with the Services and any information regarding the nature and extent of the Services ("**Confidential Information**"), shall, unless otherwise specified by Client in writing, be deemed confidential. Consultant further acknowledges and understands that Consultant's unauthorized disclosure of any Confidential Information would be extremely prejudicial to Client. Therefore, Consultant shall not disclose to any person or entity any Confidential Information unless such disclosure is authorized in writing by Client. If Consultant discloses or threatens to disclose Confidential Information in violation of its obligations under this Section, Client shall be entitled to temporary or permanent injunctive relief prohibiting the disclosure of such Confidential Information. Consultant may share Confidential Information with sub-consultants who are similarly bound by this confidentiality provision. If Consultant is served with any subpoena or other legal process seeking the compelled disclosure of Client's Confidential Information, Consultant shall notify Client within twenty-four (24) hours after Consultant's receipt of such legal process. Client may, in

its sole and absolute discretion and at Client's sole expense, contest the disclosure of such Confidential Information sought under such legal process. Only after a final order of a court of competent jurisdiction requiring the disclosure of such Confidential Information may Consultant disclose such Confidential Information as required by law. This prohibition of disclosure of Confidential Information shall survive the termination of this Contract. Consultant hereby agrees to indemnify, defend and hold Client and its affiliates, partners, employees and agents harmless from any and all loss, damage or liability which results from or arises in connection with Consultant's breach of its obligations under this Section. Upon termination of this Contract, upon request of Client, Consultant shall promptly return to Client's possession all copies of any writings, drawings or other confidential information which are then in the possession or control of Consultant. Consultant further agrees that, upon the request of Client at any time under this Contract, Consultant shall promptly return to Client all such copies of writings, drawings or other confidential information which are then in the possession or control of Consultant.

10.10 Entire Contract. This Contract (including any change order or amendment executed by the Parties) constitutes the entire contract between the Parties and shall supersede all other oral or written contracts between the Parties pertaining to the subject matter of this Contract. This Contract may only be modified or amended by a written instrument executed by both Parties.

10.11 Hazardous Material. Consultant's Services do not include services for demolition of any existing conditions nor any involvement in the detection, reporting, permitting, analysis, abatement or removal of any mold, asbestos, lead, underground storage tanks, polychlorinated biphenyl, toxic substances or any other hazardous materials as may be defined under applicable law that may be encountered within or surrounding the project site.

10.12 Consultant's Services are being performed solely for Client's benefit and none of the contractor, any subcontractor, supplier, fabricator, manufacturer, tenant, consultant or other third party shall have any claim against Consultant as a result of this Agreement or performance or nonperformance of Consultant's Services. Client shall make all parties doing work, performing services or supplying materials for the Project aware of the foregoing provision.

10.13 If Client chooses an accelerated project delivery schedule or fast track process, Client acknowledges that some of the effects of either process include the necessity of making imperative and timely decisions and early or premature commitments in connection with design decisions and the issuance of incomplete and uncoordinated construction documents for permitting, bidding, and construction purposes. Client acknowledges that the project, if developed on either basis, will likely require associated coordination, design, and re-design of various portions of the project during development of the construction documents and after construction documents are issued and the construction contract, is executed, that may require removal of work-in-place, all of which events may cause an increase in the construction cost or an extension of the project schedule.

10.14 If the Client's program includes any level of LEED®, Green Building Rating System and other similar environmental guidelines certification for the project, the Client recognizes that the achievement of such certification is subject to third parties over whom Consultant has no control, and may require the cooperation of the Client, Client consultants, the contractor and others and that LEED and other environmental certifications are subject to various and possibly contradictory interpretation. Therefore, the parties agree that if LEED or other environmental certifications are a stated goal of the Client, Consultant shall use reasonable care in its design to achieve the same but makes no warranty or guarantee that the project, when completed, will actually achieve such certification

10.15 To the extent not otherwise included as services to be performed hereunder, Client shall provide Consultant with its program of requirements for the project which shall contain complete information regarding space requirements, interrelationships of project components and organizational subdivisions, special equipment and systems, flexibility or constraints, needs for future expansion or phasing, site requirements, budgetary limitations and other pertinent data. Client will also provide Consultant with a complete and accurate legal description of the property and a certified land survey of the project site showing: grades and lines of streets, pavements, trees and other amenities and adjoining property; complete and accurate information as to all rights-of-way, rights, restrictions, covenants, encroachments, easements, boundaries and contours of the project site, existing buildings and improvements and adjacent areas; and complete information concerning available service and utility lines both public and private, above and below grade, including inverts, sizes and capacities.

10.16 Consultant is expressly permitted to rely on the information provided by Client and its consultants and Consultant's services do not include any responsibility for the accuracy or completeness of any information or services furnished by Client or for the checking or validating of same. All such information and services shall be timely so that Consultant can proceed with the performance of its services in a proper and orderly manner without rework or delay.

10.17 Consultant's review of Contractor submittals and on-Site and off-Site observation of the construction Work is to determine if the Contractor's submittals and Work appear to be in general conformance with the design concept set forth in the Construction Documents and Consultant's action on such submittal does not constitute a change in the Contract Documents. Consultant's review shall not be considered to be complete in every detail or exhaustive. Consultant's review or action upon a specific item shall not indicate a review of an assembly of which the item is a component. Consultant's review of submittals shall also not relieve any contractor, subcontractor, manufacturer, supplier, fabricator, consultant, professional or other third party from responsibility for any deficiency that may exist or for any departures or deviations from the requirements of the Construction Documents or for the responsibility to coordinate the Work or portion of the Work of one trade with another.

10.18 During the course of the preparation of the design documents Consultant may periodically prepare calculations of the gross and rentable areas of the Project based on a mutually agreed upon standard method of measuring floor areas at commencement of the Project. The furnishing of such information shall only be for Client's purposes of Program confirmation and shall not be a representation by Consultant that Client or others can rely upon such calculations for Project financing, cost estimating, tenant leasing or for any other purpose.

10.19 Client shall cause the Construction Contract and subcontractor contracts to include a provision requiring the Contractor and subcontractors to warrant to Client and Consultant that all materials and equipment furnished for the Project will be new, unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Construction Documents.

10.20 All Client Consultants are responsible for their own services, drawings and other deliverables and must be amply qualified and equipped to perform the services for which they are retained. Consultant's sole responsibility in connection with such third parties will be to cooperate and coordinate with them.

Exhibits. The following exhibits are hereby incorporated:

Exhibit "A":	SCOPE OF SERVICES
Exhibit "B":	PAYMENT SCHEDULE
Exhibit "C":	PROJECT SCHEDULE

Exhibit “D”:	[INTENTIONALLY OMITTED]
Exhibit “E”:	INSURANCE REQUIREMENTS
Exhibit “F”:	TAXPAYER ID REQUEST (FORM W-9)
Exhibit “G”:	INSURANCE CERTIFICATE
Exhibit “H”:	CITY INDEMNITY TERMS

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the Effective Date.

"**Client**"

EQX JACKSON SQ HOLDCO LLC,
a Delaware limited liability company

DocuSigned by:
Gino Canori 06/08/2021 | 3:52 PM PDT
C8A3765F3A654B0...
Client’s Signature

Authorized Representative
Title

Address: 18201 Von Karman Ave.,
Suite 900
Irvine, CA 92612

"**Consultant**"

Skidmore, Owings & Merrill, LLP

DocuSigned by:
Brant Coletta 06/03/2021 | 11:12 AM PDT
43A25904855C48E...
Consultant’s Signature

Partner
Title

Address: One Maritime Plaza
San Francisco, CA 94111

EXHIBIT "A"

SCOPE OF SERVICES

Project Understanding, Basis of Scope

The 530 Sansome Street project site encompasses an approximately 17,733-square-foot lot on Assessor's Blocks 0206-017, 013, at 530 Sansome and adjacent properties at 425 and 439 Washington Street in San Francisco, California. The site is bounded by Washington St. to the north, Merchant Street to the south, Sansome to the west.

The overall project is defined as a new 19-story, 200 ft. tall mixed use highrise tower, with a replacement facility for San Francisco Fire Station 13, and up to three below grade basement levels. The Scope described herein is for a new three (3)-story fire station complex to be located at the base of the tower and situated on the current 425 and 439 Washington Street properties. Parking and building operational systems, will be configured in multiple full lot below-grade basement levels. The concurrent design and construction will also include, under separate contract, a new highrise for a 200-key hotel, an athletic center and retail, approximately 20-stories in height. The high-rise will be configured on the western side of the site, along Sansome Street.

The approximate gross floor area for each of the program is assumed to be the following:

Hotel	137, 055 sq.ft.
Athletic Center and Retail	49,850 sq.ft.
Office	40,400 sq.ft.
Fire Station:	28,120 sq. ft.
POPOS	5,900 sq.ft.
Parking, Below Grade, Service:	40,023 sq. ft.
Approximate Total:	301,348 sq. ft.

It is understood that Client would like to complete Partial Schematic Design and submit a Site Permit application before December 20, 2019 and proceed with remaining phases in 2020. A PPA package prepared by others is currently being reviewed by the City. Construction is anticipated to begin in June 2021. The construction budget for the project is not yet determined.
The Owner shall retain a construction cost advisor to advise on construction budgets for the project.

Basis of the scope of services provided include:

1. Consultant fees are for design services to complete the permitting and construction documents for the entire project. The Consultant will provide construction documents for all exterior and interior building core and shell components necessary to create a fully operational 5-star hotel. Design shall be in coordination with the Client's concurrent interior teams for fit out of hotel, fitness club, and the San Francisco Fire Department. Fees based upon standard Design-Bid-Build.
2. Architectural services include: the design of exterior building enclosure, core elements containing elevators, exit stairs, public toilets, shafts, risers, utilities closets, central plant and fan rooms, elevator and mechanical equipment penthouse, ground floor lobby, typical elevator lobby, parking levels, truck docs and service area, typical floor plans, site development plan and roof plan. coordination of the structural system and mechanical/electrical/plumbing systems; Architectural services for sustainable design include establishing realistic sustainable design goals and

benchmarks to meet the requirements of the project and ongoing review of performance against those goals.

3. It is understood that significant change the height and areas listed above, or significant change in program or schedule of more than 6 months, or if the estimated construction budget increases by more than 10 percent, may be subject to additional service.
4. SOM's design services include exterior wall and waterproofing design. However, we do recommend a third-party consultant be engaged by the Owner for peer review.
5. SOM's Services do not include any involvement in the detection, reporting, permitting, analysis, abatement or removal of any mold, asbestos, lead, underground storage tanks, polychlorinated biphenyl, toxic substances or any other hazardous materials as may be defined under applicable law ("Hazardous Materials") that may be encountered within or surrounding the Project Site.

Based on the above understandings, Consultant shall perform the following scope of Services:

A. Partial Schematic Design and Site Permit Submission

- Based upon program requirements, establish systems for core and shell related to the Fire Station
- Code Analysis and Buildings Systems for Essential Building
- Core and Shell. Develop and coordination. Exterior system concepts, including storefronts, canopies and major appurtenances. Apparatus bays, accessible podium roofs, primary MEP infrastructure and services, egress and circulation (i.e. assembly, science and art MEP requirements, courtyards).
- Deliverables: Site Permit Submission, Plans (Ground, Below grade, Podium Plans, Typical Tower, Roof Plans), Overall Building Section, Primary Elevations, Area Summary Table.

<u>Project Management:</u>

1. Design meetings with Client
2. Attend meetings with the City and Fire Department
3. Building code study
4. Meeting minutes for design meetings
5. Sustainability design strategies as related to LEED requirement

B. Completion of Schematic Design

Core and shell coordination. Program development. Plan studies to confirm program. Plans, primary interior elevations or sections, program summary.

<u>Drawings/Work Product:</u>

Program summary sheet

1. Design drawings in CADD and BIM
2. Budget and constructability discussions with Client
3. Site plan layout of all proposed hardscapes
4. Landscape studies illustrating design strategy in Entitlement Documents
5. Overall floor plans and roof plan
6. Exterior architecture / elevation design
7. Assist Client with coordination of program and design aesthetics
8. Building sections as needed to convey design intent
9. Typical wall sections to indicate design intent

Project Management:

1. Design meetings with Client
2. Attend meetings with the City and Fire Department
3. Meetings with Client and Contractor to discuss possible value engineering items
4. Building code study
5. Meeting minutes for design meetings
6. Sustainability design strategies as related to LEED requirement

C. Agency Approval and Community Outreach Support

Consultant shall prepare for and attend meetings for Client's internal design presentations, or with Review Agencies and Community Groups to address Agency, City comments for architectural design.

D. Design Development

With authorization to proceed from the Client, produce Design Development Documents as described below.

- Core and shell coordination. Exterior cladding systems and storefronts. Coordination of consultants' scopes for MEP, parking/service, structural for the design of the below grade, core, structural systems, shared infrastructure, and exterior wall systems.

After Client's approval of the Schematic Design Documents and authorization to proceed, Consultant will prepare one set of Design Development Documents to further define the size and character of the project and the major architectural, and integration with structural, mechanical, electrical, plumbing and fire protection systems, sustainable engineering strategies building systems (done by others), materials and finishes, and other such elements. Included shall be drawings: complete site design, floor, parking areas, and building support areas. Design will also include exterior elevations, podium and roof terrace areas, outline specifications and, as may be authorized by you under Section IV, any professional renderings and scale models. A further review and update of the preliminary estimate of probable construction costs will be prepared by your construction cost advisor. Design Development efforts will be based on updated construction budgets that are mutually agreed upon between you and the Development Consulting Team.

Deliverables: One 50% Design Development Set and outline specifications. Pricing and V/E prior to completion of 100% issuance. One 100% Design Development Set and outline specifications.

- Refined site plan with Civil and Landscape coordination
- Preliminary code analysis
- Rated assemblies, acoustic assemblies
- Preliminary accessibility analysis and associated details
- Overall floor plans and roof plan
- Interior design progress defined in floor plans and interior elevations
- Reflected ceiling plans
- Selection of proposed architectural lighting
- Exterior elevations with material indications and color
- Typical building sections
- Typical wall sections
- Stair and elevator plans and sections
- Typical exterior and interior details

- Typical window and door details
- Preliminary window and door schedules
- Preliminary project specification manual

Project Management:

- Building code
  - Accessibility conformance
  - Meetings with Client and Contractor to discuss construction strategies and budget
  - Design meetings with Client
  - Initial review of acoustic and vibration details
  - Initial review for IT/Low Voltage, Security, and Audio-Visual design
  - Initial elevator layout and requirements
  - Meeting minutes for all design meetings
  - Coordination with Civil, Structural, MEP, and Landscape
  - Documentation of sustainability features and strategies as related to LEED requirement
  - Incorporate value engineering (VE) revisions

E. Construction Documents

Core and shell coordination. Exterior cladding systems for podium exterior elevations, storefronts and window wall systems for the firestation. Coordination of consultants' scopes for MEP, parking/service, structural for the design of the below grade, core, structural systems, shared infrastructure, and exterior wall systems.

After Client's approval of the Design Development Documents, Consultant will prepare one set of Construction Documents, consisting of working drawings and technical specifications for the architectural, together with Consultant's standard form of General and Supplementary Conditions.

Construction Document phase services will include documentation necessary for permit approval and construction, including BIM model coordination. Construction Document efforts will be based on final construction budgets that are mutually agreed upon among Client, Contractor, and the Consultant.

Construction drawings including title sheet with required building department and access-compliance information, site plan, dimensioned floor plans and enlarged plans, elevations, building and typical wall sections, and required details. Basic services include documentation for units, parking, and interiors (standard floor finishes, paint wall finish, fixtures and equipment). Prepare the final project manual including full technical specifications.

Consultant in association with Contractor, Client and a Permit Expediter will perform a preliminary design review, pre-permit submittal meeting with the Building Department and the Fire Marshall, and other Regulatory entities as required.

Contract Document Deliverables: Permit package will incorporate construction documents and an associated project manual for City and Governing Agency building permit issuance and Construction approval.

Deliverables: One 50% Set and outline specifications. Pricing and V/E prior to completion of 100%

issuance. One 100% Design Development Set and outline specifications.

F. Bidding Services:

After Client's approval of the Construction Documents, Consultant shall:

1. Issue Bidding Documents for competitive bidding as a single bid package.
2. Answer inquiries from bidders and prepare and issue any necessary addenda to the Bidding Documents.
3. Analyze bid proposals and make technical recommendations to the Client as to the award of the Construction Contract.

G. Construction Administration

During the construction phase Consultant shall:

1. Assist the Client's permit expeditor in obtaining one building permit, initiated with the submission of a Site Permit in an earlier phase and subsequent addenda. Consultant shall assist the Client's consultant with other such approvals from agencies having jurisdiction over the project. Respond to plan check comments.
2. Review shop drawings for general conformance with the design concept set forth in the Construction Documents.
3. Provide a reasonable amount of consultation for the purpose of clarification and interpretation of the intent of the Construction Documents and, if determined necessary by Consultant, issue supplemental documents to amplify or clarify portions of the Construction Documents. BIM model coordination and modifications to documentation in this phase is an additional service.
4. Provide periodic on-site observation of construction to review the progress of construction for general conformance with the design concept set forth in the Construction Documents and attend one regular weekly construction meeting. For Architectural services, provision for more than 75 half-day site visits during the construction period can be provided as an additional service.
5. Provide a reasonable amount of assistance in the review of Contractor requests for change orders and make recommendations to the Client as to approval or disapproval of such requests. The Contractor shall be responsible to prepare the written change order which shall outline the nature of the change, the requested cost for the change, and any change to the construction schedule.
6. At the time of substantial completion of construction, prepare lists of items which Consultant has observed as requiring remedial work or replacement.
7. A Closeout period during which Consultant shall assemble final record documentation produced by Consultant. Consultant will review as-built documents as provided and maintained by the Contractor.

EXHIBIT "B"

PAYMENT SCHEDULE

1. Consultant agrees to utilize Client's Textura-CPM payment management system.

2. All applications for payment, invoices and all supporting documents (including but not limited to lien waivers) for Professional Services and Reimbursable Costs shall be in electronic format and should be submitted monthly. Consultant shall be responsible for the fees and costs owed associated with Consultant's use of the Textura-CPM payment management system. Fees to Consultant are calculated as 0.22% (22 basis points) of Contract Amount with a maximum fee of $3,750.

3. The fee will be billed as a percentage of completion for actual work performed on a monthly basis.

4. Consultant Contract shall not exceed one million eighty thousand nine hundred twenty four dollars ($1,080,924.00) without prior written authorization.

5. Work completed on a time and materials basis shall be billed per Consultant Hourly Rate Schedule below.

Scope	**Contract Type**	**Total**
Schematic Design	FIXED	$157,400.00
Design Development	FIXED	262,400.00
Construction Document	FIXED	314,800.00
Bidding	T&M-NTE	21,000.00
Construction Administration	T&M-NTE	293,800.00
Agency and Community Outreach	T&M-NTE	15,000.00
Reimbursable Expenses	T&M-NTE	16,524.00
	TOTAL	**$1,080,924.00**

DS BL DS GL

Consultant Standard Billing Rates

Technical Employees	
Group A	$110/hour
Group B	$125/hour
Group C	$170/hour
Group D	$180/hour
Group E	$195/hour
Group F	$225/hour
Associate	$235/hour
Associate Director	$290/hour
Partner and Director	$415/hour

Reimbursables

Consultant will utilize Client's approved vendors for all printing, reproduction of plans, associate services, material samples or mockup costs, shipping/courier service and permit, agency submittal fees associated with the project. All such services shall be billed directly to Client without Consultant mark-up or handling

charges. Other out-of-pocket expenses (i.e., time and expenses for travel) are not included and will be considered reimbursable. All reimbursables will be billed at cost, with no mark-up.

Authorized Vendor List				
	VENDOR	**TELEPHONE**	**ACCOUNT#**	**CUSTOMER SERVICE**
Reprographics:				
Orange County	ARC	949-660-1150	413557	Kristen Stevens
San Francisco	ARC			Customer Service
REPROGRAPHICS COMPANIES ARE NOT TO BE USED FOR "DELIVERY ONLY" SERVICES				
Messengers:				
Orange County	PAMS/National Messenger	714-922-1670	18831	Jack Fahey x228
San Francisco	Godspeed	415-626-1904	33000	
Overnight Couriers:				
Orange County	UPS	888.744.7244	X8Y980	Lindsey Moss
San Francisco	UPS	888.744.7244	X8Y980	Lindsey Moss
Printing Services				
Los Angeles	Davis Blue Print Co, Inc.	626-975-5419		Roman Covarrubias

EXHIBIT "C"

PROJECT SCHEDULE

Schematic Design: November 2019 – March 2020
SD Owner Review: March 2020
Design Development: April 2020 – July 2020
DD Owner Review: July 2020
Construction Documents: August 2020 – February 2021
CD Owner Review: March 2021
Construction Start: April 2021
Construction Complete: December 2023

EXHIBIT “D”

[INTENTIONALLY OMITTED]

EXHIBIT "E"

INSURANCE REQUIREMENTS

Consultant shall procure, pay for and maintain in effect the following types and amounts of coverage with insurance companies duly licensed and admitted to do business in the State of California with an A.M. Best Rating as set forth in Section II below or an equivalent rating from a comparable rating agency. Coverage shall be maintained for the duration of the Project until completion or longer, as specified in this Exhibit "E" below. Consultant shall be solely responsible to pay for any and all deductibles or self - insured retentions.

Section I **Minimum Insurance Requirements**

A. Workers' Compensation and Employers Liability Insurance:

The Workers' Compensation policy coverage shall include the following coverage:

Coverage A	Statutory
Coverage B	Employers Liability
Bodily Injury by Accident	$1,000,000 Each Accident
Bodily Injury by Disease	$1,000,000 Policy Limit
Bodily Injury by Disease	$1,000,000 Each Employee

Coverage must include:

1. Coverage in the jurisdictions where the Consultant has employees.

2. Voluntary compensation insurance covering all employees not subject to the applicable Workers' Compensation Act or Acts.

3. A waiver of subrogation endorsement in favor of and including Client, Related California Residential, LLC, The Related Companies, L.P., Related California Urban Housing, LLC and The Related Companies of California, LLC, and their respective members, partners, officers, directors and employees (the "**Indemnitees**").

B. Commercial General Liability Insurance:

Occurrence form including premises and operations coverage, products and completed operations coverage, coverage for independent contractors, personal injury coverage and blanket contractual liability. Completed Operations shall be maintained for a period equal to the longest California statute of limitations applicable to defects following completion of construction of the Project. The policy is to be endorsed to provide aggregate limits "per project". The policy form shall be the Insurance Services Office Commercial General Liability Coverage Form No. CG 00 01, with the following minimum limits:

Each Occurrence	$1,000,000
Personal & Advertising Injury	$1,000,000
Products and Completed Operations Aggregate	$2,000,000
General Aggregate	$2,000,000

The policy must include:

1. Products and Completed Operations coverage shall apply to bodily injury and property damage arising out of the products-completed operations hazard.

2. Broad Form ISO CG 0001 Contractual Liability coverage, or its equivalent.

3. Consultant shall maintain the commercial general liability policy for the longer of five (5) years following substantial completion of the Project or the applicable statute of repose in the jurisdiction where the Project is located and continue to name Client and the Indemnitees and any other required interest under this Contract as additional insureds for the entire five (5) year period.

4. There shall be no residential exclusions, nor any equivalent exclusion.

C. Commercial Automobile Liability:

Automobile Liability insurance for all owned, non-owned, hired or leased vehicles with limits of not less than $1,000,000 combined single limit for bodily injury and property damage. This insurance coverage must include all automotive and truck equipment used in the performance of the Work under this Contract and must include the loading and unloading of same.

D. Excess (Umbrella) Liability:

This coverage shall be written on no less than a follow form basis (no more restrictive than the underlying insurance) with a Limit of Liability of $5,000,000 per occurrence. Umbrella coverage shall be maintained by Consultant for the longer of five (5) years following substantial completion of the Project or the applicable statute of repose in the jurisdiction where the Project is located.

E. Professional Liability: (Errors and Omissions):

Professional Liability (Errors and Omissions) insurance shall be purchased in an amount not less than $3,000,000 each claim and $5,000,000 in the annual aggregate, with a deductible or self-insured retention amount not greater than $50,000 per occurrence (payment of which shall be the obligation of Consultant). Such insurance shall include prior acts coverage sufficient to cover the services under this Contract.

1. The Retroactive Date of such policy must be shown and must be before the date of the Contract or the beginning of work on the Services.

2. This insurance must be maintained and evidence of insurance must be provided for the longer of ten (10) years after substantial completion of the Project or the applicable statute of repose in the jurisdiction where the Project is located.

3. If coverage is canceled or non-renewed, and not replaced with another claims – made policy form with a Retroactive Date prior to the effective date of

the Contract, Consultant must purchase "extended reporting period" equivalent to the applicable statute of repose following substantial completion of the Services.

4. Such insurance shall include Contractual Liability to cover liability assumed under this Contract, to the extent insurable under such Professional Liability Insurance.

5. If the Services to be performed are on an attached community, there shall be no exclusion for attached multi-family dwellings or condominium projects.

6. Consultant's sub consultants shall maintain Professional Liability insurance in an amount not less than $3,000,000 each claim and annual aggregate, which is no more restrictive than Consultant's policy.

F. Valuable Papers & EDP:

Shall be purchased for plans, specifications, drawings, reports, maps, books, blueprints and other printed documents in an amount not less than $200,000 or the cost of recreating or reconstructing valuable papers, records, and computer aided design files related to this project, whichever is greater.

G. Consultant waives all rights of recovery and subrogation against Client for injury or damage arising out of its ongoing operations, including coverage within the "products and completed operations hazard" and for damages to or loss of the premises or improvements and betterments thereon. Consultant shall obtain from its insurers written consent permitting such waiver of subrogation, if required.

H. The aforementioned coverages, as well as any other coverage that Consultant may consider necessary, are Consultant's sole responsibility, and any deficiency in the coverage or policy limits of Consultant's insurance will be the sole responsibility of such Consultant.

Section II **Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

A. Additional Insured Status. All policies except Workers' Compensation and Professional Liability must name Client and the Indemnitees, including their respective directors, officers, members, managers, partners, employees and successors and assigns, and any other such entities as may reasonably be requested, as Additional Insureds on a primary basis by means of an Additional Insured Endorsement using ISO additional insured endorsement CG 20 10 11 85, or both CG 20 10 10 01 and CG 20 37 10 01 if later revisions are used, but only with respect to legal liability or claims caused by, arising out of or resulting from the acts or omissions of the named insured or others performing work or operations on behalf of the named insured in connection with their rendition of Services under this Contract.

B. Primary Coverage. For any claims related to this Contract, Consultant's insurance coverage shall be primary insurance with respect to Client and the Indemnitees, and their respective directors, officers, members, managers, partners, employees, successors and assigns. Any insurance maintained by Client or an Indemnitee shall be excess of Consultant's insurance and shall not contribute with Consultant's insurance. The insurance provisions and required coverages set forth above in no way limit the liability of Consultant as may be stated elsewhere in the Contract.

C. Waiver of Subrogation. Except for Professional Liability Insurance, Consultant hereby grants to Client a waiver of any right to subrogation which any insurer of Consultant may acquire against Client by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies whether or not Client has received a waiver of subrogation endorsement from the insurer.

D. Waiver of Property Subrogation. Consultant and Client waives all rights of recovery against each other and the Indemnitees for injury or damage to Consultant's property arising out of its ongoing operations, including coverage within the "products and completed operations hazard" and for damages to or loss of the premises or improvements and betterments thereon. Consultant and Client shall cause its insurance carriers to consent to such waiver of subrogation.

E. Deductibles and Self-Insured Retentions. Deductibles (excepting Professional Liability) may not exceed $25,000 unless approved in writing by Client. Any and all deductibles required by Consultant's insurance shall be paid by Consultant and shall not be reimbursed by Client, or by other insurance.

F. Acceptability of Insurers. All policies must be written by insurance companies whose rating in the most recent Best's Rating Guide, is not less than A:VII, unless otherwise acceptable to Client. In the event of an incident giving rise to a claim, Consultant agrees to provide a copy of its policies with any confidential or proprietary information redacted.

G. Failure to Maintain Insurance. In the event Consultant fails to maintain the coverages or limits as required herein, Client may obtain such insurance as an agent of such Consultant. Any premiums paid by Client to effect such coverages together with interest thereon from the date paid by Client until the date paid by such Consultant shall be payable to Client by Consultant or, at Client's election, offset by or against the payments provided or payable to such Consultant.

H. Additional Insurance. By so specifying, Client may require additional types of insurance. The premiums for such required additional insurance shall be reimbursed by Client.

I. Insurance for Sub consultants. Consultant must require and shall verify that all of its sub consultants procure and maintain insurance meeting the requirements set forth herein and ensure Client and the Indemnitees are additional insureds on insurance required from sub consultants.

J. Notice of Cancellation. All Policies must be endorsed to provide thirty (30) days' prior written notice of cancellation to Consultant. Consultant agrees to provide Client timely

copies of any Notice of Cancellation and Non-Payment of Premium it receives from its insurers.

K. The parties agree to mutually waive the recovery of consequential or indirect damages against each other under this Agreement.

L. Client will require the construction manager or general contractor to name Consultant as an additional insured on its CGL and applicable Builders Risk policy and require the construction manager or general contractor in its construction agreement to indemnity Client and Consultant from bodily injury and property damage claims, liabilities and damages arising out of the construction manager or general contractor's negligence or willful misconduct.

Section III **Before commencing performance of the Work, Consultant shall furnish Client with Declaration Pages evidencing:**

1. Insurance coverage acceptable to Client;

2. Effective and expiration dates of policies;

3. Thirty (30) day's written notice of cancellation, 10 days' notice for Non-Payment. The Declaration Pages shall not include language such as "if any", "endeavor to" or "but failure to mail such notice shall impose no obligation of liability of any kind upon the company, its agents or representatives".

4. That a waiver of subrogation endorsement, if required, has been attached to all policies;

5. Any deductible;

6. That Client, Lender, and all such other entities as may be reasonably requested by Client are Certificate Holders.

EXHIBIT “F”

Request for Taxpayer
Identification Number and Certification
IRS Form W-9

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

► Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Print or type. See Specific Instructions on page 3.

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

___ – ___ – ____

or

Employer identification number

__ – _____

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ► Date ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

Cat. No. 10231X

Form **W-9** (Rev. 10-2018)

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.

2. The treaty article addressing the income.

3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,

2. You do not certify your TIN when required (see the instructions for Part II for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over $600 required to be reported and direct sales over $5,000[1]	Generally, exempt payees 1 through 5[2]
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

[1] See Form 1099-MISC, Miscellaneous Income, and its instructions.

[2] However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at *www.SSA.gov*. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/Businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. Go to *www.irs.gov/Forms* to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to *www.irs.gov/OrderForms* to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account[1]
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor[2]
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee[1]
b. So-called trust account that is not a legal or valid trust under state law	The actual owner[1]
6. Sole proprietorship or disregarded entity owned by an individual	The owner[3]
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	**Give name and EIN of:**
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity[4]
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

[1] List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

[2] Circle the minor's name and furnish the minor's SSN.

[3] You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

[4] List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov*. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at *spam@uce.gov* or report them at *www.ftc.gov/complaint*. You can contact the FTC at *www.ftc.gov/idtheft* or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see *www.IdentityTheft.gov* and Pub. 5027.

Visit *www.irs.gov/IdentityTheft* to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

EXHIBIT “G”

INSURANCE DECLARATIONS

GROUND LEASE

dated as of _____, 202__

between

THE CITY AND COUNTY OF SAN FRANCISCO
a Charter city and county,

Landlord

and

EQX JACKSON SQ HOLDCO LLC,
a Delaware Limited Liability Company,

Tenant

with respect to
530 Sansome Street
SAN FRANCISCO, CALIFORNIA

GROUND LEASE

THIS GROUND LEASE (as amended, restated, supplemented or otherwise modified from time to time, this "**Lease**") is made as of _____, 202___ ("**Commencement Date**"), by and between City and County of San Francisco, a Charter city and county, as landlord ("**Landlord**"), and EQX Jackson SQ Holdco LLC, a Delaware limited liability company, as tenant ("**Tenant**"). Each of Landlord and the Tenant is sometimes referred to in this Lease as a "**Party**" and collectively as the "**Parties**".

RECITALS:

A. Landlord and Tenant have entered into that certain Conditional Property Exchange Agreement (the "**CPEA**") dated July 30, 2020, pursuant to the terms of which, among other things, Tenant agreed to construct the Station Project (as defined in the CPEA) on the New City Parcel (as defined in the CPEA) in compliance with the requirements of the CPEA and the Construction Management Agreement between Landlord and Tenant and dated _____ (the "**Construction Management Agreement**"), and Landlord agreed to enter into this Lease and transfer to Tenant the Fee Estate, upon the satisfaction of certain terms and conditions, including Tenant's transfer of the completed Station Project and New City Parcel (defined under the CPEA collectively as the "Fire Station Improvements") to Landlord.

B. In furtherance of the terms and conditions of the CPEA, Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the Premises, upon the terms of this Lease.

C. Capitalized terms used but not otherwise defined in this Lease have the meaning given them in **Schedule 1** attached hereto.

D. Therefore, in consideration of the foregoing and the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

1. PREMISES.

1.1 Demise of Premises. In consideration of the rents and covenants set forth in this Lease on the part of Tenant to be paid and performed, Landlord hereby leases to Tenant, and Tenant hereby accepts and leases from Landlord, for the Term, upon and subject to the terms and provisions of this Lease, the following (collectively, the "**Premises**"):

1.1.1 the parcel of land as more particularly described on **Exhibit A** (the "**Land**"), all Existing Improvements and, upon demolition of the Existing Improvements, all new improvements constructed thereon;

1.1.2 all appurtenances, rights, privileges and easements now or hereafter appertaining to the Land; and

1.1.3 all right, title and interest of Landlord, in its proprietary interest as owner of the Land, in and to the land lying in the public streets, avenues, ways, and roads in front of and adjoining such Land.

1.2 Limitations. The demise of the Leasehold Estate is subject to the following:

1.2.1 the lien of real estate taxes and assessments, not yet due and payable; and

1.2.2 all easements, encumbrances (other than the lien of any mortgage or deed of trust encumbering Landlord's interest in the Fee Estate) and restrictions of record that affect title to the Premises as of the Commencement Date.

1.3 As Is, Where Is. TENANT SPECIFICALLY ACKNOWLEDGES AND AGREES THAT EXCEPT AS EXPRESSLY PROVIDED IN THIS LEASE OR IN THE CPEA, LANDLORD IS LEASING THE PREMISES "AS IS WITH ALL FAULTS" BASIS AND THAT TENANT IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM LANDLORD AS TO ANY MATTERS CONCERNING THE PREMISES, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Premises, including, but not limited to, the structural elements, seismic aspects of the Premises, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, and utility systems, facilities and appliances, the square footage within the improvements on the Premises and within each tenant space therein, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Premises, (iv) the development potential of the Premises, and the Premises' use, habitability, merchantability, or fitness, suitability, value or adequacy of the Premises for any particular purpose, (v) the zoning or other legal status of the Premises or any other public or private restrictions on use of the Premises, (vi) the compliance of the Premises or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other Person, (vii) the presence of Hazardous Materials on, under or about the Premises or the adjoining or neighboring property, if any, (viii) the quality of any labor and materials used in any improvements on the Premises, (ix) the condition of title to the Premises, (x) the documents or agreements affecting the Premises, (xi) the value, economics of the operation or income potential of the Premises, or (xii) any other fact or condition which may affect the Premises, including without limitation, the physical condition, value, economics of operation or income potential of the Premises. Landlord will not be responsible for or liable to Tenant, and Tenant hereby leases the Premises from Landlord subject to the risk of, and waives and releases Landlord and its agents from, all Claims for any injury, loss, or damage to any Person or property in or about the Premises by or from any cause whatsoever relating to any of the matters described above in this Section 1.3.

1.4 Accessibility Disclosures. California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("**CASp**") to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is advised that the Premises have not been inspected by a CASp. A CASp can inspect the Premises and determine if they comply with all the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the Premises, Landlord may not prohibit Tenant from obtaining a CASp inspection of the Premises for the occupancy or potential occupancy of Tenant if requested by Tenant.

Landlord and Tenant must mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the CASp inspection fee, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the Premises. Landlord and Tenant agree that if Tenant desires to have the Premises inspected by a CASp, then (1) Tenant will cause the inspection to occur within thirty (30) days after the Commencement Date; (2) the inspection will occur during business hours on a business day; (3) Tenant will give Landlord five (5) business days prior written notice of the inspection time and date; (4) Landlord may attend the inspection; and (5) Tenant will pay for all inspection costs (including fees for any reports prepared by the CASp (collectively, the "**CASp Reports**"). Tenant will deliver any CASp Reports to Landlord (without any representations or warranties regarding the same) within three (3) business days after Tenant's receipt. Tenant, will be solely responsible at Tenant's cost for making improvements, alterations, modifications, and/or repairs to or within the Premises to correct violations of construction-related accessibility standards disclosed by the CASp inspection.

1.5 Hazardous Substance Disclosure. California Legal Requirements require landlords to disclose to tenants the presence or potential presence of certain Hazardous Substances. Accordingly, Tenant is hereby advised that occupation of the Premises may lead to exposure to Hazardous Substances, including gasoline, diesel, and other vehicle fluids, vehicle exhaust, office maintenance fluids, tobacco smoke, methane, and building materials containing chemicals, such as formaldehyde. By execution of this Lease, Tenant acknowledges that the notices and warnings set forth above satisfy the requirements of California Health and Safety Code Section 25359.7 and related statutes and, to the extent permitted by Legal Requirements, Tenant waives any and all rights Tenant may have to assert that City has not complied with the requirements of the statute.

2. TERM.

2.1 Term. Tenant shall have and hold the Premises for a term (the "**Term**") commencing on the Commencement Date and expiring at 5:00 p.m. on the last day of the ninety-ninth (99th) Lease Year (the "**Expiration Date**"); provided that Landlord shall be automatically released from all of its obligations under this Lease (and Landlord shall have no further rights under this Lease) on the date that Landlord transfers Fee Title to Tenant in compliance with all of the terms and conditions of the CPEA.

2.2 Possession. On the Commencement Date, Landlord shall deliver possession of the Premises to Tenant, subject to the limitations set forth in Section 1.2.

3. GROUND RENT, ADDITIONAL RENT.

3.1 Ground Rent. Tenant shall pay to Landlord ground rent ("**Ground Rent**") for the entire Term of the Ground Lease the sum of $1,000 on or before the Commencement Date.

3.2 Additional Rent. In addition to the Ground Rent, Tenant shall pay, without notice (except as otherwise expressly provided in this Lease) and without abatement, counterclaim, deduction or set-off, as additional rent ("**Additional Rent**"), all Impositions and all other costs, expenses, charges and amounts which Tenant is required to pay to Landlord under this Lease. Each and every sum that is an ascertainable sum certain and payable by Tenant pursuant to this Lease (other than Ground Rent), shall be Additional Rent under this Lease.

3.3 Late Payments; Costs of Collection. Any unpaid Additional Rent shall bear interest from the date which is seven (7) days after Tenant receives written notice from Landlord that the same is due until paid at the Default Interest Rate. In addition to any interest payable under this Section, if Tenant fails to pay Rent in immediately available funds or by good check, Tenant will pay to Landlord immediately upon demand as Additional Rent the amount of any fees, charges, or other costs incurred by Landlord, including dishonored check fees, increased staff time, and any costs of collection.

3.4 Manner of Payment. Tenant shall pay all Ground Rent and Additional Rent (collectively, "**Rent**") at Landlord's address as provided in this Lease, or as Landlord may otherwise direct (so long as Landlord delivers to Tenant fifteen (15) days advanced written notice of the effective of such change), or by other means (such as automatic debit, automatic clearing house transfer, wire transfer or electronic transfer) reasonably acceptable to Landlord, in such United States currency as shall, at the time of payment, be legal tender for the payment of public and private debts. Tenant may pay sums constituting Additional Rent directly to the applicable governmental authority, vendor, utility provider, or other service provider to which such sums are owed.

3.5 No Release. Except to the extent this Lease is terminated in accordance with its terms, no happening, event, occurrence, or situation whatsoever during the Term, whether foreseen or unforeseen, and however extraordinary, shall permit Tenant to quit or surrender the Premises or terminate this Lease or shall relieve Tenant of its liability to pay the Rent, or relieve Tenant from any of its other obligations under this Lease, and Tenant hereby waives any rights now or hereafter conferred upon it by statute, common law, proclamation, decree, order or otherwise, at law or in equity, to quit or surrender the Premises or terminate this Lease, or any part thereof, or to any abatement, diminution, reduction or suspension of Rent on account of any such event, happening, occurrence or situation.

4. PAYMENT OF TAXES, ASSESSMENTS.

4.1 Property Taxes. As a part of the consideration for this Lease and as Additional Rent hereunder, Tenant covenants and agrees to bear, pay and discharge before delinquency all taxes (including possessory interest, real property, personal property, real property transfer, and special taxes), assessments, rates, charges, license fees, municipal liens, gross receipt taxes, levies, excises or imposts, whether general or special, or ordinary or extraordinary, of every name, nature and kind whatsoever which are attributable to any time period during the Term and which are imposed on or attributable to the Premises, this Lease, any transfer of a leasehold interest or subleasehold interest in the Premises (including but not limited to any transfer of the leasehold interest in the Premises under this Lease), Tenant's use and/or occupancy of the Premises, the Rent due under this Lease or to the Land (the "**Impositions**"). Notwithstanding the foregoing, the term Impositions shall not include Landlord Income Taxes (defined in Section 4.3 below). Further, if the CPEA provides for an alternate allocation of transfer taxes at the Initial Closing or the Final Closing (as such terms are defined in the CPEA), then the terms of the CPEA will govern with regard to those closings.

4.2 Special Assessments. If at any time during the term of this Lease any governmental subdivision shall undertake to create an improvement or special assessment district the proposed

boundaries of which shall include the Premises, Tenant shall be entitled to (and Landlord shall not be entitled) appear in any proceeding relating thereto and to exercise all rights of a landowner to have the Premises excluded from such district or to determine the degree of benefit to the Premises resulting therefrom. The Party receiving any notice or other information relating to the proposed creation of any such district, the proposed boundaries of which include the Premises, shall promptly advise the other Party in writing of such receipt. If any tax, assessment, charge, levy, or impost made against the Premises to finance such a special improvement shall be payable in installments over a period of time extending beyond the term of this Lease, Tenant shall only be required to pay such installments to the extent they relate to the Premises and to the extent the same become due and payable during the Term of this Lease.

4.3 No Liability for Landlord's Taxes. Nothing contained in this Lease shall require Tenant to pay any net income, franchise, corporate, succession, inheritance or capital levy tax of Landlord ("**Landlord Income Taxes**").

4.4 Evidence of Payment. Tenant shall be responsible for obtaining bills for all Impositions directly from the applicable taxing authority, and Landlord will cooperate, if necessary, so that the relevant tax bills are delivered directly to Tenant. If a taxing authority will only send tax bills to the owner of the Fee Estate, Landlord will promptly deliver those tax bills to Tenant. Upon Landlord's request, Tenant shall deliver evidence of payment of all Impositions and, to the extent receipts are provided to Tenant by the applicable taxing authority and are in Tenant's possession or are readily available on line, receipts evidencing such payment.

4.5 Contest of Impositions.

4.5.1 Tenant may in good faith contest, seek to abate or otherwise challenge any Imposition in either Tenant's name or Landlord's name, or both, and may take any and all action with respect thereto as it may deem necessary or advisable, and Landlord shall reasonably cooperate with Tenant and execute such papers as may from time to time be necessary to bring, defend or facilitate such proceedings. All refunds and abatements shall belong to Tenant or Landlord, depending upon which Party paid or would have been obligated to pay (as between Tenant and Landlord) the Impositions in respect of which the refund or abatement was made.

4.6 Landlord's Right to Pay Impositions. If any Imposition shall not have been paid as required in Section 4, then Landlord may, but shall not be required to exercise the remedies identified in Section 13.6 of this Lease.

5. UTILITIES AND OTHER EXPENSES. During the Term, Tenant, at its sole cost and expense, shall pay or cause to be paid, in addition to the Impositions as set forth in Section 4, all charges for gas, electricity, light, heat, power, telephone, cable, or other communication service, and any other utilities rendered or supplied to the Premises. To the extent any statement for such services covers any period not within the Term, Tenant's payment obligation under such statement shall be prorated so that Tenant pays only the portion that is attributable to the period within the Term.

6. INSURANCE. [UNDER CITY RISK MANAGEMENT REVIEW]

6.1 Insurance Coverage. Tenant, at its sole cost and expense, shall obtain and keep in full force and effect during the Term, the insurance coverages described on **Schedule 2** attached hereto and made a part hereof. Tenant shall cause Landlord and each Leasehold Mortgagee and Mezzanine Lender (each as defined in Section 12.1.1 below) (if any) to be included as additional insureds under Tenant's commercial general liability insurance (but excluding property damage coverage, except as otherwise expressly provided for in the REA), which insurance policies shall contain a provision that thirty (30) days' written notice of cancellation, except that ten (10) days' written notice shall be given for non-payment of premium. Losses under any such policy shall be settled solely by Tenant and, if required, by any Leasehold Mortgagee in accordance with its Leasehold Mortgage. Landlord shall reasonably cooperate with Tenant in any proceedings relating to the settlement for losses under any such policy, provided that Landlord shall incur no material cost or expense in connection therewith.

6.2 Evidence of Coverage. On or before the Commencement Date, Tenant shall deliver to Landlord evidence of insurance. If requested by Landlord, Tenant will promptly provide copies of all required insurance policies to Landlord. Prior to expiration of any such policy or policies, or any renewal or replacement thereof, Tenant shall deliver to Landlord evidence of the renewal or replacement thereof. If Tenant fails to provide to Landlord evidence of insurance in accordance with this Section 6.2, Landlord shall have the right to exercise the remedies set forth in Section 13.5.1.

7. USE OF THE PREMISES.

7.1 Use. Subject to this Section 7, Tenant shall have the right to use the Premises to demolish the Existing Improvements and construct, operate, and use the Tower Project (as defined in the CPEA), including any elements shared with the Station Project (as defined in the CPEA). Notwithstanding the foregoing, following the transfer of the Fire Station Property (as defined in the CPEA) to the City and County of San Francisco in accordance with the provisions of the CPEA, or following the Deemed Transfer Date, if applicable, Tenant shall have the right to use the Premises for any lawful purpose, subject to the REA. For purposes hereof, the "**Deemed Transfer Date**" shall mean the earlier to occur of the following: (a) the transfer of the Station Project to Landlord in accordance with the terms and conditions of the CPEA in connection with the Final Closing (as such term is defined in the CPEA), (b) in connection with the Final Closing, Tenant's compliance with all of its obligations under Sections 9.3 of the CPEA, and the satisfaction of all of the conditions in Section 8.1 of the CPEA, and the failure of the City to comply with its obligations under Section 9.4 of the CPEA, or (c) the enforcement by the City of its rights, and the payment and performance of all amounts due and owing to the City, under the Completion Guaranty executed by Tenant's parent, The Related Companies, L.P., or the enforcement by the City of its rights, and the payment of all amounts due and owing to the City, under the provisions of Section 9.6(b)(i) of the CPEA, and, as to any of the events set forth in clauses (a), (b) and (c) above, the acknowledgement in writing by Landlord that any of such events have occurred, which acknowledgement Landlord shall be obligated to provide within five (5) business days following Tenant's written request therefore provided any such event has actually occurred.

7.2 Compliance with Applicable Laws and the REA. Tenant shall (a) comply with all Applicable Laws (expressly excluding anything related to the condition of the Existing Improvements as of the Commencement Date if Tenant promptly demolishes the Existing Improvements in compliance with all Applicable Laws following the Commencement Date), (b) comply with the requirements of all policies of commercial general liability, property, and all other policies of insurance at any time in force with respect to the Premises as required under Article 6 hereof, to the extent such compliance is required to prevent the cancellation of any such policy, and (c) comply with the terms and conditions of the REA.

Tenant shall have the sole right to contest, by appropriate legal proceedings in the name of Tenant or Landlord or both, without cost or expense to Landlord, the validity or application of any law, ordinance, order, rule, regulation or requirement of the nature herein referred to, and if, by the terms of any such law, ordinance, order, rule, regulation or requirement, compliance therewith may legally be held in abeyance pending the prosecution of any such proceedings without subjecting or threatening to subject Tenant or Landlord to any criminal liability of whatsoever nature for failure so to comply therewith, provided that all such proceedings shall be instituted and prosecuted with due diligence and dispatch, and further provided that Landlord shall not be subject to any material cost or liability as a result thereof. Landlord shall, without cost or expense to Landlord, promptly execute and deliver any documents which may be necessary or proper to permit Tenant to contest the validity or application of any such law, ordinance, order, rule, regulation or requirement.

7.3 No Landlord Services. Notwithstanding any other provision in this Lease, Landlord shall not be required to furnish any services or facilities or to make any repairs, alterations, replacements or improvements whatsoever in or to the Premises. Tenant hereby assumes the full and sole responsibility for the condition, operations, repair, replacement, maintenance and management of the Premises.

7.4 No Authority to Bind Fee. Subject to the provisions of Section 7.5 below, neither Tenant nor any subtenant, nor any agent, employee, representative, contractor, or subcontractor of either Tenant or any subtenant, shall have any power or authority to do any act or thing or to make any contract or agreement which will bind Landlord or which may create or be the foundation for any mechanic's lien or other lien or claim upon or against Landlord's interest in the Premises. Landlord shall have no responsibility to any subtenant, contractor, subcontractor, supplier, materialman, workman, or other Person who shall engage in or participate in the design or construction of Improvements with respect to such improvements unless Landlord shall expressly undertake such obligation by an agreement in writing signed by Landlord.

7.5 Landlord's Cooperation. Landlord, in its proprietary interest as the owner of the Fee Estate, shall reasonably cooperate with Tenant, at no cost or expense to Landlord, with regard to Tenant's efforts, from time to time, to process and obtain all entitlements for the construction of all new Improvements on the Premises, including, without limitation, executing all such documents in its proprietary interest as the owner of the Fee Estate needed to obtain and process such entitlements. If requested by Tenant, at Tenant's cost and expense, Landlord shall execute a letter or letters to the applicable governmental authorities, as may be reasonably required to evidence Tenant's authority to take the actions contemplated herein. Landlord shall promptly (and in no event shall it take longer than ten (10) business days) execute any documents requested by

Tenant under this Section. All letters and documents to be executed by Landlord under this subsection must be complete and correct and in a form reasonably acceptable to Landlord.

7.6 Subdivision. Tenant and Landlord contemplate that Tenant will seek, at Tenant's expense, an air rights subdivision (the "**Subdivision**") of the Land together with Existing Developer Property (as defined in the CPEA) such that there will be two (2) parcels: the New City Parcel and the New Developer Parcel (each as defined in the CPEA). The Subdivision must be completed in compliance with all Applicable Laws. Tenant understands and agrees that the Subdivision will require authorizations, approvals, or permits from governmental regulatory agencies with jurisdiction over the Premises, including, without limitation, City agencies. Tenant will be solely responsible for obtaining any and all such approvals. Tenant may not seek any Subdivision approval without first obtaining the written consent of Landlord as owner of the Fee Estate. Tenant will bear all costs associated with applying for and obtaining any necessary or appropriate approval for the Subdivision and will be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of the Subdivision process; provided, however, any such condition that could affect use or occupancy of the Premises or Landlord's interest therein must first be approved by City in its reasonable discretion. Any fines or penalties levied as a result of Tenant's failure to comply with the terms and conditions of any Subdivision approval will be immediately paid and discharged by Tenant, and City will have no liability, monetary or otherwise, for any such fines or penalties. City will cooperate with Tenant in completing the Subdivision, in Landlord's reasonable discretion. Any and all Subdivision documents, including, but not limited to, maps, plans, reciprocal easement agreements, declarations, restrictions, and association documents, must be must be submitted to Landlord in draft form for Landlord's review, comment, and approval, and Tenant will comply with Landlord's requirements for such documents and Landlord shall promptly execute any documents requested by Tenant under this Section. Tenant will indemnify, defend, and hold harmless Landlord and the other Indemnified Parties hereunder against all Claims (as such terms are defined in Section 14 below) arising in connection with the Subdivision, the Subdivision process, or Tenant's failure to obtain Subdivision approval, or failure by Tenant, its agents, or invitees to comply with the terms and conditions of any Subdivision approval. Tenant acknowledges that no subdivision of the Land, including any that results in the Land not being a legal parcel that satisfies the provisions of California Government Code Sections 66410 et seq. will constitute an amendment of this Lease or change the Land or the Premises leased to Tenant under this Lease.

7.7 Grant of Dedications and Easements Within Premises. In conjunction with the Subdivision and development of the Combined Project, and in conformity with the requirements of the CPEA and the Construction Management Agreement, Landlord acknowledges that the governmental agencies exercising jurisdiction over the Premises and/or various utility companies providing utilities to the Premises (including for electricity, water, steam, gas, telephone, and sewer), may require the grant of various dedications and easements with respect to the Premises affecting not only the Leasehold Estate, but also the Fee Estate. Landlord agrees to cooperate and join with Tenant in granting such interests in the Landlord's Fee Estate in the Premises that are so required to the extent reasonably consistent with the use of the Premises contemplated by the parties without further consideration payable by Tenant to Landlord for doing so, but subject to Landlord's reasonable approval as to the form and content of such grant and provided it is at Tenant's sole cost. Landlord shall promptly execute any documents requested by Tenant under

this Section. Landlord will endeavor to execute such documents within ten (10) business days after Landlord's receipt of complete, correct, and approved documents.

7.8 Construction. In any construction at the Premises, including the construction of the Tower Project, Tenant must comply with this Section 7.8.

7.8.1 Intentionally Omitted.

7.8.2 General Requirements and Rights of City. All construction documents, including but not limited to preliminary and final plans and specifications (collectively the "**Construction Documents**") must be prepared by a Person registered in and by the State of California to practice architecture and must be in conformity with the requirements set forth in this Lease and all Applicable Laws.

7.8.3 Limitation on Landlord's Approval; Landlord Approval of Construction Documents for Tower Project. Landlord's approval with respect to the Construction Documents is limited to the approval of the same as it relates to the Shared Elements (as such term is defined in the REA) and compliance with the contracting requirements set forth in Exhibit B to this Lease and compliance with Applicable Laws.

7.8.4 Landlord Does Not Approve Compliance with Construction Requirements. Landlord's approval will be given only in its proprietary capacity as the owner of the Fee Estate and is not directed to engineering or structural matters or compliance with local building codes and regulations, the Americans with Disabilities Act, or any other Applicable Law relating to construction standards or requirements. Nothing in this Lease will limit in any way Tenant's obligation to obtain any required approvals from City officials, departments, boards, or commissions having jurisdiction over the Premises. By entering into this Lease, City is in no way modifying or limiting Tenant's obligation to cause the Premises to be used and occupied in accordance with all Applicable Laws.

7.8.5 Construction to Comply with Construction Documents and Law.

(a) Compliance with Landlord Approved Documents. The construction on the Premises must be in compliance with Landlord-approved Construction Documents as provided above in this Section 7.8.

(b) Compliance with Local, State, and Federal Law. Construction on the Premises must be in strict compliance with all Applicable Laws. Tenant understands and agrees that Tenant's use of the Premises and construction of the Improvements permitted under this Lease will require authorizations, approvals, or permits from governmental regulatory agencies with jurisdiction over the Premises, including, without limitation, City agencies. Tenant will be solely responsible for obtaining any and all such regulatory approvals. Tenant may not seek any regulatory approval without first obtaining the written consent of Landlord, which written consent shall not to be unreasonably withheld and shall be deemed given if Landlord fails to respond to Tenant within ten (10) business days following delivery to Landlord of Tenant's written request for approval, provided the same is followed by a second written request for approval delivered to Landlord, and Landlord fails to respond to Tenant within five (5) business days following delivery to Landlord of Tenant's second written request for approval. Tenant will bear all costs associated

with applying for and obtaining any necessary or appropriate regulatory approval and will be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval; provided, however, any such condition that could affect use or occupancy of the Premises and Landlord's reversionary interest in the Leasehold Estate must first be approved by Landlord in its reasonable discretion. Any fines or penalties levied as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval will be immediately paid and discharged by Tenant, and Landlord will have no liability, monetary, or otherwise, for any such fines or penalties. Tenant will indemnify, defend, and hold harmless Landlord and the other Indemnified Parties hereunder against all Claims arising in connection with Tenant's failure to obtain or failure by Tenant, its agents, or invitees to comply with the terms and conditions of any regulatory approval.

7.8.6 Building Permits. Tenant will have the sole responsibility for obtaining all necessary building permits and will make application for such permits directly to the City Department of Building Inspection and other appropriate departments and agencies.

7.8.7 Intentionally Omitted.

7.8.8 City Approval of Changes after Commencement of Construction. Tenant may not approve or permit any change to the Construction Documents after the same has been approved by Landlord without Landlord's prior written consent, which written consent shall not to be unreasonably withheld and, as to changes that do not affect the requirements set forth on Exhibit B, shall be deemed given if Landlord fails to respond to Tenant within ten (10) business days following delivery to Landlord of Tenant's written request for approval, provided the same is followed by a second written request for approval delivered to Landlord, and Landlord fails to respond to Tenant within five (5) business days following delivery to Landlord of Tenant's second written request for approval.

7.8.9 Reports. Commencing when construction of the Combined Project (as such term is defined in the CPEA) commences and continuing until completion of construction of the Improvements, Tenant will make a report in writing to Landlord not less than every month, in such detail as may reasonably be required by Landlord, as to the actual progress of the Tenant with respect to the construction of the Combined Project.

7.9 City Requirements. As long as the Fee Estate is owned by the City and County of San Francisco, Tenant shall comply, and, to the extent it is not prevented from doing so by Applicable Laws, use commercially reasonable efforts to cause its subtenants and any other Person Tenant or a subtenant allows to use the Premises, to comply, with the requirements set forth in the attached Exhibit B.

7.10 Landlord Acting as Owner of Real Property. Landlord is entering into this Lease in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers and any approvals Landlord may give under this Lease will be given only in its proprietary capacity as a landowner and is not directed to engineering or structural matters or compliance with local building codes and regulations, the Americans with Disabilities Act, or any other Applicable Law relating to construction standards or requirements. Nothing in this Lease will limit in any way Tenant's obligation to obtain any required approvals from the

officials, departments, boards, agencies, commissions of the City and County of San Francisco or other body having jurisdiction over the Premises. By entering into this Lease, Landlord is not modifying or limiting Tenant's obligation to cause the Premises to be used and occupied in accordance with all Applicable Laws.

7.11 Hazardous Material Neither Tenant nor any subtenant, nor any agent, employee, representative, contractor, or subcontractor of either Tenant, any subtenant will cause or permit any Hazardous Substance to be brought on, kept, used, stored, generated or disposed of in, on, or about the Property, or transported to or from the Property, except as needed for the construction of the Combined Project and only in compliance with all applicable Environmental Laws at all times. Tenant will give City immediate written notice of: (a) any action, proceeding, or inquiry by any governmental authority (including the California State Department of Health Services, the State or any Regional Water Quality Control Board, the Bay Area Air Quality Management District, or any local governmental entity) against Tenant with respect to the presence or Release or suspected presence or Release of any Hazardous Substance on the Premises or the migration thereof from or to other property; (b) all demands or claims made or threatened by any third party against Tenant or the Premises relating to any loss or injury resulting from any Hazardous Substance; (c) any Release of Hazardous Substance on or about the Premises that has occurred and may require any Investigation or Remediation; and (d) all matters of which Tenant is required to give notice under Section 25359.7 of the California Health and Safety Code.

7.12 Access. As of the Effective Date and through the Term, Tenant will permit access to the Premises to Landlord whenever and to the extent necessary to carry out the purposes of the provisions of this Lease, at reasonable times and upon reasonable advance notice.

8. LIMITATIONS ON LANDLORD'S RIGHTS UNDER THIS SECTION. NOTWITHSTANDING ANYTHING STATED TO THE CONTRARY IN THIS LEASE, THE PROVISIONS OF SECTIONS 7.1 AND 7.8 ABOVE SHALL BE OF NO FORCE AND EFFECT AS OF THE DATE THAT THE CITY AND COUNTY OF SAN FRANCISCO NO LONGER OWNS FEE TITLE TO THE LAND. Title to all Improvements which are part of the Premises shall be in and remain in Tenant for and during the entire Term, but upon the expiration or termination of the Term title shall vest automatically and without further action of the Parties in Landlord as to all Improvements then included within the Premises. Without limiting the foregoing, Tenant shall execute such documents as are reasonably requested by Landlord to confirm the provisions of this Section.

9. DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS. In the case of damage to, or destruction of, the Improvements (or any portion thereof) by fire or any other cause, Tenant shall rebuild the Improvements to the extent necessary to deliver to Landlord the Fire Station Improvements as required under Section 12.1(b) and 12.2(b) of the CPEA. Tenant shall be entitled to all insurance proceeds payable in connection with any such damage or destruction and Landlord shall have no interest in the same. Notwithstanding the foregoing, following the transfer to the City and County of San Francisco of the Fire Station Improvements or following the Deemed Transfer Date, as applicable, in the case of damage to, or destruction of, the Improvements (or any portion thereof) by fire or any other cause, Tenant may, but shall not be obligated to (but subject to the terms and conditions of the REA), rebuild the same in its sole and absolute discretion. If Tenant does not elect to rebuild the same it shall promptly remove the debris

resulting from such damage, and within one hundred twenty (120) days (or such longer period if needed due to force majeure delays) from the date of such damage, restore the Premises to a clean and safe condition, and otherwise in accordance with the terms and conditions of the REA Subject to the terms and conditions of the REA, Tenant shall be entitled to all insurance proceeds payable in connection with any such damage or destruction and Landlord shall have no interest in the same.

10. CONDEMNATION

10.1 Parties' Rights and Obligations to be Governed by Agreement. If, during the term of this Lease, there is a Taking of all or any part of the Premises or a Taking of any interest in the Leasehold Estate, the rights and obligations of the parties will be determined under this Article 10. Accordingly, Tenant waives any right to terminate this Lease upon under Sections 1265.110, 1265.120, 1265.130 and 1265.140 of the California Code of Civil Procedure, as those sections may from time to time be amended, replaced, or restated.

10.2 Notice. In case of the commencement of any proceedings or negotiations that might result in a Taking of all or any portion of the Premises or the Leasehold Estate during the Term, the Party learning of such proceedings will promptly give written notice of the proceedings or negotiations to the other Party. The notice will describe with as much specificity as is reasonable, the nature and extent of such Taking or the nature of such proceedings or negotiations and of the Taking that might result, as the case may be.

10.3 Total Taking. If all of the Premises are Taken, this Lease will terminate on the date the condemnor has the right to possession of the Premises.

10.4 Partial Taking. If any portion of the Premises is Taken, this Lease will remain in effect, except that the Tenant may (in its sole and absolute discretion), with Lender's written consent, elect to terminate this Lease if Tenant determines that the remaining portion of the Premises is rendered unsuitable for Tenant's continued use. If Tenant elects to terminate this Lease, then Tenant must exercise its right to terminate under this paragraph by giving notice to Landlord within thirty (30) days after Tenant's receipt of notice as to the nature and extent of the Taking. Tenant's termination notice must include the date of termination, which date may not be earlier than thirty (30) days or later than six (6) months after the date of Tenant's notice; except that this Lease will terminate on the date the condemnor takes (in accordance with Applicable Law) possession of the Premises if that date falls on a date before the date of termination as designated by Tenant. If Tenant does not terminate this Lease within the thirty (30) day notice period, this Lease will continue in full force and effect. If any portion of the Premises is Taken and this Lease remains in full force and effect, then there will be no adjustment in Rent. If there is a partial Taking of the Premises and this Lease remains in full force and effect, then Tenant may, subject to the terms of the Leasehold Mortgage or Mezzanine Loan, use the proceeds of the Taking first to accomplish all necessary restoration to the Premises, including the Shared Elements, and thereafter for use for any other lawful purpose.

10.5 Temporary Taking. If the whole or any part of the Premises, or of Tenant's Leasehold Estate under this Lease, is Taken for temporary use or occupancy, Sections 10.4 and 10.5 will not apply and Tenant shall perform and observe all of the other terms, covenants, conditions, and obligations upon the part of the Tenant to be performed and observed, as though

the Taking had not occurred**, e**xcept only to the extent that Tenant may be prevented from so doing by the condemnor. Tenant shall be entitled to receive (and retain) the entire amount of the Condemnation Proceeds for the Taking, whether paid by way of damages, rent or otherwise, unless such period of temporary use or occupancy extends beyond the expiration of the Term of this Lease.

10.6 Award and Distribution. Any compensation awarded, paid, or received on a total or partial Taking of the Premises shall belong to and be distributed in the following order:

10.6.1 First, to pay the balance due on any outstanding Leasehold Mortgages or Mezzanine Loans (in accordance with their terms) and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals, and lease residuals, to the extent provided therein; and

10.6.2 Second, to Tenant, an amount equal to the then fair market value of the Tenant's interest in the Improvements and the Leasehold Estate (including, but not limited to, the value of Tenant's interest in all Permitted Subleases or other subleases entered into with Landlord's consent), such value to be determined as it existed immediately preceding the earlier Taking or threat of Taking of the Premises; and

10.6.3 Third, to Landlord, any amounts as may determined by the court with respect to Landlord's interest under this Lease.

10.7 Participation in Proceedings. Landlord, Tenant, and the holder of any Leasehold Mortgage or Mezzanine Loan shall have the right to participate in any condemnation proceeding for the purpose of protecting their rights hereunder to the extent the documents relating to any such Leasehold Mortgage or Mezzanine Loan grant to the holder of the same the right to so participate.

10.8 Assignment of Proceeds. If Tenant assigns to any Leasehold Mortgagee and/or Mezzanine Lender any Condemnation Proceeds which Tenant is entitled to receive under this Article 10, Landlord shall recognize such assignment and consents to the payment of such Condemnation Proceeds to such Leasehold Mortgagee and/or Mezzanine Lender.

11. MECHANIC'S LIENS.

11.1 If any mechanic's lien, materialmen's lien, supplier's lien, or other lien is filed against the Fee Estate or any part thereof, based upon any act of Tenant or any Person claiming through or under Tenant, then within thirty (30) days after obtaining knowledge thereof, Tenant shall (i) promptly take such action in accordance with California law (by bonding pursuant to a bond reasonable approved by Landlord and sufficient under California law, including, without limitation, California Civil Code Section 8424 or any comparable statute adopted in the future, to remove such lien as a lien encumbering the title to the Premises as may be necessary to release or satisfy such lien, or (ii) if Tenant desires to contest such lien, furnish to Landlord such bond as Landlord may reasonably require to afford protection against such lien.

11.2 If Tenant fails to comply with the terms of Section 11.1 with respect to any mechanic's lien, materialmen's lien, supplier's lien, or other lien, then, in addition to any other right or remedy, Landlord may, but shall not be obligated to, on no less than ten (10) business days

prior written notice to Tenant, release such lien either by paying the amount claimed to be due or by procuring the release of such lien by deposit or by bonding proceedings. Tenant shall reimburse and pay to the Landlord on demand any amount so paid by Landlord and all out of pocket costs and expenses, including reasonable attorney's fees, incurred by Landlord in connection therewith, together with interest thereon at the Default Interest Rate from the date that such costs and expenses were incurred.

12. LEASEHOLD MORTGAGES AND MEZZANINE LOANS; ASSIGNMENT AND SUBLETTING; MORTGAGEE PROTECTION PROVISIONS

12.1 Leasehold Mortgages and Mezzanine Loans.

12.1.1 Mortgage Pledge. A "**Mortgagee Pledge**" means (1) a mortgage or pledge of Tenant's interest in this Lease to one or more Leasehold Mortgagees (as hereinafter defined), and/or (2) a pledge of the direct or indirect interest in Tenant to one or more Mezzanine Lenders (as hereinafter defined). Tenant shall have the right to make a Mortgagee Pledge, in each case upon prior written notice to Landlord and without Landlord's consent, at any time and from time to time during the Term. Landlord acknowledges that the request to execute an estoppel or any other document for the benefit of a Leasehold Mortgagee and/or Mezzanine Lender shall constitute notice to Landlord and which shall satisfy the notice requirement for a Mortgagee Pledge in this Section. The execution and delivery of a mortgage of Tenant's interest in this Lease (each "**Leasehold Mortgage**"), or pledge of any direct or indirect interest in Tenant, shall not be deemed to constitute an assignment or transfer of this Lease, nor shall any such holder of any Leasehold Mortgage (each a "**Leasehold Mortgagee**" and collectively, the "**Leasehold Mortgagees**") or the holder of such pledge (each a "**Mezzanine Lender**" and collectively, the "**Mezzanine Lenders**"), as such, be deemed an assignee or transferee of this Lease so as to require such Leasehold Mortgagee or Mezzanine Lender to assume the performance of any of the covenants or agreements on the part of Tenant to be performed hereunder. In conjunction with any Leasehold Mortgage or mezzanine loan secured by a pledge of any direct or indirect interest in Tenant (each a "**Mezzanine Loan**"), Tenant may give as collateral to the Leasehold Mortgagee and to the Mezzanine Lender an assignment of and security interest in all of Tenant's rights hereunder, including (i) the rents, income, receipts, revenues, issues, and profits issuing to Tenant from the Premises, (ii) any sublease of all or a portion of the Premises, (iii) Tenant's right of election to vacate or remain in possession of the Premises following any rejection of this Lease in a Landlord bankruptcy, (iv) Tenant's interest in this Lease, and (v) Tenant's interest in all improvements and fixtures, machinery, apparatus, equipment, and personal property of Tenant, in each case, subject to the terms of this Lease. In the event that Tenant enters into one or more Leasehold Mortgages and/or there are one or more Mezzanine Loans, Landlord agrees that it will enter into a "recognition agreement" in form and substance reasonably approved by Landlord confirming the rights of any Leasehold Mortgagee and/or Mezzanine Lender under this Section 12. All proceeds of any loan secured by a Leasehold Mortgage shall be payable solely to Tenant and the proceeds of any Mezzanine Loan shall be payable solely to the borrower thereunder. Under no circumstance whatsoever shall Tenant place or suffer to be placed any lien or encumbrance on Landlord's Fee Estate and any lien or encumbrance of Landlord's Fee Estate executed or authorized by Tenant shall be deemed to be a breach of this Lease (subject to the notice and cure rights set forth in Section 13.1(b) below) on the date of its execution or filing of record regardless of whether or when it is foreclosed or otherwise enforced.

12.1.2 Notice of Default to Landlord. Tenant will require any Leasehold Mortgagee and any Mezzanine Lender to give the Landlord prompt written notice of any default or breach of the Leasehold Mortgage or Mezzanine loan and each Leasehold Mortgage and Mezzanine loan must provide for such notice to the Landlord.

12.1.3 Cost of Financing to be Paid by Tenant. Tenant covenants and affirms that it will bear all of the costs and expenses in connection with (a) the preparation and securing of any Leasehold Mortgage or any Mezzanine loan, (b) the delivery of any instruments and documents and their filing and recording, if required, and (c) all taxes and charges payable in connection with any Leasehold Mortgage and any Mezzanine loan.

12.2 Assignment and Subletting.

12.2.1 Assignment of Lease by Tenant. Prior to the transfer to the City and County of San Francisco of fee title to the Fire Station Property in accordance with the provisions of the CPEA, or prior to the Deemed Transfer Date, if applicable, Tenant shall not have the right to assign its interest under this Lease without the prior written approval of Landlord (which approval may be withheld in Landlord's sole and absolute discretion) ; provided, further, however, that Landlord's consent to the assignment of Tenant's interest under this Lease shall not apply to any assignment arising from any Mortgagee Pledge, any assignment resulting from the foreclosure under any Mortgagee Pledge, or Tenant's encumbering its interest in the Leasehold Estate. Following the transfer to the City and County of San Francisco of fee title to the Fire Station Property in accordance with the provisions of the CPEA, or following the Deemed Transfer Date, if applicable, Tenant shall have the right to assign its interest under this Lease without the approval of the Landlord.

12.2.2 Subleasing. Tenant shall have no right to sublet the Premises (or any part thereof) without the prior written consent of Landlord, which can be withheld or conditioned by Landlord in its absolute and sole discretion, except as expressly provided in this Section 12.2.2. Tenant shall have the right to sublet the Premises (or any part thereof) at any time and from time to time, upon prior written notice to Landlord and without the consent or approval of Landlord, to any Person subject to the following terms and conditions:

(a) The commencement date of the sublease is on or after the date that fee title to the Fire Station Property is transferred to the City and County of San Francisco in accordance with the provisions of the CPEA, or after the Deemed Transfer Date, if applicable.

(b) No Event of Default has occurred and remains uncured under this Lease;

(c) The proposed subtenant is not a Prohibited Person;

(d) The proposed subtenant shall not be subject to a petition in bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation under any law or statute of any government or any subdivision as of the date of the proposed sublease; and

(e) While the City is Landlord, Tenant shall cause any proposed subtenant to expressly acknowledge that it is not entitled to any relocation assistance and benefits in connection with this Lease and agree not to pursue any request, claim, action, or proceeding for relocation

assistance or benefits. Tenant shall Indemnify Landlord for any and all Claims arising out of any relocation assistance or benefits of any subtenant. Tenant's obligation to Indemnify Landlord shall survive the expiration, termination, assignment, or sublease of this Lease.

Each sublease that complies with the foregoing conditions, is referred to as a "**Permitted Sublease**."

12.2.3 Tenant shall have the right to execute, amend, restate, modify, or terminate any Permitted Sublease at any time and from time to time upon prior written notice to Landlord but without the consent or approval of Landlord so long as at the time of any amendment, restatement, or modification, the subtenant and sublease continue to satisfy the requirements of Section 12.2.2 above.

12.3 Nondisturbance Agreements. Landlord hereby covenants and agrees that Landlord shall, upon Tenant's reasonable request, execute, acknowledge and deliver non-disturbance agreements or recognition agreements, as appropriate, with subtenants under Permitted Subleases in form and substance reasonably satisfactory to Landlord and Tenant. Landlord will respond to Tenant's request with its execution or comments to the requested agreement within thirty (30) days after Tenant's request.

12.4 Encumbrances, Transfers or Assignments by Landlord. Notwithstanding any other provision of this Lease, (a) Landlord shall have no right to grant one or more mortgages, deeds of trust or security interests on all or any portion of its Fee Estate without Tenant's prior written approval, which approval may be withheld by Tenant in its sole and absolution discretion, and (b) Landlord shall have no right to transfer or assign the Fee Estate (or any interest therein) without Tenant's prior written approval, which approval may be withheld by Tenant in its sole and absolute discretion, it being understood by Landlord that such rights of Landlord must be restricted as provided herein (given Landlord's obligation to transfer the Fee Estate to Tenant as expressly provided in the CPEA) and that any such transfer or encumbrance in violation of this Section shall be void and of no force or effect.

12.5 Lender Protection Provisions.

12.5.1 Notices to Leasehold Mortgagees; Leasehold Mortgagee's Right to Cure.

(a) Notices to Leasehold Mortgagees. If Landlord has received prior written notice of a Leasehold Mortgagee (either by that Leasehold Mortgagee or by Tenant) with its name and address and a description of its security interest in Tenant or this Lease, Landlord shall send to that Leasehold Mortgagee, by certified or registered mail, a true, correct and complete copy of any notice to Tenant of a default by Tenant under this Lease at the same time as and whenever any such notice of default shall be given by Landlord to Tenant, addressed to such Leasehold Mortgagee at the address last furnished to Landlord by Tenant or such Leasehold Mortgagee. Each Leasehold Mortgagee has the right, but not the obligation, at any time before termination of this Lease and without payment of any penalty other than the interest on unpaid rent, to pay all of the rents due under this Lease, to effect any insurance, to pay any taxes and assessments, to perform any construction, to make any repairs and improvements, to do any other act or thing required of Tenant or necessary and proper to be done in the performance and

observance of the agreements, covenants and conditions of this Lease to prevent a termination of this Lease (or to cure any default under this Lease) to the same effect as if the same had been made, done, and performed by Tenant instead of by Leasehold Mortgagee.

(b) Leasehold Mortgagee's Right to Cure. Notwithstanding anything stated to the contrary in this Lease, Landlord shall have no right to terminate this Lease because of a default or breach hereunder on the part of Tenant until and unless:

(i) written notice of any such default or breach has been delivered to Leasehold Mortgagee in accordance with the provisions of Section 12.5.1(a) above,

(ii) with respect to a default or breach that is curable solely by the payment of money, Leasehold Mortgagee and Tenant have failed to cure such default or breach within sixty (60) days from the date of the written notice of default from City to Tenant with a copy to Leasehold Mortgagee, and

(iii) with respect to a default or breach that is not curable solely by the payment of money, Leasehold Mortgagee and Tenant has failed to cure such default or breach within ninety (90) days from the date of the written notice of default from City to Tenant with a copy to Leasehold Mortgagee or, if such default or breach is curable but cannot be cured within such time period, (A) Leasehold Mortgagee has failed to notify Landlord within such time period that Leasehold Mortgagee intends to cure such default or breach, (B) Leasehold Mortgagee fails to diligently commence to cure such default or breach, or (C) Leasehold Mortgagee fails to diligently prosecute such cure. It is expressly understood and agreed that no Leasehold Mortgagee shall have any obligation hereunder to cure or complete any cure of any breach or default by Tenant hereunder.

If there is more than one Leasehold Mortgagee and Mezzanine Lender at the time of a Tenant default, the cure periods described above shall be concurrent and the then-Leasehold Mortgagees and/or Mezzanine Lenders must have mutually agreed, in writing, as to which Leasehold Mortgagee or Mezzanine Lender will perform the cure if any of them elect to do so.

12.5.2 Landlord's Consents. Landlord hereby consents to, and agrees that any Leasehold Mortgage may contain provisions for any or all of, the following:

(a) An assignment of Tenant's share of the net proceeds from available insurance coverage or from any award or other compensation resulting from a total or partial taking of the Premises by condemnation.

(b) The entry by the Leasehold Mortgagee upon the Premises during business hours, without notice to Landlord or Tenant, to view the condition of the Premises.

(c) A default by Tenant under this Lease being deemed to constitute a default under the Leasehold Mortgage.

(d) An assignment of Tenant's right, if any, to terminate, cancel, modify, change, supplement, alter or amend this Lease, including without limitation Tenant's right under

Section 365(h)(1) of the Federal Bankruptcy Code to elect to treat this Lease as terminated, and an assignment of all of Tenant's other rights under the Federal Bankruptcy Code.

(e) An assignment of any sublease to which the Leasehold Mortgage is subordinated.

(f) The following rights and remedies to be available to the Leasehold Mortgagee upon any default under any Leasehold Mortgage:

(i) The foreclosure of the Leasehold Mortgage pursuant to a power of sale, by judicial proceedings or other lawful means and the transfer of the leasehold estate hereunder to the purchaser at the foreclosure sale, or the transfer to the Leasehold Mortgagee or its nominee or designee of the Leasehold Estate through assignment in lieu of foreclosure, and a subsequent sale or sublease of the leasehold estate hereunder by such purchaser if the purchaser is the Leasehold Mortgagee or its nominee or designee or by such transferee in connection with any assignment in lieu of foreclosure.

(ii) The appointment of a receiver, irrespective of whether the Leasehold Mortgagee accelerates the maturity of all indebtedness secured by the Leasehold Mortgage.

(iii) The right of the Leasehold Mortgagee or the receiver appointed under subsection (ii) above to enter and take possession of the Premises, to manage and operate the same in compliance with the terms and conditions of this Lease, to collect the subrentals, issues and profits therefrom and any other income generated by the Premises or the operation thereof and to cure any default under the Leasehold Mortgage or any default by Tenant under this Lease.

(iv) An assignment of Tenant's right, title and interest under this Lease in and to any deposit of cash, securities or other property which may be held to secure the performance of covenants, conditions and agreements contained in this Lease, in the premiums for or dividends upon any insurance provided for the benefit of any Leasehold Mortgagee or required by the terms of this Lease, as well as in all refunds or rebates of taxes or assessments upon or other charges against the Premises, whether paid or to be paid.

12.5.3 No Voluntary Surrender; Subordination; Modification.

(a) Without the written consent of all Leasehold Mortgagees, Landlord agrees not to accept a voluntary surrender of this Lease at any time while the Leasehold Mortgage of any Leasehold Mortgagee shall remain a lien on the leasehold estate hereunder. Landlord and Tenant further agree for the benefit of each Leasehold Mortgagee that, so long as any such Leasehold Mortgage remains a lien on the Leasehold Estate, Landlord and Tenant will not subordinate this Lease, or any new lease entered into pursuant to Section 12.5.10 below, to any mortgage or deed of trust that may hereafter be placed on Landlord's reversionary fee interest in the Premises, without securing the prior written consent of such Leasehold Mortgagee.

(b) If it becomes necessary for any reason to modify or supplement this Lease in any respect whatsoever, and the Leasehold Mortgagee having the most senior lien consents in writing to such modification or supplement, then Landlord shall obtain the express written consent thereto of the holder of any mortgage or deed of trust then encumbering Landlord's

reversionary fee interest in the Premises and an express written subordination of such fee mortgage or deed of trust to this Lease as so modified or supplemented, which subordination shall be in recordable form and otherwise acceptable to such senior Leasehold Mortgagee and shall be recorded concurrently with the modification or supplement (or memorandum thereof, as the case may be).

12.5.4 Permitted Transfers Relating to a Leasehold Mortgage.

(a) Notwithstanding anything stated to the contrary in this Lease, the following transfers shall be permitted and shall not require the approval or consent of Landlord:

(i) A transfer of the leasehold estate created under this Lease at foreclosure sale under the Leasehold Mortgage, whether pursuant to the power of sale contained therein or a judicial foreclosure decree, or by an assignment in lieu of foreclosure, or

(ii) Any subsequent transfer by the Leasehold Mortgagee or its nominee or designee if the Leasehold Mortgagee, or such nominee or designee, is the purchaser at such foreclosure sale or under such assignment in lieu of foreclosure.

(b) Any transferee arising from any transfer permitted under clause (a) above shall be liable to perform the obligations of Tenant under this Lease only so long as such transferee holds title to the Leasehold Estate, provided that upon any conveyance of title, such transferee's transferee expressly assumes and agrees to perform all of the obligations of this Lease first arising after the date of such conveyance and remedying any breaches of, or defaults under this Lease that are existing and continuing from and after the date of such transfer to the extent the same are curable.

(c) Following the transfer, if any, described in Section 12.5.4(a)(i) above, all Uncurable Events of Default existing under the Lease prior to such transfer shall be deemed waived without further notice or action of any party.

12.5.5 Notices of Defaults. Upon and immediately after the recording of a Leasehold Mortgage, Landlord, at Landlord's expense, may cause to be recorded in the Official Records, a written request duly executed and acknowledged by Landlord for a copy of any notice of default and of any notice of sale under the Leasehold Mortgage as provided by the statutes of the State of California.

12.5.6 No Merger. If title to Landlord's estate and to Tenant's estate is acquired by the same Person, other than as a result of termination of this Lease, no merger shall occur if the effect of such merger would extinguish or in any way impair the lien of any Leasehold Mortgage.

12.5.7 Waiver of Subrogation. Any policy of hazard insurance for the Premises procured by Landlord shall contain an endorsement waiving the insurer's right of subrogation as against the Leasehold Mortgagee and Tenant, acknowledging that Landlord shall have no obligation to carry any such policy.

12.5.8 Amendments. If, in connection with any financing or refinancing of the leasehold estate hereunder by Tenant, any Leasehold Mortgagee requests any changes or additions to this Lease, Landlord and Tenant shall amend this Lease to include such changes or additions, provided that such changes or additions do not violate any of the terms and conditions set forth in the other Project Documents (as defined in Section 22 below), do not materially impair Landlord's rights under this Lease, materially increase Landlord's obligations under this Lease, materially decrease Tenant's obligations under this Lease; or materially decrease the value of this Lease or of Landlord's reversionary fee interest under this Lease. Notwithstanding anything to the contrary contained in this Lease, this Lease shall not be amended or modified without the written consent of all Leasehold Mortgagees.

12.5.9 Non-Disturbance of Subleases. Upon any termination of this Lease for any reason whatsoever, neither Landlord nor any mortgagee of the Landlord's revisionary fee interest in the Premises shall disturb the possession of any sublessee under any Permitted Sublease.

12.5.10 New Lease to Leasehold Mortgagee. If this Lease is terminated for any reason (including, without limitation, Tenant's default hereunder), then any Leasehold Mortgagee may elect to demand a new lease of the Premises by written notice to Landlord within thirty (30) days after such termination. Upon any such election, the following provisions shall apply:

(a) The new lease shall be for the remainder of the term of this Lease, effective on the date of termination, at the same Rent and shall contain all of the same covenants, agreements, conditions, provisions, restrictions, and limitations as are then contained in this Lease. Such new lease shall be subject to all existing Permitted Subleases.

(b) Landlord will execute the new lease within either ten (10) business days after receipt by Landlord of written notice of the Leasehold Mortgagee's or such other acquiring Person's election to enter into a new lease.

(c) If Tenant refuses to surrender possession of the Premises, Landlord shall, at the request of the Leasehold Mortgagee or such other acquiring Person, institute and pursue diligently to conclusion the appropriate legal remedy or remedies to oust or remove Tenant and all subtenants or other occupants actually occupying the Premises or any part thereof who are not authorized to remain in possession hereunder. Any such action taken by Landlord at the request of the Leasehold Mortgagee or such other acquiring Person shall be at the Leasehold Mortgagee's or such other acquiring Person's sole expense.

12.5.11 Rights of Mezzanine Lender and Leasehold Mortgagee; Rights for Subleasehold Mortgagees. Any Mezzanine Lender that makes a loan to Tenant, or to any entity holding an interest in Tenant, directly or indirectly, that is secured by a pledge of equity interests in Tenant, directly or indirectly, shall be entitled to all of the rights and remedies under this Section 12.5 that are afforded to a Leasehold Mortgagee under this Lease, including, without limitation, the transfer (as provided for in Section 12.5.4 hereof for Leasehold Mortgagees) without Landlord's consent of any equity interest in Tenant (or in in any entity holding an indirect interest in Tenant) pursuant to a UCC sale, an assignment in lieu of sale, or otherwise, the granting to any Mezzanine Lender of a new lease under the terms of Section 12.5.10 hereof, the receipt of all notices to which any Leasehold Mortgagee is entitled hereunder (provided that Landlord has

received prior written notice of the name and contact information for that Mezzanine Lender and the nature of its interest in the Tenant's equity interests) and the need to obtain Mezzanine Lender's consent for those items for which a Leasehold Mortgagee's consent is required under this Section 12.5, provided, however, that such rights and remedies shall be subject and subordinate to the rights of any Leasehold Mortgagee, and shall not impair any of the rights and remedies afforded any Leasehold Mortgagee, hereunder. In addition, all leasehold mortgagees holding a leasehold mortgage on the leasehold estate created by any Permitted Sublease or sublease consented to by City entered into by Tenant, as sublandlord, and a tenant, as subtenant, shall also be entitled to all of the rights and remedies under this Section 12.5 that are afforded to a Leasehold Mortgagee under this Lease; provided, however, that such rights and remedies shall be subject and subordinate to the rights of any Leasehold Mortgagee, and shall not impair any of the rights and remedies afforded any Leasehold Mortgagee, hereunder.

13. DEFAULT PROVISIONS.

13.1 Defaults. Each of the following events shall be a default by Tenant and a breach of this Lease (each, an "**Event of Default**"):

(a) Tenant fails to pay Rent or any other charges on the date the same are due and payable, and such failure continues for ten (10) business days following receipt by Tenant of written notice from Landlord of such failure (a "**Monetary Default**"); and

(b) Tenant fails to perform any material term, covenant, or condition under this Lease (other than as described elsewhere in this Section 13.1) on the date the same is required under this Lease, and such failure continues for thirty (30) days following receipt by Tenant of written notice from Landlord of such failure, provided that if (i) such failure is not reasonably susceptible to cure within thirty (30) days, (ii) but is reasonably susceptible to cure over a longer period of time, then such thirty (30) day period shall be extended to such date as may be reasonably necessary to permit Tenant to cure such failure provided Tenant promptly commences to cure such default (unless it is prevented from doing so by Applicable Laws) within the initial thirty (30) day period and diligently prosecutes the cure to completion.

(c) Subject to the provisions of Section 13.2.1(d) below, a Bankruptcy Event occurs with respect to Tenant (an "**Uncurable Event of Default**").

13.2 Landlord's Remedies.

13.2.1 Upon the occurrence of an Event of Default, Landlord shall have the following rights and remedies:

(a) The right to terminate this Lease, in which event Tenant shall immediately surrender possession of the Premises, and pay to Landlord all Rent (if applicable), and other charges and amounts due from Tenant hereunder to the date of termination; provided, however, the right to terminate this Lease with respect to a Monetary Default shall only be available to Landlord if, after expiration of the initial ten (10) business day cure period set forth in Section 13.1(a), Landlord shall have sent to Tenant a notice requesting payment which states: "FAILURE TO MAKE A PAYMENT PURSUANT TO THIS NOTICE MAY RESULT IN TERMINATION

OF THE GROUND LEASE AT 530 SANSOME STREET, SAN FRANCISCO, CA," and Tenant shall thereafter fail to make such payment within ten (10) business days of such second notice.

(b) The rights and remedies described in California Civil Code Section 1951.2 or any other applicable existing or future Applicable Laws providing for recovery of damages for a breach, pursuant to which Landlord may recover from Tenant upon a termination of this Lease, (1) the worth at the time of award of any unpaid Rent which had been earned at the time of termination, together with interest at the Default Rate, on those amounts from the date the Rent is due and payable until the date of the award of damages; (2) the worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; (3) the worth at the time of the award of the amount by which the Rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided and (4) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of events would be likely to result therefrom. The "worth at the time of award" of the amounts referred to in (1) and (2) above is computed by allowing interest at the rate of three percent (3%) per annum. The "worth at the time of award" of the amount referred to in (3) above shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

(c) The rights and remedies described in California Civil Code Section 1951.4 that allow Landlord, after Tenant's breach and abandonment, to continue this Lease in effect and to enforce all of its rights and remedies under this Lease, including the right to recover Rent as it becomes due, for so long as Landlord does not terminate Tenant's right to possession. Acts of maintenance or preservation, efforts to relet the Premises or the appointment of a receiver upon Landlord's initiative to protect its interest under this Lease shall not constitute a termination of Tenant's right to possession.

(d) Upon the occurrence of an Uncurable Event of Default, this Lease shall, at the option of Landlord, be terminated upon the thirtieth (30^{th}) day following Landlord's written notice to Tenant that this Lease is being terminated, and following the date of such termination, neither Tenant nor any Person claiming through or under Tenant by virtue of any statute or of any order of any court, shall be entitled to possession or to remain in possession of the Premises or any part thereof, but shall immediately quit and surrender the Premises and pay all Rent owed to Landlord for the period occurring before such termination. Notwithstanding the foregoing, if any bankruptcy or insolvency petition shall be filed against Tenant or any such Bankruptcy Event shall be taken involuntarily against Tenant, and Tenant shall promptly thereafter commence and diligently prosecute any and all proceedings and actions necessary to secure the dismissal of any such petition or the restoration of Tenant to the possession of its assets, and such petition shall be dismissed or Tenant be restored to the possession of its assets within one hundred eighty (180) days after the filing of the aforesaid involuntary petition or the taking of the aforesaid action, Landlord shall not be entitled to cancel and terminate this Lease by reason of the filing of the aforesaid involuntary petition so dismissed or by reason of the removal from possession of its assets to which it shall be so restored, provided Tenant shall within the aforesaid one hundred eighty (180) days pay all the Rent required to be paid by Tenant under the terms of this Lease

which have accrued during the aforesaid period (together with any late charges and interest thereon that may be due and payable pursuant to this Lease).

13.3 Rights Cumulative. The various rights and remedies reserved to Landlord herein, including those not specifically described herein, shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity and the exercise of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity shall not preclude the simultaneous or later exercise by Landlord of any or all other rights and remedies.

13.4 Waiver of Redemption. Except as expressly provided in Section 12.5.10, Tenant hereby waives, for itself and all Persons claiming by and under Tenant, all rights and privileges that it might have under any Applicable Laws to redeem the Premises or to continue this Lease after being dispossessed or ejected from the Premises.

13.5 Landlord's Right to Perform Tenant's Covenants.

13.5.1 If Tenant shall at any time fail to pay any Imposition in accordance with the provisions of Section 4, or to take out, pay for, maintain and deliver any of the insurance policies provided for in Section 6, or to make any other payment or perform any other act on its part required to be made or performed in accordance with any terms of this Lease, then Landlord, after ten (10) business days' notice to Tenant and without waiving or releasing Tenant from any obligation of Tenant contained in this Lease, may, but shall be under no obligation to:

(a) pay any Imposition payable by Tenant pursuant to the provisions of Section 4, or

(b) take out, pay for and maintain any of the insurance policies provided for in Section 6, or

(c) make any other payment or perform any other act on Tenant's part to be made or performed as in this Lease provided, and enter upon the Premises for any such purpose, and take all such action thereon, as may be necessary therefor.

13.5.2 All sums paid by Landlord, and all out of pocket costs and expenses, including reasonable attorney's fees, incurred by Landlord, in connection with the performance of any act permitted under this Section 13.5, together with interest thereon at the Default Interest Rate from the respective dates of Landlord's making of each such payment or incurring of each such cost and expense, shall be paid by Tenant to Landlord within five (5) Business Days of demand. Tenant's obligations under this Section will survive the expiration or termination of this Lease.

13.6 Other Remedies. In addition to the other remedies expressly set forth in this Lease, upon an Event of Default, Landlord shall have such other remedies as may be available under Applicable Laws.

13.7 Notice to Leasehold Mortgagee. If Landlord shall give any notice, demand, election or other communication required under this Article 13 to Tenant, provided that Landlord has received written notice of any Leasehold Mortgage or any Mezzanine Loan, Landlord shall

concurrently give a copy of each such notice to any Leasehold Mortgagee or Mezzanine Lender at the address designated by the Leasehold Mortgagee or Mezzanine Lender, as applicable.

13.8 INDEMNIFICATION OF LANDLORD.

13.8.1 Tenant shall indemnify and save harmless Landlord and its officers and employees (collectively, "**Indemnified Parties**"), against and from any and all claims, demands, causes of action, suits, judgments, losses, damages, injuries (including death), liabilities, penalties, enforcement actions, liens, fines, settlements, encumbrances, costs or expenses (including, without limitation, vicarious liability of every kind and reasonable attorneys' and experts' fees) ("**Claims**") by or on behalf of any Person or Persons arising during the Term (including without limitation Claims for bodily injury, death and property damage) to the extent arising from: (i) the use, any condition, occupancy, maintenance, repair, operation, management and/or construction of or on the Premises (but expressly excluding any Claims arising from the condition of the Premises prior to the Commencement Date), unless such Claim is based on the active gross negligence, violation of law, or willful misconduct of the Indemnified Parties or of a licensee of Landlord or an Affiliate on the Premises without consent of Tenant, (ii) any breach or default on the part of Tenant in the performance or observance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Lease, or (iii) any act or omission (where there was a duty to act) of Tenant, or any of its agents, contractors, representatives, employees or licensees, or arising from any accident, injury, death or damage whatsoever caused to or by any Person and occurring in or about the Premises, unless such Claim is based on a licensee of Landlord or an Affiliate on the Premises without consent of Tenant. Tenant shall also indemnify and save harmless Landlord against and from any and all reasonable, out-of-pocket expenses (including court costs and reasonable attorneys' fees) incurred on account of any such Claim for which Tenant is responsible under the preceding clauses (i) through (iii). In case any action or proceeding is brought against Landlord by reason of any such Claim, Tenant, upon notice from Landlord, shall defend such action or proceeding by counsel approved by Landlord in writing, such approval not to be unreasonably withheld, conditioned, or delayed, but no approval of counsel shall be required in each and every instance where the Claim is defended by counsel of an insurance carrier obligated to defend such Claim. Should any Claim be made against Landlord or an action or proceeding be brought against it as set forth in this Section, Landlord shall give Tenant prompt written notice thereof so as to enable Tenant to defend such Claim, action or proceeding. Provided that Tenant is defending an action or proceeding in accordance with this Section, Landlord shall not enter into any settlement of such action or proceeding without the approval of Tenant, which approval may be given or withheld in Tenant's sole discretion. Tenant expressly acknowledges that Tenant has an immediate and independent obligation to defend Landlord from any Claim that actually or potentially falls within this indemnity provision even if the allegation is or may be groundless, fraudulent, or false, which obligation arises at the time the Claim is tendered to Tenant by Landlord and continues at all times thereafter. Tenant's obligations under this Section will survive the expiration or termination of this Lease.

13.8.2 Notwithstanding anything contained in this Lease to the contrary, under no circumstances shall either Party be liable under this Lease for, and each Party hereby waives any claims for, any speculative, consequential, or punitive damages or lost profits, and each Party shall only be liable for claims relating to actual damages.

14. SURRENDER OF PREMISES.

Upon the expiration or termination of this Lease, Tenant's right to possession of the Premises under this Lease shall cease, and it shall be lawful for Landlord to re-enter and repossess the Premises and any improvements thereon, including by process of law if necessary. Upon such expiration of this Lease, the Improvements shall become and be the property of Landlord free of any claim or interest therein on the part of Tenant. Upon the expiration or termination of this Lease, Tenant shall surrender all keys for the Premises and exclusive possession of the Premises to Landlord broom clean and in good condition and repair, reasonable wear and tear excepted (and casualty damage excepted). Tenant shall surrender the Land and Improvements free and clear of all liens and encumbrances, except for encumbrances created by Landlord. Immediately before the expiration or other termination of this Lease, Tenant will remove all of Tenant's personal property as provided in this Lease, and repair any damage resulting from the removal; provided, in Landlord's sole discretion, Landlord may reserve ownership of any items installed or attached to the Improvements, including, but not limited to, telecommunications equipment, wire, cabling, and/or conduit installed in the Premises. If any damage to the Premises or the Building is caused by such removal, or if Tenant fails to repair, Landlord may do so at Tenant's expense. At Landlord's option, any items of Tenant's personal property remaining in the Premises after the expiration or sooner termination of this Lease may be deemed abandoned and disposed of in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by Applicable Laws. Concurrently with the surrender of the Premises, if requested by Landlord, Tenant will execute, acknowledge, and deliver to Landlord a quitclaim deed to the Premises and any other instrument reasonably requested by Landlord to evidence the termination of Tenant's leasehold estate and to document the transfer or vesting of title to the Improvements or equipment that remain part of the Premises. Tenant's obligations under this Section will survive the expiration or sooner termination of this Lease

15. GOVERNING LAW. This Lease shall be governed by and construed in accordance with the laws of the State of California (without reference to conflicts of laws principles).

16. CAPTIONS, NUMBERINGS AND HEADINGS. Captions, numberings and headings of Articles, Sections and Exhibits in this Lease are for convenience of reference only and shall not be considered in the interpretation of this Lease.

17. NUMBER; GENDER. Whenever required by the context, the singular shall include the plural, the neuter gender shall include the male gender and female gender, and vice versa.

18. BUSINESS DAY. If the date for performance of any obligation under this Lease falls on other than a business day, then such obligation shall be performed on the next succeeding business day, and "business day" shall mean any day other than a Saturday, Sunday or any other day on which federal government offices in San Francisco are closed.

19. COUNTERPARTS. This Lease may be executed in multiple counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

20. SEVERABILITY. If one or more of the provisions of this Lease shall be held to be illegal, invalid or unenforceable, each such provision shall be deemed severable and the remaining provisions of this Lease shall continue in full force and effect.

21. ENTIRE AGREEMENT. This Lease, including its attached exhibits, which are made a part of this Lease by this reference, the CPEA, as amended, the Construction Management Agreement and the REA (collectively, the "**Project Documents**") contain the entire agreement between the parties regarding the Premises and the Combined Project and all prior written or oral negotiations, understandings, and agreements are merged into this Lease and the Project Documents. The parties intend that the Project Documents constitute the complete and exclusive statement of their terms and no extrinsic evidence whatsoever (including prior drafts and changes) may be introduced in any judicial, administrative, or other legal proceeding involving the Project Documents.

22. NO ORAL MODIFICATIONS OR WAIVERS. No modification of this Lease shall be valid or effective unless the same is in writing and signed by Landlord and Tenant (and any Leasehold Mortgagee, if applicable). No purported waiver of any of the provisions of this Lease shall be valid or effective unless the same is in writing and signed by the Party against whom it is sought to be enforced.

23. EXHIBITS. All Exhibits referenced in this Lease are incorporated by this reference as if fully set forth in this Lease.

24. INCLUDING. The word "including," and variations thereof, shall mean "including without limitation."

25. QUIET ENJOYMENT. If and so long as Tenant shall pay the Rent and all other charges agreed to be paid by Tenant, and shall perform and observe all the covenants and conditions herein contained on the part of Tenant to be performed and observed, Tenant shall quietly enjoy the Premises, without the claims of any Person claiming by, through, or under Landlord, subject to the terms and conditions of this Lease. Any permitted transfer or encumbrance by Landlord of its interest in the Premises shall be subject to the terms and conditions of this Lease.

26. NOTICES. Any notices, approvals, requests or demands required to be given, delivered or served or which may be given, delivered, or served under or by the terms and provisions of this Lease, shall be in writing and shall be deemed to have been duly given, delivered or served only if and when (i) delivered by hand to the addressee, (ii) sent by nationally known overnight courier service, or (iii) sent by registered or certified mail, postage prepaid, and deposited at any United States Post Office. Such notices shall be delivered or sent to the addresses set forth below or to any other address as may hereafter be furnished in writing in like manner. The date of hand delivery, the date of delivery or refusal of delivery by the overnight courier or the date of mailing according to the postmark on the wrapper shall be deemed to be the date of service.

Landlord:

Real Estate Division
The City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Re: 530 Sansome Ground Lease
Telephone No. (415) 554-9860
Email Address: Andrico.penick@sfgov.org

with a copy to:

Office of the City Attorney
City Hall,
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102-4682
Attn: Real Estate & Finance Team
Re: 530 Sansome Ground Lease
Telephone No. (415) 554-4711
Email Address: charles.sullivan@sfcityatty.org

Tenant:

EQX Jackson SQ Holdco LLC
44 Montgomery Street, Suite 1300
San Francisco, CA 94104
Attn: Jonathan Shum
Telephone No. (415) 677-9000
Email Address: jshum@related.com

with a copies to:

Greenberg Traurig LLP
18565 Jamboree Road, Suite 500
Irvine, California 92612
Attention: L. Bruce Fischer, Esq.
Telephone No.: (949) 732-6670
Email Address: fischerb@gtlaw.com

The Related Companies, L.P.
30 Hudson Yards, 72nd Floor
New York, New York 10001
Attention: Richard O'Toole
Telephone No.: (212) 801-3952
Email Address: rotoole@related.com

27. ESTOPPEL CERTIFICATES. Tenant agrees at any time and from time to time upon not less than ten (10) business days prior written request by Landlord, to execute, acknowledge and deliver to Landlord an estoppel certificate in the form of that attached hereto as Exhibit D-1, and Landlord agrees at any time and from time to time upon not less than ten (10) business days prior written request by Tenant or any prospective or actual Leasehold Mortgagee or Mezzanine Lender, to execute, acknowledge and deliver to Tenant, Leasehold Mortgagee or Mezzanine Lender, as applicable, an estoppel certificate in the form of that attached hereto as Exhibit D-2. Any statement delivered pursuant to this Section 28 may be relied upon by Landlord, Tenant, any Leasehold Mortgagee or any Mezzanine Lender, as applicable, and any Person that has or may acquire an interest in the Premises, Leasehold Estate, Tenant or Landlord; provided, however, the Party providing the estoppel certificate ("**Responding Party**") shall not be estopped from later asserting there is a default by the other Party if the Responding Party first becomes aware of that default after providing the estoppel certificate.

28. NO MERGER OF ESTATES. The fee title of Landlord and the Leasehold Estate shall at all times be separate, and shall in no event be merged, notwithstanding the fact that this Lease or the Leasehold Estate may be held directly or indirectly by or for the account of any Person who shall own the fee estate in the Premises. No such merger of estates shall occur by operation of law, or otherwise, unless and until all Persons at the time having any interest in the fee estate and all Persons having any interest in the Leasehold Estate, including any Leasehold Mortgagee or Mezzanine Lender, shall join in the execution of a written instrument effecting such merger of estates.

29. MEMORANDUM OF LEASE. This Lease shall not be recorded in the Official Records. Concurrently with the execution of this Lease, Landlord and Tenant have executed a memorandum of this Lease in the form attached hereto as **Exhibit C** that Tenant shall record in the Official Records.

30. TIME OF ESSENCE. Time is of the essence with respect to the performance by Landlord and Tenant of all obligations, and the exercise by Landlord and Tenant of all rights, powers and options, under this Lease.

31. NO PARTNERSHIP. It is agreed that nothing contained in this Lease shall be deemed or construed as creating a partnership, joint venture, unincorporated association or other similar relationship between Landlord and Tenant, or cause Landlord to be responsible in any way for the debts or obligations of Tenant. Neither the method of computing rent nor any other provision contained in this Lease, nor any acts of the parties hereto, shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

32. CONFIDENTIALITY.

32.1 Tenant understands and agrees that under the City's Sunshine Ordinance (S.F. Admin. Code, Chapter 67) and the State Public Records Law (Cal. Gov. Code §§ 6250 et seq.), this Lease and any and all records, information, and materials submitted to Landlord under this Lease are public records subject to public disclosure. Tenant hereby acknowledges that Landlord will disclose any records, information, and materials submitted to the City in connection with this Lease as required by Applicable Laws. If Tenant reasonably believes that any information or material furnished to Landlord connection with this Lease is not subject to disclosure under Applicable Laws, then Tenant will inform Landlord of its reasonable belief in writing and label each piece of information or material as "confidential," in which case Landlord will determine if such information or material is required to be disclosed under Applicable Law. If Landlord confirms that such information or material is not required to be disclosed, then Landlord will keep and maintain such information or material confidential. If there is a request that would cause Landlord to release such information and materials, Landlord will give Tenant fifteen (15) days' notice to allow Tenant to obtain a protective order. If Tenant does not obtain such an order, then Landlord will release such information and material. Confidential information shall also not include information and material which (x) becomes generally available to the public other than as a result of a disclosure prohibited by this Section 33, (y) is known to Landlord or Tenant, as the case may be, on a non-confidential basis, prior to its receipt of such information and material from the other, or (z) becomes available to Landlord or Tenant, as the case may be, on a non-confidential basis from a source other than one which is prohibited from disclosing the same hereunder.

32.2 Notwithstanding Section 33.1, (i) each of Landlord and Tenant may disclose confidential information to its representatives, employees, contractors, consultants, advisors, attorneys, prospective investors and prospective lenders, and prospective tenants ("**Related Parties**"), in each case on a need-to-know basis after the Related Parties have been informed of the confidential nature of such information and directed not to disclose such information except in accordance with this Section 33.2, (ii) each of Landlord and Tenant may disclose confidential information to the extent required by Applicable Laws or legal process or the rules of any securities exchange on which its shares are traded, (iii) a memorandum of this Lease may be recorded

pursuant to Section 30, and (iv) each of Landlord and Tenant shall have the right without the consent of the other to (A) make any disclosures in filings required by the Securities and Exchange Commission, and (B) make customary disclosures in earnings releases, on investor/earnings conference calls and in investor meetings.

33. VENUE. Each Party consents to the jurisdiction of any court in San Francisco County, California for any action arising out of matters related to this Lease. Each Party waives the right to commence an action in connection with this Lease in any court outside of San Francisco County, California.

34. BINDING EFFECT. The rights and obligations under this Lease shall be binding upon, and insure to the benefit of, Landlord and Tenant and their respective permitted successors and assigns; provided, however, that on any sale, assignment, or transfer by Landlord (or by any subsequent landlord) of its Fee Estate, including any transfer by operation of law, Landlord (or any subsequent landlord) will be relieved from all obligations and liabilities arising under this Lease first arising after such sale, assignment, or transfer.

[No Further Text on this Page; Signature Pages Follow]

IN WITNESS WHEREOF, as of the date first written above, Landlord and Tenant have executed this Lease.

LANDLORD:

THE CITY AND COUNTY OF SAN FRANCISCO

By: _____
Name: Andrico Q. Penick
Title: Director of Property

Date: _____

APPROVED AS TO FORM

_____,
City Attorney

By: _____

Deputy City Attorney

TENANT:

EQX JACKSON SQ HOLDCO, LLC,
a Delaware limited liability company

By: _____
Name: Jonathan Shum
Title: Authorized Signatory

EXHIBIT A

Description of the Land

EXHIBIT B

City Requirements

1. First Source Hiring Agreement. Chapter 83 of the San Francisco Administrative Code requires that Tenant enter into a first source hiring agreement on or before the Commencement Date. Accordingly, Tenant and Landlord are parties to the First Source Agreement attached to this Lease as Attachment B-1 to this Exhibit B under San Francisco Administrative Code, Chapter 83 (the "**First Source Agreement**"). Any default by Tenant under the First Source Agreement will be a default under this Lease.

2. Local Hiring Requirements.

(a) Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.62 (the "**Local Hiring Requirements**"). All Improvements and alterations, installations, additions, or improvements, structural or otherwise to any Improvements ("**Alterations**") are subject to the Local Hiring Requirements unless the cost for the work is (i) estimated to be less than $750,000 per building permit or (ii) meets any of the other exemptions in the Local Hiring Requirements. Tenant will comply with the Local Hiring Requirements to the extent applicable. Before starting any construction and installation of Improvement or any Alterations, Tenant will contact Landlord's Office of Economic Workforce and Development ("**OEWD**") to verify if the Local Hiring Requirements apply to the work (i.e., whether the work is a "Covered Project").

(b) In any contract for a Covered Project, Tenant will include, and will require its subtenants to include, a requirement to comply with the Local Hiring Requirements with specific reference to San Francisco Administrative Code Section 23.62. Each contract will name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Tenant will cooperate, and require its subtenants to cooperate, with Landlord in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Tenant's failure to comply with its obligations under this Section will constitute a material breach of this Lease. A contractor's or subcontractor's failure to comply with this Section will enable Landlord to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

3. Prevailing Wages and Working Conditions.

(a) Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.61. Tenant will require its Contractors and Subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, at the Premises to (A) pay workers performing that work not less than the Prevailing Rate of Wages, (B) provide the same hours, working conditions, and benefits as in each case are provided for similar work performed in San Francisco County, and (C) employ Apprentices in accordance with San

Francisco Administrative Code Section 23.61 (collectively, "**Prevailing Wage Requirements**"). Tenant will cooperate with Landlord in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

(b) Tenant will include, and will require its subtenants, and Contractors and Subcontractors (regardless of tier), to include in any Construction Contract the Prevailing Wage Requirements, with specific reference to San Francisco Administrative Code Section 23.61, and the agreement to cooperate in Landlord enforcement actions. Each Construction Contract will name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third-party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Tenant's failure to comply with its obligations under this Section will constitute a material breach of this Lease. A Contractor's or Subcontractor's failure to comply with this Section will enable Landlord to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party. For the current Prevailing Rate of Wages, see www.sfgov.org/olse or call Landlord's Office of Labor Standards Enforcement at 415-554-6235.

(c) Tenant will also pay, and will require its subtenants, and Contractors and Subcontractors (regardless of tier) to pay, the Prevailing Rate of Wage for the following activities on the Premises as set forth in and to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Special Event (as defined in Section 21C.8), Broadcast Services (as defined in Section 21C.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 21C.10), and Security Guard Services for Events (as defined in Section 21C.11).

4. Prevailing Wages for Certain Uses.

(a) Tenant will pay, and will require its subtenants, and contractors and subcontractors (regardless of tier) to pay, prevailing wages, including fringe benefits or the matching equivalents, to persons performing services for the following activity on the Premises as set forth in and to the extent required by San Francisco Administrative Code Chapter 21C: a Public Off-Street Parking Lot, Garage or Automobile Storage Facility (as defined in Section 21C.3), a Show (as defined in Section 21C.4), a Trade Show and Special Event (as defined in Section 21C.8), and Broadcast Services (as defined in Section 21C.9), Commercial Vehicles, Loading and Unloading for Shows and Special Events (as defined in Section 21C.10), and Security Guard Services for Events (as defined in Section 21C.11).

(b) If Tenant, or its subtenants, contractors, and subcontractors fail to comply with the applicable obligations in San Francisco Administrative Code Chapter 21C, Landlord will have all available remedies set forth in Chapter 21C and the remedies set forth in this Lease. Landlord's may inspect and/or audit any workplace, job site, books, and records pertaining to the Landlord services and may interview any individual who provides, or has provided, those services. Promptly after Landlord's request, Tenant will provide to Landlord (and to require any subtenant, contractor, or subcontractor who maintains the records to provide to Landlord)

immediate access to all workers' time sheets, payroll records, and paychecks for inspection to the extent they relate to those services.

- The types of covered services related to a Show includes individuals engaged in theatrical or technical services, including rigging, sound, projection, theatrical lighting, videos, computers, draping, carpentry, special effects, and motion picture services.

- The types of covered services related to a Special Event includes individuals engaged in on-site installation, set-up, assembly, and dismantling of temporary exhibits, displays, booths, modular systems, signage, drapery, specialty furniture, floor coverings, and decorative materials in connection with trade shows, conventions, expositions, and other special events on Landlord property.

- The types of covered services related to Broadcast Services includes individuals engaged in the electronic capture and/or live transmission of on-site video, digital, and/or video content for commercial purposes through the use of a remote production or satellite trust on-site, including any technical director, video controller, assistant director, and stage manager, and individuals engaged in audio, camera, capture and playback, graphics, and utility functions.

If Tenant has any questions about the applicability or implementation of the requirements of this Section, Tenant should contact the San Francisco Director of Property ("Director of Property") in advance.

5. Non-Discrimination in Landlord Contracts and Benefits Ordinance.

(a) In the performance of this Lease, Tenant will not discriminate against any employee, any Landlord employee working with Tenant, or applicant for employment with Tenant, 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 protected classes, or in retaliation for opposition to discrimination against protected classes.

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

(c) Tenant 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 Landlord, or where the work is being performed for Landlord 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 the Legal Requirements authorizing that registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) As a condition to this Lease, Tenant 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. Tenant represents that before execution of this Lease, (i) Tenant executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and (ii) the CMD approved the form.

(e) The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of Landlord property are incorporated in this Section by reference and made a part of this Lease as though fully set forth in this Lease. Tenant will comply fully with and be bound by all of the provisions that apply to this Lease under those Chapters of the Administrative Code, including the remedies provided in those Chapters. Without limiting the foregoing, Tenant understands that under Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars ($50) for each person for each calendar day during which the person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

6. Non-Liability of Officials, Employees, and Agents. No elected or appointed board, commission, member, officer, employee, or other agent of Landlord will be personally liable to Tenant or its successors and assigns for any Landlord default or breach or for any amount that may become due to Tenant or its successors and assigns, or for any Landlord obligation under this Lease.

7. Public Transit Information. At its sole expense, Tenant will establish and carry on during the term of this Lease a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including the distribution of written materials to personnel explaining the convenience and availability of public transportation facilities adjacent or near the Premises and encouraging use of them.

8. Taxes, Assessments, Licenses, Permit Fees, and Liens.

(a) Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and Tenant may be subject to the payment of property taxes levied on its possessory interest.

(b) Tenant will pay taxes of any kind, including possessory interest taxes, lawfully assessed on the leasehold interest created by this Lease, and to pay all other taxes, excises, licenses, permit charges, and assessments based on Tenant's use of the Premises and imposed on

Tenant by Legal Requirements, all of which will be paid when they become due and payable and before delinquency.

(c) Tenant will not allow or suffer a lien for any taxes to be imposed on the Premises or on any equipment or property located in the Premises without promptly discharging the lien, provided that Tenant, if it desires, may have reasonable opportunity to contest the validity of the same.

(d) 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 San Francisco County Assessor not later than sixty (60) days after the Commencement 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. Tenant will also timely provide any information that Landlord may request to ensure compliance with this or any other reporting requirement.

9. No Relocation Assistance; Waiver of Claims. Tenant acknowledges that it will not be a displaced person at the time this Lease is terminated or expires by its own terms, and Tenant fully RELEASES AND DISCHARGES forever any and all Claims against, and covenants not to sue, Landlord, its departments, commissions, officers, directors, and employees, and all persons acting by, through or under each of them, under any Legal Requirements, including any and all claims for relocation benefits or assistance from Landlord under federal and state relocation assistance Legal Requirements (including California Government Code Section 7260 et seq.), except as otherwise specifically provided in this Lease with respect to a Taking.

10. MacBride Principles—Northern Ireland. The provisions of San Francisco Administrative Code Section 12F are incorporated by this reference and made part of this Lease. By signing this Lease, Tenant confirms that Tenant has read and understood that Landlord urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

11. Tropical Hardwood and Virgin Redwood Ban; Preservative-Treated Wood Containing Arsenic. Landlord urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Tenant will not provide any items to the construction of Tenant Improvements or the Alterations, or otherwise in the performance of this Lease, that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. If Tenant fails to comply with any of the provisions of Chapter 8 of the San Francisco Environment Code, Tenant will be liable for liquidated damages for each violation in any amount equal to Tenant's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater. Tenant 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 San Francisco Department of Environment.

12. Restrictions on the Use of Pesticides

(a) Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "**IPM Ordinance**") describes an integrated pest management ("**IPM**") policy to be implemented by all Landlord departments. Tenant may not use or apply or allow the use or application of any pesticides on the Premises or contract with any party to provide pest abatement or control services to the Premises without first receiving Landlord's written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the Term, (ii) describes the steps Tenant will take to meet Landlord's IPM Policy described in Section 300 of the IPM Ordinance, and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Tenant's primary IPM contact person with Landlord. Tenant will comply, and will require all of Tenant's contractors to comply, with the IPM plan approved by Landlord and will comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Tenant were a department of Landlord. Among other matters, the provisions of the IPM Ordinance: (i) provide for the use of pesticides only as a last resort, (ii) prohibit the use or application of pesticides on Landlord property, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by the San Francisco Department of the Environment), (iii) impose certain notice requirements, and (iv) require Tenant to keep certain records and to report to Landlord all pesticide use at the Premises by Tenant's staff or contractors.

(b) If Tenant or Tenant's contractor would apply pesticides to outdoor areas at the Premises, Tenant will first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("**CDPR**") and the pesticide application will be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. Landlord's current Reduced Risk Pesticide List and additional details about pest management on Landlord property can be found at the San Francisco Department of the Environment website, http://sfenvironment.org/ipm.

13. Sunshine Ordinance. In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between Landlord and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement, or benefit. Information provided that is covered by this Section will be made available to the public on request.

14. Conflicts of Interest. Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Article III, Chapter 2 of the San Francisco Campaign and Governmental Conduct Code, and California Government Code Section 87100 et seq. and Section 1090 et seq., and certifies that it does not know of any facts that would constitute a

violation of those provisions, and agrees that if Tenant becomes aware of any violation during the Term, Tenant will immediately notify Landlord.

15. Charter Provisions. This Lease is governed by and subject to the provisions of the San Francisco Charter.

16. Drug-Free Workplace. Tenant acknowledges that under the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession, or use of a controlled substance under federal Legal Requirements is prohibited on Landlord premises. Any violation of this prohibition by Tenant, its agents, or assigns will be a material breach of this Lease.

17. Prohibition of Tobacco Sales and Advertising. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. In addition, Tenant acknowledges and agrees that no Sales, Manufacture, or Distribution of Tobacco Products (as such capitalized terms are defined in Health Code Section 19K.1) is allowed on the Premises and such prohibition must be included in all subleases or other agreements allowing use of the Premises. The prohibition against Sales, Manufacture, or Distribution of Tobacco Products does not apply to persons who are affiliated with an accredited academic institution where the Sale, Manufacture, and/or Distribution of Tobacco Products is conducted as part of academic research.

18. Prohibition of Alcoholic Beverage Advertising. Except in any portions of the Premises used as a restaurant or other facility where the sale, production or consumption of alcohol is permitted under Applicable Laws, no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, "alcoholic beverage" is defined as set forth in California Business and Professions Code Section 23004, and does not include cleaning solutions, medical supplies, and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product.

19. Requiring Health Benefits for Covered Employees.

(a) Unless exempt, Tenant will comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance ("HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as they may be amended from time to time. The provisions of Chapter 12Q are incorporated into this Lease by reference and made a part of this Lease as though fully set forth. The text of the HCAO is available on the web at http://www.sfgov.org/olse/hcao. Capitalized terms used in this Section and not defined in this Lease have the meanings assigned to those terms in Chapter 12Q.

(b) For each Covered Employee, Tenant will provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, the

health plan must meet the minimum standards set forth by the San Francisco Health Commission.

(c) Notwithstanding the above, if the Tenant is a small business as defined in Section 12Q.3(e) of the HCAO, it will have no obligation to comply with subsection (a) above.

(d) Tenant's failure to comply with the HCAO will constitute a material breach of this Lease. Landlord may notify Tenant if a breach has occurred. If, within thirty (30) days after receiving Landlord's written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure the breach or, if the breach cannot reasonably be cured within the thirty (30) days period, and Tenant fails to commence efforts to cure within that period, or fails diligently to pursue the cure to completion, then Landlord will have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies will be exercisable individually or in combination with any other rights or remedies available to Landlord.

(e) Any Subcontract entered into by Tenant will require the Subcontractor to comply with the requirements of the HCAO and contain contractual obligations substantially the same as those set forth in this Section. Tenant will notify the San Francisco Purchasing Department when it enters into a Subcontract and will certify to the Purchasing Department that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Tenant will be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, Landlord may pursue the remedies set forth in this Section against Tenant based on the Subcontractor's failure to comply, provided that Landlord has first provided Tenant with notice and an opportunity to cure the violation.

(f) Tenant may not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying Landlord regarding Tenant's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(g) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(h) Tenant will keep itself informed of the current requirements of the HCAO.

(i) Tenant will provide reports to Landlord in accordance with any reporting standards promulgated by Landlord under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(j) Tenant will provide Landlord with access to records pertaining to compliance with HCAO after receiving a written request from Landlord to do so and being provided at least five (5) business days to respond.

(k) Landlord may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant will cooperate with Landlord when it conducts the audits.

(l) If Tenant is exempt from the HCAO when this Lease is executed because its amount is less than Twenty-Five Thousand Dollars ($25,000) [Fifty Thousand Dollars ($50,000) for nonprofits], but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with Landlord to reach Seventy-Five Thousand Dollars ($75,000), then all the agreements will be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and Landlord to be equal to or greater than Seventy-Five Thousand Dollars ($75,000) in the fiscal year.

20. Notification of Prohibition on Contributions. For the purposes of this Section, a "**City Contractor**" is a party that contracts with, or seeks to contract with, the Landlord for the sale or leasing of any land or building to or from the Landlord whenever such transaction would require the approval by a Landlord elective officer, the board on which that Landlord elective officer serves, or a board on which an appointee of that individual serves. Through its execution of this Lease, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits a City Contractor from making any campaign contribution to (1) the Landlord 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 that contract or twelve (12) months after the date that contract is approved. Tenant 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 $100,000 or more. Tenant further acknowledges that (i) the prohibition on contributions applies to Tenant, each member of Tenant's board of directors, Tenant's chief executive officer, chief financial officer and chief operating officer, any person with an ownership interest of more than ten percent (10%) in Tenant, any subcontractor listed in the contract, and any committee that is sponsored or controlled by Tenant, and (ii) within thirty (30) days of the submission of a proposal for the contract, the Landlord department seeking to enter into the contract must notify the Ethics Commission of the parties and any subcontractor to the contract. Additionally, Tenant certifies it has informed each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 by the time it submitted a proposal for the contract to the Landlord, and has provided the names of the persons required to be informed to the Landlord department seeking to enter into that contract within thirty (30) days of submitting its contract proposal to the Landlord department receiving that submittal, and acknowledges the Landlord department receiving that submittal was required to notify the Ethics Commission of those persons.

21. Resource Efficient Buildings. Tenant acknowledges that Landlord has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction, and operation of buildings owned or leased by Landlord. Tenant will comply with all applicable provisions of those code sections.

22. Food Service and Packaging Waste Reduction Ordinance. Tenant will comply with and is bound by all of the applicable provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated into this Lease by reference and made a part of this Lease as though fully set

forth. Accordingly, Tenant acknowledges that Landlord contractors and lessees may not use Disposable Food Service Ware that contains Polystyrene Foam in City Facilities and while performing under a Landlord contract or lease, and will instead use suitable Biodegradable/Compostable or Recyclable Disposable Food Service Ware. This provision is a material term of this Lease.

23. San Francisco Packaged Water Ordinance. Tenant will comply with San Francisco Environment Code Chapter 24 ("**Chapter 24**"). Tenant may not sell, provide, or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Lease or on Landlord property unless Tenant obtains a waiver from the San Francisco Department of the Environment. If Tenant violates this requirement, Landlord may exercise all remedies in this Lease and the Director of the San Francisco Department of the Environment may impose administrative fines as set forth in Chapter 24.

24. Criminal History in Hiring and Employment Decisions.

(a) Unless exempt, Tenant will comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions), as amended from time to time ("Chapter 12T"), which are incorporated into this Lease as if fully set forth, with respect to applicants and employees of Tenant who would be or are performing work at the Premises.

(b) Tenant will incorporate by reference the provisions of Chapter 12T in all subleases of some or all of the Premises, and require all subtenants to comply with those provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Lease.

(c) Tenant and subtenants may not inquire about, require disclosure of, or if the information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (i) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (ii) participation in or completion of a diversion or a deferral of judgment program; (iii) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (iv) a Conviction or any other adjudication in the juvenile justice system; (v) a Conviction that is more than seven years old, from the date of sentencing; or (vi) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Tenant and subtenants may not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Tenant and subtenants may not require that disclosure or make any inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Tenant and subtenants will state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises, that the Tenant or subtenant will consider

for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Tenant and subtenants will post the notice prepared by the Office of Labor Standards Enforcement ("**OLSE**"), available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice will be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Tenant and subtenants understand and agree that on any failure to comply with the requirements of Chapter 12T, Landlord will have the right to pursue any rights or remedies available under Chapter 12T or this Lease, including a penalty of $50 for a second violation and $100 for a subsequent violation for each employee, applicant, or other person as to whom a violation occurred or continued, or termination of this Lease in whole or in part.

(h) If Tenant has any questions about the applicability of Chapter 12T, it may contact Landlord's Real Estate Division for additional information. Landlord's Real Estate Division may consult with the Director of Landlord's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

25. All-Gender Toilet Facilities. Tenant will comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of the Building where extensive renovations are made. An "all-gender toilet facility" means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and "extensive renovations" means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by Administrative Code Section 4.1-3. If Tenant has any question about applicability or compliance, Tenant should contact the Director of Property for guidance.

26. Employee Signature Authorization Ordinance. Landlord has adopted an Employee Signature Authorization Ordinance (San Francisco Administrative Code Sections 23.50–23.56). That ordinance requires employers of employees in hotel or restaurant projects on public property with fifty (50) or more employees (whether full-time or part-time) to enter into a "card check" agreement with a labor union regarding the preference of employees to be represented by a labor union to act as their exclusive bargaining representative. Tenant will comply with the requirements of the ordinance, if applicable, including any requirements in the ordinance with respect to its subtenants, licensees, and operators.

27. Tenant's Compliance with Business and Tax and Regulations Code. Tenant acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the San Francisco 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 Landlord under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment Landlord is required to make to Tenant under this Lease is withheld, then Landlord 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 Tenant, without interest,

late fees, penalties, or other charges, upon Tenant coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

28. Consideration of Salary History. In addition to Tenant's obligations as an employer under San Francisco Police Code Article 33J, Tenant must comply with San Francisco Administrative Code Chapter 12K. For each employment application to Tenant for work of eight (8) or more hours per week at the Premises, Tenant must not consider the applicant's current or past salary (a "**Salary History**") in deciding whether to hire the applicant or what salary to offer the applicant unless the applicant voluntarily discloses that Salary History without prompting. In addition, Tenant must not (1) ask those applicants about their Salary History, (2) refuse to hire, or otherwise disfavor, injure, or retaliate against applicants that do not disclose their Salary History, or (3) disclose a current or former employee's Salary History without that employee's authorization unless it is required by law, publicly available, or subject to a collective bargaining agreement. Tenant is subject to the posting, enforcement, and penalty provisions in Chapter 12K. Information about Chapter 12K is available on the web at https://sfgov.org/olse/consideration-salary-history.

29. GASB 87 Lease Accounting. The Governmental Accounting Standards Board ("**GASB**"), an independent organization that establishes accounting and financial reporting standards for U.S. state and local governments, issued Statement 87 to improve certain reporting and accounting practices. In connection with GASB 87, Tenant agrees to complete the checklist set forth in the attached Attachment B-2 and provide the same to Landlord within thirty (30) days of the Commencement Date in order to facilitate the Landlord's collection and evaluation of information for Landlord's financial reporting purpose.

Attachment B-1

First Source Hiring Agreement [PLEASE PROVIDE A COPY OF THIS AGREEMENT]

Attachment B-2

GASB CHECKLIST

Checklist for Supplier Lease Contracts

The following checklist has important tips and examples that should be considered ensuring required accounting information are included.

Lease Term and Provision	**Yes**	**No**	**N/A**
1. Is this an amendment of existing lease?	☐	☐	
2. Confirm the lease agreement date	☐	☐	☐
3. Confirm the lease commencement date and end date	☐	☐	☐
4. Include payment frequency (such as one time, monthly, quarterly, annually or event based)	☐	☐	☐
5. Identify the based amount per payment frequency	☐	☐	☐
6. Is lease payment rate adjustment applicable? *Note: For example, reference index, specific rate or other calculation method.*	☐	☐	☐
7. Any variable payments by performance is applicable? *Note: For examples, retail space rent includes calculation based on gross sales or copier charges for per-page fee.*	☐	☐	☐
8. Is lease incentives applicable? *Note: Lease incentives refer to incentives provided by lessor for lease improvements or moving expenses. For example, rent credits or free rent during constructions.*	☐	☐	☐
9. Any security deposit required? (Please include the amount)	☐	☐	☐

10. Is the lease cancelable?	☐	☐	☐
Note: please include when and who can request to cancel the agreement. Also, identify any penalties.			
11. Does this lease contain Renewal options?	☐	☐	☐
Note1: Please include terms, rent calculation, and any end of lease procedure of renewal *Note2: Indicate the date that the lessor is required to be notified by in order to renew the lease.*			
12. Does this lease contain a purchase option?	☐	☐	☐
Note: is the lessee reasonably certain to exercise this purchase option?			

EXHIBIT C

Memorandum of Ground Lease

[Attached]

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Greenberg Traurig LLP
18565 Jamboree Road
Suite 500
Irvine, California 92612
Attention: Bruce Fischer

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

MEMORANDUM OF GROUND LEASE

This MEMORANDUM OF GROUND LEASE (this "**Memorandum**") is executed as of_____, 20[_], by the City and County of San Francisco, as landlord ("**Landlord**"), and EQX Jackson SQ Holdco LLC, a Delaware limited liability company ("**Tenant**") with reference to the following facts:

Landlord and Tenant have entered into that certain Ground Lease dated [●], 20[_] (the "**Lease**") for those certain premises (the "**Premises**") located in the County of San Francisco, State of California, and more particularly described on Exhibit A attached hereto and incorporated herein by reference, together with all rights and privileges appurtenant thereto. Capitalized terms used herein but not otherwise defined herein shall have the meaning given to them in the Lease.

1. Agreement to Lease. In accordance with the terms and condition of the Lease, Landlord leases to Tenant, and Tenant leases from Landlord, the Premises, which Lease is hereby incorporated herein by reference.

2. Term. Subject to the terms and conditions contained in the Lease, the Premises is leased for a term of ninety-nine (99) years, commencing on the Commencement Date, unless terminated earlier, as provided in the Lease.

3. Transfer or Encumbrance of Fee Title to Premises; Transfer of Fee Title to Tenant. In accordance with the terms and conditions of (a) the Lease, Landlord has no right to transfer or encumber its fee interest in the Premises without Tenant's approval, which may be withheld in Tenant's sole and absolute discretion, and any such transfer or encumbrance in violation of the terms of the Lease is void and shall be of no force or effect, and (b) the CPEA (as such term is defined in the Lease) and as contemplated in the Lease, Landlord is obligated to transfer fee title to the Premises to Tenant subject to the satisfaction of, and in accordance with, certain conditions set forth in the Lease and the CPEA.

4. Purpose of Memorandum of Lease. This Memorandum of Ground Lease is being executed and delivered for the purposes of recording only, and it in no way modifies the provisions of the Lease. In the event of any inconsistency between the terms and conditions of this Memorandum and the terms and conditions of the Lease, the terms and conditions of the Lease shall govern and control.

5. Execution in Counterparts. This Memorandum of Ground Lease may be executed in counterparts, each of which when executed and delivered shall be deemed to be an original and all such counterparts together shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, each of the parties hereto has executed this instrument as of the date first above written.

LANDLORD: **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation

By: _____
Name: Andrico Q. Penick
Title: Director of Property
Date: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)
)
COUNTY OF _____)

On _____, 202__, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____ (Seal)

TENANT: **EQX JACKSON SQ HOLDCO, LLC,**
a Delaware limited liability company

By: _____
Name: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)
)
COUNTY OF _____)

On _____, 202__, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A
to Memorandum of Lease

Legal Description

EXHIBIT D-1

Form of Estoppel to be Executed by Tenant

EXHIBIT D-2

Form of Estoppel to be Executed by Landlord

SCHEDULE 1

Definitions

Definitions. When used in this Lease, the following capitalized terms are defined as follows:

"**Additional Rent**" has the meaning given to such term in Section 3.3.

"**Affiliate**" means, as to any Person, any other Person (i) which, directly or indirectly, is in Control of, is Controlled by, or is under common Control with, such Person, (ii) which is an officer, general partner or managing member of such Person, or (iii) is, directly or indirectly, the beneficial owner of fifty-one percent (51%) or more of any class of equity securities.

"**Applicable Laws**" means all applicable present and future statutes, regulations, rules, ordinances, codes, common law, licenses, permits, orders, authorizations, concessions, franchises, and similar items, and all amendments thereto, of all governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, California, and political subdivisions thereof, and all applicable judicial, administrative and regulatory decrees, judgments, and orders applicable to the Premises.

"**Bankruptcy Event**" means, with respect to a specified Person, (a) the voluntary filing of an application by such Person for relief of such Person under any federal or state bankruptcy or insolvency law, (b) such Person's consent to the appointment of a trustee, receiver, or custodian of its assets, (c) the entry of an order for relief with respect to such Person in proceedings under the United States Bankruptcy Code, as amended or superseded from time to time, (d) the making by such Person of a general assignment for the benefit of creditors, (e) the involuntary filing of an application for relief against such Person under any federal or state bankruptcy law, or the entry (if opposed by the Person) of an order, judgment, or decree by any court of competent jurisdiction appointing a trustee, receiver, or custodian of the assets of such Person, unless the application or proceedings, as the case may be, are dismissed within ninety (90) days, or (f) the failure by such Person generally to pay its debts as they become due within the meaning of Section 303(h)(1) of the United States Bankruptcy Code, as determined by a bankruptcy court.

"**Claims**" has the meaning given to such term in Section 14.1.1.

"**Closing Date**" means the date on which this Lease is executed and delivered by the parties.

"**Commencement Date**" has the meaning given to such term in the introductory paragraph.

"**Condemnation Proceeds**" has the meaning given to such term in Section 10.1.

"**Control**" as applied to any Person, the possession, direct or indirect, of the power to direct, cause the direction of or veto the management and policies of such Person, whether through the ownership of voting securities or other ownership interest, by contract or otherwise.

"**CPEA**" has the meaning given to such term in Recital A.

"**Default Interest Rate**" means the per annum rate of interest published in The Wall Street Journal from time to time as the "prime rate," plus two percent (2%), but in no event higher than the maximum rate permitted by Applicable Law. If more than one prime rate (other than foreign prime rates) is published in The Wall Street Journal for any day, the average of the published prime rates for that day, exclusive of foreign prime rates, shall be used.

"**Environmental Laws**" means all applicable present and future statutes, regulations, rules, ordinances, codes, common law, licenses, permits, orders, authorizations, concessions, franchises, and similar items, and all amendments thereto, of all governmental agencies, departments, commissions, boards, bureaus or instrumentalities of the United States, California, and political subdivisions thereof, and all applicable judicial, administrative and regulatory decrees, judgments, and orders relating to the protection of human health, the environment and natural resources, including, without limitation, all legal requirements pertaining to reporting, licensing, permitting, investigation and/or remediation of emissions, discharges, Releases, or threatened Releases of Hazardous Substances, whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Substances. Environmental Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act; the Emergency Planning and Community Right-to-Know Act; the Hazardous Substances Transportation Act; the Resource Conservation and Recovery Act (including but not limited to Subtitle I relating to underground storage tanks); the Solid Waste Disposal Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the California Medical Waste Management Act and Radiation Control Law; the Federal Water Pollution Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Endangered Species Act; and any and all federal, state, or local law counterparts.

"**Event of Default**" has the meaning given to such term in Section 13.1.

"**Expiration Date**" has the meaning given to such term in Section 2.1.

"**Existing Improvements**" means the Improvements situated on the Land as of the Commencement Date.

"**Fee Estate**" means the fee interest of Landlord in the Land, and the reversionary interest of Landlord in the Premises, including its reversionary interest under this Lease.

"**Ground Rent**" has the meaning given to such term in Section 3.1.

"**Hazardous Substance**" means any substance, material, or waste: (1) the presence of which requires investigation or remediation under any Environmental Law; (2) which is or becomes listed, regulated, or defined as a "hazardous waste," "hazardous substance," "hazardous material," "toxic substance," "hazardous air pollutant," "pollutant," "infectious waste," "bio-hazardous waste," "medical waste," "radioactive waste," or "contaminant' under any Environmental Law; (3) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous to human health, safety, wildlife, or the environment and is or becomes regulated under any Environmental Law; (4) the presence or Release of which at, on, under, or from the Premises causes or threatens to cause a nuisance upon

the Premises or to surrounding properties or poses or threatens to pose a hazard to the environmental or the health or safety of Persons on or about the Premises; or (5) the presence of which on adjacent properties could constitute a trespass by Tenant. Without limitation of the foregoing, Hazardous Substances shall include gasoline, diesel fuel, and other petroleum hydrocarbons and the additives and constituents thereto, including MTBE; polychlorinated biphenals (PCBs); asbestos and asbestos-containing material; and lead.

"**Impositions**" has the meaning given to such term in Section 4.1.1.

"**Improvements**" means all buildings and other improvements located on the Premises.

"**Indemnified Parties**" has the meaning given to such term in Section 14.1.1.

"**Investigate**" and "**Investigation**" means undertaking any activities to determine the nature and extent of any Hazardous Substance that may be located in, on, under, or about the Premises or that has been, are being or threaten to be Released into the environment.

"**Land**" has the meaning given to such term in Section 1.1.1.

"**Landlord**" has the meaning given to such term in the introductory paragraph.

"**Landlord Income Taxes**" has the meaning given to such term in Section 4.5.

"**Lease**" has the meaning given to such term in the introductory paragraph.

"**Lease Year**" means each successive twelve (12) month period commencing on the Commencement Date and each anniversary thereof during the Term, except that (i) if the Commencement Date is not on the first day of a month, then the first Lease Year shall include the remainder of the month in which the Commencement Date occurs and the second Lease Year and each Lease Year thereafter shall commence on the anniversary of the first day of the month following the month in which the Commencement Date occurs, and (ii) in the event of the termination of this Lease on any day other than the last day of a Lease Year, then the last Lease Year shall be the period from the end of the preceding Lease Year to such date of termination.

"**Leasehold Estate**" means, collectively, (i) all right, title, and interest of Tenant in, to, and under this Lease, and (ii) all right, title, and interest of Tenant in, to, and under the Premises.

"**Leasehold Mortgage**" has the meaning given to such term in Section 12.1(a).

"**Leasehold Mortgagee**" or "**Leasehold Mortgagees**" has the meaning given to such term in Section 12.1(a).

"**Mezzanine Lender**" or **Mezzanine Lenders**" has the meaning given to such term in Section 12.1(a).

"**Mezzanine Loan**" has the meaning given to such term in Section 12.1(a).

"**Monetary Default**" has the meaning given to such term in Section 13.1(a).

"**Official Records**" means the official records of the City and County of San Francisco as maintain by the Office of the Assessor Recorder of the City and County of San Francisco.

"**Party**" or "**Parties**" has the meaning given to such term in the introductory paragraph.

"**Permitted Sublease**" has the meaning given to such term in Section 12.2.2

"**Person**" means any individual, association of individuals, or entity.

"**Premises**" has the meaning given to such term in Section 1.1.

"**Prohibited Person**" means:

(i) any Person or country who or which is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (as the same may be modified from time to time, the "Executive Order");

(ii) any Person or country who or which is named as a "specially designated national and blocked person" under U.S. law and any executive orders or regulations promulgated thereunder, including on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website or at any replacement website or other replacement official publication of such list;

(iii) any Person that is owned or Controlled by, or acting for or on behalf of, any Person that is described in the foregoing clauses (i) or (ii) above or is otherwise subject to the provisions of the Executive Order;

(iv) any Person or country with whom another Person is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money laundering law, including the Executive Order; or

(v) any Person who commits, threatens, or conspires to commit or supports "terrorism" as defined in the Executive Order.

"**REA**" means that certain Declaration of Reciprocal Easements and Tower Easements with Covenants, Conditions and Restrictions entered into by and between Landlord and Tenant in conjunction with a Subdivision creating the New City Parcel and the New Developer Parcel.

"**Related Parties**" has the meaning given to such term in Section 32.2.

"**Release**" when used with respect to any Hazardous Substance includes any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside the Premises, or in, on, under, or about any other part of the Land or into the environment.

"**Remediate**" and "**Remediation**" means to clean up, remove, contain, treat, stabilize, monitor, or otherwise control the Hazardous Substance.

"**Taking**" means a taking or damaging, including severance damage, by eminent domain, inverse condemnation, or for any public or quasi-public use under any Applicable Law. A Taking may occur under the recording of a final order of condemnation, or by voluntary sale or conveyance in lieu of condemnation, or in settlement of a condemnation action.

"**Tenant**" has the meaning given to such term in the introductory paragraph.

"**Term**" has the meaning given to such term in Section 2.1.

"**Uncurable Event of Default**" has the meaning given to such term in Section 13.1(c).

SCHEDULE 2

A. Insurance During the Term. During the Term, Tenant shall maintain, or cause to be maintained, the following insurance coverages with respect to the Premises:

1. special causes of loss property insurance on the Improvements, the Premises and personal property, including, without limitation, earthquake insurance (any sublimit proposed by Tenant shall be subject to Landlord's approval, not to be unreasonably withheld), with limits equal to one hundred percent (100%) of the full replacement cost which for purposes of this Lease shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) waiving all co-insurance provisions; providing for no deductible in excess of Two Hundred Fifty Thousand Dollars ($250,000) (except earthquake, wind, and flood coverage, which deductibles may be in excess of Two Hundred Fifty Thousand Dollars ($250,000) but no greater than five percent (5%) of the total value of the Land) to the extent commercially reasonable; and providing coverage for contingent liability from operation of building laws, demolition costs, and increased cost of construction endorsement together with an ordinance of law coverage or enforcement endorsement if any of the Improvements or the use of the Improvements shall at any time constitute legal non-conforming structures or uses, if available on commercially reasonable terms;

2. business interruption/loss of rents insurance covering the special causes of loss required to be covered by the insurance provided for in clause 1 above; with limits sufficient to pay the loss of rental income during the period of rebuilding but not more than a period of 365 days from occurrence of the loss;

3. commercial general liability insurance against claims for bodily injury, death or property damage occurring upon, in or about the Premises, with limits of Ten Million Dollars ($10,000,000) per occurrence and Twenty-Five Million Dollars ($25,000,000) in the aggregate, which may be arranged through a combination of primary and excess policies. Such insurance shall be primary and non-contributory, shall be written on an occurrence form (*i.e.*, not a claims-made form), and shall have coverage for (i) completed operations liability, and (ii) insured contracts;

4. if applicable, automobile liability insurance with combined single limits of at least Two Million Dollars ($2,000,000); and

5. as applicable, workers compensation insurance with statutory limits, and employer's liability coverage with limits of at least One Million Dollars ($1,000,000) for each accident or illness.

The above insurance requirements will be evaluated by Landlord for adequacy not more frequently than every five (5) years. Landlord may require Tenant to increase the insurance limits for all or any of its general liability policies if, in the reasonable judgment of Landlord, it is the prevailing commercial practice in the San Francisco Bay Area to carry insurance for property similar to the Premises in amounts greater than the amounts carried by Tenant with respect to risks comparable to those associated with use of the Premises.

B. During Construction. During any construction on the Premises, Tenant shall maintain or cause to be maintained, at its sole cost and expense or at such third party's sole cost and expense, the following:

1. i. Builder's risk insurance, special form coverage, for one hundred percent (100%) of the completed value of the project and City property exclusively in the care, custody, and control of the Tenant or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such covered perils, resulting damage and any applicable Law; start up, testing and machinery breakdown including electrical arcing, copy of the applicable endorsement to the Builder's Risk policy, if the Builder's Risk policy is issued on a declared-project basis; and with a deductible not to exceed Ten Thousand Dollars ($10,000) each loss;

2. commercial general liability insurance against claims for bodily injury, death or property damage occurring upon, in or about the Premises, with limits of Twenty-Five Million Dollars ($25,000,000) per occurrence, or such lower limit as the parties may deem reasonable based on the scope of work, which may be arranged through a combination of primary and excess policies. Such insurance shall be primary and non-contributory, shall be written on an occurrence form (*i.e.*, not a claims-made form), and shall have coverage for (i) completed operations liability through the statute of repose on a form CG 20 37 (or the equivalent thereof), and (ii) insured contracts;

3. professional liability insurance to be carried by architects, engineers and other professionals with limits of not less than One Million Dollars ($1,000,000) per claim or such other amounts as the parties shall determine to be commercially reasonable and applicable to the relevant profession;

4. if applicable, automobile liability insurance with combined single limits of Two Million Dollars ($2,000,000);

5. if applicable, workers compensation insurance with statutory limits, and employer's liability coverage with limits of One Million Dollars ($1,000,000) for each accident or illness; and

6. if applicable, Contractors Pollution Liability insurance with limits not less than Five Million Dollars ($5,000,000).

C. All liability policies shall name Landlord and its officers, agents and employees as Additional Insuredd. Waiver of subrogation shall be provided for all workers' compensation policies in favor of Landlord.

D. Nature of Policies. The insurance requirements set forth in this **Schedule 2** may be satisfied by a blanket policy or policies, including at Tenant's discretion, demonstrating the liability limits required herein with any combination of primary and/or excess/umbrella policies. Further, all insurance to be obtained pursuant to this Lease shall:

1. be obtained from insurers of recognized responsibility, rated at least Class A-:VIII by the A. M. Best Company, Inc. or an equivalent rating by another national rating organization, authorized to do business in the City and County of San Francisco; and

2. contain a standard mortgagee clause if there is a Leasehold Mortgage including each Leasehold Mortgagee as an additional insured on liability policies. The Leasehold Mortgage may provide a manner for the disposition of Tenant's interest in any insurance proceeds, and in such event the Leasehold Mortgage shall control, subject to the terms and conditions of the REA.

CONSTRUCTION MANAGEMENT AGREEMENT

(Guaranteed Maximum Price)

BY AND BETWEEN

EQX JACKSON SQ HOLDCO LLC
(OWNER/DEVELOPER)

AND

_____
(CONSTRUCTION MANAGER)

FOR THE FOLLOWING PROJECT:

425 Washington Street - 530 Sansome Street Project
San Francisco, CA 94103

DATED: _____

TABLE OF CONTENTS

Page

CONSTRUCTION MANAGEMENT AGREEMENT

AGREEMENT, by and between EQX JACKSON SQ HOLDCO, LLC, having an address of 44 MONTGOMERY STREET, SUITE 1300, SAN FRANCISCO, CA 94104 ("Owner/Developer"), and _____("Construction Manager").

WITNESSETH:

WHEREAS, Owner/Developer is the owner of the improved real property located at 425 – 445 Washington Street in San Francisco, California, APN Nos. 0206-013, 0206-014 ("425 Washington");

WHEREAS, the City and County of San Francisco ("City") is the owner of the improved real property located at 530 Sansome Street in San Francisco, California, APN No. 0206-017 ("530 Sansome");

WHEREAS, Owner/Developer intends to ground lease 530 Sansome from the City and develop and construct an approximately 303,095 sq.ft. mixed-use development on the combined 17,733 sq.ft. (0.41 acre) site encompassing the 425 Washington and 530 Sansome Street properties (the "Project Site"), which will include a four-story San Francisco Fire Department Station No. 13 ("Fire Station No. 13") and an approximately 218' tall mixed-use (hotel or residential) building on the 530 Sansome (the "Building") (collectively, the "Project");

WHEREAS, following completion of the Project, Owner/Developer will convey Fire Station No. 13 to the City and the City will convey the remainder of the Project to Owner/Developer;

WHEREAS, Construction Manager has been advised that, under separate agreement, Owner/Developer has retained the services of Skidmore, Owings & Merrill and such other architects, engineers and consultants as deemed necessary by Owner (collectively, "Architect"), to prepare plans, specifications, working drawings and other construction documents for the Project (the "Construction Documents");

WHEREAS, Construction Manager understands that (a) Owner/Developer may obtain construction financing for the Project through lenders (institutional or otherwise) or other sources (collectively "Lender"); and (b) as a condition to the procurement of such financing, Lender's review and approval of this Agreement, as well as the design and construction of the Project, may be required;

WHEREAS, Construction Manager understands that a portion of the Project involves the construction of a new San Francisco Fire Department Station No. 13 ("Fire Station Project") for the City and County of San Francisco (the "City"), and the City's review and approval of this Agreement, as well as the design and construction of the Project, may be required;

WHEREAS, Owner/Developer and Construction Manager agree that the City is and shall be a third-party beneficiary to this Agreement between Owner/Developer and Construction Manager and shall have the right to enforce any of its terms to the extent the City may deem such enforcement necessary or advisable to protect the City's rights or interests hereunder.

WHEREAS, Construction Manager has been advised that, pursuant to this Agreement, Owner/Developer intends to retain the services of Construction Manager (a) to consult with Owner/Developer, Architect and Consultants (as defined in Article XVII hereof) in the preparation of the Construction Documents; and (b) to perform construction related services and arrange for, monitor, supervise, administer and contract for the construction of all or any portion of the Project (collectively the "Work"), all as more particularly set forth in Article II hereof; and

WHEREAS, Construction Manager desires to be retained by Owner/Developer to perform, or cause to be performed, the Work;

WHEREAS, the Work as it relates to this Construction Management Agreement shall encompass the interior structure and/or improvements to Fire Station No. 13, the Fire Station Project, but shall not include the Building, which work shall be the subject of a separate agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, Construction Manager and Owner/Developer hereby agree as follows.

ARTICLE I

Contract Documents

1.01 The contract documents (collectively, the "Contract Documents") shall consist of the following:

(a) This Agreement, including all the Exhibits annexed hereto and made a part hereof, and all duly executed amendments (including Change Orders and Emergency Change Orders, as such terms are defined in Article XXII hereof) and modifications (in both cases with attachments) issued after execution of this Agreement;

(b) The Construction Documents identified in **Exhibit A** hereto, and such other Construction Documents as may hereafter be approved in writing by Owner/Developer;

(c) The City and County of San Francisco General Conditions referenced in Exhibit A;

(d) The Progress Schedule (as defined in Section 7.01(k) hereof) to be initially prepared for the Work by Construction Manager and submitted to Owner/Developer for its approval in accordance with the provisions of Section 7.01(k) for the construction and Substantial Completion and Final Completion (as such terms are defined in Section 6.01 hereof) of the Work, as the same may be updated, modified or extended, subject to Owner/Developer's prior approval, in accordance with the applicable provisions of this Agreement. A copy of the preliminary schedule, as of the date of this Agreement, is attached hereto as **Exhibit F**; and

(e) The Trade Contractor Approval Letter set forth in **Exhibit B** (the "Trade Contractor Approval Letter"), annexed hereto and made a part hereof, or such other form of approval letter as Owner/Developer may use to evidence its approval of the award of written trade contracts for items of the

Work to be performed and/or materials, supplies and equipment to be furnished in connection with the Project to trade contractors, materialmen, and suppliers (collectively, the "Trade Contractors").

(f) The payment or performance bonds or Subcontractor Default Insurance program ("SDI "Program") required to be provided by Construction Manager in accordance with the provisions of Article XV.

The Contract Documents form the contract between Owner/Developer and Construction Manager. References in the Contract Documents to "the contract" or "this contract" shall be deemed to include all of the Contract Documents. References to "this Agreement" or "the Agreement" shall refer to this instrument, which is one of the Contract Documents. In resolving any conflicts among the Contract Documents, the above listed order of priority shall control, with item (a) having the overriding priority, except to the extent subsequently altered by a Change Order or modification; and within each category, the newer Contract Documents shall be given precedence.

1.02 The intent of the Contract Documents is to include in the Work all labor, materials and supplies, insurance, tools, equipment, all permits (excluding building permits which shall be paid for by Owner/Developer), licenses, taxes, fees, tariffs, approvals, transportation, testing and field surveying (customarily furnished by general contractors) and other services and items required in connection with the satisfactory performance, execution and Final Completion of the Work in accordance with the Contract Documents. Matters not expressly included in the Contract Documents but which are reasonably inferable therefrom shall be deemed included as a part of the Work. An item of work shall be deemed reasonably inferable, if it is a required component of a specific assembly and necessary for the proper execution and completion of the Work.

1.03 The Contract Documents are complementary and cumulative and what is called for by one shall be as binding as if called for by all.

1.04 Words and abbreviations which have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.

1.05 If any conflicts or ambiguities exist in or between the Construction Documents, the Construction Documents and any of the Contract Documents, or the Construction Documents and existing conditions at the Project Site, Construction Manager shall, immediately upon discovery of such conflict or ambiguity, bring the same to the attention of Owner/Developer, in writing, for resolution. It is expressly understood and agreed that Owner/Developer, in consultation with Architect, shall be the interpreter of the Construction Documents and shall resolve any such conflicts and ambiguities. The Construction Manager and the relevant Trade Contractor shall be required to provide the better or more inclusive of the conflict or ambiguity as directed by Owner/Developer. Any Work relating to any such conflict or ambiguity which is performed by Construction Manager's own forces or any Trade Contractor after discovery by Construction Manager but before Owner/Developer has had a reasonable time to respond to or address such condition, as provided herein, shall be at Construction Manager's or such Trade Contractor's sole risk, cost and expense. Construction Manager shall not be responsible for code compliance of the drawings and specifications prepared by the Architect and its design team unless, pursuant to the standard of care

identified in Section 2.04 below, it knew or should have known of such error/omission based on its review of the Contract Documents and failed to notify Owner/Developer, subject to Section 29.01.

1.06 Modifications to parts of the Contract Documents are for the purpose of varying, modifying, rescinding or adding to the Contract Documents. All modifications should be read together with the portions of the Contract Documents to which they relate.

1.07 The drawings and specifications and all other documents comprising the Construction Documents are complementary. Anything shown in any of the drawings and not mentioned in the specifications, or mentioned in any of the specifications and not shown in the drawings, shall have the same effect as if shown or mentioned in both.

1.08 A typical or representative detail indicated on the Construction Documents shall constitute the standard for workmanship and materials throughout corresponding parts of the Work, unless otherwise shown.

1.09 The layout of mechanical, plumbing, fire protection, and electrical systems, equipment, fixtures, piping, ductwork, conduits, specialty items and accessories indicated on the Construction Documents is diagrammatic. The actual scope of the Work shall be carried out at no additional costs and so as not to affect the architectural and structural integrity and limitations of the Project and shall be performed in such sequence and manner so as to avoid conflicts and provide clear access to all control points, including valves, strainers, control devices and specialty items of every nature related to such systems and equipment in conformance with all applicable codes. Subject to the provisions of Section 29.01 hereof, if Construction Manager discovers or has knowledge of (a) conflicts in the Construction Documents, or (b) any conflicts between existing conditions at the Site (which Construction Manager is aware of or by testing as agreed to by Owner/Developer) and the Construction Documents which, in Construction Manager's opinion, are of a nature that may affect the architectural or structural integrity or limitations of the Project, Construction Manager immediately shall bring the same to the attention of Owner/Developer, in writing, for resolution in the manner provided in Section 1.05 hereof. Any Work relating to any such conflict which is performed by Construction Manager or by any Trade Contractor after discovery but prior to the resolution of the same shall be borne by the responsible party in accordance with Section 1.05. The Architect is responsible for coordination of the Drawings, Plans and Specifications and for final coordination of the design work of the Construction Manager's design/build and design/assist Specifications, if any. Notwithstanding, design/build and design/assist Trade Contractors shall assist with Architect's coordination efforts through issuance of 100% Construction Development drawings, and Construction Manager shall provide BIM clash analysis and solutions, which shall be subject to Architect's final approval.

ARTICLE II

Scope of the Work

2.01 Construction Manager shall perform all construction management services described in this Agreement in connection with the construction of the Work. The general scope of the Work, as initially

reflected in the Construction Documents, will be developed into a detailed design and construction program and further refined as the preparation of the Construction Documents progresses so as to include, and further define, (a) the scope, parameters and anticipated timing for the Work, and (b) Owner/Developer's and Construction Manager's understanding of the quality of the materials and workmanship required and expected. Construction Manager represents that (a) it has fully acquainted itself with the general design concept and scope of the Work, as reflected in the Construction Documents, (b) it has visited the Project Site and existing buildings, if any, including the location of adjacent structures and utilities, and is familiar with access to the Project Site and with the observable condition of any existing buildings. Owner/Developer shall be responsible for obtaining all consents, licenses and easements as may be required from adjoining property Owners. Notwithstanding anything to the contrary stated herein, Construction Manager has not, and will not, perform any subsurface investigations. Construction Manager has reviewed data of subsurface conditions provided to Construction Manager by Owner/Developer, which Construction Manager shall be entitled to rely upon in good faith. Construction Manager shall not be responsible for any subsurface conditions that differ materially from those identified in the data provided to the Construction Manager by Owner/Developer, except for those known to the Construction Manager or any Trade Contractor or ordinarily found to exist and generally recognized as inherent in the construction activities of the character provided in the Contract Documents.

2.02 In addition to the services referred to in Section 2.01 hereof, Construction Manager shall perform and furnish, or cause to be performed and furnished all labor, materials, plant, power, light, heat, water, telephone, tools, supplies, equipment, services, transportation, scaffolding, permits (excluding building permits which shall be paid for by Owner/Developer), licenses, supervision and shall perform or cause to be performed all of the General Conditions Work Items identified in **Exhibit C** annexed hereto and made a part hereof ("General Conditions Work Items") and shall provide all services, business administration and supervision, necessary for, or incidental to, the successful prosecution and Final Completion of the Work in the most expeditious and economical manner, consistent with best industry accepted standards, strict and complete compliance with codes and ordinances having jurisdiction over performance of the Work, lawful construction practices and the interests of Owner/Developer relating to quality, timely, economical completion of the Work, to the extent made known to Construction Manager. The Work shall be performed and executed in a customary and workmanlike manner by qualified and efficient workers, in conformance with the Contract Documents and best industry trade practices.

2.03 Construction Manager agrees to furnish efficient business administration with emphasis on budget control, construction scheduling, coordination of the Work, supervision and construction management in an expeditious and economical manner consistent with the interests of Owner/Developer and shall assist Owner/Developer in developing and maintaining a climate of understanding and good will with all governmental and quasi-governmental agencies affected by the Project (particularly including the City with regard to the Fire Station), the local communities adjacent to the Project Site, and the public at large. Construction Manager shall require all Trade Contractors to comply with Construction Manager's instructions related to storage of materials and scheduling. Construction Manager shall generally advise and assist Owner/Developer on all matters concerning the construction of the Project upon which Owner/Developer requests advice and assistance and also about all matters concerning which Construction Manager, being familiar with the construction industry, might normally be consulted. All recommendations to be rendered by Construction Manager shall be in writing when requested, stating advantages and

disadvantages and evaluating alternatives and shall be in sufficient detail to enable Owner/Developer to analyze such recommendations and make informed decisions with respect thereto. Without limiting the foregoing, Construction Manager's obligations are more fully described herein.

2.04 Construction Manager accepts the relationship of trust and confidence established between it and Owner/Developer by this Agreement and covenants to Owner/Developer to furnish its best professional skill, judgment and efforts in performing its duties under this Agreement and to cooperate with Owner/Developer, Architect and Consultants in furthering the interests of Developer as made known to Construction Manager. For the purpose of this Agreement, "standard of care", "best skill" or "best judgment" or "best efforts" shall be deemed to mean those efforts that a qualified and diligent construction manager performing work on a four-story fire station in downtown San Francisco and similar to Construction Manager would use to fulfill Owner/Developer's objectives considering the high degree of trust and confidence Developer has placed in Construction Manager as an experienced and capable construction manager. Construction Manager understands that it is Owner/Developer's intent to construct the Project at a reasonable cost and in the most expeditious fashion given budgetary considerations. Accordingly, Construction Manager will devote its best efforts (consistent with the Construction Budget and Progress Schedule) toward (a) maintaining the cost level of the Project at the lowest possible point consistent with good construction practices, (b) carrying out Owner/Developer's intent and direction of Architect's and Consultants' Construction Documents; and (c) achieving the most rapid and efficient construction and completion of the Project. Construction Manager will use its best efforts to bring to Owner/Developer's attention any possibilities for savings that may present themselves during the course of Construction Manager's performance under this Agreement and will confer with Owner/Developer periodically in order to determine whether there are any areas where, by design change or otherwise, costs may be reduced. It shall be considered a material breach if Construction Manager shall knowingly accept for its own account any trade discounts, rebates, refunds, except to the extent permitted by Article IX, contributions, or deal with (or recommend that Owner/Developer deal with) any firm in which Construction Manager has any financial or other interest, or undertake any activity or employment which would or could create a conflict of interest or compromise Construction Manager's judgment or prevent Construction Manager from serving the best interests of Owner/Developer. If Construction Manager shall become aware of any facts which are or may be in violation of the preceding sentence or shall have any financial or other interest in any firm with which Owner/Developer is dealing or proposes to deal with in connection with the Project, Construction Manager shall immediately advise Owner/Developer thereof in writing. It shall be deemed a conflict of interest and a material breach of the terms of this Contract, for Construction Manager to knowingly employ at the Project, or knowingly recommend acceptance of bids from Trade Contractors employing, with respect to the Project, any relatives (including in-laws) of any of the officers or directors, or executives of Construction Manager. Any breach hereunder shall constitute an "Event of Default" and entitle Developer to terminate this Agreement for Cause in accordance with the provisions herein.

2.05 For the avoidance of doubt, the Work subject to this Agreement encompasses the Fire Station Project as shown in the Construction Documents identified in **Exhibit A** hereto, specifically including the interior structure and improvements of Fire Station No. 13, but shall not include or encompass the construction of the Building, which work shall be the subject of a separate agreement. To the extent the term "Project" is further used herein, it shall refer to the Fire Station Project.

ARTICLE III

Guaranteed Maximum Price

3.01 As consideration for the full and complete performance of the Work and all of Construction Manager's obligations hereunder, Owner/Developer shall pay to Construction Manager a sum of money ("Contract Sum") equal to the total of:

(a) a fee ("Construction Manager's Fee"), which includes all overhead (including home office personnel and expenses not otherwise reimbursable under Section 3.07 hereof) and profit;

(b) general conditions costs incurred by Construction Manager ("General Conditions Costs"), as provided in Section 3.03;

(c) Reimbursable Costs, as defined in Article IV hereof; and

(d) Contingency, as provided in Section 3.12

3.02 Construction Manager's Fee, which includes all costs not otherwise identified in this Agreement and profit, shall be equal to _____ (__%) (the "Fee") of the total of (a) Reimbursable Costs as provided in Article IV. Construction Manager shall be entitled to a separate lump sum fee for preconstruction services as listed in Section 7.01 which services are performed prior to the Notice to Proceed ("NTP") date in the amount of _____, which shall be included in the Construction Manager's first Application for Payment.

3.03 Construction Manager's General Conditions Costs are more fully defined in Section 3.07 below and shall be fixed in the amount of _____.

3.04 Construction Manager shall be entitled to an extension in Contract Time and additional General Conditions Costs as defined in Article 6 below. All Change Orders shall be marked up for insurance, SDI and applicable taxes. Owner shall be entitled to receive written notice of all circumstances that cause delay within forty-eight (48) hours of the occurrence of the event causing the delay. Failure of Construction Manager to provide such notice will cause Construction Manager to forfeit its right to additional General Conditions for the delays caused by such event.

3.05 Payments on account of Construction Manager's Fee and General Conditions Costs, shall be paid monthly, simultaneously with each progress payment made to Construction Manager under Article XI hereof. The proportion of Construction Manager's Fee and General Conditions Costs earned at the date of any Application for Payment (as such term is defined in Article XI hereof) shall be calculated as defined in Section 3.02 above for the Work completed in such Application for Payment. Construction Manager's Fee, General Conditions Costs and Reimbursable Costs shall be reimbursed as incurred by Construction Manager, subject to the provisions of Section 3.06 regarding retention on Trade Contract Costs.

3.06 Unless otherwise agreed to by Developer and Construction Manager, Owner/Developer shall make progress payments to Construction Manager pursuant to the provisions of Article XI hereof,

subject to retention on the Trade Contract Costs (including payments to Trade Contractors for the performance of General Conditions Work Items pursuant to Trade Contracts) in an amount equal to ten percent (10%) of such Trade Contract Costs. When Owner/Developer determines that the Work is ninety-eight percent (98%) or more complete, the Owner/Developer may reduce retention funds to an amount equal to two hundred percent (200%) of the estimated work value of work yet to be completed, plus any amounts necessary to cover offsets by the Owner/Developer for liquidated damages, defective Work, stop notices, forfeitures, and other charges.

3.07 The General Conditions Costs, shall include the following:

(a) The direct wages of labor directly on Construction Manager's Field payroll. "Field" means, for purposes of this Agreement, the location of the Project Site;

(b) Salaries and benefits of Construction Manager's employees, including but not limited to project manager(s), superintendent(s), whose full-time services are required for the Work, paid for such portions of their time as may be devoted to the Work;

(c) To the extent not included in Section 3.07(a) or 3.07(b) above, payroll taxes and contributions for federal old age benefits, unemployment insurance, family leave or other employee benefits required by law, and such other applicable actual or accrued fringe benefits;

(d) Costs and expenses incurred in connection with telephones (and charges), fax, messenger service, blueprinting, Xeroxing, photographs, field office, trailers, correspondence and other similar petty cash items directly related to the Work;

(e) Costs of all Project Office temporary structures and their maintenance, less the reasonable salvage value obtainable on such items which are used but not totally consumed in the performance of the Work; provided, however, that at Owner/Developer's option and its direction, Construction Manager either shall (i) deliver all such temporary structures to Developer, (ii) use reasonable efforts to sell the same for the account of Owner/Developer, or (iii) discard the same in the manner set forth in Section 6.05 hereof;

(f) Rental charges of all project office machinery and equipment (exclusive of hand tools) used at the Project Site and maintenance expenses for any temporary project office structure necessary in connection with the performance of the Work, together with costs incurred, including the installation thereof, and the dismantling, erection, removal, transportation and delivery costs thereof;

(g) Costs incurred by Construction Manager in performing General Conditions Work Items listed in Exhibit C hereof by Construction Manager's own labor force or by Trade Contractors retained by Construction Manager to perform the same;

(h) License fees necessary for the management of the Work.

3.08 Construction Manager acknowledges that the Construction Documents identified in **Exhibit A** annexed hereto are incomplete and are being developed by Architect. However, Construction Manager

represents that the documents identified in **Exhibit A** contain sufficient information so as to provide Construction Manager with an understanding of the scope of the Work and the level of finishes required for the Project.

3.09 The Contract Sum shall be subject to a Guaranteed Maximum Price ("GMP"), which shall be the sum of the following: (i) all Reimbursable Costs, including all Trade Contract Costs, add-alternate allowance items identified as such, as well as insurance, bond and SDI Program costs, (if any); (ii) all General Conditions Costs and (iii) the Contingency.

3.10 Unless adjusted by Change Order pursuant to Article XXII below, in no event shall the Contract Sum exceed the GMP of _____.

3.11 If Construction Manager completes the Work for less than GMP, then Owner/Developer shall be entitled to receive an amount equal to one hundred percent (100%) of such savings, and Construction Manager shall be entitled to receive an amount equal to zero percent (0%) of such savings.

3.12 The GMP shall include a Contingency in the amount of three percent (3.00%) of the GMP amount minus the General Conditions, Preconstruction, Bond, Subguard, Insurance, Gross Receipt Tax and Fee Costs. The Contingency is available to cover costs that would increase Construction Manager's costs and result from: (a) errors by Construction Manager in estimating time or money, (b) overruns in General Conditions Costs and guaranty work not performed or back chargeable to Subcontractors, up to a maximum of One Hundred Fifty Thousand Dollars ($150,000.00), (c) additional costs incurred as a result of the default by Trade Contractors or items omitted by Construction Manager in the formulation of the GMP, (d) correction of minor defects, (e) time extensions or costs for overtime to maintain or accelerate the Project Schedule, not back chargeable to Subcontractors or to the extent not provided for by this Agreement, (f) costs to the extent the actual sum of the Trade Contract Costs exceed the line item sum of the Trade Contract Costs in the GMP, and (g) casualty losses and related expenses, not compensated by insurance or otherwise, and sustained by Construction Manager in connection with the Work. No sums may be charged to the Contingency except with prior written approval of Owner/Developer, which approval will not be unreasonably withheld. The Contingency is not intended to cover design errors, Change Order Work, overtime requested by Owner/Developer unless such overtime is caused by Construction Manager's inability or refusal to perform in accordance with the Progress Schedule as defined in Article VII below, concealed conditions or Hazardous Materials not brought onto Project Site by Construction Manager. No sums may be charged to Contingency for work for which Construction Manager is entitled to a Change Order hereunder. No sums may be charged to the Contingency for any losses or expenses for which Construction Manager would have been indemnified or compensated by insurance, but for the failure of Construction Manager to procure and maintain insurance in accordance with the requirements of this Agreement, the failure of Construction Manager to comply with the requirements of any insurance carriers providing coverage for the Project, as set forth in Exhibit D hereof, or the failure of Construction Manager to notify Owner/Developer or its insurance carrier, if applicable, of the events which results in claim to the Contingency resulting in coverage disclaimer. No sums may be charged to the Contingency for costs which arise out of Construction Manager's intentional misconduct, gross negligence or a material breach of this Agreement. Construction Manager is not entitled to payment of sums which are otherwise property chargeable to the Contingency to the extent (a) such sums are successfully and

properly chargeable to a Trade Contractor or other responsible person or entity, or (b) such sums exceed the available Contingency set forth in the GMP. Any unused portion of the Contingency shall accrue fifty percent (50%) to Owner/Developer and fifty percent (50%) to Construction Manager.

Savings realized following buyout and contracting of subcontractors, resulting in a lower contract price than that currently carried in the GMP line items for each respective trade, shall not be added to the GMP Contingency, but rather, shall accrue to the TI Allowance, solely for the benefit of Owner/Developer.

3.13 Unless otherwise agreed to by Owner/Developer and Construction Manager, and subject to City approval, Owner/Developer shall make progress payments to Construction Manager pursuant to the provisions of Article XI hereof, subject to hold back ("retainage") on the Subcontract Costs (herein defined) (including payments to Subcontractors for the performance of General Conditions Work Items included in such Subcontracts) in an amount equal to ten percent (10%) of each such Subcontractor Cost included in each Application for Payment. Payments of the Construction Manager's Fee shall be subject to retainage of ten percent (10%) of each payment of the Construction Manager. Upon Substantial Completion of the Work, as defined in Article VI below, the hold back shall be reduced to two hundred percent (200%) of the estimated value of all remaining Punch List Items. Retainage shall not be withheld from General Conditions Costs and Reimbursable Costs incurred directly by the Construction Manager, material-only subcontractors or professional service subcontractors. Owner/Developer shall release retainage within thirty (30) days of Construction Manager's satisfactory completion and Owner/Developer's, Architect's and City's acceptance of the Work and Construction Manager's delivery of all required close out documents specific to the individual scope for early trades to Owner/Developer. Early release of retention may be granted on a case-by-case basis subject to City and Owner/Developer approval, which shall not be unreasonably withheld.

ARTICLE IV

Reimbursable Costs

4.01 The GMP shall include the following the actual costs necessarily incurred by Construction Manager in the proper performance of the Work (hereinafter the "Reimbursable Costs"), which Reimbursable Costs shall be at rates not higher than those that are competitive and prevailing in the locality for work and services similar to the Work and shall be comprised of the following costs:

(a) Payments made by Construction Manager for work performed and materials, supplies and equipment furnished pursuant to Trade Contracts and/or purchase orders (and Change Orders) approved by Owner/Developer in accordance with the provisions of this Agreement ("Trade Contract Costs");

(b) Federal, state and local sales, use, excise, personal property and other similar taxes, if any, which may be required to be paid by Construction Manager in connection with the Work exclusive of Trade Contracts, except taxes applicable, directly or indirectly, to Construction Manager's Fee;

(c) Actual costs reasonably and necessarily incurred due to an emergency, not compensated by insurance, affecting the safety of persons or property, except to the extent caused by Construction Manager's negligence or Construction Manager's failure to comply with the terms of this Agreement. As a condition precedent to payment for such costs Construction Manager must give written notice to Owner/Developer within forty-eight (48) hours after incurring such costs;

(d) Premiums for insurance Construction Manager is required to obtain and maintain, if any, as set forth in **Exhibit D** annexed hereto, which shall be paid monthly at a rate equal to one and one-third percent (1.33%) of the sum of the General Conditions Costs, Execution of Work Costs, General Requirement Costs and Trade Contract Costs minus Preconstruction; and

(e) Premiums for all payment and performance bonds, or the Subcontractor Default Insurance Program, if any, required to be carried by Construction Manager pursuant to Article XV hereof. Should a Subcontractor Default Insurance Program be implemented, premiums associated with that program shall not be charged to Owner/Developer for Trade Contractors which are a subsidiary or entity of Construction Manager, however third-tier or applicable vendors under such agreements would apply to the insurance premium and reimbursed.

4.02 Construction Manager shall use its best efforts to minimize the Reimbursable Costs incurred in the performance of the Work, consistent with the intent and purpose of this Agreement, sound business practice and the reasonable instructions of Owner/Developer. Owner/Developer and Construction Manager will develop a mutually agreeable process for review and approval of costs that Construction Manager considers to be reasonable and necessary to perform the Work in a safe and efficient manner before proceeding with such Work.

ARTICLE V

Non-Reimbursable Costs

5.01 Except to the extent included in **Exhibit C**, or Article IV, Owner/Developer shall not reimburse Construction Manager for any of the following costs, all of which shall be borne by Construction Manager at its sole cost and expense:

(a) salaries or other compensation of any executives, principals, branch office heads, and any other offsite employees of Construction Manager;

(b) expenses of operating Construction Manager's home and branch offices, including overhead and administrative expenses;

(c) any part of Construction Manager's capital expenses, including interest on capital employed in connection with the Work;

(d) costs not reimbursed by insurance, due to (i) the negligent acts or omissions or willful misconduct of Construction Manager or any Trade Contractor, (ii) Construction Manager or Trade

Contractor's failure to perform its obligations under this Agreement or (iii) the violation by Construction Manager or Trade Contractor of any federal, state or local laws, ordinances or statutes;

(e) casualty losses and related expenses sustained by Construction Manager in connection with tools, equipment, supplies and other personal effects owned or rented by Construction Manager;

(f) other costs which would have been insured but for the failure of Construction Manager to carry the insurance required to be carried hereunder or the failure of Construction Manager to comply with the requirements of any insurance carriers providing insurance coverage for the Project, as set forth in **Exhibit D** hereof;

(g) costs of uncovering, correcting or replacing defective or non-conforming Work by Trade Contractors.

(h) losses, costs, and expenses (including attorneys' fees and disbursements) incurred by Construction Manager in connection with, or as a result of, the occurrence of any event expressly provided for under the terms of this Agreement wherein Construction Manager agrees to indemnify and hold harmless Owner/Developer against such losses, costs and expenses;

(i) General Conditions Costs which are or which may be back-charged to or deducted from any Trade Contractor for any reason;

(j) costs incurred by reason of Construction Manager's failure to comply with its obligations under this Agreement, including costs in the form of penalties, fines or other similar charges (subject to Section 3.07(h)), as well as any and all costs incurred in contravention of laws, rules and regulations attributable to Construction Manager's negligence;

(k) except as otherwise provided in Section 4.01 hereof, premiums for other insurance carried by Construction Manager;

(l) costs of any item expressly excluded from, or not expressly included within, the items referred to in Section 3.07, **Exhibit C** or Section 4.01 hereof; and

(m) costs of any item or expense which this Agreement provides are to be paid or borne by Construction Manager at its sole cost and expense.

ARTICLE VI

Schedule of the Work and Early Occupancy

6.01 Construction Manager shall promptly and diligently perform its responsibilities hereunder so that the Work shall be (a) substantially completed on or before _____ Calendar Days subject to adjustment as hereinafter provided (the "Substantial Completion Date"), and (b) finally

completed on or before the date which is _____ calendar days from Substantial Completion (the "Final Completion Date").

(a) The Work shall be deemed substantially completed ("Substantial Completion") on the date when: (i) Architect certifies that the Project is substantially complete; (ii) the Project is sufficiently complete in accordance with Contract Documents and applicable laws so Owner/Developer can use the Project without interference for all of its intended purposes, with only minor Punch List items (as such terms is defined in Section 7.02 hereof) incomplete; and (iii) a Temporary Certificate of Occupancy ("TCO") has been issued by the appropriate local governmental authority for the entire Project, unless a delay to TCO is outside of Construction Manager's control.

(b) The Work shall be deemed finally completed ("Final Completion") on the date when the Work is fully and satisfactorily completed and conveyed to Owner/Developer for closing, and Owner/Developer shall have received satisfactory evidence, that:

(i) all Work, including all items set forth on the Punch Lists (as defined in Section 7.02), has been fully and satisfactorily completed in a good and workmanlike manner, in conformance with the Contract Documents and in full compliance with all applicable laws, rules, requirements and regulations of all governmental authorities having jurisdiction over the Work, provided, however, that if the Work does not comply with aforesaid laws, rules, requirements and regulations by reason of the fact that the Construction Documents do not so comply and Construction Manager had no actual knowledge of such non-compliance, nothing herein shall be deemed to shift any liability on account of such non-compliance from Architect to Construction Manager, unless Construction Manager knew of or should have known of such non-compliance and failed to promptly notify Owner/Developer subject to Section 29.01. To the extent that Construction Manager fails to so perform Punch List work, Owner/Developer, in addition to any other right it may have, shall have the right to arrange for the performance of such work by other forces and pay all costs thereof from retention, and if inadequate, to deduct all costs from the GMP, to the extent applicable and available, or to charge Construction Manager therewith;

(ii) all final certificates of approval relating to the Work, including a final Certificate of Occupancy ("CO") for the entire Work and the contemplated uses of the Project, including, without limitation, all necessary certifications of any entity having jurisdiction thereof or any successor thereto, shall have been issued and delivered to Owner/Developer, unless the failure to obtain such approvals is not due to any fault of Construction Manager, its Trade Contractors or anyone for whose acts they may be liable; it being expressly understood that the making of final payment by Owner/Developer to Construction Manager hereunder shall be conditional upon the deliverance by Construction Manager of the foregoing to Owner/Developer unless the failure to obtain any of the above is due to causes beyond the reasonable control of Construction Manager;

(iii) all required receipts, releases of liens, stop payment notices or payment bond rights, affidavits, waivers, guarantees, warranties, bonds, as-built drawings and any other documents required under this Agreement and/or the Trade Contracts shall have been issued and delivered to Owner/Developer; and

(iv) all Trade Contracts shall have been closed out by Construction Manager and all Trade Contractor close-out packages shall have been delivered to Owner/Developer and approved as complete by Developer.

6.02 Anything contained in the foregoing provisions of this Article VI to the contrary notwithstanding, if and to the extent that there are hindrances to, or delays in, the performance of the Work by reason of Contemplated Delays (as such term is defined herein) and if Construction Manager demonstrates that the Work is actually hindered or delayed thereby, the Substantial Completion Date or the Final Completion Date, as the case may be, shall be postponed by the actual number of days attributable to each such demonstrated cause. For purposes of this Agreement, "Contemplated Delays" (a) shall be deemed to include delays or hindrances not the faulty of the Construction Manager caused by (i) industry-wide strikes, (ii) fire, (iii) acts of the public enemy, (iv) unavailability of, or inability to obtain, labor or materials by reason of industry-wide shortages which affect the supply or availability of labor or materials, (v) floods, (vi) rebellions, riots, insurrections or sabotage, (vii) industry-wide labor disputes provided such disputes are beyond Construction Manager's control and provided Construction Manager takes all responsible steps to remediate them, (viii) severe weather conditions, (ix) unknown concealed conditions, (x) Hazardous Materials not previously disclosed to Construction Manager, or (xi) suspensions, stoppages, and/or interruptions pursuant to Section 14.03; and (b) shall be recognized only if Construction Manager has used its best efforts to minimize the period of delay or hindrance by means which include, without limitation, seeking alternate sources of labor or materials or acceleration of Work, but such efforts shall not require Construction Manager to incur any additional costs. If Construction Manager wishes to make claim for an extension of the Substantial Completion Date or the Final Completion Date by reason of a Contemplated Delay, Construction Manager shall give notice (in accordance with the provisions of Section 29.07 hereof) to Owner/Developer of such claim within three (3) working days after knowledge of occurrence of any Contemplated Delay, with full back-up provided fifteen (15) calendar days thereafter, which notice shall set forth in detail the nature of each Contemplated Delay, the date or dates upon which each cause of delay began (and ended), the number of days of delay attributable to each cause, and the action taken, or to be taken, by Construction Manager to minimize the period of delay if possible. In such event, Construction Manager and Trade Contractors may be entitled to an extension of time and may submit for additional compensation. Any such extension of time and increase in cost shall be deemed accepted by Owner/Developer only if reflected in a validly issued Change Order. Construction Manager's Trade Contractors shall not be entitled to any additional compensation for Contemplated Delays, and Construction Manager shall include an express provision in its Trade Contracts providing for such waiver except with respect to Contemplated Delays resulting solely from events falling into categories (ix) through (xi), above.

6.03 In furtherance of the provisions of Sections 6.01 and 6.02 hereof, Construction Manager shall include in all Trade Contracts, whether for labor or materials or both, a provision entitling Construction Manager to terminate or cancel such Trade Contract in the event of a breach thereby by the Trade Contractor or any other occurrence or omission thereunder which would result in a delay in, or hindrance to, the timely progress of the Work.

6.04 Construction Manager shall notify Owner/Developer promptly and in writing, if the Work will not be completed within the time provided for in the Progress Schedule. If Construction Manager so

notifies Owner/Developer, or if, in the opinion of Owner/Developer reasonably exercised, Construction Manager falls behind in the Progress Schedule for any reason other than a Contemplated Delay, Construction Manager shall take appropriate action to improve the progress of the Work and shall, if requested by Developer, submit operational plans to demonstrate the manner in which the lost time may be regained if possible. **Construction Manager acknowledges that if it fails to complete the Work within the time provided in the Progress Schedule, together with extensions permitted pursuant to this Agreement, due to its own fault or the fault of parties for whom Construction Manager is responsible including any Trade Contractor, it would be difficult, if not impossible to determine actual damages to Owner/Developer. Consequently, the parties agree that if Substantial Completion has not been achieved by the Substantial Completion Dates specified in the Progress Schedule, by reason of such delay, Construction Manager shall be required to pay to Owner/Developer, as and for liquidated damages (and not as a penalty) incurred by Owner/Developer as a result of such delayed completion, an amount of _____for each day Substantial Completion is delayed beyond the Substantial Completion Date specified in the Progress Schedule. Any liquidated damages required to be paid by Construction Manager pursuant to this Section 6.04 shall (a) be in satisfaction of any actual damages to which Owner/Developer would otherwise be entitled as a result of the occurrence of Construction Manager's delay and shall be the sole and exclusive remedy to Owner/Developer for late Project delivery; (b) be paid promptly by Construction Manager on demand of Owner/Developer; and (c) survive termination of Construction Manager to complete the Work within the scheduled completion dates set forth in this Agreement. Notwithstanding the foregoing or anything elsewhere set forth in this Agreement, at Owner/Developer's option all or any portion of such liquidated damages may be deducted from the amount of any payment required to be made by Owner/Developer to Construction Manager under this Agreement. To the extent Construction Manager is delayed and achieves Substantial Completion (as defined herein) of a portion of the Project, the aforementioned liquidated damage amount shall be reduced pro rata based upon valuation of income to the extent Substantial Completion has been achieved.**

OWNER/DEVELOPER	**CONSTRUCTION MANAGER**
INITIAL HERE:	**INITIAL HERE:**
By: _____	By: _____
Name:	Name:
Title:	Title:

6.05 On or before the Substantial Completion Date, Construction Manager shall clear, or cause to be cleared, the Project Site and the Project of any debris, construction materials, rubbish, rubble, discarded equipment or spillage caused by Construction Manager or its Trade Contractors of solid or liquid waste in full compliance with all applicable environmental laws, shall remove all tools, construction equipment, machinery and surplus materials not belonging to Owner/Developer, and shall, except to the

extent necessary to achieve Final Completion, maintain the Project free of such items until Final Completion. In addition, on or before the Substantial Completion Date, Construction Manager shall clean, or cause to be cleaned in broom clean condition the Project, as provided in the Construction Documents. If the Project or the Project Site are injured or damaged by Construction Manager, in the course of Construction Manager's cleaning or removal, Construction Manager, to the extent applicable, promptly shall repair and restore the portion thereof so damaged or injured to its condition immediately prior to such damage or injury in a manner satisfactory to Developer and Architect. If Construction Manager fails to undertake or cause the undertaking of the aforesaid cleaning, removal and repairs, in such event, Owner/Developer may, at Owner/Developer's sole option, avail itself of any of the remedies provided in this Agreement and, subject to giving forty-eight (48) hours' prior written notice to Construction Manager, Owner/Developer may also perform, or cause to be performed, the aforesaid cleaning, removal and repairs and, in such event, all additional expenses incurred by Developer in connection therewith, at Owner/Developer's option, shall be reimbursed to Owner/Developer either by (a) Owner/Developer not paying Construction Manager monies then due or next becoming due from Owner/Developer to Construction Manager hereunder, or (b) Construction Manager paying such amounts to Owner/Developer on demand, after rendition of a bill or statement therefor.

6.06 Prior to Substantial Completion of the Work, Owner/Developer or Owner/Developer's designees, including the City, shall have the right to use or occupy all or any portion of the Project or to install or cause the installation of furniture, furnishings and equipment therein, provided that such occupancy shall not materially interfere with Construction Manager's performance of its obligations hereunder and, provided further, that Owner/Developer, City, or Owner/Developer's designees, as the case may be, shall be liable for any delay, or personal injuries to, or death of, any person and for property damage, to the extent the same is caused by the acts or omissions of Owner/Developer, City or Owner/Developer's designees, as the case may be, in connection with their aforesaid use of occupancy of the Project. Such use or occupancy by Owner/Developer, City or Owner/Developer's designees shall not (a) constitute acceptance by Owner/Developer or the City of any element of the Work or the space, systems, materials or equipment incorporated in the Project, (b) be construed as a waiver of any right or claim by Owner/Developer in connection with any Work, or (c) affect the obligations of Construction Manager or any Trade Contractor for any Work which is not in accordance with this Agreement, the respective Trade Contracts or the Contract Documents. Construction Manager shall continue performance of the Work in a manner which shall not unreasonably interfere with the aforesaid use, occupancy and operation by Owner/Developer, City or Owner/Developer's designees. Construction Manager agrees that it shall not unreasonably interfere with, or object to, such use or occupancy by Owner/Developer, City or Owner/Developer's designees and that it shall cooperate with Owner/Developer, City and any designated occupants to facilitate such early occupancy. If Contractor considers area being occupied as Substantially Complete, they can request inspection and sign off as Substantially Complete prior to partial occupancy.

6.07 Owner/Developer, City and Owner/Developer's designees shall have the right of access to the entrances, loading facilities and such other services as Construction Manager shall be using or providing to the Project. Such right of access shall be subject to the reasonable rules of Construction Manager, which rules (a) shall be for the sole purpose of coordinating such access and for observing all safety and precautionary measures, and (b) shall not hinder, prohibit or interfere with such access. In addition, Owner/Developer may require the use and operation of any completed heating, ventilating or air

conditioning equipment at the time that Owner/Developer, City or Owner/Developer's designees occupy or use any portion of the Project.

ARTICLE VII

Construction Manager's Work

7.01 Pre-Construction Phase. Construction Manager agrees that during the pre-construction phase of the Work (the "Pre-Construction Phase"), it shall perform the following services:

(a) consult with Owner/Developer, City and Architect to ascertain Owner/Developer's needs and goals and the requirements of the Work;

(b) thoroughly review all preliminary plans and specifications, and all revisions and additions thereto, for the purpose of preparing and submitting to Owner/Developer a preliminary budget (the "Construction Budget"), to be in such form and contain such detail as required by Owner/Developer and which Construction Budget shall be revised as requested by Owner/Developer;

(c) provide assistance to, and cooperate with Owner/Developer, City and Architect in obtaining all necessary approvals of governmental authorities having jurisdiction over the Project;

(d) thoroughly investigate existing surface conditions at the Project Site and consult with and advise Owner/Developer, City and Architect concerning all materials and major design, building systems and construction elements to be incorporated in the Work, taking into consideration costs, availability, lead time for ordering materials, speed of construction and maintenance;

(e) review estimates, if any, of Architect and Consultants with respect to the costs of the Work;

(f) review the Construction Documents as they are being prepared for the purpose of making recommendations, and make recommendations to Owner/Developer and Architect with respect to the following:

(i) the availability of labor, materials and supplies;

(ii) elimination of possible conflicts and/or overlapping jurisdictions among the various trades or overlapping responsibilities among Trade Contractors;

(iii) patent conflicts and omissions, and variations from customary construction practices and methods which, in the opinion of Construction Manager, may cause difficulties or occasion delay in the performance of the Work, it being expressly understood that by review of the Construction Documents, Construction Manager shall not thereby assume responsibility for design errors and omissions;

(iv) discrepancies and deficiencies in the Construction Documents, or between the Construction Documents and existing conditions at the Project;

(v) conduct of construction operations under good construction practices;

(vi) costs of labor, supplies, materials, equipment, and Trade Contracts to be used in the performance of the Work and any such costs that will exceed budgeted or allowed amounts;

(vii) unit prices and alternates;

(viii) required temporary and Project support facilities;

(ix) construction detailing; and

(x) construction economies through alternative methods, materials, or concepts, consistent with Developer's requirements and sound construction practice;

(g) establish, implement and observe all safety, health and environmental protection measures during performance of the Work, consistent with the requirements of all applicable federal, state and local laws, rules and regulations; submit to Owner/Developer for approval, and periodically update, as necessary, appropriate or may be required, safety plans for the Project showing the manner in which the aforesaid measures are to be implemented;

(h) in consultation with Owner/Developer and Architect, develop the most favorable way of bidding the Work, including, without limitation, the size and scope of each bid package, and dates of bidding and use of "fast-track" methods;

(i) if applicable, make recommendations regarding, and render assistance necessary for, the development and administration of an effective labor relations program for the Work and the avoidance of labor disputes during the performance of the Work and assist in negotiating any agreements with labor unions;

(j) in consultation with Owner/Developer and Architect and as expeditiously as is required for the orderly and timely completion of the Project, prepare and submit to Owner/Developer for its approval, a progress schedule for the performance of the Work, make such modifications thereto as Owner/Developer may reasonably request and, upon Owner/Developer's approval of the same (which, subsequent to such approval is hereinafter referred to as the "Progress Schedule"), make no further modifications thereto without first in each instance obtaining Owner/Developer's prior approval thereof. The Progress Schedule shall also (i) set forth a construction time schedule which identifies all major and critical components of the Project and the Work, including Architect's preparation of design documents, all major and critical design details and all matters relating to Trade Contractors and Trade Contract awards, and which identifies Owner/Developer's responsibilities, if any, with respect to the design documents, and (ii) from and after the date that the same is available, incorporate the information described in this Section 7.01. Construction Manager agrees that the Progress Schedule shall not be amended, modified or extended without Owner/Developer's prior written approval;

(k) advise and make recommendations to Owner/Developer and Architect regarding the best order and sequence for the development of the Construction Documents;

(l) maintain written records of all communications with, and recommendations made to, Architect, and Architect's responses thereto; make the same available for inspection by Owner/Developer at all times and promptly furnish to Owner/Developer copies of all correspondence between Construction Manager and Architect relative to the Work and the Project;

(m) advise and consult with Owner/Developer and obtain Owner/Developer's approval of, Trade Contractors qualified to bid the various packages of the Work as well as methods of, and the form of, Trade Contract awards, and award Trade Contracts all in the manner set forth in Article VIII hereof;

(n) review with Trade Contractors all methods and materials that may be used in connection with the Work and make recommendations to Owner/Developer and Architect regarding changes, if any, to the Construction Documents;

(o) make a materials survey, including an analysis of all materials and equipment required for the Work and a forecast of the availability thereof as and when needed, including advice of any factors or potential occurrences then known by Construction Manager which might affect the future availability of such materials and equipment and coordinate all purchases of materials and equipment; and

(p) implement the pre-purchasing of any long-lead materials and/or equipment necessary to be incorporated in the Work.

Construction Manager agrees to perform such other and additional services similar in type and obligation to those listed above, prepare such other reasonably requested schedules, reports, budgets and other technical data, and attend such meetings during the Pre-Construction Phase as Owner/Developer may reasonably request in order to assist in the preparation of the Construction Documents, cost estimates, updated Progress Schedules and any other documents and instruments relative to the Work and the Project, to the end that completion of the Work may be brought and maintained within the Construction Budget, to the extent applicable, and Substantial Completion Date.

7.02 Construction Phase. Construction Manager agrees that during the Construction Phase of the Work (the "Construction Phase"), which Construction Phase shall commence on the date of commencement of construction of any portion of the Work, upon which Owner/Developer gives notice to Construction Manager and provided that Owner/Developer has obtained the necessary construction financing and building permits required by Authorities having jurisdiction for such Work (unless otherwise agreed by Owner/Developer and Construction Manager), and shall terminate on the date of Final Completion of the Work, it shall perform the following services:

(a) establish procedures for the orderly and expeditious performance and Final Completion of the Work in accordance with the terms of this Agreement; perform or require to be performed, all Work necessary in connection therewith; establish procedures for administration of Trade Contracts; and maintain coordination among Trade Contractors;

(b) prepare Project Site organization and lines of authority in order to carry out the Work on a coordinated basis;

(c) organize all staff and assign personnel (beyond staff pre-approved in **Exhibit C**), as approved by Owner/Developer in writing, to various areas to provide a positive and efficient means by which the Work may be controlled, coordinated and expedited;

(d) in consultation with Owner/Developer and Architect, update the latest Construction Budget prepared in the course of the Pre-Construction Phase, setting forth in such manner and detail as Owner/Developer may require, all anticipated costs of the Work for (i) all Trade Contractors performing labor or furnishing materials under Trade Contracts, other than Trade Contracts awarded solely for the performance of General Conditions Work Items, on a trade-by-trade and square foot basis, and (ii) all of Construction Manager's personnel and labor referred to in Section 3.07 hereof, and (iii) all General Conditions Work Items broken down on an itemized, line item, basis, and segregated to reflect those portions of said General Conditions Work Items which are to be performed by Construction Manager and those portions which are to be performed by Trade Contractors; update monthly, in consultation with Owner/Developer and Architect, and submit to Owner/Developer for its approval, such Construction Budget, and make such adjustments thereto, including adjustments by reason of approved Change Orders and Emergency Change Orders, to keep Owner/Developer currently informed as to the anticipated aggregate Costs of the Work. Construction Manager agrees that if there exists any factor, event or occurrence of any kind which in Construction Manager's opinion, inhibits or prevents the furnishing of accurate cost forecasts, then and in such event, Construction Manager promptly shall so advise Owner/Developer in writing;

(e) coordinate the scheduling of the Work;

(f) require submission of, and review, progress schedules of Trade Contractors and make adjustments to such schedules as appropriate in an effort to continue the expeditious Final Completion of the Work within the time periods set forth in the Progress Schedule;

(g) except as otherwise provided in Article XXII hereof, obtain Owner/Developer's written approval of any changes in the Work and any approvals or other documents necessary in connection therewith;

(h) conduct necessary job and coordination meetings, which job meetings shall be held not less often than weekly unless not required and which coordination meetings shall be held as required, and attend all such meetings;

(i) prepare agendas and detailed written minutes of each job and coordination meeting and furnish copies thereof to Owner/Developer and Architect;

(j) prepare and maintain a Project record keeping system, including records of all changes in the Work necessitated by reason of Change Orders, Emergency Change Orders, Work progress schedules, daily manpower breakdown, shop drawing logs, material lists, records of all pertinent communications with, and recommendations made to, Architect and its responses thereto, and daily reports

(subject to Article 10.02) recording manpower breakdowns on a trade-by-trade basis with a description of the Work being performed each day by each trade, equipment and material deliveries, visitors, special occurrences, weather conditions, and other Work related information and make such on-Project Site records available for inspection to Owner/Developer (and, if required by Owner/Developer, to the City, Architect and/or Consultants). In addition, copies of all correspondence pertaining to the Work shall be maintained by Construction Manager and shall be made available at all times to Owner/Developer;

(k) submit to Owner/Developer on a bi-monthly basis the following: (i) the financial condition of the Work, including Trade Contract awards, Construction Budget modifications, anticipated cost summary and Change Order summary; (ii) construction status, including updated Progress Schedules with projected critical dates compared with original milestone dates, status of job progress to date, current Work activity, projected Work activity for the following month, and status of materials required and Procurement Logs; and (iii) drawing status, including status of shop drawings, shop drawing schedule, status of coordination drawings, coordination drawing routing schedule, status of RFI Logs, and coordination meeting minutes;

(l) require that Trade Contractors submit and assemble and review, brochures, guarantees, certificates of compliance and other agreements and instruments;

(m) obtain and review for constructability (but not as a substitute for Architect's technical review) all shop drawings, samples and catalog cuts submitted by Trade Contractors and comment to Owner/Developer and Architect on their form and any significant inconsistencies between the shop drawings and the Construction Documents; and after Construction Manager shall so review said documents it shall promptly submit the shop drawings to Architect for review and approval. After return of the shop drawings from Architect, Construction Manager shall review Architect's comments to the shop drawings; and distribute them to the submitting Trade Contractor and all other affected parties. Architect shall review and return to Construction Manager all shop drawings and other submittals within ten (10) business days, if submitted in accordance with an approved submittal schedule as provided by the Construction Manager and reviewed with the Architect and Owner/Developer within thirty (30) days of the execution date of this Agreement. Construction Manager shall (i) hold the submitting Trade Contractor responsible for the accuracy and adequacy of the shop drawings, and (ii) ensure that the submitting Trade Contractor makes, at no additional cost, any revisions to the shop drawings that are necessary to implement Architect's comments so that the Work may be properly coordinated and implemented into the Project. Construction Manager acknowledges and agrees that as part of its obligations under this Agreement, Construction Manager and its Trade Contractors are to prepare and submit shop drawings and other submissions, conduct coordination meetings and prepare coordination drawings for the purpose of coordinating the work required of Construction Manager and its Trade Contractors. Owner/Developer shall require the attendance of Architect at coordination meetings, when requested by Construction Manager. This process, in part, is intended to recognize and resolve design conflicts in advance of fabrication and installation of the various components of the Work. Construction Manager agrees that it shall expeditiously and thoroughly prepare and submit shop drawings and conduct and conclude the coordination effort at the earliest possible time so as to facilitate the recognition and resolution of conflicts, including errors in the Construction Documents, such that any adverse effects on the progress of the Work are avoided to the fullest extent reasonably possible. Similarly, the proposal of substitutions in accordance with Article XXI

of this Agreement shall be conducted at the earliest possible time. Nothing herein shall relieve Construction Manager from its own failure to comply with its obligations with respect to shop drawings, samples and catalog cuts;

(n) at the Project Site, on a current basis:

(i) maintain, and make available to Owner/Developer, City, Architect and/or Consultants, copies of any records with respect to Trade Contracts, shop drawings, samples, operating manuals, the Construction Documents, equipment and any and all other related documents and any revisions to any of the foregoing which may arise out of, or be related to, this Agreement;

(ii) maintain and provide, and make available to Owner/Developer, Architect and/or Consultants, any photos, including progress photos taken on a monthly basis according to a plan, as previously approved by Owner/Developer; and

(o) upon final completion of the Work, deliver to Owner/Developer copies of a complete set of marked "Record Drawings", with respect to all Trade Contract documents and Construction Documents, as actually completed, together with copies of all operating instructions and maintenance manuals (bound and indexed);

(p) establish and coordinate with Owner/Developer a system for processing, expediting and administering all Trade Contracts for the purchase of materials, supplies and equipment. Manage the procurement and delivery of critical materials to the Project Site and coordinate the deliveries with the progress of the Work;

(q) notify Owner/Developer and Architect of the progress of the Work, and advise Owner/Developer, in accordance with the provisions of Article VI hereof, of any delays or serious potential delays which may affect Substantial Completion of the Work and of Construction Manager's recommendations regarding such delays;

(r) inspect and coordinate the work of all Trade Contractors, enforce the terms of their respective Trade Contracts and enforce strict discipline and good order among all Trade Contractors in an effort to see that the Work is performed in accordance with the terms of such Trade Contracts, the Contract Documents, recognized trade standards and the applicable laws, rules and regulations of governmental authorities having jurisdiction over the Work and endeavor to guard Owner/Developer against any delays, increased costs and defects and deficiencies in the Work. In connection with the foregoing, Construction Manager shall (i) require any Trade Contractor to stop the performance of any Work which Construction Manager observes is not in compliance with the requirements of its respective Trade Contract, the Contract Documents, recognized trade standards or the applicable laws, rules and regulations of any governmental authorities having jurisdiction over the Work; (ii) reject and require to be corrected, those portions of the Work which Construction Manager discovers does not conform to the requirements of the applicable Trade Contract, the Contract Documents, recognized trade standards or the applicable laws, rules and regulations of any governmental authorities having jurisdiction over the Work; (iii) inspect all materials, supplies and equipment delivered or installed in connection with, or pursuant to, any Trade Contract in an effort to

determine that the same are in compliance with the requirements of the applicable Trade Contract, the Contract Documents, recognized trade standards and the laws, rules and regulations of all governmental authorities having jurisdiction over the Work and reject and require replacement of all non-conforming materials, supplies and equipment; and (iv) not employ on the Work any person or Trade Contractor unfit for or unskilled in the assigned task and, remove such unfit or unskilled employee or such Trade Contractor from the Project Site;

(s) enforce at all times on or about the Project Site a strict no smoking policy;

(t) employ a "zero tolerance" policy regarding the use or presence at the Project Site of alcohol, drugs, controlled substances, and firearms, and take immediate appropriate action upon discovery of any employee or personnel who is or may be under the influence or otherwise in possession of any of the foregoing. Should Owner/Developer determine in its sole but not arbitrary discretion that any person employed by Construction Manager or a Trade Contractor is unfit to remain at the Project Site, Owner/Developer shall so advise Construction Manager who immediately shall take all required steps to remove that person from the Project Site at once, and to replace that person, as required, with a suitable person;

(u) not load or permit any part of the Work to be loaded so as to endanger its safety;

(v) arrange for all cutting, fitting or patching that may be required to complete the Work or to make its several parts fit together properly;

(w) use best efforts to resolve disputes between Trade Contractors relative to the performance of their work or the furnishing of materials, supplies or equipment in connection with the Work;

(x) arrange for the storage of all materials, supplies, systems and equipment provided in connection with the performance of the Work;

(y) maintain the Project Site in a safe and orderly fashion and ensure Trade Contractors provide Project Site clean-up of the Work on a regular basis during the course of construction, and also upon Substantial Completion and Final Completion, as provided in this Agreement;

(z) implement all necessary and prudent safety, health and environmental protection procedures (including, but not limited to, federal including OSHA, state and locally mandated programs and statutory requirements) during performance of the Work, which shall include, but is not limited to: the erection and maintenance of temporary systems; the posting of danger signs and other warnings against hazards; the conducting of inspections; and enforce the requirement that all Trade Contractors comply with applicable laws relating to safety, health, and environmental protection in connection with the Work;

(aa) prepare a schedule of values and Applications for Payment in a form reasonably approved by Owner/Developer, Lender and City; determine, prior to the submission of each Application for Payment, whether and to what extent the sums requested herein are due and payable; and certify to the

best of Construction Manager's knowledge, information and belief the same to Owner/Developer, Lender and City;

(bb) make recommendations with respect to any changes Construction Manager may consider necessary or desirable in connection with the Work (including, but not limited to, events of force majeure or Contemplated Delay), it being understood and agreed that, except as otherwise provided in Section 22.05 and 22.06 hereof, no changes to the Contract Documents may be made in connection with the Work without the prior written approval of Owner/Developer;

(cc) issue to Trade Contractors (i) all Change Orders approved by Owner/Developer, and (ii) all Emergency Change Orders in the manner and in accordance with the provisions set forth in Article XXII hereof;

(dd) with respect to portions of the Work to be performed pursuant to a Change Order an Emergency Change Order, on a time and material, unit-cost or other similar basis, keep and require the keeping of records and computations thereof and maintain accurate cost accounting records, and provide copies thereof to Owner/Developer;

(ee) review all Trade Contractors' insurance documents for compliance with the provisions of their respective Trade Contracts. Inform Owner/Developer of any deficiencies in said coverage;

(ff) assist Owner/Developer in determining when Substantial Completion of the Work has taken place; subsequent to Substantial Completion of the Work, prepare (in consultation with Architect) lists of incomplete or unsatisfactory Work ("Punch Lists"). The parties agree that it is anticipated that if applicable, certain areas of the Fire Station may have its own Punch List as required by the Owner/Developer and City. Construction Manager shall perform or cause to be performed, and supervise all work necessary to complete the items set forth on the Punch Lists; provided, however, that the failure to include any element of the Work on such Punch Lists shall not alter the responsibility of Construction Manager and/or Trade Contractors to complete the Work in accordance with the Contract Documents; and subsequent to the completion of all items set forth on the Punch Lists items and any other unfinished portions of the Work, provide written notice to Owner/Developer, Architect (and if requested by Developer, to Consultants), that the Work has reached the stage of Final Completion and is ready for final inspection;

(gg) perform the coordination and implementation of the initial startup, testing, commissioning, and operation of the Work and all systems comprising a portion of the same including the participation of Owner/Developer and City maintenance personnel in all activities;

(hh) prior to making final payment under any Trade Contract, (i) prepare a Trade Contract status summary indicating its financial status, complete with a summary of all approved Change Orders and payments made to date, and (ii) secure and deliver to Owner/Developer all required guarantees, affidavits, releases of liens, waivers, certificates, consent of any surety to final payment, as-built drawings,

maintenance manuals, operating instructions and other documents required to be delivered under this Agreement in connection with the Work;

(ii) secure and deliver to Owner/Developer all governmental consents, approvals, licenses and permits customarily obtained by a construction manager performing services and functions similar to the services and functions being performed by Construction Manager hereunder, including, but not limited to, obtaining a TCO unless the failure to obtain the TCO and/or CO is not due to any full or partial fault of Construction Manager, its Trade Contractors or anyone for whose acts they may be liable; it being expressly understood that the making of final payment by Owner/Developer to Construction Manager hereunder shall be conditional upon the deliverance by Construction Manager of the foregoing to Owner/Developer unless the failure to obtain any of the above is due to causes beyond the reasonable control of Construction Manager;

(jj) establish and implement in a consistent and conscientious manner a quality control system, and to the extent Owner/Developer elects to use an automated quality assurance/quality control program, utilize such program to identify and track incomplete and/or deficient items; include within the logistics plan and review with Owner/Developer prior to implementation the placement and phased removal of on-Site shanties, trailers and storage areas; coordinate with all mechanical Trade Contractors and Architect as required to verify that all shut-off valves and controls are outside of occupied spaces (as identified to Construction Manager) and readily accessible; require that Construction Manager's superintendent is present and specifically approves the placement of all mechanical equipment with regard for functional accessibility, maintenance and replacement; and at all times be responsible for and maintain proper security and weather tight conditions at all hoist and all other temporary building openings;

(kk) The following tasks shall be included within Construction Manager's scope of Work;

(i) Eliminate or if elimination is not possible then minimize to the greatest extent possible any exterior scaffold work in front of windows of any areas turned over to Owner/Developer for occupancy; and

(ii) Note (in the field and on drawings) locations of all shut-off or balancing valves, volume or fire dampers, etc. to assure that access doors are installed in the proper locations, including any plumbing, HVAC, electric or sprinkler system control valves, dampers, balancing values, switches, electric or control ties in points/splices.

7.03 Notwithstanding the division of Construction Manager's work into the Pre-Construction and Construction Phases as provided in this Article VII, Construction Manager understands and agrees that the Fire Station Project may proceed on a "fast-track" basis and that portions of the Work to be performed by Construction Manager in the Pre-Construction Phase may overlap and be combined with portions of the Work to be performed in the Construction Phase.

7.04

(a) Construction Manager and all Trade Contractors shall warrant and represent that all materials and equipment incorporated in the Work shall be new and that the Work shall be of good quality, free from improper workmanship and defective materials and in strict conformance with the Contract Documents, and all applicable laws, rules, requirements and regulations of any governmental authorities having jurisdiction over the Work. Owner/Developer may determine any Work not conforming to these requirements, including substitutions not properly approved and authorized, to be defective, in which case Construction Manager shall promptly correct any such defective Work;

(b) Construction Manager and all Trade Contractors shall guarantee all Work or portion thereof for a period of one (1) year after the earlier of Substantial Completion of the Work or beneficial occupancy of any portion thereof or such longer period as prescribed by the Construction Documents or governing laws and statutes. In the event the Work or any portion thereof is found defective or not in accordance with the Contract Documents within such time period, Construction Manager shall require the appropriate Trade Contractor to correct it promptly after written notice from Owner/Developer to do so unless Owner/Developer has previously given written acceptance of such condition. Owner/Developer shall give such written notice promptly after discovery of the same. All warranties/guarantees for longer than one (1) year shall be assigned to the City.

(c) Nothing contained in subparagraph (b) of this Section 7.04 shall be construed to establish a period of limitation with respect to any other obligation which Construction Manager might have under the Contract Documents. The establishment of the time periods noted in subparagraph (b) of this Section 7.04, relates only to the specific obligation of Construction Manager to require the appropriate Trade Contractor to correct the Work, and has no relationship to the time within which Construction Manager's or a Trade Contractor's obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish Construction Manager's liability with respect to Construction Manager's obligations.

7.05 If conditions are encountered at the site that are (a) subsurface or otherwise concealed physical conditions that differs materially from those indicated in the Contract Documents or (b) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly upon knowledge thereof or before conditions are disturbed. Owner/Developer will promptly investigate such conditions and, if they differ materially and cause increase or decrease in Construction Manager's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both, as a Change Order.

ARTICLE VIII

Trade Contracts

8.01 Unless otherwise agreed upon in writing by Owner/Developer, all items of the Work to be performed and all materials, supplies and equipment to be furnished in connection therewith shall be performed by Trade Contractors, approved by Owner/Developer, pursuant to written Trade Contracts awarded by Construction Manager, which Trade Contracts shall be written on Construction Manager's trade contract form (the "Trade Contract Form"). Trade Contract Forms shall be submitted to Owner/Developer for approval in writing prior to issuance to any Trade Contractors. Prior to awarding any Trade Contract, Construction Manager shall consult with Owner/Developer with respect to Trade Contractors qualified to bid the various portions of the Work, as well as the methods of, and form of, Trade Contract awards. Thereafter, Construction Manager shall (a) prepare, in consultation with Owner/Developer and subject to its approval (and, if requested by Owner/Developer, in consultation with Architect), the invitation for bid, bid package and a bidder's list, setting forth at least three (3) Trade Contractors for each trade (the "Bid List"), (b) request bids from the various Trade Contractors on the Bid List, (c) conduct, in cooperation with Owner/Developer, formal pre-bid meetings with bidders of each trade involved in the performance of the Work for the purpose of explaining the scope of the Work, and (d) open all Trade Contract bids obtained, and review the same, in the presence of and in conjunction with Owner/Developer. Also, prior to awarding any Trade Contract, Construction Manager shall consult with Owner/Developer with respect to Construction Manager's evaluation of Trade Contract bids and the awarding of Trade Contracts and, subject to the approval of Owner/Developer, shall negotiate the most favorable price and terms to be included in such Trade Contracts. Thereafter, Construction Manager shall, by letter in a form approved by Owner/Developer (the "Trade Contract Award Letter"), advise Owner/Developer of (a) which Trade Contract bids it intends to request for approval, (b) the price of the proposed Trade Contract awards and (c) any proposed material differences between the provisions of the Trade Contract Form and the terms of the Trade Contract that Construction Manager proposes to enter into with said Trade Contractor. For purposes hereof, the term "material difference" shall be deemed to mean changes to the Trade Contract Form that (a) permit the Trade Contractor thereunder to observe a lesser standard of care in the performance of its obligations to Construction Manager under the Trade Contract than Construction Manager is obligated to observe under the terms of this Agreement, (b) any other difference which is similar in nature to the aforesaid or is a difference that may have a cost, liability or other consequence to Owner/Developer. Upon receipt by Owner/Developer of Construction Manager's Trade Contract Award Letter, Owner/Developer shall countersign the Trade Contract Award Letter, setting forth Owner/Developer's acceptance, rejection or other comment regarding the difference between the proposed Trade Contract and the Trade Contract Form. Construction Manager, upon receipt of Owner/Developer's Trade Contract Approval Letter, promptly shall make all required changes in the proposed Trade Contract and award the Trade Contract in question. All Trade Contracts shall be executed in triplicate by Construction Manager and shall be promptly delivered to Owner/Developer in a manner as requested by Owner/Developer.

8.02 Each Trade Contract shall require that all Work performed or materials, supplies or equipment furnished pursuant thereto shall comply with the Contract Documents, the building permit and the trade standards, laws, rules, regulations and requirements of all governmental authorities having

jurisdiction over the Work. It is expressly understood and agreed that no portion of the Work shall be performed, and no materials or equipment required on account of the Work shall be furnished, by any Trade Contractor unless and until a Trade Contract for the same is entered into between Construction Manager and the Trade Contractor in question in accordance with the provisions of Section 8.01 hereof and a copy thereof is delivered to Owner/Developer, unless Owner/Developer expressly waives, in each instance, the requirement that the same be delivered as aforesaid.

8.03 It is expressly understood and agreed that, except as otherwise provided in Article XV hereof, each Trade Contract to be entered into by Construction Manager in connection with the Work shall (a) require the Trade Contractor to obtain and execute, unless expressly waived in writing by Owner/Developer in each instance, payment and performance bonds in the form of bond annexed hereto as **Exhibit E** and made a part hereof, and (b) contain the following:

(i) provisions for Retainage as required by Section 3.06, and provisions for mark-up on Change Orders as required by Section 22.01(a)(i);

(ii) an obligation on the part of the Trade Contractor promptly to repair, at no additional cost to Owner/Developer, any latent defects and to replace any defective materials, supplies or equipment;

(iii) a requirement that each Trade Contractor provide and maintain in full force and effect, until final payment is made under its Trade Contract, the insurance more particularly described in the approved Trade Contract; and

(iv) a provision that if this Agreement is terminated by Owner/Developer pursuant to Article XIV hereof, the Trade Contract, at the option of Owner/Developer, shall be assigned by Construction Manager to Owner/Developer, City or such entity or entities as Owner/Developer or City may direct and, in such event, the assignee shall assume all of Construction Manager's liabilities thereunder arising from and after the date of such assignment; provided, however, that nothing contained herein shall be deemed to release Construction Manager from liability to such Trade Contractor or to Owner/Developer or such other entity or entities with respect to claims arising prior to the date of such termination.

8.04 Owner/Developer may request that Construction Manager contract with certain Trade Contractors of Owner/Developer's choosing ("Developer-selected Trade Contractors"). In such event, Construction Manager agrees to contract with Developer-selected Trade Contractors provided that they (a) satisfy Construction Manager's standard Trade Contractor prequalification process, including approval for enrollment into the SDI Program; and (b) agree to assume all obligations and liabilities set forth in this Agreement as applicable to their respective scopes of Work (e.g., agrees to assume their proportional share of any liquidated damages; agree to the limitations on claims for damages resulting from Contemplated Excusable Delays).

ARTICLE IX

Discounts, Rebates and Refunds

9.01 With submission of Construction Manager's monthly Application for Payment, Construction Manager is obligated to inform Owner/Developer of any cash discounts which are anticipated in the upcoming pay period. All cash discounts shall accrue to Owner/Developer provided Owner/Developer makes payment to Construction Manager within the period necessary to secure such discounts. Construction Manager promptly shall inform Owner/Developer of the availability of all cash discounts so as to afford Owner/Developer the opportunity to obtain the same. All trade discounts, rebates, refunds and gratuities, if any, and all returns from the sale of surplus materials and equipment shall accrue to Owner/Developer and Construction Manager shall take such steps as are necessary to insure that Owner/Developer receives all of the foregoing.

ARTICLE X

Accounting Records

10.01 Construction Manager shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Agreement; the accounting and control systems shall be reasonably satisfactory to Owner/Developer, Lender and City. Owner/Developer at its option may provide to Construction Manager a general ledger listing of components (in the nature of a cost segregation report, which Owner/Developer needs for purposes of computing depreciation) and Construction Manager shall utilize such listing in all financial reporting.

10.02 Construction Manager's Project staff shall maintain correspondence, minutes of meetings, schedules, invoices and requisitions which shall be maintained at the Project office, located at either: (a) Construction Manager's principal office, or (b) office trailers on the Project Site; and shall promptly be made available upon request for inspection and copying by Owner/Developer, Lender and/or the City.

10.03 Construction Manager's Project staff shall perform all accounting and bookkeeping services requested by Owner/Developer to the extent necessary for proper financial management under this Agreement in connection with the Work including processing of all requisitions, payroll records and invoice processing for all labor, materials and equipment utilized in the performance of the Work, and payment of all Trade Contractor requisitions by Construction Manager. Specific attention is called to Owner/Developer's cost segregation requirements, as set forth in Section 10.01.

10.04 Construction Manager's Project staff shall, as part of its record-keeping obligations under the Agreement, cause the Trade Contractors to maintain and supply to Owner/Developer records on a per Trade Contractor basis and for each Trade Contractor employee including the employee's name, address, telephone number, construction trade, employee identification number if and when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper or laborer), date of change status, hours worked per week in the indicated trade, rate of pay and location at which Work was performed.

10.05 On reasonable notice from Owner/Developer to Construction Manager, Owner/Developer and City and their authorized representatives shall, be afforded full access to all Construction Manager's Project-related records, books, correspondence, instructions, Construction Documents, receipts, Trade Contracts, Change Orders, purchase orders, vouchers, memoranda and other data, and shall have the right to audit and photocopy such books and records. All books, records and other documents shall be in accordance with standard California building industry accounting practices. Such books and records to the extent that they relate to the Project shall be furnished to Owner/Developer in electronic form within three (3) months after completion of the Project.

ARTICLE XI

Applications for Payment

11.01 Owner/Developer shall make progress payments to Construction Manager at monthly intervals for reimbursement of the costs incurred by Construction Manager during the Construction Phase in the performance of the Work and in payment of Construction Manager's Fee, General Conditions Costs and Reimbursable Costs in accordance with the following procedures, which procedures may be amended at the request of Lender and/or the City:

(a) During the performance of the Work, Construction Manager and Owner/Developer, along with the Architect, Lender and City, shall meet at the Project Site on or before the first (1st) day of each month for the purpose of reviewing and approving Construction Manager's performance and completion of certain items of the Work and to review a draft of Construction Manager's application for partial payment. Based upon Owner/Developer's and City's review of such draft, on or before the fifth (5th) day of the calendar month following commencement of the Work and on or before the fifth (5th) day of each calendar month thereafter, with a pencil draft on the twenty-fifth (25^{th}) of each month, Construction Manager shall submit to Owner/Developer, if required, for review and certification, its application for partial payment (the "Application for Payment"), in form satisfactory to Owner/Developer, setting forth in complete detail (i) the portion of Reimbursable Costs incurred by Construction Manager in connection with the Work during the immediately preceding thirty (30) calendar-day period for which Construction Manager is to be reimbursed as provided in Article IV hereof, and (ii) the amount of Construction Manager's Fee and General Conditions Costs attributable to such Reimbursable Costs payable that month. To the extent allowed by Owner/Developer under Article XX hereof, any materials which are stored but have not been incorporated into the Project shall be listed separately on each Application for Payment. Owner/Developer shall have the right to require that any or all Applications for Payment be accompanied by such documents (including written releases of lien from Construction Manager and/or Trade Contractors in the form annexed as **Exhibit H** and **Exhibit I**, as applicable, or in such other form as required by Owner/Developer) as Owner/Developer may require to evidence that title to the equipment or materials incorporated, in the Project, or pre-purchased as provided in Article XX hereof, is unencumbered. Unless otherwise directed or authorized in writing by Owner/Developer, all Applications for Payment and all supporting documents (including but not limited to waivers of lien and sworn statements) shall be in electronic format and shall be submitted to Owner/Developer using the Textura™ CPM payment management system. Construction Manager shall be responsible for the fees and costs associated with Construction Manager's use of the Textura™ CPM payment management system. Construction Manager

shall include a similar requirement in all Trade Contracts and purchase orders entered by Construction Manager;[1']

(b) Each Application for Payment shall constitute a representation by Construction Manager that to the best of Construction Manager's knowledge, information and belief: (i) the partial payment then requested to be disbursed has been incurred by Construction Manager on account of the Work or is justly due to Trade Contractors on account thereof, (ii) the materials, supplies and equipment for which such Application for Payment is being submitted have been installed or incorporated in the Project, or have been stored at the Project Site or at such off-Project Site storage locations [approved beforehand by Owner/Developer], as shall have been allowed by Owner/Developer hereunder; (iii) the materials, supplies and equipment are not subject to any liens or encumbrances, (iv) no mechanic's, laborer's, vendors, materialman's or other liens have been filed in connection with the Project or any of the materials, supplies or equipment incorporated therein or purchased in connection thereto, or if such lien has been filed and served upon Construction Manager a statement to that effect and (v) the Work which is the subject of such Application for Payment has been performed in accordance with the Contract Documents. Construction Manager shall carefully examine all payment breakdowns and applications for payment submitted by Trade Contractors in an effort to eliminate "front-end loading"; shall report any attempts to so "front-end load" in writing to Owner/Developer; and shall under no circumstances, except with the specific prior written approval of Owner/Developer, request or allow payments to be made to any Trade Contractor which are "front-end loaded" and which do not accurately reflect the true value of the work performed or the materials, supplies or equipment actually furnished;

(c) Owner/Developer shall conditionally approve or disapprove all or a portion of Construction Manager's Application for Payment within twelve (12) calendar days of receipt. On the forty-fifth (45th) calendar day after Owner/Developer determines the amount properly payable to Construction Manager for Work completed to Owner/Developer's satisfaction, Owner/Developer shall pay to Construction Manager an amount equal to the amount approved by Owner/Developer and City less retention set forth in Section 3.06 hereof of the Trade Contractor Costs (including payments to Trade Contractors for the performance of General Conditions Work Items pursuant to Trade Contracts) with input by Architect, and Construction Manager's Fee and General Conditions Costs. With approval from Owner/Developer, Lender and City, Construction Manager may release Trade Contractor retention on a trade by trade basis upon final completion of a given Trade Contractor's work. Owner/Developer shall direct its Lender to disburse the loan proceeds in the amount approved directly to Construction Manager by wire transfer. Construction Manager shall process and make payments for all obligations to Trade Contractors, which are covered by the Application for Payment so paid by Owner/Developer within seven (7) calendar days of receipt of payment from Owner/Developer. This provision is strictly for the benefit of Owner/Developer in order that satisfactory morale and relations with Trade Contractors be maintained and shall not under any circumstances confer any right upon any third party. Should Owner/Developer disapprove all or a portion of any Application for Payment, Owner/Developer will provide Construction

[1] Project fees range from $50 to $50,000 based on the size of the Project. Subscription fees to Construction Manager range from $55 to $780 per month based on the size and number of projects Construction Manager is managing on the Textura CPM™ system. Fees to Trade Contractors are calculated as 0.18% (18 basis points) of contract value, with a minimum fee of $50 and a maximum fee of $2,500. Fees to Trade Contractors' subcontractors and suppliers are a fixed fee of $100 per subcontract or supplier contract.

Manager with a written explanation of the basis of its disapproval and will approve for payment any undisputed portions of the Application for Payment;

(d) Following Substantial Completion of the Work and submission of an Application for Payment therefor by Construction Manager, Owner/Developer shall pay to Construction Manager an amount equal to the balance remaining unpaid to Construction Manager on account of Reimbursable Costs, together with the amount of Construction Manager's Fee and General Conditions Costs due and payable, after deducting from monies otherwise due therefrom (i) any retention in connection with any Trade Contracts (including Trade Contracts for the performance of General Condition Work Items) as Owner/Developer shall be entitled to hold back pursuant to the provisions of Section 3.06 hereof (or at Owner/Developer's election, such lesser amount with respect to any Trade Contract as Owner/Developer may determine), and (ii) a retention of two hundred percent (200%) of the amount necessary to complete Punch List items and replace defective work. Said Application for Payment shall also be accompanied (i) by written releases, executed by each Trade Contractor receiving final payment under their respective Trade Contracts, waiving their right upon final payment to file any mechanic's, vendors, laborer's, materialman's or other liens against the Project, and (ii) by such other certificates, as-built drawings, maintenance manuals, operating instructions, permits and other documents or instruments required to be delivered to Owner/Developer at Final Completion of the Work under this Agreement. Notwithstanding the foregoing, it is expressly understood and agreed that if, at any time after final payment with respect to a particular Trade Contract is released, any lien or claim is filed against the Project which relates to work performed or materials, supplies or equipment furnished by such Trade Contractor or its sub-Trade Contractors, Owner/Developer, at its option and provided Construction Manager does not bond or otherwise discharge such lien as required by Article XIII, shall be entitled either (i) to hold back from the sums then due or next becoming due to said Construction Manager an amount equal to all costs and expenses to be incurred in causing such lien or claim to be discharged of record, including, without limitation, attorneys' fees and disbursements, or (ii) to require that Construction Manager immediately discharge the same of record, at its sole cost and expense, except as provided in Article XIII, by payment, bonding or otherwise, or (iii) to require that Construction Manager pay to Owner/Developer, on demand, the amount necessary to cause such lien or claim to be discharged of record, together with all costs and expenses incurred by Owner/Developer in connection therewith, including, without limitation, attorneys' fees and disbursements;

(e) Following Final Completion of the Work, and upon submission of a final Application for Payment therefor by Construction Manager (accompanied by all as-built drawings, certificates, releases of lien and other documents and instruments not theretofore delivered to Developer as required under Sections 6.01 and 7.02 hereof) Owner/Developer shall pay to Construction Manager an amount equal to the aggregate of the balance remaining unpaid to Construction Manager on account of Reimbursable Costs and Construction Manager's Fee and General Conditions Costs, and the balance of any amounts retained under each Trade Contract. The acceptance by Construction Manager of final payment following Final Completion of the Work shall constitute a waiver of all those claims of which Construction Manager had knowledge unless the same is set forth in writing and identified by Construction Manager in the final Application for Payment as unsettled at the time of Final Completion; any claim so identified in the final Application for Payment shall survive only for a period of one (1) year and this

contractual statute of limitations is a material term negotiated between Owner/Developer and Construction Manager in this Agreement .

(f) Anything contained in this Agreement to the to the contrary notwithstanding, Owner/Developer, in its judgment reasonably exercised, may withhold from any payment due or to become due to Construction Manager any amount which Owner/Developer, in its good faith opinion, deems sufficient to reimburse Owner/Developer for its expenditures for the account of Construction Manager and to secure Owner/Developer's remedies in consequence of any default or breach by Construction Manager under this Agreement.

11.02 No payment by Owner/Developer (other than final payment) of any Application for Payment shall constitute acceptance by Owner/Developer of Work completed or material stored, and no such payment shall be construed as a waiver of any right or claim by Owner/Developer in connection with such Work or stored material.

ARTICLE XII

Assignment

12.01 Construction Manager shall not assign this Agreement or the performance of all or any of its obligations hereunder without the prior written consent of Owner/Developer, which consent may be given or withheld in Owner/Developer's sole and exclusive discretion. The provisions of this Section 12.01 may not be waived or otherwise modified except by a written instrument executed by Owner/Developer.

12.02 This Agreement shall be freely assignable by Owner/Developer with consent of the City (not to be unreasonably withheld) but without the consent of Construction Manager to an affiliate of Owner/Developer, or to any person or entity designated by Owner/Developer (hereafter referred to as a "Permitted Assignee"), provided (a) such Permitted Assignee agrees to assume Owner/Developer's obligations and liabilities hereunder; (b) Owner/Developer has paid all sums properly due to Construction Manager prior to the date of assignment; and (c) the Permitted Assignee has provided Construction Manager with satisfactory evidence of financing for the balance of the work. In all other cases, Owner/Developer's assignment of this Agreement is subject to the prior approval of the City and the Construction Manager, which approval shall not be unreasonably withheld or delayed and is subject to all of the requirements as a Permitted Assignee. If Owner/Developer shall assign this Agreement as aforesaid, Construction Manager agrees that it shall deal with such Permitted Assignee or other approved assignee in the place and stead of Owner/Developer and that it shall perform all of its obligations under this Agreement and perform and complete the Work in the manner required by this Agreement if Owner/Developer is not in default or if Permitted Assignee or other approved assignee cures the existing default. In such event, such Permitted Assignee or other approved assignee may, among other things, use the Contract Documents without payment of any additional fees or charges and may enforce the obligations of Construction Manager hereunder with the same force and effect as if Permitted Assignee or other approved assignee assumes the obligations and liabilities of Owner/Developer. Upon such assignment and assumption by the Permitted Assignee or approved assignee, provided Owner/Developer is current on all of its payment Obligations and there are not pending payment disputes, Owner/Developer shall be released from all of its

payment and other obligations and liabilities hereunder. Construction Manager shall certify, in the form reasonably required by any such Permitted Assignee or other approved assignee, that the undertakings contained herein as to the obligations in favor of such Permitted Assignee or other approved assignee shall run in favor of such Permitted Assignee or other approved assignee.

ARTICLE XIII

Liens and Claims

13.01 If, at any time, there is any lien or claim of any kind whatsoever filed against the Fire Station Project by a Trade Contractor, subcontractor or supplier, or anyone claiming under or through Construction Manager, for Work performed or materials, supplies or equipment furnished in connection with the Work for which Owner/Developer has paid or reimbursed Construction Manager, Construction Manager shall, within seven (7) calendar days after notice from Owner/ Developer, cause such lien or encumbrance to be canceled and discharged of record by bonding or otherwise, at Construction Manager's sole cost including but not limited to legal fees and expense.

13.02 If, at any time, there is any lien or claim of any kind whatsoever filed against the Project by a Trade Contractor or anyone claiming under or through Construction Manager or a Trade Contractor for work performed or materials, supplies or equipment furnished in connection with Work for which Owner/Developer shall not have paid or reimbursed Construction Manager by reason of Owner/Developer's proper exercise of its right to withhold payment to Construction Manager under the applicable provisions of this Agreement, then Construction Manager shall, within fourteen (14) calendar days after notice from Owner/Developer, cause such lien or encumbrance to be cancelled and discharged of record by bonding or otherwise, at Owner/Developer's sole cost and expense.

13.03 If any lien that Construction Manager is required to remove pursuant to Sections 13.01 or 13.02 hereof is not cancelled and discharged of record as aforesaid, Owner/Developer shall have the right to take such action as Owner/Developer shall deem appropriate (which shall include the right to cause such lien to be cancelled and discharged of record by bonding or otherwise), and in such event, all costs and expenses incurred by Owner/Developer in connection therewith (including, without limitation, premiums for any finance furnished in connection therewith, and reasonable attorneys' fees and disbursements) shall be paid by Construction Manager to Owner/Developer on demand, or at the option of Owner/Developer, deducted from any payment then due or thereafter becoming due from Owner/Developer to Construction Manager in accordance with the provisions of this Agreement.

ARTICLE XIV

Events of Default and Termination or Suspension of Agreement

14.01

(a) Any of the following events shall constitute an event of default ("Event of Default")

(i) Construction Manager shall default in observing and performing any of its material obligations under this Agreement and such default shall not have been cured within seven (7) calendar days after Owner/Developer shall have given Construction Manager written notice thereof (or if not curable within seven (7) calendar days, provided Construction Manager has in good faith commenced to cure); or

(ii) Construction Manager becomes a party to any insolvency proceeding in a capacity as a debtor, and, in the case of any involuntary proceeding only, such proceeding is not stayed or discharged within thirty (30) calendar days after the commencement of same; the terms "insolvency proceeding" as used herein shall include the filing of a petition for relief under Chapter 11 of Title 11 of the United States Code by Construction Manager of any petition or action looking to, or seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any other present or future federal or state statute, law or regulation, or the appointment, with or without the consent of Construction Manager, of any trustee, custodian, receiver or liquidator of Construction Manager or of any of its property or assets or Construction Manager's making an assignment for the benefit of creditors.

(b) Upon the occurrence of an Event of Default, Owner/Developer may serve written notice upon Construction Manager terminating this Agreement on date specified by Owner/Developer in said notice. In addition, at Owner/Developer's option, exercised by written notice to Construction Manager, title to any or all materials, Work in process, dies and tools (whether on the Project Site or located at an off-Project Site location) which are necessary for, or useful in connection with, the Final Completion of the Work, as determined by Owner/Developer, shall vest in Owner/Developer and Owner/Developer may take possession of and utilize the same for Final Completion of the Work. Construction Manager shall be entitled to payment, after Final Completion of the Work, in an amount equal to (i) the aggregate of (x) the actual unpaid costs incurred by Construction Manager in its proper performance of the Work up to the date of termination, plus the portion of the Construction Manager's Fee and General Conditions Costs attributable thereto (specifically excluding Fee and General Conditions Costs on unperformed Work), and (y) the fair market value of such tools and dies (less, if Owner/Developer elects to return the tools and dies to Construction Manager, the salvage value thereof), less (ii) an amount equal to the additional costs and expenses (including attorney's fees and disbursements) incurred by Owner/Developer in excess of those which would have been incurred by it in connection with the Project had Construction Manager not defaulted hereunder, including, without limitation, the additional expense of engaging another construction manager/general contractor as well as additional compensation for Architect's and any Consultant's additional services made necessary by such default (including reasonable legal fees incurred). Owner/Developer shall have the right to set-off against the aforesaid payment any amounts then due and payable by Construction Manager to Owner/Developer hereunder or which may accrue as damages owing by Construction Manager to Owner/Developer under the terms of this Agreement;

(c) Upon the happening of any of the events set forth in subsection (a) of this Section 14.01, Developer shall have the right, in addition to all other rights and remedies, to complete or cause the Work to be completed, by such means, and in such manner, by contract or otherwise, as Owner/Developer reasonably deems advisable, subject, however, to the terms and conditions of the payment and performance bonds required of Construction Manager hereunder; and

(d) In the event of the happening of any of the events set forth in subsection (a) of this Section 14.01, Construction Manager shall not interfere, directly or indirectly, with Owner/Developer's right and attempt to complete the Work by others or any of the Trade Contractors.

(e) Upon the happening of any of the events set forth in subsection (a) of this Section 14.01, Owner/Developer shall have the right, in addition to all other rights and remedies, to demand Construction Manager assign all Trade Contracts to Owner/Developer or an Owner/Developer Permitted Assignee. In order to facilitate this provision, Construction Manager shall place in each Trade Contract a provision requiring the Trade Contractor to agree to assignment of its Trade Contract to Owner/Developer upon termination of the Construction Manager upon an Event of Default.

14.02

(a) Owner/Developer, at any time, and for any reason whatsoever in Owner/Developer's sole discretion, may terminate this Agreement for its own convenience. Any such termination shall be affected by delivering to Construction Manager a written notice of termination specifying the date upon which such termination shall become effective (which date shall be at least seven (7) calendar days prior to the effective date of such termination) and any specific portion of the Work to be completed by Construction Manager prior to such termination. Upon receipt of any such notice of termination, Construction Manager shall:

(i) stop all Work under this Agreement on the date, and to the extent, specified in the notice of termination;

(ii) enter into no further Trade Contracts except as may be necessary for completion of such portion of the Work under this Agreement, if any, which is not terminated;

(iii) unless directed otherwise by Owner/Developer, terminate all Trade Contracts entered into by Construction Manager to the extent that they relate to portions of the Work to be performed subsequent to the date specified in the notice of termination as the date upon which such termination shall become effective;

(iv) at Owner/Developer's option, assign to Owner/Developer, Lender, City or such other entity or entities as Owner/Developer may direct, in the manner, at the times, and to the extent directed by Owner/Developer, all of the right, title and interest of Construction Manager under any or all Trade Contracts entered into by Construction Manager in connection with the Work, in which case, Owner/Developer, Lender, City or such other entity or entities, as the case may be, shall assume all of Construction Manager's obligations arising under such Trade Contracts. Construction Manager shall include in each and every Trade contract a provision specifically contemplating and validating any such assignment and the Trade Contractor's agreement to continue to perform its services under the Trade Contract without interruption;

(v) to the extent required by Owner/Developer and subject to the prior written approval of Owner/Developer, settle all outstanding liabilities and all claims arising out of such termination of Trade Contracts, which approval by Owner/Developer shall be final for all the purposes of this Section

provided, however, that in the event of a termination of this Agreement pursuant to the provisions of this Section 14.02, no Trade Contractor shall be entitled to recover anticipated profits on account of Work unperformed, nor for reimbursement for losses arising out of matters covered by insurance, but shall be limited to recovering only the reasonable and actual out-of-pocket costs and expenses incurred by such Trade Contractor for Work satisfactorily performed or materials, supplies and equipment procured, ordered, fabricated, incorporated or installed in the Fire Station Project (plus overhead and profit) prior to the effective date of such termination along with reasonable and verifiable demobilization and closeout expenses;

(vi) if applicable, transfer title to Owner/Developer, to the extent not already vested in Owner/Developer, and deliver in the manner, at the times, and to the extent, if any, directed by Owner/Developer (x) fabricated or unfabricated parts, Work in progress, completed Work, supplies and other materials and equipment produced as a part of, or acquired in connection with the performance of, the Work terminated by such notice of termination, and (y) copies of the Contract Documents and other drawings, sketches, specifications, shop drawings, information and other relevant documentation directly related to the performance of the Work;

(vii) use its best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by Owner/Developer, any property of the types referred to in clause (vi) of this Section 14.02(a); provided, however, that Construction Manager (x) shall not be required to extend credit to any purchaser, and (y) may acquire any such property under the conditions prescribed and at a price or prices approved by Owner/Developer; and provided, further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by Owner/Developer to Construction Manager under this Agreement or shall otherwise be credited to Reimbursable Costs or paid in such other manner as Owner/Developer may direct;

(viii) complete performance of such part of the Work as shall have been specified in the notice of termination to be completed on or before the effective date of such termination; and

(ix) prior to the effective date of such termination, take such actions as may be necessary, or as Owner/Developer may reasonably direct, for the protection and preservation of the property related to the Work and the Project which is in the possession of Construction Manager and in which Owner/Developer has or may acquire an interest.

(b) In the event of a termination of this Agreement, pursuant to this Section 14.02, Owner/Developer shall pay Construction Manager for (i) the actual unpaid Reimbursable Costs incurred by Construction Manager in connection with its performance of the Work up to the date of such termination and any reasonable demobilization costs, including costs associated with closing out of executed contracts and purchase orders, plus the portion of Construction Manager's Fee and General Conditions Costs attributable to Work properly performed up to the date of such termination (specifically excluding Fee and General Conditions Costs on unperformed Work), minus (ii) any sums properly deductible by Owner/Developer under the terms of this Agreement. In the event of a termination of this Agreement pursuant to this Section 14.02, Construction Manager shall remain responsible for all of its obligations and all Work performed prior to the date of such termination. Construction Manager agrees that the pendency

or existence of any dispute between Construction Manager and Owner/Developer, Architect or Consultants shall in no manner whatsoever affect or interfere with the discharge of Construction Manager's obligations hereunder and that should Construction Manager fail to perform its obligations under this Section 14.02 Construction Manager shall be liable to Owner/Developer for any and all damages which Owner/Developer may sustain as a result of such failure on the part of Construction Manager to perform said obligations.

14.03 Owner/Developer may, at any time and for any reason, direct Construction Manager to suspend, re-sequence, stop or interrupt the Work or any portion thereof for a period of time, including governmental suspensions under an order of any court or other public authority having jurisdiction over the Work or the Project or as a result of an act of government, such as a declaration of national emergency making materials unavailable through no act or fault of Construction Manager. Such direction shall be in writing and shall specify the period during which the Work is to be stopped. Construction Manager shall resume the Work upon the date specified in such direction or upon such other date as Owner/Developer may thereafter specify in writing. Construction Manager shall be entitled to recover, pursuant to a Change Order, the actual additional costs incurred, plus an equitable time extension.

14.04 If, without good cause, Owner/Developer shall fail for a period of twenty eight (28) calendar days after the due date to make payment on any approved Application for Payment, then Construction Manager shall serve Owner/Developer with written notice thereof, and, if Owner/Developer shall fail to make such payment, then Construction Manager may terminate this Agreement by written notice to Owner/Developer setting forth the date of termination, which date shall not be sooner than twenty eight (28) calendar days after the date of the notice. If, within said twenty-eight (28) calendar day period, Owner/Developer has not cured the matter giving rise to Construction Manager's right to terminate this Agreement, this Agreement shall be deemed terminated for convenience and Owner/Developer shall compensate Construction Manager in the manner and to the extent set forth in Section 14.02 hereof.

14.05 If a court of competent jurisdiction determines that a termination under Section 14.01 was wrongful or unjustified, such termination shall be deemed a termination for the convenience of Owner/Developer under Section 14.02, and the sole right, remedy and recourse of Construction Manager against Owner/Developer shall be governed and determined by said Section 14.02.

ARTICLE XV

Bonds or SDI Program

15.01 Owner/Developer may require that Construction Manager furnish payment and performance bonds. Such bonds shall name Owner/Developer and City, as co-obligees and otherwise shall be in the form of bonds identified on **Exhibit E** attached hereto. The bonds shall be in an amount equal to the GMP, to the extent applicable.

15.02 Notwithstanding that Developer may require Construction Manager to furnish payment and performance bonds, Construction Manager shall, if requested by Owner/Developer, require that each Trade Contractor provide performance and payment bonds for one hundred percent (100%) of their respective Trade Contract Values.

15.03 Alternatively, if approved by Owner/Developer in lieu of the Trade Contractor Bonds contemplated in Section 15.02, Construction Manager may utilize a Subcontractor Default Insurance Program ("SDI Program") acceptable to Owner/Developer and City. Construction Manager shall include each Trade Contractor or vendor in its SDI Program, unless specifically bonded out of the SDI Program. SDI Program coverage shall be (a) computed at the rate of one and one quarter percent (1.25%) of the Trade Contract Costs of those Trade Contractors enrolled in the SDI Program and (b) included as a Reimbursable Cost under the GMP, to the extent applicable. If Construction Manager's SDI Program is used, Construction Manager shall deliver to Owner/Developer, from time to time as required, appropriate documentation confirming the Construction Manager's SDI Program covers all Trade Contractors and vendors and the terms, conditions, and limits of coverage. Owner/Developer, City and Lender shall be named as scheduled entities under a secondary interest endorsement covering the bankruptcy or insolvency of Construction Manager and Construction Manager alone shall be responsible (without recourse to the Contingency) for all costs associated with any deductibles applicable to its SDI Program. The existence of the SDI Program or Construction Manager's enforcement of the SDI Program requirements shall in no way limit Owner/Developer's rights against Construction Manager as expressed in this Agreement.

15.04 Construction Manager shall not unreasonably withhold enrollment of Owner/Developer selected Trade Subcontractors into the SDI Program.

ARTICLE XVI

Management of the Work by Construction Manager and Onwer/Developer

16.01 Construction Manager shall assign _____ as "Project Manager" and _____ as "Superintendent" to supervise performance of the Work. _____, _____, and an additional experienced project manager shall be assigned to the Project Management team and _____, _____ and an additional experienced Superintendent shall be assigned to the Field team.

16.02 Construction Manager agrees that it will assign its Project Manager to the Work on a full-time basis. The Project Manager shall be stationed at Construction Manager's office and the Project Site until Substantial Completion of the Work in order to facilitate performance and completion of the Work in the most expeditious and economical manner consistent with the interests of Owner/Developer. In addition to the above-mentioned staff persons, Construction Manager shall also staff the Project with a team of persons approved in writing by Owner/Developer. It is expressly understood and agreed that with respect to the individuals named in Section 16.01, Construction Manager (a) shall remove, at the request of Owner/Developer, any such person assigned to the Project that Owner/Developer deems unfit to perform the task assigned or otherwise finds objectionable, (b) shall propose substitutes, and obtain Owner/Developer's approval, for any such persons assigned to the Project who either cease to be in Construction Manager's employ or are removed from the Project by reason of Owner/Developer's request as aforesaid, and (c) shall not make any substitutions of such persons that have been approved by Owner/Developer without first obtaining Owner/Developer's prior approval, which approval shall not be unreasonably withheld.

16.03 Owner/Developer hereby designates and appoints _____ and anyone else who, with prior notice to Construction Manager, Owner/Developer may designate or appoint, to act on behalf of said "Owner/Developer" hereunder. Any such written approval or consent given by _____ to Construction Manager shall be binding on Owner/Developer unless and until Construction Manager has received written notice from Owner/Developer of the designation or appointment of a successor to the foregoing.

ARTICLE XVII

Consultants

17.01 Construction Manager understands that Owner/Developer intends to retain certain consultants ("Consultants") to furnish such services as may be designated by Owner/Developer in writing. Construction Manager hereby agrees that upon its receipt of written notice of the retention of such Consultants, accompanied by a designation of the nature of the services to be performed, Construction Manager shall recognize, and cooperate with such Consultants to the end that their service may be performed in the best interests of Owner/Developer.

ARTICLE XVIII

Insurance

18.01 The parties' insurance obligations under this Agreement are described in **Exhibit D** hereto. In the event Construction Manager maintains insurance limits greater than those required in **Exhibit D**, Owner/Developer, City, and the Additional Insureds identified in **Exhibit G** shall be included therein as Additional Insureds to the fullest extent of all such insurance in accordance with all terms and provisions herein.

ARTICLE XIX

Hazardous Materials

19.01 Construction Manager shall not cause or permit the Project or the Project Site to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable federal, state and local laws or regulations as required for completion of the Work. Construction Manager shall comply with and ensure compliance by all Trade Contractors, sub-Trade Contractors and vendor with all applicable federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all Trade Contractors, sub-Trade Contractors and vendors obtain and comply with, any and all approvals, registrations or permits required thereunder. Construction Manager shall defend, indemnify, and hold harmless, Owner/Developer and all Indemnitees from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to Construction Manager's failure to perform its obligations under this Article XIX, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses. For purposes of

this Article XIX, "Hazardous Materials" include, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Superfund Amendments and Reauthorization Action of 1986 (Pub.L. No. 99-499, 100 stat. 1613 (1986), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule, or regulation. The provisions of this Section shall be in addition to any and all other obligations and liabilities Construction Manager may have to Owner/Developer at common law, and shall survive Final Completion of the Work.

19.02 Except as previously disclosed and agreed upon between Owner/Developer and Construction Manager, Construction Manager shall not be required to perform any Work in connection with, or in an area affected by, suspected or confirmed Hazardous Materials. Such Work shall be resumed as Owner/Developer and Construction Manager agree in writing, and only if (a) Owner/Developer causes remedial Work to be performed which results in the absence of Hazardous Materials or provides a proper certification to Construction Manager that materials suspected to be Hazardous Materials are, in fact, not Hazardous Materials; and (b) the Work may safely and lawfully proceed, as certified either by an appropriate governmental authority (receipt of an ACP-5, or equivalent) or by an environmental engineer reasonably satisfactory to both Owner/Developer and Construction Manager who shall submit a written report to both Owner/Developer and Construction Manager evidencing such certification (such engineer shall be retained and paid by Developer).

ARTICLE XX

Materials and Equipment

20.01 As the Work progresses, title to each item of material or equipment shall vest in Owner/Developer upon the earlier to occur of (a) incorporation of such item into the Work, or (b) payment for such item by Owner/Developer. Each such item shall then become the sole property of Developer or City, as applicable, subject to the right of Owner/Developer or the City to reject the same at any time prior to Final Completion for failure to conform to the Contract Documents. Construction Manager shall be responsible for arranging and for insuring materials and equipment until the same are incorporated to the Work, as set forth in **Exhibit D** hereof, unless otherwise covered by Owner/Developer's builders risk insurance.

20.02 Construction Manager shall require, each Trade Contractor to warrant that (a) title to all materials and equipment incorporated in the Work or paid for by Owner/Developer shall pass to Owner/Developer or the City, as applicable, free and clear of all liens, claims, security interests and encumbrances of every kind, and (b) that no materials or equipment covered by any Application for Payment will have been acquired by any other person performing work at the Project Site or furnishing materials and equipment in connection with the Work subject to an agreement under which an interest therein or an encumbrance thereon shall have been retained by the seller or otherwise imposed by seller or any other person.

20.03 Except as otherwise agreed to as Owner/Developer-approved individual Trade Contract awards, the parties do not anticipate that Owner/Developer will pay Construction Manager for stored offsite materials (with the exception of long lead equipment). However, Owner/Developer, in its sole discretion, can elect to pay Construction Manager in accordance with this Section 20.03. In such event Construction Manager shall be entitled to arrange for the pre-purchase of certain materials and equipment to be incorporated in the Work provided that Owner/Developer shall have given its prior written consent thereto in each instance. If Owner/Developer shall have approved any such pre-purchasing of materials or equipment as aforesaid, Construction Manager shall pre-purchase the same in Owner/Developer's name, and on Owner/Developer's behalf. In such event, Owner/Developer shall advance seventy-five percent (75%) of the amount necessary to enable Construction Manager or its Trade Contractor to pre-purchase such materials or equipment upon presentation to Owner/Developer of a bill or statement therefor, together with any other documents as reasonably may be requested by Developer. Construction Manager, simultaneously with its receipt of any such advance from Owner/Developer, shall deliver to Owner/Developer a bill of sale with respect to the materials or equipment pre-purchased evidencing unencumbered title to the same in Owner/Developer's name, together with any warranties, certificates of insurance and other documents requested by Owner/Developer evidencing that such materials and equipment are covered by such insurance as shall have been specified by Owner/Developer.

(a) All materials and equipment pre-purchased as aforesaid shall be stored at the Project Site or at such off-Project Site storage locations as shall have been approved in writing in each instance by Owner/Developer. Any materials or equipment stored at such off-Project Site storage locations shall be segregated from materials and equipment of others, shall be clearly labeled to evidence Owner/Developer's ownership interest and shall otherwise be stored in such manner as directed by Owner/Developer. The risk of loss or damage to such materials and equipment shall remain with Trade Contractor as set forth in Section 20.01 hereof;

(b) All Trade Contracts, agreements, guarantees, or warranties executed or delivered in connection with materials and equipment which are pre-purchased by Construction Manager as provided herein shall provide that if, upon inspection of the same by Owner/Developer, Construction Manager or Architect, or if, upon incorporation of the same in the Project, Owner/Developer, Construction Manager or Architect determines that such materials or equipment, or any portion thereof, are faulty or defective in any respect, such materials or equipment, or portion thereof, shall be replaced, at such Trade Contractor's sole cost and expense, promptly after receipt of written notice to such effect from Owner/Developer, Architect or Construction Manager.

ARTICLE XXI

Substitutions

21.01 The products, materials and equipment of manufacturers referred to in the Construction Documents are intended to establish the standard of quality and design required by Architect. Anything contained in the Construction Documents to the contrary notwithstanding, materials of manufacturers other than those specified may be used only if accepted by Owner/Developer and City as provided in this Article XXI.

(a) Architect, in consultation with Owner/Developer and the City, shall be the judge of equivalency of proposed substitute materials. Architect shall make written recommendations of acceptance or rejection of substitute products, materials or equipment to Owner/Developer. Owner/Developer shall then authorize Architect to issue to Construction Manager written approval or rejection of the substitution. Construction Manager shall inform the appropriate Trade Contractor of said approval or rejection. Owner/Developer, in its reasonable discretion after consultation with the City, may authorize rejection of a proposed substitution notwithstanding the fact that Architect may have judged it equivalent and recommended acceptance of the same.

21.02 When two or more products are specified in the Construction Documents for an item of Work, any one thereof shall be deemed acceptable and Construction Manager shall have the choice as to which product to use.

(a) When only one product is specified in the Construction Documents for an item of Work and the term "or equal" is used in connection with such product, Construction Manager may offer a substitution by submitting a written application to Architect, in sufficient time (taking into account the progress of the Work, the period of delivery of the goods concerned and adequate time for Architect's review), setting forth and fully identifying (i) the proposed substitute, together with substantiating data, samples, brochures and other supporting documentation of the substitute proposed, including, without limitation, evidence that the proposed substitution (w) is equal in quality and serviceability to the specified item, (x) will not entail changes in detail, schedule and construction of related Work, (y) conforms with the design of the Project and its artistic intent, and (z) will not result in an increase in the cost of the Work or alternatively, will result in a cost change as indicated in the application; and (ii) the changes in other parts of the Work required by reason of the proposed substitute, and the cost consequences associated therewith. A copy of any such application shall be delivered to Owner/Developer simultaneously with its delivery to Architect.

(b) When only one product is specified in the Construction Documents for an item of Work and the term "or equal" is not used in connection with such product, Owner/Developer, in its sole and absolute discretion after consultation with the City may authorize the rejection of any substitution proposed by Construction Manager. Notwithstanding the foregoing, if the specified product shall become unavailable for a material period of time and Owner/Developer receives reasonably satisfactory proof from Construction Manager that the same shall be unavailable for reasons other than the failure of Construction Manager or a Trade Contractor to order such product in a timely manner, consistent with the Contract Documents and the scheduling requirements for the Work, then, in such event, Owner/Developer shall consent to such substitution, in which event any change in costs incurred in connection with the use of such substitution shall be confirmed by a Change Order.

21.03 Construction Manager shall support any request for a substitution with sufficient evidence to permit Architect to make a fair and equitable recommendation to Owner/Developer on the merits of the proposal. Any item by a manufacturer other than those cited in the Construction Documents, or of brand name, or model number or size or generic species other than those cited in the Construction Documents, shall be considered a substitution.

21.04 Acceptance of substitutions shall not relieve the appropriate Trade Contractor from responsibility for compliance with all of the requirements of the underlying Contract Documents. If changes in other parts of the Work are required by reason of approved substitutions, the costs of any such changes shall be included in the cost of the Work.

21.05 In no event shall the Progress Schedule be adjusted by any circumstance resulting from a proposed substitution, nor shall Construction Manager be entitled to any compensation related thereto, without the issuance of a Change Order approved by Owner/Developer in accordance with Article XXII hereof.

ARTICLE XXII

Changes in the Work

22.01 A Change Order shall be the instrument required to authorize any change in the Project which would result in (a) a change in the Construction Documents or any other Contract Documents, (b) a deviation from design standards established for the Project or any part thereof, or (c) an extension of the Substantial Completion Date or the Final Completion Date from and after the date of the commencement of the Construction Phase, or (d) a change in the Contract Sum.

(a) Owner/Developer, without invalidating or abandoning this Agreement, may at any time require changes in the Work consisting of additions, deletions or other revisions. All such required changes in the Work shall be requested in writing by Owner/Developer (a "Request for Proposal"), shall be submitted to Construction Manager, and, in order to be deemed part of, or deleted from, the Work and authorized by Owner/Developer, shall be executed in the manner set forth below:

(i) Forthwith upon Construction Manager's receipt of a Request for Proposal, Construction Manager shall prepare and furnish to Owner/Developer a signed statement ("Proposal"), in a form satisfactory to Owner/Developer, setting forth in detail, with suitable breakdowns by trades and work classifications, and using the "unit price", lump sum, and/or other costing method specified by Owner/Developer, Construction Manager's estimate of (x) the cost, or savings, of the change reflected in the Request for Proposal, which cost shall reflect the most economical manner of affecting, such change, (y) the resulting increase or decrease in the cost of the Work, and (z) the changes in the Work or the Progress Schedule (including the Substantial Completion Date and the Final Completion Date) which would result from implementation of the Request for Proposal. If the changed Work is to be performed by a Trade Contractor, the Proposal shall include a mark-up of no more than ten percent (15%) for overhead and profit for such Trade Contractor.

(ii) If Owner/Developer approves Construction Manager's Proposal, Owner/Developer shall issue to Construction Manager a written change order (the "Change Order") signed by Owner/Developer, and the Substantial Completion Date and the Final Completion Date, and the Contract Documents, as the case may be, shall be adjusted if required, in accordance with Section 3.04 above.

(b) Any work performed by Construction Manager or any Trade Contractor which is contrary to the Work as required by the Contract Documents, shall be performed at Construction Manager's or such Trade Contractor's sole risk, cost and expense, unless the same shall have been authorized by a Change Order, or an Emergency Change Order therefor shall have been confirmed by Owner/Developer by a duly issued Change Order, in accordance with Section 22.05 hereof.

22.02 If Owner/Developer shall dispute any of the items set forth in the Proposal, then Owner/Developer shall give Construction Manager notice of such dispute, which notice shall set forth (a) those items in the Proposal which Owner/Developer disputes, (b) those items in the Proposal which Owner/Developer does not dispute, and (c) whether Owner/Developer desires that Construction Manager perform any portion of the change (i) corresponding to a non-disputed item, or (ii) corresponding to a disputed item.

(a) If Owner/Developer's dispute notice shall direct Construction Manager to perform any change corresponding to a non-disputed item, that portion of the Proposal which relates to the non-disputed item, together with Owner/Developer's direction to Construction Manager to perform the change corresponding to the non-disputed item, as set forth in Owner/ Developer's dispute notice, shall constitute a validly issued Change Order, and Construction Manager shall promptly undertake to perform the same, subject to 22.01.

(b) If Owner/Developer's dispute notice shall direct Construction Manager to perform any change corresponding to a disputed item, Owner/Developer's dispute notice shall be deemed a notice of demand for prompt resolution of the subject matter of the dispute by the mutual agreement of the parties pursuant to Section Article XXVIII herein, failing which it shall be resolved as provided in Section 29.16 hereof. Notwithstanding the foregoing, Construction Manager shall promptly undertake to perform and pursue prosecution of the change corresponding to the disputed item during the pendency of any such bona fide dispute, and the determination reached pursuant to Article XXVIII herein or rendered as provided in Section 29.16 relative to the disputed item, together with Owner/Developer's direction to Construction Manager to perform the change corresponding to the disputed item, as set forth in Owner/Developer's dispute notice, shall constitute a validly issued Change Order.

22.03 When Owner/Developer pays Construction Manager in accordance with a validly issued Change Order, the compensation specified in a Change Order shall constitute full payment for the additional Work covered thereby and for any delay, disruption, cost, or expense occasioned by reason of such change and shall release Owner/Developer from any further liability in respect of the same, unless Construction Manager expressly reserves such rights in writing in the written Change Order.

22.04 Any Change Order issued by Owner/Developer shall not be deemed to grant a time extension unless it expressly grants a time extension therein.

22.05 Anything contained herein to the contrary notwithstanding, Construction Manager and Architect shall have the authority to order "emergency changes" in the Work, without the prior written approval of Owner/Developer, by the issuance of a written order (an "Emergency Change Order"). For purposes of this Agreement, "emergency changes" in the Work shall mean only changes which are required

in the case of an emergency to ensure the safety of persons or the Work and which, in the interest of expediency, Construction Manager determines should be made without obtaining the prior written approval of Owner/Developer. Construction Manager shall (a) notify Owner/Developer that it has issued an Emergency Change Order within forty-eight (48) hours after the same has been issued, which notification shall set forth the reason giving rise to the issuance of the same, and (b) promptly furnish Owner/Developer with copies of all such Emergency Change Orders. Valid Emergency Change Orders shall be confirmed by Owner/Developer by a duly issued Change Order.

ARTICLE XXIII

Inspection and Testing

23.01 If the underlying Contract Documents or any laws, rules, ordinances or regulations of any federal, state or local governmental authorities having jurisdiction over the Work require that any Work be inspected or tested, Construction Manager shall give Owner/Developer and Architect timely notice of readiness of the Work for inspection or testing and the date fixed for such inspection or testing. Owner/Developer or Consultants shall perform all controlled inspections.

23.02 Whenever, in the opinion of Owner/Developer, it is desirable to require special inspection or testing of the Work or its individual components, Owner/Developer shall have authority to do so whether or not such Work is then fabricated, installed, covered or completed. All costs incurred in connection with such special inspection or testing shall be a Reimbursable Cost by the issuance of a Change Order unless it reveals a test failure as a result of the acts or omissions of Construction Manager in which event, Construction Manager shall bear, all costs of such special inspection or testing. All Trade Contracts shall provide that if a test failure is a result of the acts or omissions of a Trade Contractor then that Trade Contractor shall bear, at its sole cost and expense, all such costs of special inspection or testing. No inspection performed or failed to be performed by Owner/Developer hereunder shall be deemed a waiver of any of Construction Manager's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof.

(a) In the event of a test failure of any item of the Work, Owner/Developer may require inspection or testing of any or all of the other similar items of the Work. The costs and expenses incurred by Construction Manager in connection with such inspection or testing set forth in this Section 23.02(a) shall be a cost of the Work unless (i) the test failure prompting such additional testing or inspection was a result of the acts or omissions of Construction Manager or the failure of Construction Manager to comply with the provisions of this Agreement, or (ii) such additional testing or inspection results in a test failure which results from the acts or omissions of Construction Manager, in which event, Construction Manager shall bear, at its sole cost and expense, all costs of such additional inspection or testing. All Trade Contracts shall provide that in the event of a test failure of any term of the Work the costs and expenses incurred in connection with such testing or inspection shall be borne by the responsible Trade Contractor.

23.03 If any Work shall be covered or concealed by Construction Manager or permitted to be covered or concealed by Construction Manager, contrary to the written request of Owner/Developer or Architect or the Contract Documents, such Work, if required by Developer or Architect, shall be uncovered

for examination, inspection or testing at Construction Manager's sole cost and expense. If any such test results are below specified minimums, Owner/Developer may order additional examination, testing or inspection. Such additional examination, inspection or testing shall be at Construction Manager's sole cost and expense if Construction Manager knew of such request and failed to advise the appropriate Trade Contractor. Should Architect or Owner/Developer have reason to believe that defects exist in any Work which has already been covered or concealed, although no request not to cover or conceal such Work had been previously made by Owner/Developer or Architect, such Work, if required by Owner/Developer, shall be promptly uncovered by Construction Manager and subjected to such tests, inspection or examination as may be deemed appropriate by Owner/Developer or Architect. In such case, the provisions of Section 23.02(a) shall control with respect to the costs associated with such uncovering.

23.04 Any Work not approved by Owner/Developer or Architect in accordance with the terms of this Agreement shall immediately be reconstructed, made good, replaced or corrected by Construction Manager, the responsible Trade Contractor, or another Trade Contractor to be retained by Construction Manager, including portions of the Work destroyed or damaged by such removal or replacement, at Construction Manager's or the responsible Trade Contractor's sole cost and expense, to the extent the same is caused by, or results respectively from, Construction Manager's or its Trade Contractors' acts or omissions or the failure of either of the foregoing to comply with the provisions of this Agreement or the Trade Contract, respectively. All rejected materials shall be removed from the Project Site~~,~~ within a reasonable period of time. Acceptance of materials and workmanship by Owner/Developer shall not relieve Construction Manager or any Trade Contractor from their liability for or obligation to replace all Work which is not in full compliance with the underlying Contract Documents.

23.05 At Owner/Developer's option, Owner/Developer may accept defective or nonconforming Work or materials, instead of requiring its removal, correction or replacement, as the case may be, and a Change Order shall be issued to reflect a reduction in the Trade Contract price, in an amount equal to the aggregate cost of labor and materials which would have been incurred by the responsible Trade Contractor if Owner/Developer had required said Trade Contractor to repair or replace such defective nonconforming Work in accordance with the terms of the Trade Contract. Such adjustment shall be affected whether or not final payment has been made.

ARTICLE XXIV

Ownership and Use of Documents; Confidentiality

24.01 Construction Manager agrees that the Contract Documents, technical data and other information received by it from Owner/Developer, Architect, City and Consultants under or in connection with this Agreement and any and all other information concerning Owner/Developer or Owner/Developer's operations that Construction Manager may obtain or become aware of shall be accepted and treated as proprietary information which has a substantial commercial value to Owner/Developer, and that Construction Manager will not use or disclose any such Contract Documents, technical data and other information in any manner except to the extent that such use or disclosure may be necessary for the performance of the Work hereunder. Without limitation of the foregoing, all said

documents furnished to Construction Manager are to be used only with respect to this Fire Station Project and are not to be used on or in connection with any other project.

24.02 Except as otherwise provided herein, Construction Manager is specifically prohibited from photographing any portion of the Work for publicity and advertising or for any other purpose without the prior written permission of Owner/Developer, which shall not be unreasonably withheld.

24.03 The requirements of this Article shall survive the expiration or termination of this Agreement and shall be binding upon Construction Manager. Construction Manager shall include the requirements of this Article in all Trade Contracts.

ARTICLE XXV

Nondisclosure

25.01 Without limitation of the provisions of Article XXIV hereof, it is agreed that neither Construction Manager nor any Trade Contractor shall divulge information concerning the Fire Station Project or concerning Owner/Developer or Owner/Developer's operations to anyone without Owner/Developer's prior written consent, except as otherwise specifically permitted by the Contract Documents and except such public disclosures as may be required by law. If such disclosure is required by law, Construction Manager or any Trade Contractor in question shall provide Owner/Developer with a copy of any such proposed public disclosure in advance and will endeavor to incorporate any comments Owner/Developer may suggest in such regard. Construction Manager shall however, be entitled to describe the Project in its brochures and proposals without Owner/Developer's prior consent provided no confidential information is disclosed.

25.02 Except as required by law no signs advertising the Work to be performed by Construction Manager or any Trade Contractor or identifying any person, firm or entity concerned with the Work to be performed by Construction Manager or any Trade Contractor shall be allowed at the Project Site or elsewhere unless approved in writing by Owner/Developer in advance, which approval for Project signage shall not be unreasonably withheld.

ARTICLE XXVI

Separate Contractors

26.01 Owner/Developer has the right to self-perform Work, and/or award contracts to separate contractors to perform all or any portion of the Project, so long as doing so does not excessively impede Construction Manager's performance of the Work. Construction Manager shall provide coordination and shall cooperate with separate contractors hired by Owner/Developer.

26.02 If Construction Manager causes damage to the property of Owner/Developer or to other work or property on the Project Site, Construction Manager shall promptly remedy such damage as provided in this Agreement.

26.03 If Construction Manager delays or causes damage to the work or property of any separate contractor, Construction Manager shall, upon due notice, promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute.

26.04 The requirements of this Article shall be included in all Trade Contracts.

ARTICLE XXVII

Equal Opportunity

27.01 Construction Manager shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, sexual preference, age or gender. Construction Manager shall (a) assure that the evaluation and treatment of its employees and applicants for employment are free of such discrimination, (b) take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to, race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, sexual preference, age or gender, and (c) comply with all applicable federal, state and local laws regarding non-discrimination. Construction Manager shall include this obligation in all Trade Contracts.

ARTICLE XXVIII

Claims for Damages

28.01 At the discretion of the Owner/Developer, the Owner/Developer and Construction Manager (together "Parties") may agree to the selection of one or more project neutral(s) during the Project (the "Project Neutral"). The Project Neutral(s) shall be experienced in both design and construction of major real estate developments as well as mediation of design and construction disputes. The Parties shall select the Project Neutral(s) from among the members of the Construction panel of JAMS.

28.02 If a Project Neutral is requested and selected, the Project Neutral(s), in close consultation with the Parties shall assist in resolving any disputes, claims or other controversies as may be referred by the Parties that might arise from the commencement of design through the issuance of the final certificate of occupancy and acceptance of the Project by the Owner. In such instances the Project Neutral shall act as a mediator with no adjudicatory power. However, where the involved claims of Owner/Developer exceed $1,000,000.00 (One Million and Zero cents), or the involved claims of Construction Manager, excluding any claim of, or to compensate, a sub-contractor or material supplier, (sub-contractor and material supplier claims shall not be addressed through the process in which the Project Neutral may enter a temporarily binding award) exceeds $1,000,000.00 (One Million and Zero Cents), either Party may submit such claim to the Project Neutral for an interim decision. The Party making the claim shall give written notice to both the Project Neutral and the opposing Party in writing. Such writing shall provide a detailed description of the basis of the claim. Thereafter the opposing Party shall have fourteen calendar days to provide a detailed response. The Project Neutral shall, within twenty (20) days of receipt of the opposing Party's response or the expiration of the time to respond where no response is provided, conduct

a hearing and receive evidence. The hearing shall be conducted in compliance with all California substantive and procedural law. The Project Neutral shall thereafter, within ten (10) days, render a reasoned decision. Such decision shall be binding upon the parties until Final Completion of the Project. The Parties shall thereafter have six (6) months to demand a de novo review of the matter pursuant to the dispute resolution procedures set forth in section 29.16 of this Agreement.

28.03 If requested in writing by the Parties, the Project Neutral(s) shall attend the regular job site meetings at the Project. Also, if requested by the Parties, the Project Neutral(s) shall (a) attend any specific job site meetings as requested, and (b) meet and confer with the Parties as requested. If the services of the Project Neutral(s) are retained, they shall be provided on an hourly basis and the cost shall be borne in equal parts by the Parties. The confidentiality of any discussions with the Project Neutral(s) shall be protected by all applicable statutes and case law with respect to mediation or an interim binding decision. The term of service of the Project Neutral(s) shall end with the Final Completion of the Project unless otherwise agreed to by the Parties in writing.

ARTICLE XXIX

Additional Provisions

29.01 Practice of Architecture and/or Engineering. Nothing contained in this Agreement shall be deemed to require or authorize Construction Manager to perform or do any acts which would be deemed the practice of architecture or engineering within the meaning of the laws of the State where the Project is located. Such limitation shall not apply to design and engineering services properly delegated pursuant to the laws of the State where the Project is located.

29.02 Effectiveness of Agreement. This Agreement, when executed by the parties, shall be effective as of the date first stated above in this Agreement. Any and all Work performed by Construction Manager heretofore in anticipation of entering into this Contract are hereby merged into this Contract and shall be governed by the terms and conditions set forth herein. All understandings and agreements heretofore had among Construction Manager and Owner/Developer with respect to the Fire Station Project are merged into, or superseded by, this Agreement. This Agreement fully and completely expresses the agreement of the parties with respect to the Work and the Fire Station Project and shall not be modified or amended except by written agreement executed by each of the parties hereto. Construction Manager understands and agrees that no representations of any kind whatsoever have been made to it other than as appear in this Agreement, that it has not relied on any such representations and that no claim that it has so relied on may be made at any time and for any purpose.

29.03 Enforcement of Trade Contracts. Construction Manager covenants and agrees that it shall diligently enforce all of the terms, conditions and provisions of each of the Trade Contracts. In addition, Construction Manager agrees to assume toward Owner/Developer, and shall be responsible to Owner/Developer for, the performance by the Trade Contractors of all of the Trade Contractors' Work under the Trade Contracts, with the same force and effect as if Construction Manager itself shall have contracted to perform such Work, but subject to Construction Manager's obligations and duties set forth herein.

29.04 Cooperation with Lender and City. Construction Manager shall cooperate with Lender and City, and their representatives at all times in the course of the performance of the Work, shall issue such certifications as Lender and/or City may reasonably require from time to time, and any changes or modifications reasonably requested by Lender or City to this Agreement which do not increase Construction Manager's cost or shift the allocation of responsibility and/or liability shall be agreed to by Construction Manager and this Agreement shall be deemed amended, at the option of Owner/Developer, by written agreement, to include such changes or modifications.

29.05 Access and Cooperation. Construction Manager agrees (a) to grant Owner/Developer, Architect, Lender and City, and their Consultants, access to the Work whenever same is in progress, and (b) to cooperate with Owner/Developer, Architect, Lender, City and their Consultants throughout the performance of the Work to the end that the Project may be completed in the most expeditious and economic manner and in furtherance of the interests of Owner/Developer. The exercise of said rights of access shall at all times be done in a lawful manner and in accordance with the safety regulations of the Construction Manager established for the Project.

29.06 Performance of Work during the Pendency of Disputes. Unless the parties hereto expressly agree otherwise in writing, in the event that a bona fide, good faith dispute arises under this Agreement in connection with payments to be made on any Application for Payment, or otherwise, Construction Manager shall continue during the pendency of such dispute to perform its duties and responsibilities under this Agreement and the Work in accordance with Owner/Developer's directives and shall, in connection therewith, maintain the Construction Budget and the Progress Schedule, the Substantial Completion Date and the Final Completion Date and shall perform all other obligations required to be performed by it under this Agreement as if no dispute shall have arisen. During the pendency of any such dispute, and except as otherwise provided in this Agreement, Construction Manager shall be entitled to receive payments from Owner/Developer only on account of non-disputed items and payments on account of disputed items shall be deferred until the final resolution of the dispute.

29.07 Notices. All notices hereunder shall be submitted (a) via the e-Builder construction program management software for the Project (or such other electronic document control system directed by Developer); and (b) in writing and personally delivered or sent by registered or certified mail, postage prepaid, or sent by a nationally recognized overnight courier service, addressed as follows:

If to Developer, addressed to:

44 MONTGOMERY STREET SUITE 1300
SAN FRANCISCO, CA, 94104
Attention: [TBD]

With a copy to:

[TBD]
[TBD]
[TBD]

Attention:

If to Construction Manager, addressed to: [TBD]

[TBD]
[TBD]
Attention: [TBD] and via email at:
[TBD]

With a copy to:
[TBD] via email at:
[TBD]

Either party may change the address or addresses to which notice shall be delivered under this Agreement by giving notice in accordance with this Article.

29.08 Construction of Language. The language in this Agreement shall be construed according to its customary meaning within the building industry. Whenever used, the singular number shall include the plural, and the plural the singular, and the use of any gender shall be applicable to all genders.

29.09 Captions and Titles. Captions and titles of the different Articles and Sections of this Agreement are solely for the purpose of aiding and assisting in the location of different material in this Agreement and are not to be considered under any circumstances as parts, provisions or interpretations of this Agreement.

29.10 No Waiver. The failure of either party to insist upon the strict performance of any provisions of this Agreement, the failure of either party to exercise any right, option or remedy hereby reserved, or the existence of any course of performance hereunder shall not be construed as a waiver of any provision hereof or of any such right, option or remedy or as a waiver for the future of any such provision, right, option or remedy or as a waiver of a subsequent breach thereof. The consent or approval by either party of any act by the other party requiring such party's consent or approval shall not be construed to waive or render unnecessary the requirement for that party's consent or approval of any subsequent similar act by the other party. The payment by Owner/Developer of any amount due hereunder with knowledge of a breach of any provision of this Agreement shall not be deemed a waiver of such breach. No provision of this Agreement shall be deemed to have been waived unless such waiver shall be in writing signed by the party to be charged.

29.11 Indemnification.

(a) To the fullest extent permitted by law, Construction Manager shall defend, indemnify and hold harmless Owner/Developer, Lender, City and all entities listed on **Exhibit G** and their respective officers, partners, principals, members, managers, shareholders, directors, employees, successors, and assigns (collectively, "Indemnitees", individually, "Indemnitee") from and against all losses, claims, costs, damages, and expenses (including, without limitation, the deductible amounts of any

insurance and attorneys' fees and disbursements), and liability (legal, contractual, or otherwise, arising or alleged to arise out of or result from the Work, including personal injury, sickness, disease or death, or damage or injury to, loss of or destruction of property (including tools, equipment, plant and the buildings at the Project Site, but excluding the Work itself) including the loss of use resulting therefrom sustained or purported to have been sustained as a result of performance of the Work, or violation of local, state, or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations, or strict liability imposed by any law or regulation, attributable to any act or omission of Construction Manager, its employees, Trade Contractors, representatives or other persons for whom Construction Manager is responsible who are at the Project Site at any time during the period of the Work is being performed. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any Indemnitee. The foregoing indemnity shall include, without limitation, all defense costs including but not limited to reasonable fees of attorneys, consultants and experts and related costs and Owner/Developer and City's costs of investigating any claims against the Owner/Developer and/or City. In addition to Developer's obligation to indemnify Owner/Developer and the City, Developer specifically acknowledges and agrees that it has an immediate and independent obligation to defend Owner/Developer and the City from any claim that actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Construction Manager by Owner/Developer or the City and continues at all times thereafter. Construction Manager shall not be obligated under this Agreement to indemnify for Claims arising from the active negligence or willful misconduct of the Indemnified Parties. The indemnification provisions shall not be construed to require indemnification by Construction Manager to a greater extent than permitted under California Civil Code Section 2782 or under any other applicable statute or pursuant to relevant public policy of the State of California.

(b) In any and all claims against any Indemnitee by any employee of Construction Manager, or of its Trade Contractors or anyone directly or indirectly employed by either Construction Manager or its Trade Contractors or anyone for whose acts either Construction Manager or its Trade Contractors may be liable, the indemnification obligation under this Section 29.11 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Construction Manager under workers' or workmen's compensation acts, disability acts or other employee benefit acts.

(c) Construction Manager's obligations pursuant to this Article are in addition to any available insurance for the Fire Station Project but shall not be triggered until the occurrence of the following: (i) all applicable insurance relating to a particular claim is exhausted; (ii) the insurer issues a denial of coverage; or (iii) the insurer refuses to defend Owner/Developer or City against a claim.

29.12 Severability. If any provision of the underlying Contract Documents is invalid or unenforceable as against any person, party or under certain circumstances, the remainder of the underlying Contract Documents and the applicability of such provision to other persons, parties or circumstances shall not be affected thereby. Each provision of the underlying Contract Documents shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by law.

29.13 Duty Same as Covenant. Whenever in this Agreement any words of obligation or duty regarding any party are used, they shall have the same force and effect as those in the form of express covenants.

29.14 Architect and Consultants. All references in this Agreement to Architect or Consultants shall be deemed to mean any person or entity designated from time to time by Owner/Developer to serve in such capacity.

29.15 Rights and Remedies. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to, and not a limitation upon, any of the duties, obligations, rights and remedies otherwise imposed or available at law or in equity.

29.16 Governing Law and Dispute Resolution.

(a) This Agreement shall be construed in accordance with, and governed by the laws of the State of California, without regard to its conflicts of laws rules.

(b) Any dispute, claim, controversy or action (collectively, "Dispute") arising directly or indirectly out of, or in any way relating to the Agreement shall be submitted to JAMS for mediation by the parties before a mutually agreeable mediator prior to commencing any legal action with respect to the Dispute, but no earlier than thirty (30) days of Construction Manager or Owner/Developer first giving the other written notice of a dispute. However, where the parties do not have reasonably adequate time to complete mediation prior to the expiration of any applicable statute of limitations, the parties may commence litigation to protect the statute but will otherwise be bound to mediate in good faith as required by this paragraph as soon as practical. Further, it shall be considered a breach of this Agreement for a party to fail to cooperate in conducting mediation. In the event of such breach, the non-breaching party shall be excused from this mediation provision.

(c) Any Dispute arising directly or indirectly out of or in any way relating to the Agreement and not resolved at mediation in accordance with Section 29.16(b) shall be resolved by a general judicial reference pursuant to California Code of Civil Procedure Section 638 and all successor and applicable court rules and provisions of law. The judicial referee shall be a JAMS neutral, shall determine all issues of fact and law, whether legal or equitable, and shall conduct the proceedings in compliance with all rules of the court and all statutory and decisional law of the State of California as if the matter were formally litigated in the Superior Court. The cost of the judicial referee shall be borne pro rata by the parties, subject to adjustment pursuant to any Final Award. This judicial reference agreement is mandatory and shall be specifically enforceable by complaint, petition or motion pursuant to applicable court rules and provisions of law. he parties consent to the exclusive jurisdiction and venue of the state court located in the State of California and the County of San Francisco, and waive any right to remove to the federal court on the basis of diversity jurisdiction or otherwise. The parties may apply to the state court located in the State of California and the County of San Francisco for injunctive or other prejudgment relief only prior to the appointment of the judicial referee, with all such proceedings to be handled by the judicial referee after appointment. Construction Manager shall include a similar dispute resolution provision in each Trade Contract. The parties agree to permit joinder of any judicial reference commenced between

them with that of any judicial reference involving the Architect, a Trade Contractor(s), or other consultant(s) or design professional(s) where the claims involve the same nexus of facts.

(d) To the extent permitted by law, Construction Manager waives knowingly and voluntarily for itself and all persons claiming by or through it, all right to trial by jury in any legal proceedings.

29.17 Binding Effect. It is expressly understood by the parties hereto that delivery by Owner/Developer of the within Agreement for review and execution by Construction Manager shall confer no rights nor impose any obligations on either party, unless and until both Construction Manager and Owner/Developer shall have executed this Agreement.

29.18 Interpretations in Writing.

(a) Any and all interpretations of Contract Documents or of any of the Work to be performed or payments to be made relative to the Project must be in writing to be valid.

(b) This provision is not intended to prohibit or deny normal discussion, recommendations, explanations, suggestions, approvals, rejections, and similar activity in pursuit of the Work at the Project on an oral basis, such as at job conferences at the Project Site. In such instances, the written minutes, correspondence, shop drawing records, and other written data shall govern over personal claims regarding oral statements made contrary to the written data.

29.19 Prohibited Interests. No principal, officer, shareholder, family member, employee, agent or consultant of Construction Manager who, on behalf of Construction Manager, negotiates, makes, accepts, or approves, or takes part in negotiating, making, accepting, or approving any Trade Contractor or any Trade Contract or other agreement entered into by Construction Manager in connection with the Work, shall become directly or indirectly interested personally or financially in the Trade Contractor or any Trade Contract or such other agreement.

29.20 Integrity and Ethical Conduct. Construction Manager acknowledges and understands that Developer is committed to have the Work performed in accordance with the highest ethical standards applicable to, or governing, the conduct of construction practices. In furtherance thereof, Construction Manager hereby agrees to comply with and observe all applicable federal, state and local laws, rules, regulations, requirements, trade standards and ethical guidelines governing said conduct.

29.21 Independent Contractor. It is expressly understood and agreed by the parties hereto that Construction Manager, in performing its obligations under this Agreement, shall be deemed an independent contractor and not an agent of Owner/Developer. Nothing contained in this Agreement shall be construed to mean that Construction Manager and Owner/Developer are joint ventures or partners.

29.22 Liability of Owner/Developer. Construction Manager agrees to look solely to Owner/Developer's interest in the Project and the proceeds of any sale, lease or transfer of the Project for the satisfaction of any right, remedy, or lien of Construction Manager, or for the collection of a judgment (or other judicial process) requiring the payment of money by Owner/Developer, in the event of any

liability by Owner/Developer, and no other property or assets of Owner/Developer (or any officer, member, manager, director, shareholder or principal of Owner/Developer) shall be subject to suit, levy, execution, attachment, or other enforcement procedure for the satisfaction of Construction Manager's rights or remedies under or with respect to (a) this Agreement, (b) the relationship of the Construction Manager and Owner/Developer hereunder, or (c) any other liability of Owner/Developer to Construction Manager or any Trade Contractor. Construction Manager agrees that it has no right to sue, file claims against, or otherwise seek recovery against the City for any claims or losses arising out of this Agreement.

29.23 Drafting. The parties specially acknowledge that this Agreement has been mutually negotiated and that each party has contributed to its content. To the extent that any inconsistency or ambiguity arises in the Contract Documents, both parties acknowledge that there shall be no construction against either party as drafter.

29.24 Patriot Act Compliance. Construction Manager hereby represents and warrants that: (a) it is not, nor is it owned or controlled directly or indirectly by, any person, group, entity or nation named on any list issued by the Office of Foreign Assets Control of the United States Department of the Treasury ("OFAC") pursuant to Executive Order 13224 or any similar list or any law, order, rule or regulation or any Executive Order of the President of the United States as a terrorist, "Specially Designated National and Blocked Person" or other banned or blocked person (any such person, group, entity or nation being hereinafter referred to as a "Prohibited Person"); (b) it is not (nor is it owned or controlled, directly or indirectly, by any person, group, entity or nation which is) acting directly or indirectly for or on behalf of any Prohibited Person; and (c) from and after the effective date of the above-referenced Executive Order, it (and any person, group, or entity which it controls, directly or indirectly) has not conducted nor will conduct business nor has engaged nor will engage in any transaction or dealing with any Prohibited Person in violation of the U.S. Patriot Act or any OFAC rule or regulation, including without limitation any assignment of this Agreement or the making or receiving of any contribution of funds, good or services to or for the benefit of a Prohibited Person in violation of the U.S. Patriot Act or any OFAC rule or regulation. In connection with the foregoing, it is expressly understood and agreed that (i) any breach by Construction Manager of the foregoing representations and warranties shall be deemed a default and breach by Construction Manager hereunder and shall be covered by the indemnity provisions of this Agreement, and (ii) the representations and warranties contained in this subsection shall be continuing in nature and shall survive the expiration or earlier termination of this Agreement. In addition, Construction Manager agrees that it shall in all respects and to the extent applicable comply with all other rules, regulations, laws and legally binding directives of any governmental instrumentality having jurisdiction over Construction Manager and related to the discovery, control or limitation of any terrorist or subversive activity.

29.25 Accessibility.

(a) Construction Manager shall comply with all federal state, and local accessibility requirements that apply to the Project, as set forth in the Contract Documents, including but not limited to the Americans with Disabilities Act, 42 U.S.C. 12181 et seq. ("ADA"), the Fair Housing Act, 42 U.S.C. 3601 et seq. ("FHA"), their implementing regulations, and the Standard. For purposes of this Contract, the "Standard" shall mean one of the following standards, as directed by Owner/Developer in writing prior to commencement of Work hereunder: (i) the Fair Housing Accessibility Guidelines, Design Guidelines for

Accessible/Adaptable Dwellings, 56 Fed. Reg. 9472 (Mar. 6, 1991) ("Guidelines"); (ii) a standard designed as an FHA safe harbor by the United States Department of Housing and Urban Development; or (iii) a recognized, comparable objective standard of accessibility that has been found by the United States District Court for the Southern District of New York or the United States Court of Appeals for the Second Circuit to incorporate the requirements of the FHA.

(b) Construction Manager acknowledges that Owner/Developer shall retain an FHA compliance consultant (the "Accessibility Consultant") to help ensure that the as-constructed features at the Project comply with the following: (i) the public use and common use portions of the Project are readily accessible to and usable by persons with a disability; (ii) all the doors designed to allow passage into and within all premises within the Project are sufficiently wide to allow passage by persons with a disability using wheelchairs; (iii) all premises within the Project contain the following features of adaptive design: (w) an accessible route into and through the dwelling; (x) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; (y) reinforcements in bathroom walls to allow later installation of grab bars; and (z) usable kitchens and bathrooms such that an individual using a wheelchair can maneuver about the space (these provisions and features are referred to herein as the "Accessible Design Requirements"). Construction Manager shall fully coordinate and cooperate with the Accessibility Consultant and keep the Accessibility Consultant apprised concerning the Work. Where applicable to the Work, Construction Manager shall seek the Accessibility Consultant's advice regarding the location of appliances (e.g., refrigerators and ranges) and fixtures (e.g., doors, thresholds, and lavatories); the effect of deviations from the Construction Documents on the accessibility of conditions at the Project; as well as other issues that arise during construction that affect accessibility. Prior to completion of the Project, Owner/Developer shall arrange for the FHA Consultant to conduct a visit of the Project to identify any construction issues that may result in inaccessible conditions and recommend appropriate solutions, and Construction Manager agrees to cooperate with Owner/Developer and the Accessibility Consultant in connection with such inspection.

(c) In addition, Construction Manager acknowledges that governmental authorities having jurisdiction over the Work shall be permitted full access to the Project to inspect for compliance with the accessibility requirements set forth herein. If Construction Manager is or becomes aware of (i) any applicable accessibility requirements that are not accurately reflected in the Work, the Contract Documents or the Project; (ii) any lack of compliance with accessibility requirements in the Work; or (iii) any discrepancy between actual field conditions and shop drawings that conform to applicable accessibility requirements, Construction Manager shall notify Owner/Developer promptly thereof.

(d) Construction Manager shall maintain, and shall require its Trade Contractors to maintain, all records related to the compliance of the Project's design and construction with the ADA, the FHA, the Accessible Design Requirements and the Standard. Upon reasonable notice from Owner/Developer, these records shall be available at Construction Manager's office during business hours for audit and copying by Owner/Developer and/or governmental authorities having jurisdiction over the Work. Construction Manager shall retain these records for six (6) years after its receipt of final payment.

29.26 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which, together, shall constitute one agreement. Electronic and/or facsimile signatures of this Agreement shall be deemed originals for all purposes.

29.27 Use of Drones. Construction Manager shall not use and shall prohibit all Trade Contractors from using aircraft, including drones, in performing the Work.

[Signatures to Follow on Next Page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

OWNER/DEVELOPER:
[TBD]

By: _____
Name: [TBD]
Title: [TBD]

CONSTRUCTION MANAGER:
[TBD]

By: _____
Name: [TBD]
Title: [TBD]

EXHIBIT A

LIST OF CONSTRUCTION DOCUMENTS

[TO BEGIN ON FOLLOWING PAGE]

EXHIBIT B

FORM OF TRADE CONTRACT APPROVAL LETTER

TO: DATE:

RE:

Sir/Madam:

We have received bids for the _____ work ("Work") to be performed in accordance with plans and specifications issued by _____ and our request for proposal as follows:

TRADE CONTRACTOR	FINAL PRICE	COMMENT

Our budget for this Work is:

We recommend that the Trade Contract for the Work be awarded to: _____ ("Trade Contractor") In the amount of $_____ ("Trade Contract Price").

Set forth below are the material differences between the Trade Contract we intend to execute and the Trade Contract Form. [List differences]

Please sign the enclosed duplicate of this letter or send us another letter in order to authorize finalizing a Trade Contract ("Trade Contract") with the recommended Trade Contractor for the above stated Trade Contract Price and return said duplicate to us for our records. After our execution of the Trade Contract, we will submit copies to you for your records.

If you have any questions, please contact the undersigned immediately.

Very truly yours,

[_____]

By:
Name:
Title:

Award Approved:

[_____]
By:
Its:

EXHIBIT C

GENERAL CONDITIONS WORK ITEMS

[TO BEGIN ON FOLLOWING PAGE]

EXHIBIT D

INSURANCE REQUIREMENTS

1. Owner/Developer and/or its affiliates will arrange to insure the Project under an Owner Controlled Insurance Program ("OCIP") with commercial general liability limits of not less than $50,000,000 per occurrence and in the aggregate. In the event, Owner/Developer decides to provide coverage through a "rolling OCIP," the limits will be agreed upon between the City and Owner/Developer for the duration of the Project. The OCIP shall include Products Completed Operations "tail" coverage through the applicable statute of repose, and contain no "X", "C", "U" exclusion if excavation and/or demolition is provided, with a per occurrence deductible not to exceed $50,000, written on the most current Insurance Services Office ("ISO") form or its equivalent. Owner/Developer shall be responsible for any deductible above $50,000; Construction Manager shall be responsible for any deductible of $50,000 or less; City shall not be responsible for paying any deductibles. Construction Manager shall not owe Developer any credits for any insurance purchased by Owner/Developer pursuant to the Contract Documents. The OCIP will provide commercial general liability coverage only. The OCIP is limited to coverage for onsite work. With respect to all off-site work, and for all Trade Contractors not enrolled in the OCIP, Construction Manager shall purchase and maintain, at a minimum, the insurance listed below in Sections 1.1 through 1.6, as qualified in Sections 2 through 10, as will protect Construction Manager, Owner/Developer, the City and County of San Francisco, and Owner/Developer's and the City's respective officers, directors, shareholders, affiliates, partners, agents and employees from the claims set forth below which may arise out of or as a result of Construction Manager's obligations under this Agreement (whether such obligations be performed by it or by anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable). Approval of Construction Manager's insurance by the Developer or City will not relieve or decrease the liability of Construction Manager under this Agreement. The Developer and/or City reserve the right to require an increase in insurance coverage in the event the Developer and/or City determines that conditions show cause for an increase and obtaining such coverage is commercially reasonable.

   1.1 Workers' Compensation/Employer's Liability/Disability

      (i) Workers' Compensation insurance in statutory amounts with Employers Liability of, not less than $1,000,000 for each accident, injury, or illness. Workers' Compensation policies shall be endorsed with a waiver of subrogation in favor of the City and Developer for all work performed by the Construction Manager, its employees, agents and subcontractors.

   1.2 Business Automobile Liability

      Claims for damages because of bodily injury or death of any person or property damage arising out of Owner/Developer's operation or use of any motor vehicle in an amount not less than $5,000,000 combined single limit for bodily injury and property damage, including owned, hired, or non-owned vehicles, as applicable.

The Business Auto Liability Policy should be endorsed to include an auto pollution Additional Insured Endorsement if hazardous materials are being transported.

Per the Federal Motor Carrier Safety Administration - Form MCS-90 for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980 must be provided if hazardous materials are being transported.

1.3 Commercial General Liability (Applicable to Non-Enrolled and Off-Site Coverages) for:

(i) Claims for damages due to bodily injury or death of any person other than its employees.

(ii) Claims for damages other than to the Work itself, due to injury to, or destruction of, property, including loss of use therefrom.

(iii) Written on an occurrence form with limits of $15,000,000 each occurrence for bodily injury and property damage, including coverage for Contractual Liability, Explosion, Collapse, and Underground (XCU), Broad form Property Damage, and products completed operations, with a $15,000,000 General Aggregate and $15,000,000 Products/Completed Operations Aggregate. The policy shall identify Owner/Developer, lender (if applicable), City and its officers, affiliates, agents and employees, and all entities listed on Exhibit G as additional insureds. The policy should be endorsed with a "Per Project" aggregate. This coverage may be demonstrated by any combination of primary and excess/umbrella liability policies provided the requirements herein are met.

Specific extension of coverage for Railroad Operations (Revise CGL Policy Form). Coverage shall be written on the most current edition of the ISO form or its equivalent. Coverage for additional insureds will apply to ongoing and completed operations.

1.4 Contractor's Pollution Liability

As applicable to the Work to be performed, covering claims from third-party injury and property damage as a result of pollution conditions emanating on-site, under site or off site, including transportation, arising out of Construction Manager's operations and completed operations. Completed operations coverage shall remain in effect for no less than the applicable statute of repose after after Final Completion. Minimum liability limits, including excess liability coverage shall be $10,000,000 each occurrence and $10,000,000 in the aggregate. The policy shall identify Owner/Developer, City, lender (if applicable) Construction Manager and all Trade Contractors as additional Insureds.

1.5 Professional Liability ("Errors and Omissions")

For all Work relating to the design of the Project such as design-build and design-assist work of Trade Contractors, Construction Manager shall be required to provide or require the Trade Contractor provide Errors and Omissions/professional liability

insurance with limits no less than $2,000,000 per occurrence and $4,000,000 in the aggregate.

2. The insurances enumerated in Sections 1.2 through 1.5 and excluding 1.1 and 1.6, shall, without liability on the part of Owner/Developer, or Lender (if applicable), or the City for premiums therefor, include an endorsement identifying the following as Additional Insureds: Owner/Developer, Lender (if applicable), the City and all entities listed on **Exhibit G,** and their respective partners, directors, officers, employees, agents and representatives.

2.1. Owner/Developer shall deliver evidence of insurance to the City and Owner/Developer shall provide written notice of any cancellation, lapse, or nonrenewalof the insurance pursuant to the policies terms and conditions.opies of all such notices shall be made to:

Owner/Developer
[Address]

CCSF Real Estate Division
c/o Andrico Penick
25 Van Ness Ave. Suite 400
San Francisco, CA 94102

3. Construction Manager shall before the commencement of the Work provide evidence of the required insurance with Owner/Developer, which insurance shall be subject to Owner/Developer's and the City's approval as to the adequacy of protection and compliance with this Agreement. Such insurance shall be placed with reputable insurance companies licensed to do business in the State where the Project is located with a minimum Best's rating of "A-VIII". OCIP General and Excess Liability certificates of insurance shall be submitted prior to commencement of the Work. Construction Manager shall provide copies of all policies of insurance to the City within 90 days after the issuance of the NTP.

4. Any type of insurance or any increase of its limits of liability not described above which Construction Manager requires for its own protection or required by statute shall be its own responsibility and at its own expense.

5. The carrying of the insurance described shall in no way be interpreted as relieving Construction Manager of any responsibility or liability under this Agreement. In the event Construction Manager fails to maintain the coverages or limits as required herein, Owner/Developer may affect such insurance as an agent of Construction Manager. Any premiums paid therefore, by Owner/Developer to affect such coverage shall be payable by Construction Manager or offset by or against the fees herein provided or payable to Construction Manager.

6. Builder's Risk Insurance

Owner/Developer will provide "Special Form" (All Risk) Builder's Risk Insurance on a replacement cost basis. The amount of coverage shall be equal to the completed value of the Fire Station Project, including change orders. The policy shall provide for no deduction for depreciation. The policy shall provide coverage for "soft costs," including, but not limited to, design and engineering fees, code updates, permits, bonds, insurances, and inspection costs caused by an insured peril. The Builder's Risk Insurance shall include, but shall not be limited to, the following coverages:

a. All physical damage to the Work and to appurtenances, to materials and equipment to be incorporated into the Project while the same are in transit, stored on or off the Project site.

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

(i) Coverage for earthquake, terrorism and flood shall be provided to the extent commercially reasonable and at Owner's reasonable discretion and as agreed by the City

c. The costs of debris removal, including demolition as may be made reasonably necessary by such covered perils, resulting damage, and any applicable law, ordinance, or regulation with a commercially reasonable sub-limit. .

d. Equipment breakdown coverage including commissioning.

e. Delay in Start Up resulting from an insured peril (lost revenues and costs of funding or financing when a covered risk causes delay in completing the Work). In the event the Owner/Developer or City receives coverage specifically for a consequential loss associated with delay to the completion of the Project, such specific amount shall be credited for delay for which the Contractor would otherwise be responsible. Owner/Developer shall be responsible for the deductible of thirty (30) days.

7. Owner/Developer, City and Construction Manager shall waive all subrogation rights against each other for damages covered by any Project specific insurance on the Project. Construction Manger shall require similar waivers in favor of Owner/Developer and Construction Manager by Trade Contractors and sub-trade contractors.

7. FORMS OF POLICIES AND OTHER INSURANCE REQUIREMENTS

a. Before commencement of the Work, certificates of insurance and policy endorsements in form and with insurers acceptable to the Developer and the City, evidencing all required insurance and with proper endorsements from Construction Manager's insurance carrier including as additional insureds the parties indicated under Article "Insurance for Others" above, shall be furnished to the Developer and the City, with evidence of insurance furnished to the Developer or City promptly upon request. Construction Manager will be allowed a maximum of five (5) working days, after the

date on which the Contract is awarded, to deliver certificates and endorsements subject to underwriting availability to issue endorsements.

b. Coverage under the applicable liability policies shall be provided on a non-contributory basis subject to policy conditions. .

c. Should any of the required insurance be provided under a claims-made form, Construction Manager shall maintain such coverage continuously throughout the term of this Contract, and without lapse, for a period five (5) years beyond the Contract Final Completion date, to the effect that, should occurrences during the Contract term give rise to claims made after expiration of the Contract, such claims shall be covered by such claims-made policies.

d. Construction Manager, upon receipt of any such notice of cancellation, shall file with the Developer and the City a certificate of insurance of the required new or renewed policy, including applicable policy endorsements, at least 10 calendar days before the effective date of such cancellation or expiration, or as soon as practicable before such effective date in the case of non-payment issues. Upon request, Construction Manager promptly shall furnish the Developer and/or the City with a complete copy of the new or renewed policy.

If, at any time during the life of this Contract, Construction Manager fails to maintain any item of the required insurance in full force and effect, all Work of this Contract may, at Developer and/or City's sole option, be discontinued immediately, and all Contract payments due or that become due will be withheld, until notice is received by the Developer and the City as provided in the immediately preceding Subparagraph “H” that such insurance has been restored to full force and effect and that the premiums therefor have been paid for a period satisfactory to the City. Any failure to maintain any item of the required insurance may, at Developer’s and/or City's sole option, be sufficient cause for termination for default of this Agreement.

EXHIBIT E

FORM OF PERFORMANCE AND PAYMENT BOND

EXHIBIT F

PRELIMINARY SCHEDULE

[TO BEGIN ON FOLLOWING PAGE]

EXHIBIT G

INDEMNITEES AND ADDITIONAL INSUREDS

[TBD], The Related Companies, L.P., Related California Residential, LLC, and their respective subsidiaries, affiliates, officers, directors, managers, members, partners, employees, agents, lenders, successors and assigns

The City and County of San Francisco, its board members and commissions, and all authorized agents and representatives, and members, directors, officers, trustees, agents and employees of any of them

EXHIBIT H

PARTIAL LIEN WAIVER AND RELEASE FORM

Affidavit made this___ day of_____, 20__ to _____ (the "Developer") by_____ ("Contractor") for furnishing of work, labor, services, materials and/or equipment in connection with the development and construction of _____ (the "Project") located at _____ (the "Property") pursuant to an agreement between Contractor and Developer dated_____, as amended (the "Agreement"), for and in consideration of the sum of _____ (the "Partial Payment"), representing the amount presently approved as payable under Invoice #_____ dated_____, for work, labor, services, materials and/or equipment furnished to Developer under the Agreement, the receipt of which, by Contractor from Developer, is hereby acknowledged; Contractor does hereby waive, release, remise and relinquish the right to claim or file a mechanic's or other lien against the Property or any part thereof for all work, labor, services, materials and/or equipment supplied by Contractor, including any claims for extra or additional work or any other damage or expense alleged to have been incurred by Contractor, up to and including the ___ day of _____, ____, excepting only claims currently unresolved for the total amount of _____ ($_____)as described on Attachment 1 hereto for which written notice has been provided to Developer.

Partial Payment to Contractor $_____.
Cumulative Payment to Contractor (inclusive of Partial Payment) $_____.

Contractor hereby agrees to indemnify and hold Developer and all entities listed as indemnified parties in the Agreement harmless from any and all damages, costs, expenses, demands, suits, liens and legal fees, directly or indirectly relating to any claim for compensation by any other party for work, labor, services materials and/or equipment which directly or indirectly relates to that performed or furnished by Contractor and/or its agents, vendors or subcontractors and from and against any claims relating to any extra or additional work, labor, services, materials and/or equipment allegedly performed or furnished by Contractor and/or its agents, vendors or subcontractors. Contractor hereby certifies and warrants that it has fully paid to date all vendors and subcontractors in connection with the aforesaid Project, except for those listed below (List all payables or state "None"):

_____

_____

Contractor further affirms that it has received all payments to date as a trust fund for the purpose of paying all claims for work, labor, services, materials and/or equipment and will apply all payments received for said purpose before using any part thereof for any other purpose.

IN WITNESS WHEREOF, this Waiver and Release has been executed this ___ day of _____, 20__.

Contractor: _____

Sworn to before me this
___day of _____, 20__.

By: _____
Name: _____
Title: _____

_____
Notary Public

(Note: include Attachment 1 hereto)

EXHIBIT I

FINAL LIEN WAIVER AND RELEASE FORM

Affidavit made this _____day of _____, 20__ to _____ ("Developer"), by _____ ("Contractor") for furnishing of work, labor, services, materials and/or equipment in connection with the development and construction of _____ (the "Project") located at _____ (the "Property") pursuant to an agreement between Contractor and Developer dated _____, as amended (the "Agreement"), for and in consideration of the sum of _____, (the "Final Payment") representing the amount presently approved as the final and total amount payable under Requisition #_____ dated _____, for work, labor, services, materials and/or equipment furnished to Developer under the Agreement, the receipt of which, by Contractor from Developer, is hereby acknowledged; Contractor does hereby waive, release, remise and relinquish the right to claim or file a mechanic's or other lien against the Property or any part thereof for all work, labor, services, materials and/or equipment supplied by Contractor and does so covenant in recognition of the fact that final payment has been received for all work, labor, services, materials and/or equipment supplied by Contractor, including any claims for extra or additional work or any other damage or expense alleged to have been incurred by Contractor, up to and including the ___ day of _____, 20__.

Final Payment to Contractor $_____.
Cumulative Payment to Contractor (inclusive of Final Payment) $_____.

Contractor hereby agrees to indemnify and hold Developer and all entities listed as indemnified parties in the Agreement harmless from any and all damages, costs, expenses, demands, suits, liens and legal fees, directly or indirectly relating to any claim for compensation by any other party for work, labor, services materials and/or equipment which directly or indirectly relates to that performed or furnished by Contractor and/or its agents, vendors or subcontractors and from and against any claims relating to any extra or additional work, labor, services, materials and/or equipment allegedly performed or furnished by Contractor and/or its agents, vendors or subcontractors. Contractor hereby certifies and warrants that it has fully paid to date all vendors and subcontractors in connection with the aforesaid Project, except for those listed below (List all payables or state "None"):

_____

_____

Contractor releases and discharges Developer from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever, in law or equity, arising from or in connection with the Project or the Property which against Developer Contractor ever had, now have or hereafter can, shall or may have, for upon, or by reason of any matter, claims or causes of action whatsoever from the beginning of the world to the date of this Final Waiver and Release.

Contractor further affirms that it has received all payments to date as a trust fund for the purpose of paying all claims for work, labor, services, materials and/or equipment and will apply all payments received for said purpose before using any part thereof for any other purpose.

IN WITNESS WHEREOF, this Final Waiver and Release has been executed this ___ day of _____, 20__.

Contractor: _____

By: _____
Name: _____
Title: _____

Sworn to before me this
___day of _____, 20__.

_____
Notary Public

EXHIBIT J

ALLOWANCE LOG

EXHIBIT K

ALTERNATE LOG

EXHIBIT L

SUMMARY OF BUDGET

EXHIBIT M

QUALIFICATIONS

CONSTRUCTION MANAGEMENT AGREEMENT

Between

CITY AND COUNTY OF SAN FRANCISCO,

a Charter city and county,

as the City

and

EQX JACKSON SQ HOLDCO, LLC,

a Delaware limited liability company,

as Developer

Dated as of _____, 2021

TABLE OF CONTENTS

Page

CONSTRUCTION MANAGEMENT AGREEMENT

CONSTRUCTION MANAGEMENT AGREEMENT (the "**Agreement**"), dated as of _____, 2021, between the CITY AND COUNTY OF SAN FRANCISCO, a Charter city and county (the "**City**"), and EQX JACKSON SQ HOLDCO, LLC, a Delaware limited liability company ("**Developer**").

R E C I T A L S:

The City and Developer have heretofore entered into that certain Conditional Property Exchange Agreement dated July 30, 2020 (the "**CPEA**"), pursuant to the terms of which, among other things, Developer has agreed to construct a fire station (the "**Fire Station Project**") on the New City Parcel (as such term is defined in the CPEA, and which is generally described in Exhibit A attached hereto) in accordance with the Fire Station Project Plans and Specifications, and to thereafter transfer to the City fee title to the New City Parcel and the Fire Station Project upon the completion thereof, all in accordance with the terms and conditions of the CPEA. [New City Parcel definition needs to include fee ownership of B3 parking level.]

In furtherance of the provisions of the CPEA, the City wishes to retain Developer to construct the Fire Station Project, and Developer wishes to construct the Fire Station Project, all on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Developer hereby agree as follows:

1. Retention of Developer; Certain Definitions.

1.1 The Developer hereby agrees to perform the "**Developer Services**", as more particularly described in Exhibit C, subject to and in accordance with the terms and conditions of this Agreement.

1.2 The City and Developer each understand that the other may be interested, directly or indirectly, in certain other existing and future development activities and undertakings not related to the Fire Station Project. This Agreement and the assumption by the City and Developer of their respective duties hereunder shall not affect the rights of either Party to pursue such other existing and future activities and undertakings (whether or not competitive with the Fire Station Project) and to receive profits or compensation therefrom.

1.3 All capitalized terms used herein shall have the meanings ascribed to them in Schedule 1 attached hereto.

1.4 This Agreement shall start on the date of execution and delivery by the Parties and unless sooner terminated as provided in this Agreement, shall terminate on the date that all obligations of both parties hereunder have been satisfied.

2. Authority of Developer; Approvals.

2.1 Limited Authority to Incur Expenditures and Execute Contracts. Developer, acting through its employees and Affiliates, hereby accepts its engagement to perform the Developer Services on the terms and conditions herein contained, and shall have the authority to undertake the Developer Services in accordance with this Agreement. Developer shall have the right to enter into Pre-Approved Fire Station

Project Contracts and to pay its obligations thereunder without the City's prior consent. Developer shall not have the authority to:

(a) Except as approved by City incur Fire Station Project Costs in excess of the Fire Station Project Costs set forth in the Project Budget.

(b) Except for Pre-Approved Fire Station Project Contracts, and except as otherwise set forth in this Agreement or as approved by the City pursuant to the terms of this Agreement, enter into Fire Station Project Contracts.

(c) Except as otherwise set forth in this Agreement, and except as approved by the City with an increase in the Project Budget, enter into any Fire Station Project Contract that causes the cumulative Fire Station Project Costs to exceed the amounts set forth in the Project Budget.

(d) Except as approved by the City, enter into any agreements with third parties delegating any of the Developer Services to such third parties, other than with its Affiliates and other internal employee arrangements.

2.2 Independent Contractor. For the purposes of this Section 2.2, "**Developer**" includes not only Developer, but also any agent or employee of Developer. Developer acknowledges and agrees that at all times, Developer shall be deemed at all times to be an independent contractor and is, subject to the terms of this Agreement, wholly responsible for the manner in which it performs its obligations under this Agreement. Developer will not represent or hold itself or themselves out to be employees of the City at any time. Developer shall not have employee status with the City, nor be entitled to participate in any plans, arrangements, or distributions by the City pertaining to or in connection with any retirement, health or other benefits that the City may offer its employees. Except as expressly provided herein to the contrary, Developer is liable for the acts and omissions of itself, its employees and its agents. Developer shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Developer's performing services and work, or any agent or employee of Developer providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between the City and Developer. Any terms in this Agreement referring to direction from the City shall be construed as providing for direction as to policy and the result of Developer's work only, and not as to the means or methods by which such a result is obtained. The City does not retain the right to control the means or the method by which Developer performs work under this Agreement. Developer agrees to maintain and make available to the City, upon request and during regular business hours, accurate books and accounting records demonstrating Developer's compliance with this Section. Notwithstanding the foregoing, if a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division determines that an employee of Developer or its agents is an employee of the City for purposes of collection of any employment taxes, then, provided that Developer has not already paid such employment taxes for such employee, the amounts payable under this Agreement for the Developer Services shall be reduced by amounts equal to both the employee and employer portions of the tax due (less amounts already paid by Developer and applied against this liability). The City shall then forward those amounts to the relevant taxing authority. A determination of employment status pursuant to the preceding paragraph shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Developer shall not be considered an employee of the City.

2.3 Consents and Approvals. Notwithstanding anything stated to the contrary herein, all approvals, consents or other determinations required from the City hereunder shall be made by or through the City's Representative and any approval by the City's Representative shall constitute the approval by the City: provided (i) the City Representative cannot authorize any increase in the certification of funds set forth in

Section 4.1, which authorization must come, if at all, from the City's Controller, and (ii) any amendment to this Agreement must be approved by the City Representative following any necessary governmental approvals, which may include approval from the City's Board of Supervisors. All approvals, consents or other determinations required by the City's Representative must be in writing except to the extent deemed approved in accordance with the terms of this Agreement. Notwithstanding anything stated to the contrary in this Agreement and specifically excluding any Pre-Approved Fire Station Project Contracts (for which consent or approval is not required), with respect to all approvals and/or consents required under this Agreement, if a Party fails to approve, disapprove or approve conditionally any approval or consent requested by the other Party in writing within ten (10) business days following receipt of a written request for approval or consent that is then followed by a second written request for approval or consent, and such Party fails to approve, disapprove or approve conditionally such approval or consent within five (5) business days following its receipt of such second written request, then the submittal and applicable documents shall be deemed approved for purposes of this Agreement A Party's failure to timely respond to the other Party's request for an approval, consent or determination of any matter shall constitute a failure by such Party to comply with a material term of this Agreement.

2.4 Refinements to Project Design and Budget. Throughout the term of this Agreement, Developer shall work with the City to refine and modify the design of the Fire Station Project as needed to keep the Fire Station Project within the approved Project Budget. The Parties agree to work together with the Architect and the General Contractor to keep the Fire Station Project Cost at or below the Project Budget. From the start of construction until completion of the Fire Station Project, Developer shall review and monitor the Construction Contractor's monthly construction cost report of expenditures on the Fire Station Project during the previous month (the "**Construction Cost Report**"). The Construction Cost Report shall include an update to the Fire Station Project Schedule, including critical path items. The parties agree to review the Project Budget, as compared to actual expenditures, throughout the development to ensure that the Fire Station Project Cost does not exceed the Project Budget or to notify the City if an expense would cause the Fire Station Project Cost to exceed the Project Budget. If Developer reasonably believes at any point that the Fire Station Project Cost will likely exceed the Project Budget, Developer shall notify the City of such fact and the parties shall discuss alternatives to design, overall square footage, finishes, and other items that may be changed or eliminated from the Fire Station Project so as to not exceed the Project Budget. Upon City's request, Developer shall provide to the City good faith detailed estimates of the cost of various proposed alternatives in order for City to initiate needed change orders to keep the Fire Station Project Cost below the Project Budget. Notwithstanding anything stated to the contrary in this Agreement, in the event the City requests any design changes or modifications to the Fire Station Project that would result in a net increase in the Fire Station Project Cost above the Maximum Costs and that are not required by current code, applicable law, or by the approved Criteria Package or Final Construction Documents, then the costs attributable to such design change or modification shall be considered Additional Project Costs for purposes of this Agreement.

2.5 Contingency Reserves. The Project Budget attached hereto as Exhibit B contains the following contingency reserves: "GMP Contingency," "Project Contingency," "Hard Cost Contingency," and "Soft Cost Contingency." Developer understands and acknowledges that no funds identified in the GMP Contingency, Project Contingency, Hard Cost Contingency or the Soft Cost Contingency shall be expended by Developer without City's first having approved the same, which approval shall not to be unreasonably withheld.

3. Obligations of Developer.

3.1 Developer Services. During the term of this Agreement, Developer shall perform all Developer Services necessary for the Fire Station Project's management, design, construction, completion, and delivery of the completed Fire Station Project to the City. Developer shall provide all design, construction, and consultation services necessary for receipt of all occupancy permits and authorizations to

operate a facility that meets or exceeds all design and specification requirements agreed upon between the City and Developer based on the criteria set forth herein and in the Criteria Package, including, but not limited to, compliance with all industry standards and all applicable codes and regulations. Developer shall supply qualified personnel necessary to perform its responsibilities under this Agreement, and all such persons shall be employees of Developer or its Affiliates and shall not be, or be deemed to be, employees of the City. Developer shall employ such employees necessary or appropriate to enable Developer at all times to oversee, coordinate and provide the Developer Services as required under this Agreement. All matters pertaining to the employment, training, conduct, supervision, compensation, promotion and discharge of such employees shall be the sole responsibility of Developer and Developer shall comply with all applicable laws and regulations having to do with worker's compensation, social security, unemployment insurance, hours of labor, wages, working conditions and safety and similar matters with respect to such employees. Should the City determine that Developer, or any agent or employee of Developer, is not performing the Developer Services in accordance with the requirements of this Agreement, the City shall provide Developer with written notice of such failure. Within ten (10) business days of Developer's receipt of such notice, Developer shall commence to remedy the deficiency (unless Developer is prevented from doing so in accordance with applicable law or court order) and diligently prosecute the same to completion. Notwithstanding the foregoing, if the City believes that an action of Developer, or any agent or employee of Developer, warrants immediate remedial action by Developer, the City shall contact Developer and provide Developer in writing with the reason for requesting such immediate action; Developer shall promptly take any corrective action requested or directed by the City.

3.2 Fire Station Project Contracts.

(a) Approval and Execution. Any and all development, design, construction and materials/equipment contracts necessary for the development and construction of the Fire Station Project (collectively, "**Fire Station Project Contracts**") and any and all change orders, changes to plans and specifications, amendments and modifications thereto shall, except for Pre-Approved Fire Station Project Contracts, require the prior approval of the City, which approval shall not be unreasonably withheld or delayed; provided that the City's approval shall not be required for any change orders, changes to plans and specifications, amendments and modifications to Fire Station Project Contracts that cost less than $250,000 in the aggregate, so long as the same shall not cause the Fire Station Project Costs to exceed the Maximum Cost. The term "Fire Station Project Contracts" shall include the Architect Contract, the Construction Contract and various materials and equipment contracts with the suppliers. For avoidance of doubt, those Fire Station Project Contracts entered into by Developer prior to the date hereof, which are listed in Exhibit G-1 attached hereto, are hereby ratified, confirmed and approved in all respects by the City. Notwithstanding the foregoing, (a) City acknowledges that Developer has entered into the Fire Station Project Contracts listed in Exhibit G-2 attached hereto, (b) Developer understands that the City has not approved the Fire Station Project Contracts listed in Exhibit G-2 attached hereto, (c) City acknowledges and agrees that the City's failure to have approved of the Fire Station Project Contracts listed in Exhibit G-2 attached hereto as of the date hereof does not and will not constitute a default by either party under this Agreement, (d) upon City's request, at any time during the term of this Agreement, Developer shall in good faith use reasonable efforts to amend any Fire Station Project Contract(s) listed in Exhibit G-1 or Exhibit G-2 pursuant to direction to be provided by the City, (e) City shall promptly approve or reject any Fire Station Project Contracts remaining on Exhibit G-2 in accordance with the terms and provisions of this Agreement, and (f) any Fire Station Project Costs incurred as a result of amending any such Fire Station Project Contracts as provided above shall be included in the Maximum Cost (as such term is defined in the CPEA) under the CPEA. In the event the City requires Developer to enter into a Fire Station Project Contract with a Project Contractor that was not the lowest bidder during the bid process (the "**City Preferred Project Contractor**"), then the City shall be required to provide confirmation reasonably satisfactory to Developer that entering into such Fire Station Project Contract with the City Preferred Project Contractor will not cause the Fire Station Project Costs to exceed the amounts set forth in the Project Budget.

(b) Provisions in Fire Station Project Contracts. Developer shall include the applicable provisions set forth in Exhibit F attached hereto (the "**Owner Contracting Requirements**") in all Fire Station Project Contracts entered into after the date of this Agreement, subject to exclusions for Pre-Approved Fire Station Contracts costing $50,000 or less (except as otherwise required by law), and subject to such revisions or deletions as may be agreed to by the City in approving the Fire Station Project Contracts. In addition, Developer shall include in all Fire Station Project Contracts: (1) that the City and its officer and agents shall be named as additional insureds to all policies of insurance procured by each Project Contractor covering the Project Contractor's work on the Fire Station Project; and (2) a provision stating the City shall be considered a third-party beneficiary to any plans and other work product created by the Project Contractor for the Fire Station Project with the right to rely upon the same, and which plans and other work product shall be freely assignable without any restrictions or consent requirements. If any Project Contractor under a Fire Station Project Contract hereafter refuses to include any of the Owner Contracting Requirements in its Fire Station Project Contract, Developer shall consult with the City on how to proceed with the contract negotiations, including whether to seek Board of Supervisors approval of an exemption of such provision if necessary or to terminate negotiations and seek another contractor. Notwithstanding anything stated to the contrary in this Agreement, Developer's inability to get a Project Contractor to agree to any of the Owner Contracting Requirements shall not constitute a default by Developer under this Agreement; provided, however, the City shall not be required to hereafter approve any Fire Station Project Contract (that is not a Pre-Approved Fire Station Project Contract) that does not include any of the Owner Contracting Requirements. At the direction of the City, Developer shall directly enter into all Fire Station Project Contracts that have been approved by the Parties pursuant to this Section 3.2(b).

(c) Default by Project Contractor. Notwithstanding anything to the contrary contained in this Agreement, in no event and under no circumstances, shall Developer be liable for any breach or default by a Project Contractor, or for a Project Contractor's failure to comply with any of the provisions of the applicable Fire Station Project Contract, including the Owner Contracting Requirements or applicable law (including any City law). Upon a default by a Project Contractor, and following consultation with the City and upon the City's request, Developer shall use commercially reasonable efforts (at Developer's sole cost and expense, and which shall not be treated as Additional Project Costs) to take specific remedial action against the defaulting Project Contractor, including termination of the applicable Fire Station Project Contract and replacement of the applicable Project Contractor.

(d) Obligations and Liabilities. The City hereby agrees to timely pay, or reimburse Developer to the extent Developer has paid, any and all fees, charges, costs, expenses and other amounts properly due and payable by Developer or the "owner" for Fire Station Project Costs that constitute Additional Project Costs that City has pre-approved in writing.

3.3 Fire Station Project Coordinator. Developer shall cooperate with the City in order to perform the Developer Services to ensure compliance with applicable deadlines and to cause the expeditious and timely completion of the Fire Station Project. Developer shall designate one of its employees with significant development experience who will be dedicated to the Fire Station Project and who will serve as the primary contact with the City (the "**Project Coordinator**"). The Project Coordinator shall attend regularly scheduled preconstruction, construction and related meetings relating to the Fire Station Project and report to the City regarding the same. In addition, Developer shall organize, prepare agendas and lead construction progress meetings for the City's internal personnel on a regular basis. Developer shall keep the City informed of all material matters relating to or affecting the Fire Station Project. In such regard, the Project Coordinator shall communicate directly with the "City's Representative" on a regular basis, informing such person of all material events relating to the Fire Station Project. In addition, Developer shall promptly and in a timely manner answer all inquiries the City may have with respect to the development of the Fire Station Project. Developer may change the designated Project Coordinator during the term of this Agreement with City's consent, which shall not be unreasonably withheld.

3.4 Applications for Payment.

(a) Developer shall review applications for payment from third parties for costs incurred in preparation of or pursuant to the Fire Station Project.

(b) Payment for any Additional Project Costs shall be made by the City to Developer at the address specified in Section 14 entitled "Notices," or in such alternate manner as the Parties have mutually agreed upon in writing.

(c) City shall not be responsible for paying any late fee or penalty for any Fire Station Project Costs.

(d) Developer shall timely meet its obligation to make payments to third parties for approved payment applications, including those submitted by designers, construction contractors, and suppliers, for the Fire Station Project.

3.5 Communications with the City; Regularly Scheduled Meetings. Developer shall make its personnel available at reasonable times for communications with the City and will keep the City advised of all matters affecting the Fire Station Project within the scope of Developer's Services and will provide updates regarding the status of the Fire Station Project on a monthly basis. In addition to "regularly scheduled" meetings, appropriate personnel of Developer shall attend other monthly meetings as reasonably requested by the City relating to the Fire Station Project.

3.6 Audit and Inspection of Records. Developer agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its Developer Services and the Fire Station Project. Developer will permit the City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Developer shall maintain such data and records in an accessible location and condition for a period of not fewer than three years after Final Completion or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Developer shall include the same audit and inspection rights and record retention requirements in all Fire Station Project Contracts.

3.7 Coordination with Project Contractors. Developer shall, at Developer's expense, enforce specific performance deadlines and penalties for noncompliance in connection with the Fire Station Project Contracts, and subject to the rights provided for thereunder and subject to applicable law, Developer shall keep the City informed of any problems or issues as they arise under any Fire Station Project Contracts. Notwithstanding anything stated to the contrary herein, Developer shall have no liability due to the failure of (a) any of the Project Contractors to perform their respective obligations under the Fire Station Project Contracts, or (b) except as otherwise expressly provided in the CPEA, Developer to comply with the Fire Station Project Schedule.

3.8 Procuring Fire Station Project Development Approvals. Developer shall submit requests for regulatory and other approvals in a timely manner in order to obtain all required approvals that are necessary for the Fire Station Project in accordance with the Project Schedule.

3.9 Standard of Performance. Developer covenants to the City that the Developer will perform or cause the applicable Fire Station Project Contractors to perform the Work with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with

generally accepted professional standards prevailing at the time for construction managers, design professionals, and construction contractors. Without limiting the foregoing, Developer shall perform the Developer Services in a manner consistent with Developer's work on the tower project of which the Fire Station Project is a portion. Developer understands and agrees that in entering into this Agreement, the City is relying on Developer's development experience and expertise and Developer's commitment to take such actions as needed to manage the Fire Station Project design and construction consistent with generally accepted professional standards prevailing at the time. Under this Agreement, Developer shall closely monitor and oversee the work of its Project Contractors throughout the construction of the Fire Station Project, promptly notify the City of any defaults, deficiencies or violations it becomes aware of, and enforce Developer's rights and remedies against the Project Contractors under the Fire Station Project Contracts.

3.10 Schedule. Developer shall issue a notice to proceed with construction to the Project Contractor (general contractor) for the Fire Station Project by no later than December 31, 2023. Developer shall submit a construction schedule showing the start date for construction to the City for approval at least 60 days prior to the start of construction. Developer shall provide City with an undated resource-loaded critical path schedule at least monthly during the period of construction.

4. Obligations of the City.

4.1 Certification of Funds; Budget and Fiscal Provisions. The City has appropriated and authorized funds for the entire development of the Fire Station Project in the amount of $32,128,429, which appropriation and authorization cover all amounts set forth in the Project Budget and has been certified by the City Controller, and is deemed to have been paid by the City to the Developer by virtue of the City's entering into the Ground Lease with Developer and its satisfaction of its other contractual obligations under the CPEA. No City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised additional payments (including, without limitation, any Additional Project Costs) to Developer under this Agreement in excess of those deemed made pursuant to the City's entering into the Ground Lease with Developer and complying with its other obligations under the CPEA, without the Controller having first certified the additional promised amount and the Parties having modified this Agreement in writing.

4.2 City Representatives. The City hereby designates _____ (the "**City's Representative**"), to be its designated representative for purposes of contact between the City and Developer in connection with the construction of the Fire Station Project, including, without limitation, the giving of notices, consents and approvals. The City may at any time, by notice given to Developer, remove the City's Representative and appoint another individual to act as the City's Representative. Except as set forth in this Agreement to the contrary, the City's Representative, shall have the authority to bind the City with respect to all matters for which the consent or approval of the City is required or permitted pursuant to this Agreement and all consents, approvals and waivers given by the City's Representative shall bind the City and may be relied upon by Developer.

4.3 City Cooperation. The City shall cooperate with Developer for the design and construction of the Fire Station Project and shall promptly and in a timely manner (a) provide information regarding its requirements for the Fire Station Project as outlined in the Criteria Package, (b) answer inquiries Developer may have with respect to such information, and (c) timely approve or disapprove (in accordance with the terms of this Agreement) any items and grant its approval for Developer to execute Fire Station Project Contracts required for the development of the Fire Station Project. Additional information or decisions requested by Developer of the City shall also be given by the City to Developer in a prompt and timely manner (in accordance with the terms of this Agreement).

4.4 City Payment of Additional Project Costs. The City shall pay on a timely basis in accordance with Section 3.4 any approved Additional Project Costs, but in no event later than sixty (60) days after the

exhaustion of all contingency reserves set forth in the Project Budget. The Parties contemplate that the City will be funding any Additional Project Costs from its own funds and not from the proceeds of any third party financing. Developer shall have no obligation to advance or expend its own funds in connection with any Additional Project Costs. Developer shall have no obligation or liability under this Agreement for its failure to take any action involving the expenditure of funds for Additional Project Costs if the City has failed to provide such funds as and when required under this Agreement. At the sole discretion of the City, City shall make payment for work performed under any Fire Station Project Contract for Additional Project Costs by (i) a joint check made out to Developer and contractor, or (ii) any similar payment procedure to which both parties agree. City and Developer shall cooperate in good faith to institute reasonable procedures to properly document and effectuate any such payments. Developer agrees to credit the full amount of any such payments by the City for Additional Project Costs towards fulfilment of the City's obligations to pay Developer for Additional Project Costs.

4.5 Developer Submission of Applications. Developer shall make all applications and obtain all required Fire Station Project Development Approvals for the Fire Station Project. The City agrees to cooperate with Developer in connection with all applications for Fire Station Project Development Approvals, including execution of all applications, documents and agreements necessary or appropriate to be filed or entered into with all utility companies, public agencies and municipal and other governmental authorities having jurisdiction over the Fire Station Project and to execute, acknowledge and deliver all documents and agreements reasonably requested or required to obtain such Fire Station Project Development Approvals or to create utility and other easements necessary to furnish utilities.

4.6 City Keeping Developer Informed. The City shall keep Developer promptly informed of all material matters that come to the City's attention relating to or affecting the development, design or construction of the Fire Station Project relevant to the Developer Services, including, without limitation, all agreements and discussions between the City and third parties relating to such matters, and the City shall promptly notify Developer of any developments necessitating or warranting a change in the Fire Station Project Plan or the Plans and Specifications.

4.7 Insurance.

4.7.1 Builder's Risk Insurance. Developer will provide "Special Form" (All Risk) Builder's Risk Insurance on a replacement cost basis. The amount of coverage shall be equal to the completed value of the Fire Station Project, including change orders. The policy shall provide for no deduction for depreciation. The policy shall provide coverage for "soft costs," including, but not limited to, design and engineering fees, code updates, permits, bonds, insurance, and inspection costs caused by an insured peril. The Builder's Risk Insurance shall include, but shall not be limited to, the following coverages:

a. All physical damage to the work and to appurtenances, to materials and equipment to be incorporated into the Fire Station Project while the same are in transit, stored on or off the Fire Station Project site.

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

(i) Coverage for earthquake, terrorism and flood shall be provided to the extent commercially reasonable and at Developer's reasonable discretion.

c. The costs of debris removal, including demolition as may be made reasonably necessary by such covered perils, resulting damage, and any applicable law, ordinance, or regulation with a commercially reasonable sub-limit. .

d. Equipment breakdown coverage including commissioning.

e. Delay in Start Up resulting from an insured peril (lost revenues and costs of funding or financing when a covered risk causes delay in completing the Work). In the event the Developer or City receives coverage specifically for a consequential loss associated with delay to the completion of the Fire Station Project, such specific amount shall be credited for delay for which the Developer would otherwise be responsible. Developer shall be responsible for the deductible of thirty (30) days.

4.7.2 Waiver of Subrogation. Developer and City shall waive all subrogation rights against each other for damages covered by any Fire Station Project specific insurance on the Fire Station Project.

4.8 Liability Insurance. Developer shall maintain commercial general liability insurance, in customary amounts, except for claims arising in connection with the construction of the Fire Station Project, which shall be covered through insurance provided by the General Contractor or other Project Contractors or through a "wrap-up" insurance program covering the Fire Station Project. Such commercial general liability insurance shall name the City, the City's officers and agents, Developer, Developer Parties, and the Project Contractors as additional insureds.

4.9 Developer will submit its Owner Controlled Insurance Program ("OCIP") to the City for its review. City will submit any required changes in the OCIP to Developer, which shall exercise its best, good faith efforts to obtain coverage that meets the City's requirements, to the extent such changes are commercially reasonable.

5. **Exculpation; Indemnity**.

5.1 Developer Indemnity. Developer shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) to the extent arising from or in any way connected with any Developer's obligations under this Construction Management Agreement, but only during the period that Developer holds fee or leasehold title to the New City Parcel: (i) injury to or death of a person, including employees of City or Developer or Developer's Contractor or its subcontractor(s) and members of the public; (ii) loss of or damage to property; (iii) violation of local, state, or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from Developer's Contractor's execution of subcontracts not in accordance with the requirements of this Agreement applicable to subcontractors, but only to the extent caused by the negligence of said subcontractors, and so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) - (v) above) arises directly from Developer's performance of this Agreement, including, but not limited to, Developer or Developer's Contractor's or its subcontractor(s) use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except where such loss, damage, injury, liability or claim is the result of the gross negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Developer or Developer's Contractor or, its subcontractor(s), or either's agent or employee. It is understood and agreed that Developer may satisfy its duty of defense of the City against a claim through its counsel jointly representing the Developer, unless there is a conflict of interest under California law, in which event Developer will select separate counsel to represent the City. Notwithstanding the above, the City may designate co-counsel to participate in its defense at its own cost and expense at any time. In addition to Developer's obligation to indemnify City, Developer specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim that actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Developer by City and continues at all times thereafter.

5.2 City Indemnity. The City shall indemnify, defend, protect and hold harmless Developer from and against any Claims resulting from the City's gross negligence or willful misconduct relating to the Fire Station Project.

5.3 City Exculpation. No board or commission of the City (and no officer, director, member, manager, employee or agent of the City) shall be personally liable for the performance of the City's obligations under this Agreement.

5.4 Developer Exculpation. No direct or indirect partner, shareholder or member in or of Developer (and no officer, director, managing director, manager, employee or agent of such partner, shareholder or member) shall be personally liable for the performance of Developer's obligations under this Agreement.

5.5 Limitations. No insurance policy covering either Party's performance under this Agreement shall operate to limit such Party's liability under this Agreement. Nor shall the amount of insurance coverage operate to limit the extent of such liability. Notwithstanding any other provision of this Agreement, in no event shall either Party be liable to the other, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits (except as expressly provided in Section 8.4), arising out of or in connection with this Agreement or the Developer Services performed in connection with this Agreement.

5.6 Copyright Infringement. Developer shall indemnify, defend and hold the City harmless from and against all Claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence solely in connection with the use by the City of the Developer Services as it relates solely to the Project.

6. Compensation of Developer For Additional Project Costs.

6.1 Additional Project Costs. Payment to Developer of any Additional Project Costs shall be made on a monthly basis, upon presentation of invoices and backup documentation, as set forth in Section 3.4 hereof and in conformance with the provisions in the Criteria Package, and, except for the foregoing, the City shall not be obligated to reimburse any expenses of Developer in the performance of its obligations and duties hereunder. For avoidance of doubt, all Additional Project Costs, if any, are subject to the approval of the City in writing in its sole discretion.

6.2 Invoice Format. Invoices furnished by Developer to the City under this Section 6, shall be in a form acceptable to the City Controller and the City Representative, shall include reasonable backup documentation, and must include a sequential invoice number. City will make payments to Developer at the address specified in Section 14 entitled "Notices," or in such alternate manner as the Parties have mutually agreed upon in writing.

7. [Intentionally Omitted].

8. Default; Remedies.

8.1 Developer Default. The following shall be deemed an "event of default" by Developer under this Agreement:

(i) Other than as expressly provided in clause (ii) below, Developer shall fail to comply with any provision, term, condition or covenant of this Agreement and shall not cure such failure within thirty (30) days after written notice thereof to Developer; provided that if such default cannot reasonably be cured within such thirty (30) day period and Developer shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as reasonably required to allow Developer in the exercise of due diligence to cure such default; or

(ii) Developer shall fail to provide its approval, disapproval or determination as to any matters requiring the same in accordance with the time periods set forth in Section 2.3.

8.2 City Default. The following shall be deemed an "event of default" by the City under this Agreement:

(i) Other than as expressly provided in clauses (ii) and (iii) below, the City shall fail to comply with any provision, term, condition or covenant of this Agreement and shall not cure such failure within thirty (30) days after written notice thereof to City; provided that if such default cannot reasonably be cured within such thirty (30) day period and City shall have commenced to cure such default within such thirty (30) day period and thereafter diligently and expeditiously proceeds to cure the same, such thirty (30) day period shall be extended for so long as reasonably required to allow the City in the exercise of due diligence to cure such default;

(ii) The City shall fail to pay Developer when due any amounts the City is required to pay hereunder, and such failure shall continue for a period of sixty (60) days after written notice

thereof to the City; or The City shall fail to provide its approval, disapproval or determination as to any matters requiring the same in accordance with the time periods set forth in Section 2.3 above.

8.3 Non-Binding Mediation.

(a) Upon an alleged default, either party may request non-binding mediation by delivering a written request for mediation ("**Mediation Request**") to the other party. The Mediation Request must include a summary of the issue in dispute and the position of the parties, together with any backup information or documentation it elects to provide. Within fifteen (15) days after receipt of the Mediation Request, the responding party may agree to meet and confer promptly with the requesting party to attempt to resolve the matter. In the absence of such agreement, or if the meet and confer does not resolve the matter promptly, the party who requested approval may submit the matter for mediation to JAMS in the City.

(b) The parties will cooperate with JAMS and with one another in selecting a mediator from a JAMS panel of neutrals and in scheduling the mediation proceedings as quickly as feasible. The parties agree to participate in the mediation in good faith. Neither party may commence or if commenced, continue, a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session. The parties will each pay their own costs and expenses in connection with the mediation, and the party that requested mediation will pay all costs and fees of the mediator. Without limiting the foregoing, the provisions sections 1115 through 1128 of the California Evidence Code, inclusive, will apply in connection with any mediation.

(c) The provisions of sections 1152 and 1154 of the California Evidence Code will apply to all settlement communications and offers to compromise made during the mediation.

(d) Upon the failure of any agreed-upon mediation to resolve the default in question, the Parties may pursue such rights and remedies as are available under this Agreement – the Parties agreeing that the aforementioned mediation process is a non-binding process.

8.4 City Remedies. Upon the occurrence of an "event of default" by Developer (following the expiration of all notice and cure periods and any mediation under Section 8.3), as the City's sole and exclusive remedy, the City shall have the right to (i) pursue its rights under that certain Completion Guaranty dated _____, 20__ , by The Related Companies, L.P., a New York limited partnership, in favor of the City, to the extent the City is permitted to do so under the terms and provisions thereof, or (ii)(a) bring a suit for specific performance of this Agreement, or (b) if specific performance is not available (or does not provide a commercially reasonable remedy to the City, as determined by a court of competent jurisdiction), terminate this Agreement upon written notice to Developer, whereupon, within thirty (30) days following the City's election to terminate this Agreement, the City shall pay Developer for all Additional Project Costs paid or incurred by Developer as of the date this Agreement is terminated and that were not previously reimbursed by the City, which shall include all termination fees payable in connection with the termination of all Fire Station Project Contracts. The foregoing shall not limit City's remedies under the CPEA with respect to any "Developer Event of Default" (as such term is defined in the CPEA) under the CPEA.

8.5 Developer Remedies. Upon the occurrence of an "event of default" by the City (following the expiration of all notice and cure periods and any mediation under Section 8.3), as Developer's sole and exclusive remedy, Developer shall have the right to (i) bring a suit for specific performance, or (ii) to terminate this Agreement, and bring an action against the City for actual damages (including Design and Entitlement Costs expended by Developer) expressly excluding special, indirect, remote, incidental or punitive damages or damages for lost profits or opportunities. If specific performance is not available (or does not provide a reasonable remedy to Developer, as determined by a court), then terminate this Agreement upon written notice to the City, whereupon the City shall pay the Developer for all Additional Project Costs

paid or incurred by Developer as of the date this Agreement is terminated and that were not previously reimbursed by the City, which shall include all termination fees payable in connection with the termination of all Fire Station Project Contracts. The foregoing shall not limit Developer's remedies under the CPEA with respect to any "City Event of Default" (as such term is defined in the CPEA) under the CPEA.

8.6 Payments Following Default. Any payments due to Developer or the City under Section 8.4 or Section 8.5 hereof shall be made within thirty (30) days following the date that amount due is determined, as determined by the applicable court (unless otherwise agreed to by the parties).

9. Fire Station Project Signage.

Developer may maintain reasonable and customary signage at the Fire Station Project specifying Developer's role in the Fire Station Project.

10. Insurance Notices and Information.

10.1 Developer Obligations to Submit Reports. Upon receipt of notice thereof, Developer shall promptly investigate and make a written report to any insurance company providing coverage applicable to the Fire Station Project, with a copy to the City, of all accidents, claims, or damage relating to the Fire Station Project within the scope of the Developer Services, any damage or destruction to the Fire Station Project and the estimated cost of repair thereof, and shall prepare such further reports required by any such insurance company in connection therewith.

10.2 Developer Obligation to Furnish Information. Developer shall furnish whatever information is reasonably requested by the City for the purpose of establishing the placement of insurance coverages required hereunder and shall aid and cooperate in every reasonable way with respect to such insurance and any loss thereunder. All policies covering real or personal property which Developer obtains affecting the Fire Station Project shall include a clause or endorsement denying the insurer any rights of subrogation against the other Party to the extent rights have been waived by the insured before the occurrence of injury or loss, if the same are obtainable. Developer and the City waive any rights of recovery against the other for injury or loss due to hazards covered by policies of insurance containing such a waiver of subrogation clause or endorsement to the extent of the injury or loss covered thereby.

11. Assignment.

11.1 The City Assignment. The City shall not be permitted to assign its rights under this Agreement without the prior written approval of Developer, which consent may be withheld or granted in Developer's sole discretion.

11.2 Developer Assignment. The services to be performed by Developer under this Agreement are personal to Developer and Developer may not assign or transfer this Agreement or any rights or benefits under this Agreement to any person or entity without the prior written approval of the City, which consent may be granted or withheld in the City's sole discretion. Notwithstanding the foregoing, a collateral assignment of this document to Developer's construction or mezzanine lender will not require City's consent, and the City hereby agrees that, in the event a construction and/or mezzanine lender forecloses on its interest pursuant to a power of sale, by judicial proceedings or other lawful means, then subject to such construction or mezzanine lender entering into an assumption agreement reasonably satisfactory to the City, such construction or mezzanine lender shall have the right to enforce all of the terms and provisions of this Agreement as the "Developer" thereunder and the City agrees to enter into such written agreements as may be reasonably requested by Developer's construction and/or mezzanine lender to provide for the same.

11.3 Obligations Binding on Permitted Assigns. All of the covenants, conditions and obligations contained in this Agreement shall be binding upon and inure to the benefit of the respective permitted successors and assigns of the City and Developer.

11.4 No Release of Liability. Notwithstanding any assignment (to the extent approved by Developer hereunder) by the City of its rights under this Agreement, in no event shall the City be released from any of its obligations or liabilities hereunder, and if requested by Developer, the City shall covenant in writing to be jointly and severally liable with its assignee for all of its obligations and liabilities hereunder. Notwithstanding any assignment (to the extent approved by City) by Developer of its rights under this Agreement, in no event shall Developer be released from any of its obligations or liabilities hereunder, and if requested by the City, Developer shall covenant in writing to be jointly and severally liable with its assignee for all of its obligations and liabilities hereunder.

12. Rights in Deliverables.

12.1 Ownership of Results. Any interest of Developer or its subcontractors in the Deliverables, including any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Developer or its subcontractors, shall become the property of and will be transmitted to the City upon the Final Completion of the Fire Station Project. However, unless expressly prohibited elsewhere in this Agreement, Developer may retain and use copies for reference and as documentation of its experience and capabilities.

12.2 Works for Hire. If, in connection with Developer Services, Developer or the Project Contractors create Deliverables including, without limitation, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works shall be the property of the City effective upon the Final Completion of the Fire Station Project. If any Deliverables created by Developer or the Project Contractors under this Agreement are ever determined not to be works for hire under U.S. law, Developer, effective upon the Final Completion of the Fire Station Project, hereby assigns all Developer's copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to use commercially reasonable efforts to include a clause in every subcontract imposing the same duties upon subcontractor(s). With the City's prior written approval, Developer and the Project Contractors may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

12.3 Assignment of Fire Station Project Contracts. Upon Final Completion of the Fire Station Project and payment to Developer of all amounts to which it is entitled under this Agreement, Developer shall assign to the City all of Developer's right, title and interest in and to the Deliverables by an assignment of Intangible Property in form attached hereto as Exhibit I (the "**Assignment of Intangible Property**"). All of the Fire Station Project Contracts shall permit assignment to the City, together with all warranties and guarantees, without the prior consent of the Project Contractor and without any payment to the Project Contractor.

13. Additional Requirements; Certain Requirements Incorporated by Reference

13.1 Laws Incorporated by Reference. The full text of the laws expressly listed in this Section 13, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions expressly incorporated by reference in this Section 13 and elsewhere in the Agreement are available at www.sfgov.org under "Government."

13.2 Conflict of Interest. By executing this Agreement, Developer certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.) , or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.)**,** and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

13.3 Prohibition on Use of Public Funds for Political Activity. In performing the Developer Services, Developer shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Developer is subject to the enforcement and penalty provisions in Chapter 12G.

13.4 Nondisclosure of Private, Proprietary or Confidential Information.

(a) If this Agreement requires the City to disclose "Private Information" to Developer within the meaning of San Francisco Administrative Code Chapter 12M, Developer shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Developer Services. Developer is subject to the enforcement and penalty provisions in Chapter 12M.

(b) In the performance of Developer Services, Developer may have access to the City's proprietary or confidential information, the disclosure of which to third parties may damage the City. If the City discloses proprietary or confidential information to Developer, then, to the extent Developer is advised in writing that such information is proprietary or confidential, such information must be held by Developer in confidence and used only in performing this Agreement, subject to Developer's right to disclose such information as may be required by Court order or applicable law. Developer shall exercise the same standard of care to protect such information as a reasonably prudent person would use to protect its own proprietary or confidential information.

13.5 Nondiscrimination Requirements.

(a) Non-Discrimination in Contracts. Developer shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Developer is subject to the enforcement and penalty provisions in Chapters 12B and 12C to the extent applicable to Developer.

(b) Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Developer does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

13.6 Minimum Compensation Ordinance. Developer shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. Developer is subject to the enforcement and penalty provisions in Chapter 12P. By signing and executing this Agreement, Developer certifies that it is in compliance with Chapter 12P.

13.7 Health Care Accountability Ordinance. Developer shall comply with San Francisco Administrative Code Chapter 12Q as applicable to Developer's work under this Agreement. To the extent

applicable, (i) Developer shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3 and (ii) Developer is subject to the enforcement and penalty provisions in Chapter 12Q.

13.8 First Source Hiring Program. Developer must comply with the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply this Agreement, and Developer is subject to the enforcement and penalty provisions of Chapter 83.

13.9 Alcohol and Drug-Free Workplace. The City reserves the right to require Developer to remove from the Fire Station Project facilities personnel of any Developer or subcontractor who the City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs the ability of the Developer to maintain safe work facilities or to protect the health and well-being of the City employees and the general public. The City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, the Fire Station Project. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

13.10 Limitations on Contributions. By executing this Agreement, Developer acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, 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. The prohibition on contributions applies to each prospective Party to the contract; each member of Developer's board of directors; Developer's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Developer; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Developer. Developer must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to the City.

13.11 Consideration of Criminal History in Hiring and Employment Decisions.

(a) Developer agrees to comply fully with and be bound by the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("**Chapter 12T**"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at http://sfgov.org/olse/fco. A partial listing of some of Developer's obligations under Chapter 12T is set forth in this Section. Developer is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

(b) The requirements of Chapter 12T shall only apply to Developer's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees of Developer who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment by Developer of an

individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

13.12 Tropical Hardwood and Virgin Redwood Ban. Pursuant to San Francisco Environment Code Section 804(b), the City urges Developer not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

13.13 Preservative Treated Wood Products. Developer shall comply with the applicable provisions of San Francisco Environment Code Chapter 13, which requires that contractors purchasing preservative-treated wood products on behalf of the City, shall only purchase such products from the list of alternatives adopted by the Department of the Environment pursuant to Section 1302 of Chapter 13, unless otherwise granted an exemption by the terms of that Chapter.

13.14 Compliance with Laws. Developer's contracts with each Project Contractor shall obligate each Project Contractor to become and remain fully informed of and comply with the applicable provisions of the Charter, ordinances and regulations of the City and other local agencies having jurisdiction over their work, and all federal and state laws and regulations in any manner affecting the Fire Station Project Contracts, the performance of the work thereunder, or those persons engaged therein, subject to exclusions for Pre-Approved Fire Station Contracts costing $50,000 or less (except as otherwise required by law), and subject to such revisions or deletions as may be agreed to by the City in approving the Fire Station Project Contracts. Developer shall require compliance with, and shall use good faith efforts to ensure all construction and materials provided under the Fire Station Project Contracts shall be in full accordance with, the applicable provisions of the latest laws and requirements, as the same may be amended, updated or supplemented from time to time, of the Code specified in the Fire Station Project Contracts, Americans with Disability Act Accessibility Guidelines, CAL-OSHA, the State Division of Industrial Safety of the Department of Industrial Relations, the Division of the State Architect – Access Compliance, the Public Utilities Commission of the State of California, the State Fire Marshal, the National Fire Protection Association, the San Francisco Department of Public Health, state and federal laws and regulations, and of other bodies or officials having jurisdiction or authority over same, and they shall be observed and complied with by Developer and any and all persons, firms and corporations employed by or under it. The City and its agents may at any time, following written notice to Developer, enter upon any part of the work to ascertain whether such laws, ordinances, regulations or orders are being complied with, provided that the City shall have no obligation to do so under this Agreement and no responsibility for such compliance. To the extent applicable to Developer, Developer shall comply with all laws including the applicable provisions of the Charter, ordinances and regulations of the City and local agencies having jurisdiction over it.

In connection with Developer's compliance with the provisions of this Section 13, the City acknowledges and agrees that Developer's compliance with the provisions of this Section 13 shall be deemed to be compliance with the provisions of the CPEA that cover the same subject matter set forth in this Section 13.

14. Notices.

14.1 Any notice required or permitted to be given hereunder and any approval by the parties shall be in writing and shall be (as elected by the Party giving such notice or granting such approval): (i) personally delivered, (ii) delivered by recognized overnight courier, (iii) transmitted by postage prepaid certified mail, return receipt requested, or, (iv) by electronic mail with a hard copy sent by one of the other methods described in clauses (i) – (iii) of this Section. Except as otherwise specified herein, all notices and other communications shall be deemed to have been duly given on the earlier to occur of: (i) the date of receipt if delivered personally; (ii) on the next business day if sent by overnight courier; (iii) five (5) days after the date of posting if transmitted by mail; or (iv) the date of transmission with confirmed answerback if

transmitted by electronic mail. Either Party may change its address for purposes hereof by notice given to the other Party. Notwithstanding the foregoing to the contrary, any notice of default must be sent by registered mail.

14.2 Notices, requests and approvals hereunder shall be directed as follows:

the City:	Real Estate Division The City and County of San Francisco 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102 Re: 530 Sansome Construction Management Agreement Telephone No. (415) 554-9860 Email Address: Andrico.penick@sfgov.org
with copy to:	Carol Wong Deputy the City Attorney Office of the City Attorney The City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4682 Re: 530 Sansome Construction Management Agreement Telephone No. (415) 554-4711 Email Address: carol.r.wong@sfcityatty.org
Developer:	EQX Jackson SQ Holdco LLC 44 Montgomery Street, Suite 1300 San Francisco, CA 94104 Attn: Gino Canori Telephone No. (415) 653-3183 Email Address: gcanori@related.com
with copies to:	Greenberg Traurig LLP 18565 Jamboree Road, Suite 500 Irvine, California 92612 Attention: L. Bruce Fischer, Esq. Telephone No.: (949) 732-6670 Email Address: fischerb@gtlaw.com The Related Companies, L.P. 60 Columbus Circle New York, New York 10021 Attention: Jennifer A. McCool Telephone No.: (212) 801-3478 Email Address: jmccool@related.com

15. Compliance with Americans with Disabilities Act.

Developer shall provide the Developer Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

16. Modification of this Agreement.

This Agreement may not be modified, nor may compliance with any of its terms be waived, except as expressly provided herein. Any modification or waiver must be in writing. "Notices" regarding change in personnel or place, and except by written instrument executed and approved in the same manner as this Agreement.

17. Applicable Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to the principles of conflicts of laws. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

18. Severability.

If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

19. Counterparts.

This Agreement may be executed in one or more counterparts, and each of such counterparts shall, for all purposes, be deemed to be an original, but all of such counterparts shall constitute one and the same instrument. The parties agree that their respective signatures transmitted by facsimile or PDF electronic mail shall be deemed binding for all purposes.

20. Benefits and Obligations.

The covenants and agreements herein contained shall (subject to Section 11 hereof) inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, administrators, legal representatives and permitted successors and assigns. No provisions of this Agreement shall inure to the benefit of, or be enforceable by, any creditors, contractors or other third parties.

21. Integration.

This Agreement represents the entire and integrated agreement between the City and Developer and supersedes all prior negotiations, representations or agreements, either written or oral with respect to the subject matter hereof. This Agreement may be amended only by written instrument signed by the City and Developer.

22. Further Assurances.

The City and Developer agree to execute and deliver such further instruments as may be necessary or desirable to affect this Agreement and the covenants and obligations of the parties hereto.

23. Headings.

The headings in this Agreement are solely for convenience of reference and shall not affect its interpretation.

24. Survival.

Notwithstanding anything stated to the contrary in this Agreement, none of the covenants, conditions or indemnities of the Developer or the City under this Agreement shall (a) survive the termination of this Agreement, except in connection with an action by such Party for termination of this Agreement and damages based on the alleged breach of such covenant, condition or indemnity, or (b) survive Final Completion, except that (i) the provisions of Sections 3.6, 12, 13 and 18 shall survive the termination of this Agreement, or Final Completion, as applicable, for a period of one year after either such event occurs, (ii) the provisions of Sections 5.1 and 5.2 shall survive the termination of this Agreement, or Final Completion, as applicable, for a period of three (3) years after either such event occurs, or, such longer time as is necessary to resolve any issue for which indemnification is asserted under such sections provided a demand is made by the party asserting such indemnification obligations within such three (3) year period, and (iii) the provisions of Sections 5.3, 5.4, 17 and 26 shall survive the termination of this Agreement, or Final Completion, as applicable, without limitation.

25. No Waiver.

No failure or delay of either Party in the exercise of any right under this Agreement shall be deemed to be a waiver of such right. No waiver by either Party of any condition under this Agreement for its benefit or any breach under this Agreement shall constitute a waiver of any other or further right or subsequent breach.

26. Attorneys' Fees.

In the event that either 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.

27. Ownership of Work Product.

Whether provided by the City or Developer or their respective agents, following Final Completion, all of the data, notes, estimates, computations, sketches, photographs, presentations, reports, renderings, computer programs and all other materials relating to the Fire Station Project and the Developer Services (collectively, the "**Works**") shall, together with all copyright privileges, become the property of the City. Developer hereby assigns, effective upon Final Completion, any such copyright to the City. Following Final Completion, Developer may retain copies, including reproducible copies and intermediate drafts, of the same for information and reference only.

28. Sunshine Ordinance

Developer 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 are public records subject to public disclosure. Developer hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

29. City's Remedies for False Claims and Other Violations.

Under San Francisco Administrative Code section 6.22(M), any developer, contractor, subcontractor or consultant who violates any provision of Local Hire and Prevailing Wages for Construction (San Francisco Administrative Code sections 6.22 through 6.45), who submits false claims, or who violates against any governmental entity a civil or criminal law relevant to its ability to perform under or comply with the terms and conditions of its agreement, may be declared an irresponsible bidder and debarred according to the procedures set forth in San Francisco Administrative Code section 6.80, et seq. Additionally, any developer, contractor, subcontractor or consultant who submits a false claim may be subject to monetary penalties, investigation, and prosecution as set forth in Administrative Code section 6.80, et seq.

30. MacBride Principles -Northern Ireland.

The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement.

[SIGNATURES ARE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the day and year written above.

CITY

CITY AND COUNTY OF SAN FRANCISCO,
a Charter city and county

By: _____
Name: _____
Title: City Administrator

APPROVED AS TO FORM:

_____, CITY ATTORNEY

By: _____
Name: Randy Parent
Deputy City Attorney

DEVELOPER

EQX JACKSON SQ HOLDCO, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

EXHIBITS AND SCHEDULES ATTACHED HERETO

Exhibit A	Legal Description
Exhibit B	Project Budget
Exhibit C	Scope of Developer Services
Exhibit D	Fire Station Project Schedule
Exhibit E	[Intentionally Omitted]
Exhibit F	Owner Contractor Requirements
Exhibit G-1	List of Approved Fire Station Project Contracts
Exhibit G-2	List of Other Fire Station Project Contracts
Exhibit H	Local Hire, First Source and LBE Requirements
Exhibit I	Form of Assignment of Intangibles
Schedule 1	Definitions

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT B

PROJECT BUDGET

EXHIBIT C

SCOPE OF DEVELOPER SERVICES

I DESCRIPTION OF GENERAL SERVICES

General Services. Unless otherwise provided, the Developer Services identified below and in the Construction Management Agreement shall extend to the design and construction of the Fire Station Project. Developer shall oversee and monitor all aspects of the design and construction of the Fire Station Project.

Administration and Coordination

In conjunction with the City, prepare for the City's approval the Fire Station Project Plan. Developer shall update or modify the Fire Station Project Plan from time to time upon the request of the City and otherwise when Developer deems necessary, and all such revisions to the Fire Station Project Plan shall be subject to the City's approval.

Establish and implement procedures for coordination of all aspects of the Fire Station Project between the City, Developer, and Project Contractors.

Negotiate contracts and agreements for all contracted services, including site development, architectural, construction, engineering, testing and consulting services, and provide written recommendations to the City to approve contracts or agreements.

Coordinate the services and activities of the General Contractor, Architect, and the other Project Contractors, to facilitate cooperative efforts in the development and implementation of the Fire Station Project Plan.

Negotiate any documents, instruments or agreements or amendments thereto necessary or appropriate for the implementation of the Fire Station Project and services related thereto, to the extent such documents, instruments or agreements, or amendments thereto, are consistent with the Fire Station Project Plan. Except as otherwise provided in this Agreement, all material documents, instruments, agreements or amendments are subject to the reasonable approval of the City.

Management Control Procedures

Establish and implement administration and reporting procedures for the Fire Station Project, including finance, budget and cost controls, as well as supervision of accounting.

Coordinate the development and implementation of a procedure/system of Fire Station Project Cost control and track actual and projected costs.

Oversee the activities of the Project Contractors regarding their performance in accordance with their respective agreements. Upon receipt of knowledge

thereof, notify the City of all material deviations and coordinate the implementation of the necessary procedures to rectify the same.

Recommend to the City and implement the engagement of, subject to City approval, one or more Contractors to provide construction phase services.

Coordinate the scheduling of meetings on a regular basis, or more frequently as the City may reasonably elect, among the City, the Architect, the General Contractor and such other parties as the City may deem necessary or appropriate concerning the Fire Station Project.

Consistent with industry standards for similar projects, monitor, manage and oversee the General Contractor's work throughout construction of the Fire Station Project.

Review and monitor the General Contractor's monthly construction cost report of expenditures for the Fire Station Project on a monthly basis.

Review the Project Budget, as compared to actual expenditures, throughout the construction of the Fire Station Project and advise the City if Developer reasonably believes that the total Fire Station Project Costs are likely to exceed the amounts set forth in the Project Budget and, if such is the case, Developer shall use commercially reasonable efforts to provide the City with proposed alternatives in order to keep the total costs below those set forth in the Project Budget.

Timing and Scheduling

Coordinate the development and updating of appropriate Fire Station Project schedules, including a resource and cost-loaded critical path analysis.

Oversee the coordination of the individual timing schedules of all Fire Station Project participants so as to conform to the overall Fire Station Project Schedule and manage any necessary adjustments.

Monitor the Fire Station Project participants in order to confirm that their individual work capacities and performances continually conform to the overall Fire Station Project Schedule.

Endeavor to identify appropriate opportunities for "fast-tracking" the overall Fire Station Project Schedule, evaluate the costs and benefits of such strategies and provide the City with Developer's recommendations. Endeavor to identify schedule impacts and prepare recovery strategies and budget of costs relating thereto.

Negotiations

Negotiate contracts and agreements for all contracted services, including, but not limited to, site development, architectural, construction, engineering, testing and consulting services, where appropriate using the attorneys and Project Contractors recommended by Developer and approved by the City.

Reporting

Conduct Fire Station Project meetings; review and comment on reports delivered by others.

Keep the City informed of all material internal and external Fire Station Project related matters by initiating and distributing relevant information. The level and detail of such information will be mutually reviewed as the Fire Station Project progresses.

Use good faith diligent efforts to inform the City of all upcoming meetings in a timely manner.

II. PHASES OF WORK

PART 1 - PHASE ONE (DESIGN PHASES)

1.01 GENERAL REQUIREMENTS

A. Throughout all design phases, Developer shall collaborate with the Project Team and shall update all submitted plans, schedules, and reports.

B. Developer shall provide a schedule indicating the critical path for the Project duration and update this schedule throughout all design phases.

1.02 CONCEPTUAL DESIGN PHASE

A. Based on the Criteria Package, Developer shall develop the Conceptual Design Documents for City approval, which City shall provide within 10 working days of delivery of the said documents to the City. The 100% Conceptual Design Documents package will become the revised, final Criteria Package and shall include at a minimum:

1. Architectural site plans, floor plans with general blocking of uses showing target adjacencies, column grids, vehicle access/egress, vertical conveyance systems including elevator lobby(s), and pedestrian access/egress, in general conformance with the City's required Program.

1.03 SCHEMATIC DESIGN PHASE

A. Based on the Criteria Package, Developer shall develop the 100% Schematic Design Documents for City approval, which City shall provide within 10 working days of delivery of the said documents to the City. The 100% SD package shall include at a minimum:

1. Architectural site, floor plans, reflected ceiling, and equipment plans, exterior and interior elevations, column grids, vehicle access/egress, vertical conveyance systems including elevator lobby(s), pedestrian access/egress, etc.

2. Interior design plans and other supporting documents to illustrate the graphic design layouts.

3. Refined building systems, material, and products selections.

4. Refined MEP, Special Systems, Fire Protection, and Exterior Skin and other systems floor plans, diagrams and text to describe these systems.

B. Developer shall develop BIM Model for detailed MEP, Special Systems, and other systems floor plans, diagrams, and text to describe these systems

C. Prepare a Schematic Design phase report to document and summarize the Schematic Design phase decisions and outcomes, including deviations from the Criteria Package that are approved by the City.

D. Developer shall perform and document constructability review.

1.04 DESIGN DEVELOPMENT PHASE

A. Developer shall refine the approved 100% Schematic Design Documents to fully integrate all required Project design elements and issue a 100% Design Development Package, in order to provide sufficient information to develop the Construction Documents. The City shall approve the Design Development Package within 10 working days of delivery of the 100% Design Development Package to the City. Additionally, the parties agree that Developer may re-allocate the time allowed for the City's review of the 50% Design Development Drawing Package (which is no longer required) to conducting a value engineering exercise (with the participation of the entire design team), for the purpose of achieving a reduction in projected Project costs.

B. Update BIM Models.

C. Document the constructability review, including an evaluation of the design documents to identify value engineering opportunities, identification of long lead items, availability of labor, and other factors affecting construction.

D. Prepare a Design Development phase report to document and summarize the Design Development phase decisions and outcomes, including deviations from the Criteria Package that are approved by the City.

1.05 CONSTRUCTION DOCUMENTS PHASE

A. Based on the approved Design Development documents, Developer shall prepare 50% and 100% Construction Documents that, at a minimum, should include drawings, diagrams, calculations, 3D models, renderings, schedules, and Technical Specifications. The City Representative shall provide all City comments on the 50% and 100% CD packages within 10 working days.

B. Prepare a Construction Document phase report to document and summarize the Construction Document phase decisions and outcomes, including deviations from the Criteria Package that are approved by the City.

PART 2 - PHASE TWO (CONSTRUCTION PHASE)

2.01 GENERAL SCOPE OF WORK

A. Developer shall furnish and install mock ups as identified and determined during Programming for performance, acceptance of size, circulation, and FF&E as determined in

the approved Project Schedule. The mock-ups may be constructed in-place and/or off-site as determined during Programming.

B. Developer shall plan for authorities with jurisdiction to inspect the Work. The City Representative has final authority over coordination, use of premises, and access to site.

C. Developer shall provide qualified staff to manage construction as required by the Contract Documents, including:

D. Developer shall report on the progress of the Project including information on Developer and its Architect's and General Contractor's work, percentage of completion of the Work, current estimates, forecasted contract growth, subcontract buyouts, updated monthly schedules, including projected time to completion and estimated cost to complete the Work, digital progress photographs, logs for Requests for Information, submittals and shop drawings, pending and approved change orders, meetings minutes, and other project metrics as requested by the City.

E. Developer shall maintain systems and equipment. Developer shall provide services and maintain all equipment in accordance with manufactures instructions until the City receives and takes over the equipment in the activation phase.

2.02 ACTIVATION/COMMISSIONING /MAINTENANCE TRAINING PHASE

A. Developer is responsible for performing the requirements of the commissioning process including those responsibilities assigned to subconsultants, subcontractors, vendors, manufacturers, or their representatives. The Developer shall insure that all subconsultants, subcontracts or purchase orders for systems, inclusive of all of the system components to be commissioned, include provisions for compliance with this Document.

B. Developer shall commission all systems and equipment in order to achieve the following specific objectives:

1. Verify and document that the building enclosure, systems and equipment are documented in the Design and Construction Documents in accordance with the Criteria Package.

2. Verify and document that equipment is designed, installed, started, and operates properly pursuant to the requirements of the Contract and manufacturer's specifications, instructions and recommendations.

3. Verify and document that building enclosure mockups and installation perform as designed and as intended.

4. Identify deficient building enclosure, equipment, systems and installations as early as possible to facilitate timely corrective action minimizing schedule impact.

5. Verify and document that the building enclosure, equipment, and systems receive complete operational checkout by installing subcontractors, vendors and manufacturers.

6. Verify and document building enclosure, equipment and system performance.

7. Verify and validate that the City's operating personnel are adequately trained on the Operation and Maintenance of building equipment and systems.

8. Verify Operations and Maintenance Data for systems and equipment is complete and usable, and provided in the format as required by the City.

C. The commissioning process does not reduce the responsibility of the Developer, its Architect or subconsultants, General Contractor or its subcontractors, or vendors to perform and complete all work in accordance with this Agreement.

2.03 SUBSTANTIAL COMPLETION

A. Prior to Substantial Completion, Developer shall submit all Equipment Inventory Sheets

B. In advance of Substantial Completion, Developer shall obtain the Temporary Certificate of Occupancy.

C. Developer shall demobilize from the Project Site.

2.04 FINAL COMPLETION

In advance of Final Completion, Developer shall assist with move in/fit out of the FF&E for the entire Project, shall complete all Site work, and equipment, hardware, and software training for City's maintenance staff, and shall deliver to the City written copies of all warranties and record and as-built drawing. Developer shall obtain the Final Certificate of Occupancy.

EXHIBIT D

FIRE STATION PROJECT SCHEDULE

EXHIBIT F

OWNER CONTRACTING REQUIREMENTS

1. **Non-Discrimination in the City Contracts and Benefits Ordinance**

(a) **Covenant Not to Discriminate**

In the performance of this Agreement, Project Contractor agrees not to discriminate against any employee of, any City employee working with Project Contractor , or applicant for employment with Project Contractor , 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 such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) **Subcontracts**

Project Contractor shall include in all contracts and subcontracts relating to the Property a nondiscrimination clause applicable to such subcontractor in substantially the form of subsection (a) above. In addition, Project Contractor shall incorporate by reference in all subcontracts the provisions of sections 12B.2(a), 12B.2(c)-(k) and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Project Contractor 's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) **Non-Discrimination in Benefits**

Project Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by the City, or where the work is being performed for the 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 such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in section 12B.2(b) of the San Francisco Administrative Code.

(d) **CMD Form**

As a condition to this Agreement, Project Contractor shall 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 Contracts Monitoring Division (the "**CMD**"). Project Contractor hereby represents that before execution of the Agreement: **(a)** Project Contractor executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and **(b)** the CMD approved such form.

2. Tropical Hardwood and Virgin Redwood Ban

(a) Except as expressly permitted by the application of sections 802(b) and 803(b) of the San Francisco Environment Code, neither Project Contractor nor any of its contractors shall provide any items to

the City in the construction of the Fire Station Project or otherwise in the performance of this Agreement which are tropical hardwood, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

(b) The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood products.

(c) In the event Project Contractor fails to comply in good faith with any of the provisions of Chapter 8 of the San Francisco Environment Code, Project Contractor shall be liable for liquidated damages for each violation in an amount equal to Project Contractor's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greatest. Project Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City and County of San Francisco upon demand and may be set off against any monies due to Project Contractor from any contract with the City and County of San Francisco.

3. Labor Requirements for Construction

(a) Applicable Labor Laws and Agreements. Compensation and working conditions for labor performed or services rendered (excluding professional design services) under the Fire Station Project Contracts shall be in accordance with the San Francisco Charter, and applicable sections of the San Francisco Administrative Code, including section 6.22(e). The requirements of this Section 3 (collectively, the "Labor Requirements") shall be included in all Fire Station Project Contracts (as applicable), and subcontracts relating to the work, as applicable, unless otherwise agreed to by the City. The Fire Station Project Contracts shall expressly acknowledge the City's right to monitor and enforce the Labor Requirements in all respects and at all times, and to the withhold payments when permitted under the provisions of the Labor Requirements.

(b) Prevailing Wages. The Fire Station Project Contracts shall require payment of the latest Wage Rates for Private Employment on Public Contracts in the City and County of San Francisco, as determined by the San Francisco Board of Supervisors, as same may be changed during the term of this Agreement. Each Project Contractor shall provide, and shall deliver to the City every month during any construction period, certified payroll reports with respect to all persons performing labor in the provision of the work. Copies of the latest prevailing wage rates are on file at the Department of Public Works, the City and County of San Francisco, Bureau Manager, Bureau of Engineering, 30 Van Ness Avenue, 5th Floor, San Francisco, CA, 94103.

(c) Penalties. The Construction Contract shall provide for payment to the City back wages due plus fifty dollars ($50.00), for: (i) each laborer, workman, or mechanic employed in the provision of the work, for each calendar day or portion thereof during which such laborer, workman, or mechanic is not paid the highest general prevailing rate of wage for the work performed; or (ii) each laborer, mechanic or artisan employed in the provision of the work, for each calendar day or portion thereof during which such laborer, mechanic or artisan is compelled or permitted to work for a longer period than five days (Monday-Friday) per calendar week of eight hours each, and not compensated in accordance with the prevailing overtime standard and rate.

(d) Local Hire, First Source and LBE Requirements. The Construction Contract shall require compliance, as applicable, with the Local Hire, First Source and LBE requirements set forth in Exhibit H, unless otherwise agreed to by the City.

4. Rights and Remedies During Construction

(a) General. The provisions of the Project Contract shall not limit the duties, obligations, rights and remedies otherwise imposed or available by law or in equity. No action or failure to act shall in any way abridge the rights and obligations of the parties to the Project Contract, or condone a breach thereunder, unless expressly agreed to by the parties in writing. All remedies provided in the Project Contract shall be taken and construed as cumulative; that is, in addition to each and every other remedy herein provided, the City shall have any and all equitable and legal remedies that it would in any case have.

(b) No Waiver. No waiver of any breach of any provision of the Project Contract shall be held to be a waiver of any other or subsequent breach. The only waiver by the City shall be a waiver in writing that explicitly states the item or right being waived.

(c) City's Remedies for False Claims and Other Violations. Under San Francisco Administrative Code section 6.22(m), a Project Contractor that fails to comply with the terms of the Project Contract, who violates any provision of Local Hire and Prevailing Wages for Construction (San Francisco Administrative Code sections 6.22 through 6.45), submits false claims, or violates against any governmental entity a civil or criminal law relevant to its ability to perform under or comply with the terms and conditions of the Project Contract, may be declared an irresponsible bidder and debarred according to the procedures set forth in San Francisco Administrative Code section 6.80, et seq. Additionally, a Project Contractor that submits a false claim may be subject to monetary penalties, investigation, and prosecution as set forth in Administrative Code section 6.80, et seq.

(d) Interpretation. The Project Contract shall be interpreted in accordance with the laws of the State of California and the provisions of the City's Charter and Administrative Code.

5. Sunshine Ordinance

Project Contractor 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 are public records subject to public disclosure. Project Contractor hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

6. 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. Project Contractor acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

7. Conflicts of Interest

Through its execution of this Agreement, Project Contractor acknowledges that it is familiar with the provisions of section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the 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 provisions, and agrees that if Project Contractor becomes aware of any such fact during the term of this Agreement, Project Contractor shall immediately notify the City.

8. Notification of Limitations on Contributions

Through its execution of this Agreement, Project Contractor 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 approval by a the City elective officer, the board on which that the City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) 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. Project Contractor 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 $100,000 or more. Project Contractor further acknowledges that the prohibition on contributions applies to each Project Contractor; each member of Project Contractor's board of directors, Project Contractor's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Project Contractor; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Project Contractor. Additionally, Project Contractor acknowledges that Project Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126. Project Contractor further agrees to provide to the City the name of each person, entity or committee described above.

9. Compliance with Laws

Project Contractor shall remain fully informed of and comply with the applicable provisions of the Charter, ordinances and regulations of the City and other local agencies having jurisdiction over the work, and all federal and state laws and regulations in any manner affecting the contract documents, the performance of the work, or those persons engaged therein. Project Contractor shall require compliance with the applicable provisions of the latest laws and requirements, as the same may be amended, updated or supplemented from time to time, of the Code specified in the contract documents, Americans with Disability Act Accessibility Guidelines, CAL-OSHA, the State Division of Industrial Safety of the Department of Industrial Relations, the Division of the State Architect – Access Compliance, the Public Utilities Commission of the State of California, the State Fire Marshal, the National Fire Protection Association, the San Francisco Department of Public Health, state and federal laws and regulations, and of other bodies or officials having jurisdiction or authority over same, and they shall be observed and complied with by Project Contractor and any and all persons, firms and corporations employed by or under it. The City and its agents may at any time, following written notice to Project Contractor, enter upon any part of the work to ascertain whether such laws, ordinances, regulations or orders are being complied with, provided that the City shall have no obligation to do so under this Agreement and no responsibility for such compliance. Architect and General Contractor shall comply with the applicable provisions of San Francisco Administrative Code Chapter 6 that are incorporated into the Architect Contract and the Construction Contract, respectively.

10. First Source Hiring Program

Project Contractor must comply with the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, and Project Contractor is subject to the enforcement and penalty provisions in Chapter 83.

11. Preservative-Treated Wood Containing Arsenic

Project Contractor 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 Section 1304 of the Environment Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniac copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Project Contractor 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 Project Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

12. Resource Efficient City Buildings and Pilot Projects

Project Contractor 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. Project Contractor hereby agrees that it shall comply with all applicable provisions of such code sections.

13. Liability for Use of Equipment

The City shall not be liable for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Project Contractor, or any of its subcontractors, or by any of their employees, even though such equipment is furnished, rented or loaned by the City.

14. Copyright Infringement

Project Contractor shall indemnify, defend and hold the City harmless from and against all claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City of the materials or work provided by Project Contractor.

15. Warranties

A. Project Contractor shall provide to Developer, for the benefit of the City, written warranties prior to Final Completion in accordance with the following requirements, which Developer shall assign to the City. Project Contractor shall (i) correct all work that is found to be defective or that fails ("Non-conforming Work") for the Guarantee to Repair Period. Contractor shall replace, repair, or restore to the City's satisfaction any other parts of the work and any other real or personal property that is damaged or destroyed as a result of Non-conforming Work or correction of Non-conforming Work. Contractor shall promptly commence such correction, replacement, repair, or restoration upon notice from the City, but in no case later than 10 working days after receipt of such notice; and Contractor shall diligently and continuously prosecute

such correction to completion. Contractor shall bear all costs of such correction, replacement, repair, or restoration, and all damages resulting from such Non-conforming Work, including without limitation additional testing, inspection, engineering, and compensation for City representatives' services and expenses (including the City's expenses at the labor rates included in the contracts between the City and the City's testing and inspection services). This subparagraph shall not be interpreted to provide for recovery of attorney's fees.

B. The term "Guarantee to Repair Period" means a period of two (2) years commencing as follows:

1. For any Work not described as incomplete in the Punch List / Final Completion, on the date of Substantial Completion.

2. For space beneficially occupied or for separate systems fully utilized prior to Substantial Completion.

3. For all Work other than described in subparagraphs B.1 and B.2, above, from the date of Final Completion.

C. Contractor's obligation to correct Non-conforming Work shall continue until two years after the date of correction of repaired or replaced items, or such longer period as may be specified in the Contract Documents or mutually agreed to by Contractor and City.

D. If Contractor fails to commence correction of Non-conforming Work or fails to prosecute such correction diligently within 10 working days of the date of written notification from the City, the City may correct the Non-conforming Work or may remove it and store the salvageable materials or equipment at Contractor's expense. If Contractor does not pay the costs of such removal and storage within 5 working days after written notice, the City may sell, auction, or discard such materials and equipment. The City will credit Contractor's account for the excess proceeds of such sale, if any. The City will deduct from Contractor's account the costs of damages to the Work, rectifying the Non-conforming Work, removing and storing such salvageable materials and equipment, and discarding the materials and equipment, if any. If the proceeds fail to cover said costs and damages, Contractor shall reimburse the City such amount upon demand

E. If immediate correction of Non-conforming Work is required for life safety or the protection of property and is performed by City or a separate contractor, Contractor shall pay to the City all reasonable costs of correcting such Non-conforming Work. Contractor shall replace, repair, or restore to City's satisfaction any other parts of the Work and any other real or personal property that is damaged or destroyed as a result of such Non-conforming Work or the correction of such Non-conforming Work.

F. This requirement to correct Non-conforming Work and all similar requirements applicable to equipment of subcontractors of any tier or suppliers used in or as a part of the Work (whether on equipment of the nature above specified or otherwise) shall inure to the benefit of the City without necessity of separate transfer or assignment thereof.

16. City's Rights as Third-Party Beneficiary of Fire Station Project Contracts

Project Contractor acknowledges and agrees that the City is a 3rd Party beneficiary of its Fire Station Project Contract with the Developer.

EXHIBIT G-1

LIST OF APPROVED DEVELOPMENT AND CONSTRUCTION CONTRACTS

EXHIBIT G-2

LIST OF PROJECT CONTRACTS THAT HAVE BEEN EXECUTED,

BUT NOT YET APPROVED

EXHIBIT H

LOCAL HIRE, FIRST SOURCE AND LOCAL BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

1. Local Hiring Requirement.

1.1. **General Provisions**.

1.1.1. Developer shall comply with all applicable requirements of the San Francisco Local Hiring Policy for Construction ("Policy") as set forth in section 6.22(g) of the San Francisco Administrative Code. The provisions of the Policy are incorporated by references into this Agreement. Developer agrees that Developer has had a full and fair opportunity to review and understand the terms of the Policy.

1.1.2. Developer shall require the General contractor and all contractors or subcontractors performing construction work on behalf of the Developer as part of the Fire Station Project to comply with all applicable requirements of the Policy.

1.1.3. Developer agrees that the Office of Economic and Workforce Development ("OEWD") will have the authority to enforce all terms of the Policy. Further information on the Policy and its implementation may be found at the OEWD website at: www.workforcedevelopmentsf.org.

1.2. **Local Hire Requirements**. Developer shall comply with the following:

1.2.1. Local Hire by Construction Trade: Mandatory participation level in terms of Project Work Hours within each trade to be performed by Local Residents is 30%, with a goal of no less than 15% of Project Work Hours within each trade to be performed by Disadvantaged Workers.

1.2.2. Local Apprentices: At least 50% of the Project Work Hours performed by apprentices within each construction trade shall be performed by local residents, with a goal of no less than 25% of Project Work Hours performed by apprentices within each trade to be performed by Economically Disadvantaged Workers.

1.2.3. Construction Contracts: Developer, shall include the terms of this Policy in the contract with the General Contractor and in every construction contract and subcontract entered in to for construction of the Fire Station Project. Developer shall notify OEWD immediately upon execution of all construction contracts.

1.2.4. Preconstruction Meeting: Prior to commencement of construction, General Contractor and all construction subcontractors shall attend a preconstruction meeting convened OEWD staff. Representatives from General Contractor and all construction subcontractors who attend the pre-construction meeting must have hiring authority.

1.2.5. Forms and Payroll Submittal: General Contractor and all construction subcontractors shall utilize the City's web-based payroll system to submit all of OEWD's required Local Hiring Forms and Certified Payroll Reports. The General

Contractor shall submit Local Hiring Forms prior to commencement of construction and within 15 calendars days from award of contract. The General Contractor must submit payroll information on all subcontractors who will perform construction work on the Fire Station Project regardless of tier and contract amount. The General Contractor and all construction subcontractors shall submit Certified Payroll Reports on a weekly basis.

1.2.6. Recordkeeping: General Contractor and all construction subcontractors shall keep, or cause to be kept, for a period of four years from the date of completion of project work, payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Fire Station Project. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident, and the referral source or method through which the contractor or subcontractor hired or retained that worker for work on the project. General Contractor and all construction subcontractors may verify that a worker is a local resident by following OEWD's domicile policy. All records described in this subsection shall at all times be open to inspection and examination by OEWD.

1.2.7. Monitoring. From time to time and in its sole discretion, OEWD may monitor and investigate compliance of General Contractor and all construction subcontractors working on the Fire Station Project. Contractor shall allow representatives of OEWD, in the performance of their duties, to engage in random inspections of the Site. Contractor and all Subcontractors shall also allow representatives of OEWD to have access to employees of General Contractor and all construction subcontractors and the records required to be maintained under the Policy.

1.2.8. Noncompliance and Penalties. Failure of General Contractor and/or its construction subcontractors to comply with the requirements of the Policy may subject General Contractor to the consequences of noncompliance specified in Chapter 82.8(f) of the Administrative Code, including but not limited to the penalties prescribed in Chapter 82.8(f)(2). In the event the General Contractor fails to adhere to the penalties administered by OEWD, the Developer will be responsible for penalties for noncompliance. The assessment of penalties for noncompliance shall not preclude the City from exercising any other rights or remedies to which it is entitled. Refer to Administrative Code Chapter 82.8(f)(2)(4) for a description of the recourse procedure applicable to penalty assessments under the Policy.

2. First Source Requirements

2.1. **General Provisions and Definitions**.

2.1.1. Developer shall participate in the Workforce System program managed by the Office of Economic and Workforce Development ("OEWD") as established by the City pursuant to Chapter 83 of the San Francisco Administrative Code ("First Source Hiring Policy"). The provisions of the First Source Hiring Policy are incorporated by references into this Agreement. Developer agrees that Developer has had a full and fair opportunity to review and understand the terms of the First Source Hiring Policy.

2.1.2. Developer shall require the Architect and all contractors or subcontractors performing professional services in excess of $50,000 on behalf of the Developer as part of the Fire Station Project to comply with all applicable requirements of the First Source Hiring Policy.

2.2. Developer agrees that OEWD will have the authority to enforce all terms of the First Source Hiring Policy. Further information on the First Source Hiring Policy and its implementation may be found at the OEWD website at: www.workforcedevelopmentsf.org.

2.3. Definitions. For purposes of this section, the following terms shall be defined as follows:

2.3.1. "Entry Level Position" means any non-managerial position that requires no education above a high school diploma or certified equivalency, and less than two (2) years training or specific preparation, and shall include temporary, permanent, trainee and intern positions.

2.3.2. "Workforce System" means the First Source Hiring Administrator established by the City and managed by OEWD.

2.3.3. "Referral" means a member of the Workforce System who has been identified by OEWD as having the appropriate training, background and skill sets for a Lessee specified Entry Level Position.

2.3.4. **OEWD Workforce System Participation Requirements**. Architect and all professional services contractors and subcontractors shall notify OEWD's Business Team of every available Entry Level Position for work performed by the Architect and all professional services contractors and subcontractors in the City and provide OEWD 10 business days to recruit and refer qualified candidates prior to advertising such position to the general public. Architect and all professional services contractors and subcontractors shall provide feedback including but not limited to job seekers interviewed, including name, position title, starting salary and employment start date of those individuals hired by the Architect and all professional services contractors and subcontractors no later than 10 business days after date of interview or hire. Architect and all professional services contractors and subcontractors will also provide feedback on reasons as to why referrals were not hired. Architect and all professional services contractors and subcontractors shall have the sole discretion to interview any Referral by OEWD and will inform OEWD's Business Team why specific persons referred were not interviewed. Hiring decisions shall be entirely at the discretion of Architect and all professional services contractors and subcontractors. Failure to comply with the terms of the First Source Hiring Policy may result in penalties as defined in Chapter 83 of the Administrative Code.

3. Local Business Enterprise Program Requirements. The City and Developer agree to whenever practical, engage design and/orc contracting teams that reflect the diversity of the City and, in particular, those firms and residents form the City's most disadvantaged neighborhoods (i.e., Chinatown, Western Addition, Tenderloin, South of Market, India Basin, Mission, Bayview Hunter's Point, Visitation Valley, etc.)

3.1. Purpose. Developer agrees to partner with the Contract Monitoring Division ("CMD") to provide Local Business Enterprises ("LBE") with meaningful opportunities to participate in the construction of the Fire Station Project including but not limited to ensuring that any design team(s) have a LBE architect.

3.2. LBE Participation Goal. Developer agrees to make good faith efforts to award at least 25 percent of the cost of all professional services and 20 percent of construction contracts awarded by contractor(s).

3.3. Prompt Payment. Developer agrees to ensure that prime consultants and prime contractors are paid within 30 days from the date of submittal progress payment request by the prime consultants/contractors to Developer to the extent accepted by Developer. Should there be a dispute related to soft and/or hard costs and the parties are unable to resolve the matter within 45 days of the initial submittal to the Developer by the prime consultants/contractors Developer agrees to pay the prime consultants/contractors whatever is not in dispute on or before the end of such 45-day period.

3.4. Reporting. Beginning as of the Agreement Ratification Date (as such term is defined in the CPEA) and every quarter thereafter (or earlier if requested by the City), Developer shall report in writing to the Director of CMD a summary of Developer's attainment of the LBE Participation Goal.

EXHIBIT I

ASSIGNMENT OF CONTRACTS, WARRANTIES AND GUARANTIES AND OTHER INTANGIBLE PROPERTY

THIS ASSIGNMENT is made and entered into as of this _____day of _____, 20 _____, (the "**Effective Date**") by and between _____, a_____ _____ ("Assignor"), and the CITY AND COUNTY OF SAN FRANCISCO, a Charter city and county ("Assignee").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, effective as of the Effective Date, Assignor hereby assigns and transfers to Assignee, and Assignee assumes, all of Assignor's rights, obligations, claims, title, and interest in and under:

A. all warranties and guaranties made by or received from any third party with respect to any building, building component, structure, system, fixture, machinery, equipment, or material situated on, contained in any building or other improvement situated on, or comprising a part of any building or other improvement situated on, any part of that certain real property described in Exhibit A attached hereto (the "Fire Station Parcel") including, without limitation, those warranties and guaranties listed in Schedule 1 attached hereto (collectively, "Warranties");

B. any intangible personal property now or hereafter owned by Assignor and used in the ownership, use or operation of the Fire Station Parcel, including the Assumed Contracts listed in Schedule 1.

ASSIGNOR AND ASSIGNEE FURTHER HEREBY AGREE AND COVENANT AS FOLLOWS:

1. 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.

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

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

4. 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.

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first written above.

ASSIGNOR: _____,

a_____

By:_____

[NAME]

Its:_____

ASSIGNEE: CITY AND COUNTY OF SAN FRANCISCO, a Charter city and county

By:_____

[NAME]

Its:_____

APPROVED AS TO FORM:

_____, City Attorney

By:_____

[DEPUTY'S NAME]

Deputy City Attorney

EXHIBIT J

CRITERIA PACKAGE
(Attached)

SCHEDULE 1

DEFINED TERMS

As used in this Agreement (unless otherwise specifically provided), the following terms shall mean the following:

"**Additional Project Costs**" means Fire Station Project Costs in excess of the Maximum Cost (as such term is defined in the CPEA) to the extent such excess costs are approved by the City in writing.

"**Agreement**" shall have the meaning set forth in the initial paragraph hereof, including all attached Exhibits or Appendices.

"**Affiliate**" means, with respect to a Person, any other Person(s) that, directly or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with the first person.

"**Approved Draw Request**" shall have the meaning set forth in Section 3.4

"**Architect**" means _____or such architect who is selected to serve as the principal architect for the Fire Station Project.

"**Architect Contract**" means the architect contract for the Fire Station Project between Developer and _____, dated _____.

"**Assignment of Intangible Property**" shall have the meaning set forth in Section 12.3.

"**City**" shall mean the City and County of San Francisco, a municipal corporation, acting by and through its Real Estate Division.

"**City Indemnitees**" shall mean the City and its boards and commissions and all of their officers, directors, members, managers, employees, affiliates, agents, successors and assigns.

"City Preferred Project Contractor" shall have the meaning set forth in Section 3.2(a).

"**City's Representative**" shall have the meaning set forth in Section 4.2.

"**Claims**" means all losses, damages, charges, liabilities, claims, costs, expenses (including reasonable attorneys' fees and expenses) and suits or other asserted causes of action of any nature whatsoever, but specifically excluding special, indirect, consequential, remote, incidental or punitive damages or damages associated with lost profits or opportunities.

"**CMD**" means the Contract Monitoring Division of the City.

"**Control**" and "**Controlled by**" means the ability, directly or indirectly, whether through the ownership of voting securities, by contract, or otherwise (including by being a general partner, managing member, officer or director of the Person in question), to both (a) direct or cause the direction of the management and policies of a Person, and (b) conduct the day-to-day business operations of a Person.

"**Construction Contract**" means the construction contract for the Fire Station Project between Developer and _____, dated _____.

"**Construction Cost Report**" shall have the meaning set forth in Section 2.4.

"**CPEA**" has the meaning set forth in the recitals hereto.

"**Criteria Package**" shall mean the Design Standard Guidelines and the Schematic Design Set attached hereto as Exhibit J.

"**Current Amount**" shall have the meaning set forth in Section 3.4(b).

"**Deliverables**" means Developer's work product resulting from the Developer Services that are provided by Developer to the City during the course of Developer's performance of the Agreement, including without limitation, the Fire Station Project Contracts and all work product arising out of the Fire Station Project Contracts and all work product otherwise described in Section 3 of this Agreement.

"**Developer**" shall have the meaning set forth in the initial paragraph of this Agreement.

"**Developer Parties**" shall mean Developer and its Affiliates and their respective direct and indirect partners, shareholders, directors, officers, members, managers, employees, agents, successors and assigns.

"**Developer Services**" means administrative, coordinative and supervisory services in connection with the planning and construction management for the Development Site as more particularly set forth in this Agreement and on Exhibit C attached hereto and made a part hereof and any other project management services reasonably incidental thereto or reasonably inferable therefrom.

"**Final Completion**" means the date where both of the following have occurred: (a) the acceptance of the Fire Station Project by the City when the construction of the Fire Station Project has been fully performed, including all punch list items, and when all contractual and administrative requirements have been fulfilled; written confirmation of Final Completion shall be delivered by the City to Developer within ten (10) business days following Developer's written request if Final Completion has been attained and, if it has not, the City shall delineate, within such ten (10) day period, what actions need to be taken in order to attain Final Completion; and (b) transfer by the Developer to the City of the Fire Station Project in accordance with the terms and conditions of the CPEA.

"**Fire Station Project**" shall have the meaning set forth in the recitals hereto.

"**Fire Station Project Contracts**" shall have the meaning set forth in Section 3.2(a).

"**Project Coordinator**" shall have the meaning set forth in Section 3.3.

"**Fire Station Project Costs**" shall mean the sum of $_____, as reflected in the Project Budget attached as Exhibit B to the Agreement.

"**Fire Station Project Development Approvals**" means all approvals, permits, variances, licenses, certificates of occupancy, easements, assessments, required or desirable in connection with the development and construction of the Fire Station Project and as contemplated in the Fire Station Project Plan.

"**Fire Station Project Plan**" means a development plan for the Fire Station Project prepared by Developer under this Agreement, including the Project Budget and Fire Station Project Schedule, as the same may be amended by the City from time to time.

"**Fire Station Project Schedule**" means the anticipated schedule for the Fire Station Project attached hereto as Exhibit D, as the same may be amended by the City from time to time.

"**Force Majeure Event**" shall mean any of the following events: (i) acts of terrorists, war (whether declared or not) or national conflicts; (ii) strikes, lockouts, labor disputes; (iii) boycotts or work stoppages; (iv) natural disasters, such as earthquake, hurricane or flood; (v) governmental restrictions, regulations or controls; (vi) litigation; municipal or governmental delays; (vii) applicable appeal periods; (viii) delay in obtaining or inability to obtain labor, materials or reasonable substitutes therefor, beyond time periods typical for the area (despite using commercially reasonable efforts to obtain), (ix) quarantines, pandemics, epidemics, or other viral outbreaks, including, without limitation, the coronavirus referred to as COVID-19, or as a direct result of governmental actions taken in connection with such quarantines, pandemics, epidemics or other viral outbreaks, or (x) any other event beyond the reasonable control of Developer.

"**General Contractor**" means _____or such replacement general contractor selected by the City and Developer to construct the Fire Station Project in accordance with this Agreement.

"**Mediation Request**" shall have the meaning set forth in Section 8.3.

"**Owner Contracting Requirements**" shall have the meaning set forth in Section 3.2(b) as listed in Exhibit F.

"**Party" and "Parties**" mean the City and Developer either collectively or individually.

"**Person**" means a natural person, corporation, partnership, limited liability company, trust, joint venture, unincorporated association, governmental authority or other entity.

"**Plans and Specifications**" means the plans and specifications prepared by the Architect and adopted by the City, as the same may be amended by Developer with the approval of the City from time to time pursuant to this Agreement.

"**Pre-Approved Fire Station Project Contract**" shall mean any Fire Station Project Contract that satisfies the following requirements: (x) the amount of such Fire Station Project Contract is less than $250,000, (y) such Fire Station Project Contract does not increase the Project Budget, and (z) which includes the applicable provisions set forth in Exhibit F attached hereto.

"**Project Budget**" means the budget for the Fire Station Project attached as Exhibit B to the Agreement, prepared by Developer and approved by the City, as the same may be amended by the City from time to time.

"**Project Contractors**" means all architects, engineers, consultants, contractors, subcontractors and suppliers retained by Developer for the Fire Station Project in accordance with this Agreement, including the General Contractor and the Architect.

"**Works**" shall have the meaning set forth in Section 27.

COMPLETION GUARANTY

This Completion Guaranty ("***Guaranty***"), dated as of _____, 202__ is made by THE RELATED COMPANIES, L.P., a New York limited partnership ("**Guarantor**"), in favor of the CITY AND COUNTY OF SAN FRANCISCO, a Charter city and county (the "**City**"). Guarantor covenants and agrees as follows:

1. Recitals. This Guaranty is made with reference to the following recitals of facts which constitute a material part of this Guaranty:

A. The City and EQX Jackson SQ Holdco, LLC, a Delaware limited liability company (the "**Developer**"), have heretofore entered into that certain Conditional Property Exchange Agreement dated July 30, 2020, as amended by the terms and provisions of that certain First Amendment To Conditional Property Exchange Agreement dated _____ __, 2021 (as so amended, the "**CPEA**"), pursuant to the terms of which, among other things, Developer has agreed to construct a fire station (the "**Fire Station Project**") on the New City Parcel (as such term is defined in the CPEA) in accordance with the approved plans and specifications relating thereto, and to thereafter transfer to the City fee title to the New City Parcel and the Fire Station Project upon the completion thereof, all in accordance with the terms and conditions of the CPEA and the terms and conditions of that certain Construction Management Agreement (the "**CMA**") of even date herewith and being entered into by and between the City and the Developer concurrently herewith.

B. Guarantor is an entity separate and distinct from Developer. Guarantor is receiving consideration from the City for executing this Guaranty, in that the City has entered into the CPEA, and, concurrently herewith, will be entering into the CMA.

C. City would not have entered into the CPEA or the CMA without having received this Guaranty executed by Guarantor as an inducement.

D. By this Guaranty, Guarantor agrees to absolutely, irrevocably, and unconditionally guarantee (i) commencement of construction of the Fire Station Project as provided in the CMA, (ii) following commencement of construction of the Fire Station Project, the completion of the Fire Station Project in a lien free and workmanlike manner to be constructed upon the New City Parcel in accordance with the terms and provisions of the CPEA and the CMA, (iii) the payment of the Fire Station Project Costs for which Developer has responsibility under the CMA (and expressly excluding any Additional Project Costs), and (iv) causing the Final Completion (as defined in the CMA) of the Fire Station Project, as required under the CPEA (collectively, subparagraphs (i) through (iv), the "***Guaranteed Obligations***").

E. All capitalized terms not defined herein shall have the meanings ascribed to them in the CMA.

2. Guaranty. For valuable consideration, Guarantor absolutely, irrevocably, and unconditionally guarantees, to and for the benefit of City, the full, timely, and complete payment and performance of all of the Guaranteed Obligations.

3. Default under CMA. If there is an event of default (following the expiration of all notice and cure periods thereunder) by Developer under the CMA relating to the Guaranteed Obligations, City

may proceed against either Guarantor or Developer, or both, or City may enforce against Guarantor or Developer any rights that City has under the CMA relating to the Guaranteed Obligations (to the extent applicable), in equity or under applicable law.

4. Amendment or Assignment. This Guaranty shall not be affected or limited in any manner by (a) any assignment of, or any modification or amendment (by agreement, course of conduct, or otherwise) to, all or any portion of any agreement, instrument, and/or document with respect to or that evidences the Guaranteed Obligations, or (b) the modification, at any time, of any of the Guaranteed Obligations. By this Guaranty, Guarantor hereby guarantees payment and performance of the Guaranteed Obligations as so amended, assigned, or modified whether or not such amendment, assignment, or modification is with the consent of or notice to Guarantor.

5. Remedies. If Guarantor defaults with respect to any of the Guaranteed Obligations, and if Guarantor does not satisfy such obligations promptly upon its receipt of written notice of such default from City, City may, at its election, proceed immediately against the Guarantor, any other guarantor, or Developer (to the extent of any rights City has against Developer relating thereto), or any combination of Developer, Guarantor, and/or any other guarantor. If there be more than one party acting as Guarantor hereunder, the obligations hereunder imposed shall be the joint and several obligations of such parties. In the event of any default under this Guaranty, an action or actions may be brought and prosecuted against the Guarantor, whether or not Developer or any other guarantor is joined in such action(s) or a separate action or actions are brought against Developer or any other guarantor. City may maintain successive actions for separate defaults. Unless and until the Guaranteed Obligations have been fully satisfied or waived in writing by City, the Guarantor shall not be released from its obligations under this Guaranty irrespective of (i) the exercise by City of any of City's rights or remedies (including, without limitation, compromise or adjustment of the Guaranteed Obligations or any part thereof), (ii) any release by City of Developer or any other guarantor, (iii) any such action or any number of successive actions, or (iv) the satisfaction by Guarantor of any liability under this Guaranty incident to a particular default.

6. Waivers. Guarantor hereby represents and warrants (which representation and warranty is being relied upon by City in connection with its entering into the CMA and accepting this Guaranty) that each of the waivers set forth in this Guaranty is made with Guarantor's full knowledge of its significance and consequences after discussion with Guarantor's own competent legal counsel, which counsel has made Guarantor aware of the relevant circumstances and likely consequences of each such waiver and has explained to Guarantor the true legal effect of each such waiver including Guarantor's rights which Guarantor would have if it were not making such waivers. Based on the foregoing, Guarantor acknowledges that, under the circumstances, such waivers are reasonable and not contrary to public policy or law, and Guarantor hereby waives the following:

A. Guarantor waives all rights it would otherwise have to require City, as a condition to City's exercise of any of its rights under this Guaranty, to (i) proceed against Developer or any other party or guarantor, (ii) perfect, retain, protect, proceed against, or exhaust any security that City holds or may hold from Developer, or (iii) pursue any other remedy in City's power. The foregoing waiver includes, without limitation, a waiver of all of Guarantor's rights under California Civil Code Sections 2845 and 2849 or similar laws;

B. Guarantor waives the benefit of all statutes of limitations affecting Guarantor's liability under this Guaranty to the extent permitted by law;

C. Guarantor waives all defenses which Guarantor might otherwise have to its obligations under this Guaranty by reason of any disability of Developer or any other person(s), including, without limitation, the incapacity, lack of authority, death, or disability of Developer or any other person(s) or the failure of City to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of Developer or any other person(s). The foregoing waiver includes, without limitation, a waiver of all of Guarantor's rights under California Civil Code Section 2810 and similar laws;

D. Guarantor waives all defenses which Guarantor might otherwise have to its obligations under this Guaranty under Civil Code Section 2809 or any other any statute or rule of law that provides that the obligation of a surety must be neither larger in amount nor in any other respects more burdensome than that of a principal;

E. Guarantor waives all defenses and rights which Guarantor might otherwise have to exoneration under this Guaranty, including, without limitation, all rights under California Civil Code Section 2819 and similar laws, based upon any alteration, modification, compromise, renewal, extension, or assignment of the CMA or any of the Guaranteed Obligations, whether done with or without the knowledge and/or consent of Guarantor and Guarantor hereby grants City the right to take any such action relative to the Guaranteed Obligations, following delivery of written notice to Guarantor without in any manner affecting the liability of Guarantor under this Guaranty.

F. Guarantor waives the right to claim or assert any defense of Developer to the Guaranteed Obligations including, without limitation, any defense based upon failure of consideration, accord and satisfaction, impossibility of performance, or mistake;

G. Guarantor waives all other defenses based on the impairment of any other collateral or security for the Guaranteed Obligations;

H. Guarantor waives all defenses it may otherwise have against City based upon an election of remedies by City;

I. Regardless of whether or not Guarantor makes payments to City, until the Guaranteed Obligations have been satisfied and paid in full, Guarantor waives all of its rights of subrogation, contribution, and reimbursement which it may otherwise have against Developer in the event Guarantor suffers any liability under this Guaranty, including, without limitation, any rights under California Civil Code Sections 2847, 2848, and 2849 or similar laws;

J. Guarantor waives all its rights to determine how, when, and what application of payments and credits shall be made on the Guaranteed Obligations;

K. Guarantor subordinates to City all of Guarantor's rights to participate in any security now or later held by City;

L. Guarantor waives all its rights to receive notice of any default by Developer;

M. Guarantor waives all rights of recourse against City by reason of any action City may take or omit to take under the provisions of this Guaranty;

N. Guarantor waives all presentments, demands for performance, notices of non-performance, protests, notices of protest, notices of dishonor, notices of non-payment, and all other notices of any kind (except for notices to which Guarantor is expressly entitled under the terms of this Guaranty), including without limitation all notices of the existence, creation, or incurring of new or additional obligations and any notice of acceptance of this Guaranty, which, upon execution by Guarantor, shall immediately be binding upon Guarantor;

O. Guarantor waives all duties City may have to investigate the authority of any representative, or purported representative, of Developer to incur any obligation or enter into any agreement on behalf of Developer;

P. Guarantor waives all rights it may otherwise attain by reason of City's failure to enforce, or delay in enforcing, any of City's rights with respect to the Guaranteed Obligations; and

Q. Guarantor waives all duties City may have to disclose to the Guarantor any facts City may now or in the future know about Developer, regardless of whether City has reason to believe that any such facts materially increase the risk beyond that which the Guarantor intends to assume or has reason to believe that such facts are unknown to the Guarantor or has a reasonable opportunity to communicate such facts to the Guarantor.

Without limiting the foregoing, Guarantor hereby expressly waives any and all benefits Guarantor may otherwise maintain under California Civil Code Sections 2787 to 2855, inclusive, 2899 and 3433 and similar laws. Guarantor acknowledges that the waiver of the benefits of the above cited statutory provisions has the effect of eliminating certain rights and protections which Guarantor would otherwise have including, without limitation, certain rights to require City to act in a particular manner as a condition to enforcing its rights against Guarantor under this Guaranty, certain rights to exoneration upon a modification of the Guaranteed Obligations, and certain rights to require the City to pursue other remedies available to it prior to pursuing Guarantor.

7. Rights Cumulative. All rights, powers and remedies of City under this Guaranty shall be cumulative and not alternative and such rights, powers and remedies shall be in addition to all rights, powers and remedies given to City by law. This Guaranty is in addition to and exclusive of the guaranty of any other guarantor of the Guaranteed Obligations.

8. Representations and Warranties. Guarantor hereby represents and warrants that the following are true and accurate as of the date of this Guaranty and shall be true at all times in the future while this Guaranty is outstanding: (i) Guarantor has sufficient net worth and sufficient liquidity of assets to enable Guarantor to promptly perform all of the Guaranteed Obligations as and when they are due; (ii) as of the date of the execution of this Guaranty by Guarantor, there is no action or proceeding pending or, to Guarantor's knowledge after due inquiry, threatened against Guarantor before any court or administrative agency which could adversely affect Guarantor's financial condition in a way which would jeopardize in any material respect Guarantor's ability to satisfy its obligations under this Guaranty; (iii) City has made no representation to Guarantor as to the creditworthiness or financial condition of Developer; (iv) Guarantor is duly authorized to execute and deliver this Guaranty; (v) that the terms and provisions of this Guaranty are intended to be valid and enforceable in accordance with its terms; (vi) that the signatories to this Guaranty are duly authorized to bind Guarantor and execute this Guaranty on Guarantor's behalf; and (vii) Guarantor has carefully read and negotiated all provisions of this Guaranty and has consulted with competent legal counsel in connection therewith. The foregoing representations

and warranties shall survive the execution and delivery of this Guaranty and are expressly made for the benefit and reliance of City, and City's members, trustees, lenders, representatives, successors and assigns.

9. Covenant of Diligence. Guarantor covenants that it is intimately aware of Developer's business and financial condition and that it has conducted a thorough investigation of all material factors regarding the CMA and this Guaranty. Furthermore, Guarantor represents that it has the resources, access, and opportunity to remain informed at all times of the financial status of Developer and of all other material information relative to the CMA and Guarantor's obligations under this Guaranty; and Guarantor covenants to remain informed relative to all such matters as long as this Guaranty remains in effect. On the basis of the foregoing, Guarantor hereby waives any obligation which City might otherwise have as a condition to enforcing Guarantor's obligations under this Guaranty, to keep Guarantor informed relative to any information regarding the CMA, the Developer, and any other factors affecting the obligations of Developer or Guarantor.

10. Attorneys' Fees and Costs. The prevailing party in any bankruptcy, insolvency or other proceeding (***"Proceeding"***) relating to the enforcement or interpretation of this Guaranty may recover from the unsuccessful party all costs, expenses, and actual attorneys' fees (including expert witness and other consultants' fees and costs) relating to or arising out of (a) the Proceeding (whether or not the Proceeding proceeds to judgment), and (b) any post-judgment or post-award proceeding including, without limitation, one to enforce or collect any judgment or award resulting from the Proceeding. All such judgments and awards shall contain a specific provision for the recovery of all such subsequently incurred costs, expenses, and actual attorneys' fees.

11. Further Assurances. Each party to this Guaranty shall execute and deliver all instruments and documents and take all actions as may be reasonably required or appropriate to carry out the purposes of this Guaranty.

12. Governing Law and Venue. This Guaranty shall be governed by and construed in accordance with the laws of the State of California without giving effect to the choice of law provisions thereof. Any Proceeding shall be initiated in San Francisco County, California, and the parties irrevocably consent to the jurisdiction of the courts in San Francisco County, California. Each party authorizes and accepts service of process sufficient for personal jurisdiction in any Proceeding against it as contemplated by this Guaranty, to its address for the giving of notices set forth in this Guaranty.

13. Modification. This Guaranty may be modified only by a contract in writing executed by both City and Guarantor.

14. Headings. The paragraph headings in this Guaranty: (a) are included only for convenience, (b) do not in any manner modify or limit any of the provisions of this Guaranty, and (c) may not be used in the interpretation of this Guaranty.

15. Prior Understandings. This Guaranty and all documents specifically referred to and executed in connection with this Guaranty: (a) contain the entire and final Guaranty of the parties to this Guaranty with respect to the subject matter of this Guaranty, and (b) supersede all negotiations, stipulations, understandings, agreements, representations and warranties, if any, with respect to such subject matter, which precede or accompany the execution of this Guaranty.

16. Interpretation. Whenever the context so requires in this Guaranty, all words used in the singular may include the plural (and vice versa) and the word ***"person"*** includes a natural person, a

corporation, a firm, a partnership, a joint venture, a trust, an estate or any other entity. The terms ***"includes"*** and ***"including"*** do not imply any limitation. For purposes of this Guaranty, the term ***"day"*** means any calendar day and the term ***"business day"*** means any calendar day other than a Saturday, Sunday or any other day designated as a holiday under California law. Any act permitted or required to be performed under this Guaranty upon a particular day which is not a business day may be performed on the next business day with the same effect as if it had been performed upon the day appointed. No remedy or election under this Guaranty is exclusive, but rather, to the extent permitted by applicable law, each such remedy and election is cumulative with all other remedies at law or in equity.

17. Partial Invalidity. Each provision of this Guaranty is valid and enforceable to the fullest extent permitted by law. If any provision of this Guaranty (or the application of such provision to any person or circumstance) is or becomes invalid or unenforceable, the remainder of this Guaranty, and the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, are not affected by such invalidity or unenforceability.

18. Binding Effect. This Guaranty shall inure to the benefit of and be binding on the successors and assigns of City and Guarantor, and their heirs, personal representatives, grantees, Developers, successors, and assigns.

19. Notices. Any notice required or permitted to be given hereunder and any approval by the parties shall be in writing and shall be (as elected by the party giving such notice or granting such approval): (i) personally delivered, (ii) delivered by recognized overnight courier, (iii) transmitted by postage prepaid certified mail, return receipt requested, or, (iv) by electronic mail with a hard copy sent by one of the other methods described in clauses (i) – (iii) of this Section. Except as otherwise specified herein, all notices and other communications shall be deemed to have been duly given on the earlier to occur of: (i) the date of receipt if delivered personally; (ii) on the next business day if sent by overnight courier; (iii) five (5) days after the date of posting if transmitted by mail; or (iv) the date of transmission with confirmed answerback if transmitted by electronic mail. Either party referenced herein may change its address for purposes hereof by notice given to the other. Notwithstanding the foregoing to the contrary, any notice of default must be sent by registered mail. Notices, requests and approvals hereunder shall be directed as follows:

the City:	Real Estate Division The City and County of San Francisco 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102 Re: 530 Sansome Construction Management Agreement Telephone No. (415) 554-9860 Email Address: Andrico.penick@sfgov.org
with copy to:	Office of the City Attorney The City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4682 Re: 530 Sansome Completion Guaranty Telephone No. (415) 554-4700 Email Address: charles.sullivan@sfcityatty.org

Guarantor:	The Related Companies, L.P. 20 Hudson Yards New York, New York 10001 Attention: Richard O'Toole Telephone No.: (212) 801-3952 Email Address: rotoole@related.com
with a copies to:	Greenberg Traurig LLP 18565 Jamboree Road, Suite 500 Irvine, California 92612 Attention: L. Bruce Fischer, Esq. Telephone No.: (949) 732-6670 Email Address: fischerb@gtlaw.com

20. Waiver. Any waiver of a default or provision under this Guaranty must be in writing. No such waiver constitutes a waiver of any other default or provision concerning the same or any other provision of this Guaranty. No delay or omission by a party in the exercise of any of its rights or remedies constitutes a waiver of (or otherwise impairs) such right or remedy. A consent to or approval of an act does not waive or render unnecessary the consent to or approval of any other or subsequent act.

21. Time is of the Essence. Time is of the essence with respect to each provision of this Guaranty.

22. Drafting Ambiguities. Each party to this Guaranty and its legal counsel have reviewed and revised this Guaranty. The rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Guaranty or of any amendments or exhibits to this Guaranty.

23. Maximum Liability. Notwithstanding anything stated to the contrary herein, the maximum liability of Guarantor with respect to Guarantor's obligations under this Guaranty shall not exceed, and shall be limited to, the sum of $32,128,429 in the aggregate (which amount shall be reduced, dollar for dollar, with respect to any amounts paid by the Developer to the City under the CPEA arising out of the exercise by the City of any of its remedies under Section 9.6(b)(i) of the CPEA), excluding any enforcement costs to which the City may be entitled under Section 10 above, and in no event shall Guarantor's liability for the payment or performance of its obligations hereunder exceed such sum, excluding any enforcement costs to which the City may be entitled under Section 10 above.

24. Release of Guaranty. This Guaranty shall automatically terminate and shall be of no further force or effect upon the earlier to occur of: (a) the Final Completion (as defined in the CMA) of the Fire Station Project and the transfer of the Fire Station Project to the City by the Developer (as evidenced by the recording of a deed from Developer (or Developer's successor in interest) to the City together with the City's certificate of acceptance), and (b) the Deemed Transfer Date (as such term is defined in the Ground Lease (as defined in the CPEA)), to the extent the same occurs, which termination of this Guaranty under clause (a) or (b) above, as applicable, shall, upon written request by Guarantor, be confirmed by City in writing within ten (10) business days following Guarantor's written request for confirmation of such termination.

IN WITNESS WHEREOF, Guarantor has duly executed this Guaranty on the day and year first above written.

Guarantor:

THE RELATED COMPANIES, L.P.,
a New York limited partnership

By: THE RELATED REALTY GROUP, INC.,
a Delaware corporation,
its general partner

By: _____
Its: _____

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Greenberg Traurig, LLP
18565 Jamboree Road, Suite 500
Irvine, California 92612
Attention: Bruce Fischer, Esq.

Copy to:

Office of the City Attorney
Attn: Real Estate and Finance Team
1 Carlton B. Goodlett Place
Room 234
San Francisco, CA 94102

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

(SPACE ABOVE FOR RECORDER'S USE ONLY)

DECLARATION OF EASEMENTS

WITH COVENANTS, CONDITIONS AND RESTRICTIONS

TABLE OF CONTENTS

Page

DECLARATION OF EASEMENTS WITH COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF EASEMENTS WITH COVENANTS, CONDITIONS AND RESTRICTIONS (this "**Declaration**") is made and entered into on _____ 2021, by the City and County of San Francisco, a municipal corporation ("**City Declarant**" or "**City**") and EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company ("**Developer Declarant**" or "**Developer**"). The City Declarant and the Developer Declarant may be collectively referred to as the "**Declarants**" or individually as a Declarant.

RECITALS

A. City and Developer have entered into that certain Conditional Property Exchange Agreement (the "**CPEA**") dated July 30, 2020, pursuant to the terms of which, among other things, City and Developer agreed to enter into a "Tower Easement Agreement" and a "Reciprocal Easement Agreement." This Declaration satisfies the requirement for both agreements.

B. Developer holds title to certain real property located on Washington Street between Sansome and Battery Streets, as more particularly described in Exhibit A-1, which under the CPEA, Developer intends to transfer to the City (the "**City Parcel**"). Pursuant to the CPEA, the City now does, or intends to, ground lease then will transfer to Developer fee title to a legal parcel at the corner of Washington and Sansome Streets as more particularly described in Exhibit A-2 (the "**Developer Parcel**"). The Developer Parcel and the City Parcel may be collectively referred to as the "**Parcels**" or individually as a "**Parcel**."

C. The Developer will construct: (i) a five-story building that is a fire station with integrated fire truck and service vehicular parking on the City Parcel and one level of a three-level subterranean parking garage (the "**Parking Garage**") within the City Parcel (the "**Station Project**") for the City Declarant; and (ii) a twenty-one story tower building consisting of a hotel, fitness facilities, office space and remaining two levels of the Parking Garage within the Developer Parcel (the "**Tower Project**," and together with the Station Project, the "**Project**").

D. The parties desire to grant to each other Easements for access and support over Easement Areas and to establish Assessments and cost-sharing provisions with respect to Shared Elements and to establish certain covenants, conditions and restrictions with respect to the Parcels, for the mutual and reciprocal benefit of the Parcel, present and future Parcel Owners and occupants, on the terms and conditions set forth in this Declaration.

NOW, THEREFORE, the Declarants hereby make this Declaration for the establishment of a general scheme of ownership for the City Parcel and the Developer Parcel. All real property within the Parcels shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the Easements, restrictions, reservations, rights, covenants, and conditions contained in this Declaration. All such Easements, restrictions, reservations, rights, covenants and conditions shall be enforceable as equitable servitudes, shall run with the Parcels and shall inure to the benefit of and be binding upon all Owners and all other parties having or acquiring any right, title or interest in any part of the Project or the Parcels:

AGREEMENT

1. Definitions. The following terms (singular or plural, as the context requires) shall have the meanings set forth in this Section below:

1.1 "**Allowed Rate**" means the lesser of ten percent (10%) and the maximum interest rate permitted under California law.

1.2 "**Applicable Laws**" means all present and future federal, state and local laws, statutes, ordinances, resolutions, codes, rules, regulations, orders, decrees, decisions, determinations and other actions having the force of law that are applicable to the ownership, development, improvement, use or operation of the Project or any Parcel or portion thereof.

1.3 "**Assessment**" means each assessment levied by the Managing Owner on each of the Owners of Parcels and Developer Subdivision Parcels in the Project, and that is to be paid by each such Owner for such Owner's Percentage Share of Shared Expenses, as determined by the Managing Owner and approved of by the Owners pursuant to this Declaration. The term "Assessment" includes Regular Assessments and Special Assessments.

1.4 "**City**" or "**City Declarant**" means the City and County of San Francisco, a municipal corporation and charter city and county existing under the laws of the State of California, its successors and assigns.

1.5 "**City Parcel**" means the legal parcel more particularly described in Exhibit A-1.

1.6 "**City Parcel Owner**" means the fee owner of the City Parcel during its period of ownership.

1.7 "**Claims**" means all claims, demands, lawsuits, actions, legal proceedings, causes of action, suits, penalties, fines, liabilities, damages, losses, costs and expenses (including, without limitation, reasonable attorneys' fees and court costs).

1.8 "**Clean-Up Work**" has the meaning in Section 7.3(a).

1.9 "**Construction Manager**" means a construction manager retained by the Managing Owner to coordinate and supervise the Restoration Contractor and other professionals as reasonably necessary to complete the Restoration Work.

1.10 "**Common Structural Elements**" means the following structural building components located within the City Parcel: foundations, footings, columns, girders, structural floor slabs and ceilings, beams and supports, and the supporting structure of load bearing walls supporting the Tower Project and the support structure components of the Parking Garage as shown on the final, City approved plans and specifications for the Station Project.

1.11 "**Common Systems**" means

(a) electrical rooms serving more than one Parcel, including any common meters, and such other associated equipment and machinery, if any;

(b) fire pump and protection systems serving more than one Parcel; and

(c) Water Drainage Facilities, if any.

1.12 "**Covered Improvements**" means the Shared Elements.

1.13 "**CPEA**" means that certain Conditional Property Exchange Agreement, dated as of July 30, 2020, by and between the Developer and the City.

1.14 "**CPI**" means the Consumer Price Index (1982/84=100) for all Urban Consumers published by the United States Department of Labor, Bureau of Labor Statistics for the San Francisco-Oakland-Hayward area, or any successor index thereto.

1.15 "**Default**" has the meaning set forth in Section 13.3.

1.16 "**Developer**" or "**Developer Declarant**" means EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company, and any successor or assign that expressly assumes all of the rights and duties of the Developer Declarant hereunder from time to time in accordance with the requirements of Section 16.8.

1.17 "**Developer Parcel**" means the legal parcel as more particularly described in Exhibit A-2.

1.18 "**Developer Parcel Owner**" means the fee owner of the Developer Parcel during its period of ownership. If the Developer Parcel is legally subdivided, then Developer Parcel Owner shall mean the Developer Subdivision Parcel Owner(s) of the Developer Subdivision Parcel(s) that is obligated, benefited or burdened, as the context indicates.

1.19 "**Developer Subdivision Parcel**" means a legal parcel resulting from the subdivision of the Developer Parcel.

1.20 "**Developer Subdivision Parcel Owner**" means a person or entity holding title to a Developer Subdivision Parcel, but excluding those persons or entities having an interest merely as security for the performance of an obligation.

1.21 "**Easements**" means the easements granted in Section 2.1 of this Declaration.

1.22 "**Easement Areas**" means the easement area identified for each Easement as set forth in Section 2.1 of this Declaration, and Exhibit B, Exhibit C and Exhibit D.

1.23 "**Force Majeure**" means any failure of or delay in the availability of any public utility; any City-wide strikes or labor disputes; any unusual delays or shortages encountered in transportation, fuel, material or labor supplies; casualties; earthquake, hurricane, flood, tidal wave or other severe weather events and other acts of God; acts of a public enemy or of war or terrorism; governmental orders or restrictions; injunctions; other acts or occurrences beyond the reasonable control of a party, including but not limited to an epidemic, a pandemic, or public health emergency; provided, however, that (i) any of the foregoing events or occurrences shall not be a Force Majeure event if caused by the party claiming Force Majeure or its affiliate, and (ii) the

foregoing event or circumstances shall not be a Force Majeure event if caused by the party or its affiliates' financial inability to perform.

1.24 "**Indemnify**" means to indemnify, defend, reimburse, and hold the other Owner harmless from and against Claims.

1.25 "**Insurance Trustee**" means any California licensed branch of a foreign banking corporation, a national banking association, federal or state-chartered depository institution or trust company, or nationally recognized title company designated to hold and disburse insurance proceeds and/or condemnation awards in accordance with this Declaration.

1.26 "**Long-Term Lease**" a lease for all of a Parcel or all of a Developer Subdivision Parcel with a term of more than thirty-five (35) years inclusive of extension options.

1.27 "**Managing Owner**" means the Owner who is appointed as the Managing Owner, or any successor of such Owner, as provided in Section 16.8 of this Declaration.

1.28 "**Owner**" or "**Owners**" means as follows

(a) the record owner, whether one (1) or more persons or entities, of fee simple title to a Parcel, but excluding those persons or entities having an interest merely as security for the performance of an obligation;

(b) if the Developer Parcel has been further legally subdivided, then, as to the Developer Parcel, "Owner" means a Developer Subdivision Parcel Owner, except that if a Developer Subdivision Parcel is further subdivided into condominiums or other form of community ownership, represented by separate unit or interest titles, then the title holder of each such unit or interest (i) shall be subject to this Declaration and (ii) shall be represented under this Declaration by a community interest owner's association, which shall act on behalf of all such unit and interest owners as their sole and exclusive legal representative for all purposes of this Declaration as the "Developer Subdivision Parcel Owner" (namely, enforcing all rights and performing all obligations such unit or interest owners under this Declaration, including but not limited to, sending notices of deficiency, approving budgets and assessments, asserting any defaults under this Declaration) acting with full authority and in all capacities as may be provided in its governing documents; and (iii) such community interest owner's association shall vote or otherwise make all decisions under this Declaration for such unit or interest titleholders;

(c) if a person or entity is the lessee under a Long -Term Lease, then that lessee shall, in accordance with the terms and conditions of such Long-Term Lease, be considered an "Owner" within the meaning of this Declaration. If a Parcel or Developer Subdivision Parcel is sold under an installment contract of sale and the installment contract is recorded, the purchaser, rather than the fee holder, shall be considered the "Owner" of such Parcel or Developer Subdivision Parcel from and after the date the Managing Owner receives written notice of the recorded installment contract. For the avoidance of doubt, a lessee under a lease for any residential or other subdivided unit, if any, shall not be considered an "Owner" within the meaning of this Declaration.

1.29 "**Parcel**" means the City Parcel or the Developer Parcel, which may be referred to collectively as the "**Parcels**."

1.30 "**Parcel Improvements**" is defined in Section 6.2(b).

1.31 "**Parking Garage**" has the meaning set forth in Recital C.

1.32 "**Parking Garage Access Ramp**" is defined in Section 2.1(a)(i).

1.33 "**Parking Garage Internal Ramp**" is defined in Section 2.1(b)(i).

1.34 "**Parking Garage Reciprocal Easement**" is defined in Section 2.1(c)(i).

1.35 "**Parking Garage Shared Expenses**" is defined in Section 2.1(c)(i).

1.36 "**Parking Management Plan**" is defined in Section 2.4(a).

1.37 "**Percentage Share**" means each Owner's percentage share of Shared Expenses, as applicable. The Developer Parcel Owner's Percentage Share of the Shared Expenses shall be ninety percent (90%) and the City Parcel Owner's Percentage Share of the of the Shared Expenses shall be ten percent(10%); if the Developer Parcel is legally subdivided, then each Developer Subdivision Parcel Owner's percentage share will be its percentage share of the Developer Parcel as provided in the Developer Parcel subdivision governing documents, and if not so provided, then that percentage share will be determined by each Developer Subdivision Parcel's square footage as compared to the entire Developer Parcel square footage.

1.38 "**Permitted Mortgage**" means any mortgage, mezzanine loan, pledge, deed of trust or other instrument encumbering the entire fee or Long-Term Leasehold interest of an Owner, or all of the borrower's equity interest in Owner provided to a lender as collateral for a loan, in whole or in part, and any interests or rights appurtenant to such fee, leasehold interest or equity interest provided to a lender as collateral for a loan.

1.39 "**Permitted Mortgagee**" means the holder or beneficiary of a Permitted Mortgage.

1.40 "**Permittees**" means the Owners and their respective occupants or tenants within the fire station, hotel, office space, residential units, or other owned parcels and facilities, as the case may be, and, in each case, their respective contractors, subcontractors, employees, guests, agents, customers, invitees, family members, and licensees, as applicable.

1.41 "**Prime Rate**" means the "reference rate" announced by Wells Fargo Bank, or the successor to Wells Fargo Bank, by merger or acquisition, at its main San Francisco branch (whether or not such rate has actually been charged by Wells Fargo Bank). If Wells Fargo Bank should cease to exist or discontinues the practice of announcing a "reference rate," then the term "Prime Rate" shall mean the "reference rate" announced by Citibank, or the successor to Citibank by merger or acquisition, at its main San Francisco branch, (whether or not such rate has actually been charged by Citibank). If both Wells Fargo Bank and Citibank should cease to exist or discontinue the practice of announcing a "reference rate," then the term prime rate (or base rate) reported in the Money Rates column or section of The Wall Street Journal as being the base rate

on corporate loans at large U.S. money center commercial banks (whether or not such rate has actually been charged by any such bank). If the Wall Street Journal (a) publishes more than one prime rate or base rate, the higher or highest of such rates shall apply, or (b) publishes a retraction or correction of any such rate, the rate reported in such retraction or correction shall apply.

1.42 "**Proceeds**" means insurance proceeds payable under policies insuring against damage to the Project by fire or other casualty (but excluding any business or rental interruption insurance).

1.43 "**Project**" is defined in the Recitals.

1.44 "**Project Reserves**" is defined in Section 5.3.

1.45 "**Project Standards**" means, (a) with regard to the Developer Parcel, the first-class quality standard of development, construction, operation, maintenance, appearance, branding, and service of the Tower Project, generally consistent with those of comparable first-class hotel mixed-use real estate projects situated in San Francisco, California; and (b) with regard to the City Parcel, a well-maintained and orderly appearance of the Station Project exterior.

1.46 "**Property Insurance**" is defined in Section 6.1.

1.47 "**Public Areas**" means all areas of the Project located on the street level of the Project outside of the exterior walls of the improvements including, without limitation, walkways, landscaped areas, raised street level terrace, sidewalks, curbing, paving, and other similar exterior site improvements.

1.48 "**Reciprocal Easements**" means those easements granted in Section 2.1(b).

1.49 "**Recorded**" or "**Recordation**" means recorded or recordation in the Office of the San Francisco County Recorder.

1.50 "**Regular Assessment**" means the Assessment established in the approved Shared Expense Budget and payable by each Owner pursuant to Section 5.3 for payment of regular budgeted Shared Expenses during each year.

1.51 "**Reimbursement Assessment**" is defined in Section 5.5.

1.52 "**Repair**" means any repair, restoration, reconstruction, or replacement of the improvements and any other portions of the Project required to be insured hereunder.

1.53 "**Restoration**" means the repair, restoration, replacement, or rebuilding of damaged or destroyed improvements, including, without limitation, any temporary repairs or other work necessary to secure the affected Covered Improvements and protect the safety of other property and persons, and including, without limitation, any alterations, additions, or improvements required by Applicable Laws and approved by the City.

1.54 "**Restoration Contractor**" means general contractors, architects, and engineers selected by the Managing Owner to perform the Restoration Work.

1.55 "**Restoration Work**" refers to restoration or Repair of the Covered Improvements upon the occurrence of a Casualty.

1.56 "**Shared Elements**" means the Common Structural Elements and the Common Systems.

1.57 "**Shared Elements Insurance Proceeds**" means the amounts payable under property insurance policies for Shared Elements, including structural support applicable to both Parcels in the Project, maintained by the Managing Owner as compensation for damage on account of a casualty or condemnation (including insurance proceeds and interest thereon), less the reasonable costs and expenses actually incurred in collecting such amount (including reasonable fees of attorneys, appraisers and expert witnesses).

1.58 "**Shared Expense Budget**" is defined in Section 5.3.

1.59 "**Shared Expenses**" means expenses to be shared between the Owners as provided in this Declaration, as follows:

(a) the cost of operating, administering, inspecting, managing, maintaining, repairing and replacing the Shared Elements, including reasonable reserves for repair and replacement of major components thereof;

(b) common utility charges and expenses, including power, water and sewer charges, personal property taxes, and other similar governmental charges (other than real property taxes, which shall be assessed to and paid by each individual Owner separately) levied on the Project or portions thereof that are not individually metered or charged to a particular Parcel, if any;

(c) the cost of equipment and supplies used to maintain or operate the Shared Elements, if any;

(d) the cost of any capital improvement, repair or replacement made to the Shared Elements approved by the Owners in writing and in their sole and absolute discretion pursuant to this Declaration (which costs may, at the request of an Owner be broken out separately in the Shared Expense Budget as may be required for accounting purposes or to accommodate methods by which the any Owner may pass the cost of capital improvements through to tenants);

(e) the cost of insurance required to be carried by the Managing Owner under Article 6;

(f) the cost of any Clean-up Work, Restoration Work, Restoration of the Improvements, or any other Repair obligations of the Managing Owner pursuant to Article 7; and

(g) the cost of providing ancillary administrative services such as legal, accounting and financial, and communication services for issues related to the Shared Elements or Easement Areas.

1.60 "**Special Assessment**" means a charge against Owners, adjusted for Percentage Share for the costs incurred in connection with any extraordinary expense.

1.61 "**Station Parking Garage**" means that portion of the Parking Garage that is part of the City Parcel, as described in Exhibit A-1.

1.62 "**Station Project**" means a five-story building containing a fire station and the Station Parking Garage, including an exclusive elevator and stairwell connecting the station and Station Parking Garage.

1.63 "**Subsequent Construction**" means further improvements, alterations, modifications, or additions within a Parcel pursuant to Section 4.8.

1.64 "**Total Casualty**" means destruction of all or a portion of either the Tower Project or the Station Project to such a degree that the remaining portion of the Tower Project or Station Project (as applicable) cannot reasonably be used in the manner and for the purposes originally intended and/or cannot be repaired or restored to such condition in a reasonable time as reasonably determined by the Owner of the affected Parcel; provided, however, that if the improvements on only one of the Parcels suffers such destruction and any such destruction materially and adversely impacts or includes Easement Areas (described in this Declaration) for easements of support, access, or Shared Elements granted by this Declaration, then any such casualty shall not be considered a Total Casualty.

1.65 "**Tower Parking Garage**" means that portion of the Parking Garage that is part of the Developer Parcel, as described in Exhibit A-2.

1.66 "**Tower Project**" means a twenty-one-story tower building consisting of a hotel, fitness facilities, office space, and the Tower Parking Garage.

1.67 "**Utility Facilities**" means water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, gas mains, utility shafts, ducts, chases, risers, mechanical rooms, circuit boxes, and other utility facilities necessary for the operation of the Parcels and all improvements located on or within the Parcels as shown on the final, City approved plans and specifications for the Project.

1.68 "**Water Drainage Facilities**" means all lines, conduits, pipes, and other apparatus for water drainage, storm water collection, retention, detention, and all storage systems necessary in connection therewith, serving the Parcels as shown on the final, City approved plans and specifications for the Project.

2. Easements.

2.1 Grant of Easements.

(a) Easements for the Benefit of Developer Parcel. Subject to the terms and conditions of this Declaration, the City Declarant grants and establishes the following nonexclusive, perpetual, unilateral easements for the benefit of the Developer Parcel, as more specifically depicted in Exhibit B:

(i) Parking Garage Access Ramp. A perpetual, nonexclusive easement over the access ramp to the Parking Garage ("**Parking Garage Access Ramp**") located on the southwest corner of the City Parcel at the back of the Station Project accessible through and by Merchant Street. The Parking Garage Access Ramp is a Shared Element, and each Owner will pay its Percentage Share of the cost of maintaining of the Parking Garage Access Ramp.

(ii) Tower Extension. The Developer Parcel includes the three-dimensional vertical space that extends over the City Parcel and the height from the lowest outer surface of the top of the Station Project building located directly below the Tower Project building to a point equal to the height of the Developer Parcel; therefore, a perpetual, non-exclusive unilateral easement over the portion of the roof of the Station Project building directly below the Tower Project building to allow for maintenance, repair, and replacement of the Tower Project building. The Developer Parcel Owner shall be solely responsible for maintaining, repairing, and replacing all Developer Parcel improvements.

(iii) Tower Structural Support. A perpetual, non-exclusive unilateral easement of support over all structural elements of the Tower Project building located in the City Parcel and necessary for the support of the Tower Project building, including access to the Station Project building roof and the space between the roof and bottom of the closest structural element above the Station Project roof.

(b) Easements for the Benefit of City Parcel. Subject to the terms and conditions of this Declaration, the Developer Declarant grants and establishes the following nonexclusive, perpetual, unilateral easements for the benefit of the City Parcel, as more specifically depicted in Exhibit C:

(i) Parking Garage Internal Ramp. A perpetual, nonexclusive easement over the access ramp in the Tower Parking Garage ("**Parking Garage Internal Ramp**") for access to and from the Parking Garage Access Ramp and the Station Parking Garage. The Parking Garage Internal Ramp is a Shared Element, and each Owner will pay its Percentage Share of the cost of maintaining of the Parking Garage Internal Ramp.

(ii) Station Maintenance. A perpetual, non-exclusive unilateral easement over the portion of the Developer Parcel that is the Tower Project building directly above the roof of the Station Project building to allow for maintenance, repair and replacement of the Station Project building roof. The Owner of the Station Project shall be solely responsible for maintaining, repairing, and replacing the Station Project building roof improvements.

(c) Reciprocal Easements. Subject to the terms and conditions of this Declaration, the Declarants grant and establish the following nonexclusive, perpetual and reciprocal easements, such reciprocal Easement Areas being more specifically depicted in Exhibit D:

(i) Parking Garage. The Parking Garage is a three-dimensional subterranean space consisting of the Tower Parking Garage and the and the Station Parking Garage. In addition to the Parking Garage Access Ramp Easement granted by the City Declarant in Section 2.1(a)(i) and the Parking Garage Internal Ramp Easement granted by Developer

Declarant in Section 2.1(b)(i), there is hereby reserved and granted to each Parcel Owner a reciprocal easement over and across those portions of the Parcels incidental to access to the Tower Parking Garage and Station Parking Garage such as lobbies, elevators, and stairs, but only in an emergency or as otherwise expressly permitted by the Owner of the burdened Parcel (such as during certain repairs or other temporary disruption) to the extent that there are no alternate reasonable ways of ingress or egress ("**Parking Garage Reciprocal Easement**"). Because the Parking Garage Reciprocal Easement contemplates only occasional or emergency use by the other Owner and their Permittees, the expenses of the Parking Garage relating to the maintenance, cleaning, repair, or replacement of the Parking Garage Reciprocal Easement are not Shared Expenses and each Owner shall be solely responsible for maintenance, cleaning, repair, or replacement of the Parking Garage Reciprocal Easement area located on the Owner's Parcel. If, for any reason use of the Parking Garage Reciprocal Easement area becomes more than occasional or emergency use by the other Owner and their Permittees, then the Owners may elect to include the maintenance, cleaning, repair, or replacement of the Parking Garage Reciprocal Easement as a Shared Expense. If there is a dispute between or among Owners regarding the use of the Parking Garage Reciprocal Easement, or with respect to the sharing of the cost thereof, then, upon written request of an Owner addressed to another Owner, the matter shall be submitted to dispute resolution under Section 13.5 below. Any written request from a Developer Subdivision Parcel Owner to the City Parcel Owner must be made through the Managing Owner.

(ii) Shared Elements. There is hereby reserved and granted to each Owner for maintenance, repair, or replacement of Shared Elements, as applicable, an easement over and across the Parcels for the purpose of management, maintenance, cleaning, repair, and replacement of the improvements within the Shared Elements.

(iii) Utility Facilities. There is hereby reserved and granted, in favor of each Owner, a non-exclusive easement, appurtenant to each Parcel, upon, under, over, above and across each other Parcel as reasonably necessary for the maintenance, repair and replacement of Utility Facilities that serve such Parcel, including all telecommunications, mechanical and electrical rooms, risers, or chases.

(iv) Water Drainage. There is hereby reserved and granted (a) to each Owner a non-exclusive easement, appurtenant to each Parcel, upon, under, over, above and across each other Parcel as reasonably necessary for the discharge, drainage, and use of storm water runoff within and through existing Water Drainage Facilities, and (b) to the Managing Owner for purposes of maintaining, repairing, and replacing Water Drainage Facilities.

(v) General Maintenance. There is hereby granted and reserved to each Owner a non-exclusive easement, appurtenant to each Parcel as dominant tenement, upon, under, over, above and across the other Parcel, as servient tenement, as reasonably necessary to permit the Owners to perform the obligations imposed upon them, and to exercise rights granted to them, by Section 4.3 of this Declaration.

(vi) Structural Support. There is hereby reserved and granted to each Owner, appurtenant to each Parcel, a perpetual, non-exclusive easement and right in and to all structural members, columns, beams and other supporting elements within and upon the Project for structural support of the improvements situated within such Parcel. No Owner nor the

Managing Owner may take any action that would adversely affect the structural integrity or safety of the improvements situated within the Project, including those improvements situated within either Parcel of the Project.

2.2 Use of Easements.

(a) The following is applicable to each of the Easements granted or reserved in Section 2.1:

(i) Each of the Easements set forth in Section 2.1 shall at all times be used in such a manner as not to unreasonably interfere with the normal use and operation of the burdened Parcel.

(ii) Except in the event of an emergency, the right of an Owner to enter upon the Parcel of another Owner for maintenance, repair and replacement activities or any other right granted by the easement shall be conditioned upon reasonably prior written notice to the other Owner and the other Owner's approval of the time and manner of entry and egress, and of the work plan and schedule.

(iii) All activities on the Parcels shall be conducted in accordance with Applicable Laws.

(iv) If an Owner or its contractors enter upon any Parcel that it does not own for purposes of maintenance, repair, or replacement, such Owner or contractor shall maintain adequate insurance and shall name the Owner of such Parcel as an additional insured on such insurance policy(-ies) (subject to City's right to self-insure).

(v) Each Easement includes the right of reasonable ingress and egress as may be required to maintain, repair, operate and replace the facilities located in the Easement Areas and used in connection with the Easements subject to the restrictions on entry onto the City Parcel as provided in Section 2.2(d) below.

(vi) Each Owner shall be responsible for defects or dangerous conditions upon their property which cause injury to persons in the Easement Area while performing activities permitted under the Easement, except for any defects or dangerous conditions caused by another Owner or its contractors while on such Owner's Parcel.

(vii) The Common Systems and Common Structural Elements shall not be modified in a manner that will materially adversely affect any other Owner without the prior written consent of that other Owner, which may be withheld or conditioned in such other Owner's sole and absolute discretion.

(viii) Each Owner reserves the right to alter, repair, reconfigure, relocate and/or remove improvements within the Easement Areas on its Parcel so long as such action does not materially adversely affect the beneficial use of the Easements by any other Owner. A temporary interference that cannot reasonably be avoided despite commercially reasonable efforts and that is undertaken in such a manner as to minimize to the extent practicable any interference with the use and enjoyment of the Easement Area shall be permitted with prior written notice to

the other Owner; provided however, that any entry into or interference with the City Parcel is subject to the requirements of Section 2.2(d) below.

(b) Each Owner may permit its Permittees to use the Easements as needed or as appropriate, provided, however, that no such permission shall authorize a use contrary to the uses specified in Section 2.1, no unauthorized use shall act to extinguish the Easements, and no such permission shall relieve an Owner from responsibility for its duties under this Declaration. No building, structures, obstacles, or other improvements inconsistent with the use and enjoyment of the Easements may be placed or permitted within the Easement Areas. Each Owner and its Permittees shall comply with all Applicable Laws in connection with its use of the Easements.

(c) The Managing Owner shall have rights of ingress and egress over and across all Easement Areas (and over each Parcel to and from such Easement Area) for access by the Managing Owner to repair, to replace, and generally maintain the Shared Elements, as provided in this Declaration and subject to Section 2.2(d) below.

(d) Notwithstanding anything in this Section 2 or elsewhere in this Declaration, Developer acknowledges for itself, its successors and assigns, that the Station Project will be an operating fire station, whose operation is essential for the health and safety of the public, and that any interference with the operation of the fire station at certain times and under certain conditions may endanger public health and safety. Accordingly, the right of entry to the City Parcel and the performance of any activity under any Easement over the City Parcel is subject to the following rules: (i) except in an emergency, an Owner or the Managing Owner must provide City Parcel Owner and the Station Project contact reasonable, but not less than twenty-four (24) hours, advance written notice and a reasonable opportunity to confer given by the concerning the time and conditions of entry based on the purpose and urgency of the need for entry; or (ii) in the event of an emergency, if the Owner's or Managing Owner needs to enter the City Parcel in order to prevent or mitigate potential harm to persons, property, or the Project, then the Owner or Managing Owner is required to only provide a verbal notice by telephone to a Station Project contact number answered twenty-four (24) hours every day provided by the City Parcel Owner. If there is no answer or communication with a person of authority immediately available on the first call, then entry during a bona fide emergency without further notice is permitted and the Owner or Managing Owner will provide written and verbal notice to City Parcel Owner and the Station Project contact as soon as practicable.

(e) In the event of a dispute between or among Owners with respect to the Easements, any use of any of the Easements, or the sharing of any costs associated with the Easements, including, but not limited to, the repair or rebuilding of any Utility Facilities, then, upon written request of an Owner addressed to another Owner, the matter shall be submitted to dispute resolution under Section 13.5 below. Any written request from a Developer Subdivision Parcel Owner to the City Parcel Owner must be made through the Managing Owner.

2.3 Indemnification. Each Owner shall Indemnify the other Owner against Claims resulting from its use of the Easements. If an Owner or any Permittee of an Owner damages or destroys any portion of the Parcel or improvements of the other Owner (each, a "**Responsible Owner**"), the Responsible Owner shall Indemnify the other Owner for the full cost of repair or replacement less any amounts actually paid through applicable third-party policies of insurance.

The Owners agree to satisfy any payment of Claims by first applying any property and liability insurance proceeds to such Claims and if an Owner fails to hold property and liability insurance as required under this Declaration to the extent permitted under this Declaration, the Owners shall deduct the amount of the coverage available for the Claims under the policy required if the insurance were held by such Owner. Except as provided in the following sentence, payments shall be made by the Responsible Owner to the other Owner within ninety (90) days after receipt of written demand for payment from the other Owner, which demand shall include (a) a description of the Claim and the circumstance or occurrence giving rise to such Claim and (b) written evidence of the amount of such Claim (i.e., an invoice from an unaffiliated third party). If City is the Responsible Owner under this Section 2.3, then any demand for reimbursement must be sent to the Managing Owner, who will send the demand for reimbursement to the City Parcel Owner for payment to the Managing Owner (on behalf of the demanding Owner), and the Managing Owner will then remit the amounts paid to the demanding Owner.

2.4 Parking Garage Operation.

(a) Tower Parking Garage Parking Management Plan; Parking Licenses. City Declarant acknowledges that the Developer Parcel Owner (or its successor Developer Subdivision Parcel Owner to the Tower Parking Garage) may manage the parking spaces and develop a parking management plan for the Tower Parking Garage ("**Parking Management Plan**"). The Parking Management Plan will include terms to ensure ingress and egress to the Station Parking Garage is not materially impeded and may otherwise manage the Tower Parking Garage as Developer Parcel Owner elects, including setting forth the rights and privileges with respect to use and operation of the Tower Parking Garage and parking spaces therein. Under the Parking Management Plan, Developer Parcel Owner may license, assign, and transfer parking rights and privileges, over and across the Tower Parking Garage (including the Easements providing access thereto), including the designation, allocation, licensing, and assigning non-exclusive and/or exclusive parking rights or parking spaces (in each case, a "**Parking License**"), on such market terms set forth in the Parking Management Plan.

(b) Parking Management Plan Costs; Disputes. The Parking Management Plan and any Parking Licenses are not Shared Elements and any income or costs thereof shall be for the sole benefit of or borne solely by the Developer Parcel Owner. If there is a dispute between Owner of the Tower Parking Garage and the Owner of the Station Parking Garage regarding the Parking Garage, the Parking Management Plan, any Parking License, or any associated costs (including, but not limited to, operational issues or any increased costs of maintenance or operation of any Shared Element allegedly due to the Parking Management Plan and/or the Parking Licenses), then, upon written request of an Owner addressed to the other Owner, the matter shall be submitted to dispute resolution under Section 13.5 below.

3. Rules. The Managing Owner may circulate rules for the Easement Areas in the Project, subject to the approval of the City Parcel Owner. The rules may include hours of operation for vehicular access to the Parking Garage Ramp on the City Parcel, and hours of operation for freight loading at the Tower Project. No rules may interfere with the operation of the Station Project as needed to respond to public safety obligations or emergency response, as determined by City. The rules shall not conflict with this Declaration and shall be implemented by the Managing Owner in a fair, reasonable and non-discriminatory manner.

4. Maintenance and Alterations.

4.1 Managing Owner Obligations.

(a) The Managing Owner shall be solely responsible for the maintenance, repair and replacement of the Shared Elements, which the Managing Owner shall perform in accordance with the Project Standards. The Managing Owner shall duly and completely undertake such maintenance, repair, and replacement in a timely and prudent manner; provided, however, that the Managing Owner shall not be obligated to maintain, repair or replace any Shared Element located within a Parcel until the Managing Owner has been afforded a reasonable time and access to commence such work, which shall not be unreasonably withheld or delayed by any Owner, except as provided in Section 2.2(d) above. Maintenance of Shared Elements shall include, without limitation, maintaining and repairing all Shared Elements, and performing any and all such other duties as are necessary to maintain all Shared Elements in a clean, safe and orderly condition and in compliance with Section 4.9 below.

(b) The Managing Owner shall provide reasonable advance written notice to the Owners prior to the exercise of Easement rights for repair, maintenance, or replacement, as provided in Section 2 above. Any maintenance, repair, or replacement by or at the request of the Managing Owner shall be performed in accordance with and subject to Section 2 and as expeditiously as reasonably possible and in a manner that will minimize any interruption to the operation and use of an Owner's Parcel.

(c) If the Developer Parcel is further legally subdivided, then the Managing Owner shall manage all notices and other communications between City Parcel Owner and any Developer Subdivision Parcel Owner(s) and timely transmit the same to the addressee, and, where it is within the Managing Owner's rights or obligations under the Declaration, take such steps to assist with resolving any disputes between the City Parcel Owner and the Developer Subdivision Parcel Owner(s). Nothing in this Section obligates the Managing Owner to mediate or be the arbiter of any disputes.

(d) Developer acknowledges City cannot make any payments to any party unless the party is qualified as an approved vendor in City's financial and payment system. Accordingly, Managing Owner must become qualified as and remain an approved vendor in the City system and the parties intend that any payments to be made by City under this Agreement to any Owner will be made to or through the Managing Owner. City will not be in default of any monetary obligation under this Agreement, and no interest or late charge will apply, if Managing Owner is not an approved vendor with City. More information about being an approved vendor with City is available at https://sfcitypartner.sfgov.org/Vendor/BecomeSupplier. All amounts that have become payable under this Agreement while Managing Owner was not an approved vendor will be payable within twenty (20) days after City receives Managing Owner's written notice that it has been approved and the City Contract Monitoring Division confirms to the Fire Department (or other department that is responsible for payments under this Agreement) that Managing Owner has been qualified as an approved City vendor.

4.2 Powers of the Managing Owner. The Managing Owner is authorized to, and shall perform, without limitation, the following duties:

(a) to impose Assessments for Shared Expenses in accordance with the Shared Expense Budget and this Declaration;

(b) to pay from Assessments the Shared Expenses in accordance with the Shared Expense Budget and this Declaration;

(c) to establish a separate operating account or accounts for the deposit of Assessments, Reserves, City Operating Reserve, and City Deductible and Extraordinary Expense Reserve and other funds collected and to appoint a signatory or signatories on such account or accounts;

(d) to prepare Shared Expense Budgets to be reasonably approved by the Owners and financial statements as required in this Declaration;

(e) after obtaining consent of the City Parcel Owner, to hire to a professional property or association manager to perform its obligations under this Declaration, who may be an employee, officer or affiliate of any Owner, the cost of which performance of the Managing Owner's obligations under this Declaration shall be a Shared Expense, provided that the property manager's compensation shall be consistent with market fees for all such services provided by similar third party managers for similar buildings in the City; and

(f) to contract for goods and/or services to carry out its duties and responsibilities hereunder, the costs of which shall be a Shared Expense.

4.3 Owners' Obligations.

(a) Each Owner shall operate and maintain, repair, and replace in accordance with the Project Standards subject to reasonable wear and tear and casualty, at its expense:

(i) all improvements within its Parcel or Developer Subdivision Parcel other than Shared Elements;

(ii) Shared Elements damaged as a result of the gross negligence or willful misconduct of the Owner or its Permittees (provided, however, that in lieu of the foregoing, the Managing Owner shall have the right (but not the obligation) to repair such damage and charge the costs thereof as a Reimbursement Assessment to the Owner required to undertake such maintenance or repair);

(iii) Other components of the real or personal property damaged as a result of the gross negligence or willful misconduct of the Owner or its Permittees, including but not limited to damaged or broken exterior windows or Project façade or improvements;

(iv) any Utility Facility, wherever located, that serves exclusively such Owner's Parcel or Developer Subdivision Parcel.

(b) Each Owner shall be responsible for repair, maintenance, upkeep, and cleaning its own street-level windows and exterior façade, if any.

4.4 Failure to Maintain. If any Owner ("**Deficient Party**") permits any material adverse condition on any portion of its Parcel or fails to maintain all or any portion of its Parcel in accordance with the Project Standards, and such condition or failure has a material and adverse impact on any other Owner's ability to finance, develop, maintain, lease, operate, use, and/or market all or any portion of the parcel owned by such Owner, such Owner ("**Noticing Party**") may provide written notice to the Deficient Party of such condition or failure to maintain, which notice must include a reasonably detailed description of the condition or failure to maintain ("**Deficiency Notice**"); provided, however, that if the Deficient Party is the City Parcel Owner and the Noticing Party is a Developer Subdivision Parcel Owner, then the Noticing Party must send the notice through the Managing Owner. A Deficiency Notice is not a notice of default under Section 13.4 below.

(a) If the Deficient Party is the Developer Parcel Owner or a Developer Subdivision Parcel Owner, then this Subsection (a) shall apply. If the Deficient Party is the Developer Parcel Owner or a Developer Subdivision Parcel Owner and it fails to remedy the deficiency within thirty (30) days after receipt of the Deficiency Notice (or with respect to deficiencies that cannot reasonably be remedied within such thirty (30) day period, if the Deficient Party fails to commence to remedy such deficiency within the thirty (30) day period or fails to diligently pursue such remedy to completion no later than forty-five (45) days following receipt of the Deficiency Notice), then the Noticing Party, may, without waiving any other legal or equitable remedies it may have, enter the Developer Parcel or Developer Subdivision Parcel, as applicable and remedy such deficiency. Notwithstanding the foregoing, if the deficiency impairs the use of the Noticing Party's Parcel or Developer Subdivision Parcel such that in Noticing Party's reasonable judgment, the deficiency must be remedied immediately for health and safety reasons, the Noticing Party may cure the deficiency and will not be required to give the Deficiency Notice or wait any period of time but will use reasonable efforts to notify Deficient Party of the deficiency and of the Noticing Party's cure. Upon remedying such deficiency, the Noticing Party shall be entitled to provide written demand to the Deficient Party that it reimburse the Noticing Party for one hundred percent (100%) of the actual and reasonable costs and expenses it incurred in connection with remedying the deficiency. Any such demand shall include invoices or other reasonable written evidence of such costs and expenses incurred by the Noticing Party. The Deficient Party shall reimburse such amounts to the Noticing Party within sixty (60) days of receipt of such demand. Any amounts not reimbursed within such sixty (60) day period shall accrue interest at the Allowed Rate from the date due until paid. The Noticing Party shall not be liable to the Deficient Party for any loss, damage, or liability resulting from or arising in connection with activities of the Noticing Party (or its contractors, representatives and/or agents) on the Developer Parcel or Developer Subdivision Parcel, as applicable, except to the extent such loss, damage or liability results from the gross negligence or willful misconduct of the Noticing Party (or its contractors, representatives, and/or agents).

(b) If the Deficient Party is the City Parcel Owner, then this Subsection (b) shall apply. If the Deficient Party is the City Parcel Owner and it fails to remedy the deficiency within thirty (30) days after receipt of the Deficiency Notice (or with respect to deficiencies that cannot reasonably be remedied within such thirty (30) day period, if the City Parcel Owner fails to

commence to remedy such deficiency within the thirty (30) day period or fails to diligently pursue such remedy to completion), then the Noticing Party, may, after written notice to the City Parcel as provided in Section 2.2(d), reasonably enter the City Parcel to remedy the deficiency. Upon remedying such deficiency, the Noticing Party shall be entitled to provide a written demand for reimbursement to the Managing Owner, who will send the demand for reimbursement to City Parcel Owner for one hundred percent (100%) of the actual and reasonable costs and expenses it incurred in connection with remedying the deficiency. Any such demand shall include invoices or other reasonable written evidence of such costs and expenses incurred by the Noticing Party. The City Parcel Owner shall reimburse such amounts to the Managing Owner within sixty (60) days of receipt of such demand, and the Managing Owner shall remit the amounts paid to the Noticing Party. Any amounts not reimbursed within such sixty (60) day period shall accrue interest at the Allowed Rate from the date due until paid. The Noticing Party shall not be liable to the City Parcel Owner for any loss, damage, or liability resulting from or arising in connection with activities of the Noticing Party (or its contractors, representatives and/or agents) on the City Parcel, except to the extent such loss, damage or liability results from the gross negligence or willful misconduct of the Noticing Party (or its contractors, representatives, and/or agents).

4.5 Complete Work with Diligence; Repair Damage. Once commenced, any maintenance, repair, or replacement work undertaken in an Easement Area shall be diligently prosecuted to completion, so as to minimize any interference with the business or intended use of the other Parcel or Developer Subdivision Parcel. The Owner undertaking work shall repair, at its sole cost and expense, any damage caused by such work and restore the affected portion of the Easement Area to a condition that is equal to or better than the condition that existed before the start of work, but in no case below the Project Standards.

4.6 Limits on Exterior Improvements or Alterations. The exterior of the improvements and configuration of the Tower Project or Station Project, including, without limitation, the color, exterior design, and any increase in the height or bulk of the Project shall not be altered without the approval of the other Owner(s), in its reasonable discretion. Notwithstanding the foregoing, any routine repairs and re-painting that is consistent with the original construction of the Project or construction that has been approved pursuant to this Declaration. or any alteration of the exterior of the Tower Project or Station Project required by Applicable Laws, or, in the case of the Station Project, any alteration of the exterior as required by or resulting from any City or equipment requirements, are not subject to the approval of the other Owner(s).

4.7 Improvements to Interior of Project Areas. After the initial Tower Project and Station Projects have been completed, each Owner shall have the right to perform interior improvements, alterations, modifications, or additions to its Parcel which are not visible by the public from the exterior ("**Subsequent Construction**") in accordance with the Project Standards, without any prior written consent of the Managing Owner or other Owner(s) provided that such Subsequent Construction does not (i) alter or in any way adversely impact the structural components of the Project, (ii) alter or in any way adversely impact any of the Shared Elements, or (iii) materially and adversely impact or encroach upon any Easements. This Section shall not govern the original construction of the Project pursuant to the CPEA.

4.8 Approval of Capital Improvements to Shared Elements. Any capital improvement proposed by the Managing Owner to a Shared Element to maintain a Shared Element in the

condition required in this Declaration shall be included in the Shared Expense Budget and shall be subject to the prior written approval of the Owners, which approval shall not be unreasonably withheld or delayed. Any capital improvement to a Shared Element approved by the Owners shall be executed in accordance with the Project Standards.

4.9 Integrated Pest Management Applicable to City Parcel Only. The following provisions are applicable to the City Parcel: Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "**IPM Ordinance**") describes an integrated pest management ("**IPM**") policy to be implemented by all City departments. In performing its duties under this Declaration, Managing Owner may not use or apply or allow the use or application of any pesticides on the City Parcel or contract with any party to provide pest abatement or control services to the City Parcel without first receiving City's written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that may be needed to apply to the City Parcel, (ii) describes the steps that will be taken to meet City's IPM Policy described in Section 300 of the IPM Ordinance, and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Managing Owner's primary IPM contact person with City. Managing Owner will comply, and will require all of its contractors to comply, with the IPM plan approved by City and will comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Managing Owner were a City department. Among other matters, the provisions of the IPM Ordinance: (a) provide for the use of pesticides only as a last resort, (b prohibit the use or application of pesticides on City property, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (c) impose certain notice requirements, and (iv) require Managing Owner to keep certain records and to report to City all pesticide use at the City Parcel by Managing Owner's staff or contractors. If Managing Owner or Managing Owner's contractor would apply pesticides to outdoor areas at the City Parcel, Managing Owner will first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("**CDPR**") and the pesticide application will be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, http://sfenvironment.org/ipm.

4.10 Construction Contracting and Requirements.

(a) All construction at the Project following completion, delivery and acceptance of the Fire Station to City, whether performed by Managing Owner or any Owner, must be performed by licensed contractors; provided, however, that City may use City employees to perform work on the City Parcel so long as such employees are qualified to perform the work. All construction activities performed or authorized by an Owner within the Project will be performed in compliance with all Applicable Laws, shall utilize new materials or reused materials as is commonly found in commercial construction, and shall be performed in a good, safe, worker-like manner. Upon completion of such work, the constructing Owner shall, at its expense, restore any damage to any portion of the Project as a result of such work to a condition equal to or better than that existing prior to commencement of such work. All construction or service contracts for such work must include requirements for commercially reasonable insurance coverages, and such

contractor's insurance must name all Owners as additional insured and/or loss payee, as each Owner's interest may appear, except that City shall not be obligated to provide insurance coverage for work performed by City employees. For any construction of a capital nature or other substantial improvements to a Parcel, the contract must include performance and payment bonds, or comparable security arrangements, in a commercially reasonable amount to be determined by the Managing Owner, and a minimum one-year warranty period. With respect to work to be performed upon Shared Elements: (i) City's Risk Manager shall review and reasonably approve insurance arrangements and terms proposed by the Managing Owner; (ii) City shall review and reasonably approve any performance and payment bond or comparable security arrangements proposed by the Managing Owner; and (iii) Managing Owner will consult with City to ensure that all contracting requirements are met; in particular, all construction work to be performed upon the Shared Elements shall require the payment of prevailing wage amounts and all provisions of California Labor Code Section 1770 et seq. shall be incorporated into every construction contract at every tier.

(b) Each Owner further agrees that any construction activities performed or authorized by it shall not: (i) unreasonably interfere with construction work on any other part of the Project; (ii) unreasonably interfere with the use, occupancy, or enjoyment of any part of the remainder of the Project by any other Owner or its Permittees; or (iii) cause any portion of the Project to be in violation of any Applicable Laws. Except as otherwise provided in this Declaration, each Owner will Indemnify the other Owners from and against all Claims arising out of or resulting from any construction activities performed or authorized by such indemnifying Owners; provided, however, that the foregoing shall not be applicable to either events or circumstances caused by the gross negligence or willful act or omission of such indemnified Owner or its Permittees or anyone claiming by, through, or under any of them.

(c) If any mechanic's lien is recorded against the Parcel or Developer Subdivision Parcel of an Owner, or a claim filed against an Owner is made in lieu of a lien (as City property is not subject to lien), as a result of services performed or materials furnished for the use of another Owner, then the Owner permitting or causing such lien to be so recorded or claim to be made agrees to cause such lien to be discharged within fifteen (15) days after the entry of a final judgment (after all appeals) for the foreclosure of such lien or such claim to be satisfied or withdrawn within fifteen (15) days after such claim is tendered to the Owner permitting or causing the claim to be made. Notwithstanding the foregoing, upon request of the Owner whose Parcel or Developer Subdivision Parcel is subject to such lien or claim, the Owner permitting or causing such lien to be recorded or such claim to be made agrees to promptly cause such lien to be released and discharged of record, or such claim to be withdrawn or satisfied, either by paying the indebtedness which gave rise to such lien or claim or by posting bond or other security as shall be required by law to obtain such release and discharge. Nothing in this Section prevents the Owner permitting or causing such lien to be recorded or the claim to be made from contesting the validity thereof in any manner such Owner chooses so long as such contest is pursued with reasonable diligence. In the event such contest is determined adversely (allowing for appeal to the highest appellate court), such Owner shall promptly pay in full the required amount, together with any interest, penalties, costs, or other charges necessary to release such lien of record or cause such claim to be satisfied, as applicable. The Owner permitting or causing such lien or claim agrees to Indemnify the other Owner and its Parcel from and against all Claims arising out of or resulting from such lien or claim.

5. Assessments.

5.1 Creation of Assessments. The Managing Owner shall prepare the Shared Expense Budget as provided in Section 5.3 below for approval by the Owners. Assessments for the payment of Shared Expenses shall be established based on the approved Shared Expense Budget. Managing Owner shall impose and collect Assessments for the payment of Shared Expenses incurred by the Managing Owner, the fulfillment of the duties and obligations of the Managing Owner set forth in this Declaration, the exercise of the Managing Owner's powers under this Declaration and for reimbursement to the Managing Owner, all as provided in this Declaration. Any Assessment, together with such interest thereon and costs of collection thereof as provided in this Section 5, shall be a charge on each respective Parcel or Developer Subdivision Parcel to which an Assessment relates and shall be secured by a continuing lien on the Parcel or Developer Subdivision Parcel against which each such Assessment is made and shall also be the continuing personal or corporate obligation of the then existing Owner of such Parcel or Developer Subdivision Parcel at the time the Assessment is due; provided, however, that Declarants acknowledge that property owned by governmental entities cannot be subject to a lien, therefore for so long as the City Parcel Owner is the City or other governmental entity, there will be no lien or right to obtain a lien on the City Parcel for the payment of any Assessment..

5.2 Covenant to Pay Assessments. Each Owner covenants and agrees: (a) to pay to the Managing Owner when due all Assessments levied against such Owner or such Owner's Parcel or Developer Subdivision Parcel by the Managing Owner in accordance with the Shared Expense Budget; and (b) to allow the Managing Owner to enforce the payment of the Assessments to the Managing Owner by any means authorized by this Declaration or by Applicable Law.

5.3 Assessments.

(a) Shared Expense Budget.

(i) Each year the Managing Owner shall develop an annual budget that estimates the Shared Expenses ("**Shared Expense Budget**") for the next fiscal year. The Shared Expense Budget shall show, among other things, on a line-item basis, in reasonable detail, all Shared Expenses, any expected surplus or deficit from the prior year, and any existing surplus held by the Managing Owner. The Shared Expense Budget may include amounts for contingencies and amounts deemed necessary or desirable to create, replenish, or add to the Managing Owners funds and Reserves for capital expenditures related to the Shared Expenses, and such other Managing Owner's expenditures as provided in Section 5.3(c) below. For so long as the City is the owner of the City Parcel, the Shared Expense Budget will include the City Operating Reserve and City Deductible and Extraordinary Expense Reserve, as set forth in Section 5.3(e) below.

(ii) The Managing Owner shall deliver the initial draft Shared Expense Budget to each of the Owners on or before seventy-five (75) days prior to Final Closing, as set forth in the CPEA. Each Owner will have forty-five (45) days from the date of receipt to review and approve or disapprove the initial draft Shared Expense Budget. Each Owner is entitled to approve or disapprove a particular Shared Expense within the Shared Expense Budget. If an Owner disapproves the particular Shared Expense, that Owner shall specify the particular Shared

Expense to which the Owner objects, subject to the requirements of this Section. The Owner will work in good faith to resolve any objections to the draft initial Shared Expense Budget.

(iii) Thereafter, the Managing Owner shall deliver the draft Shared Expense Budget for each successive operating year on or before October 15 of each year for review and approval by the Owners and the review procedure set forth in Section 5.3(a)(ii) above shall be followed. If the Owners cannot reach agreement on any draft Shared Expense Budget following the initial operating year, the previous year's Shared Expense Budget shall remain in effect, plus an increase for inflation based on CPI, until the applicable Shared Expense Budget is approved. Unless the Owners fail to approve the Shared Expense Budget, the Managing Owner shall deliver the approved Shared Expense Budget to each of the Owners on or before November 30 of each year. The Managing Owner shall deliver to each Owner written notice of the amount of the Regular Assessment against each such Owner's Parcel or Developer Subdivision Parcel by November 30 of each year. The failure of the Managing Owner to timely deliver a Shared Expense Budget or estimate of the Managing Owner's Regular Assessments shall not affect the validity of any Assessment levied by the Managing Owner, but no Assessments will be due or payable until a new Shared Expense Budget has been approved by the Owners in accordance with this Section 5.3. Whenever a Shared Expense Budget is delivered to the Owners for their approval, the Owners shall not unreasonably withhold, condition, or delay such approval.

(b) Payment of Regular and Special Assessments. Unless otherwise specified in the approved Shared Expense Budget, budgeted Regular Assessments shall be due and payable in monthly installments within thirty (30) days after receipt of an invoice from Managing Owner during any portion of the term of this Declaration during which Assessments are imposed. Regular Assessments, in the reasonable judgment of the Managing Owner, may be made payable in less frequent installments, but no less frequent than annually. Special Assessments shall be due and payable within thirty (30) days of receiving notice thereof and supporting documentation, subject to Section 5.3(e) below. Notwithstanding anything to the contrary contained in this Declaration, there will be no obligation for the payment or expenditure of money by City under this Declaration, and City will not be in default under this Declaration, unless the Controller of the City and County of San Francisco first certifies, under Section 3.105 of City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure.

(c) Project Reserves. The Regular Assessment may include a portion for reserve funds ("**Project Reserves**"), in such amounts as set forth on the approved Shared Expense Budget to meet the anticipated future costs of maintaining, replacing and repairing major components of the improvements that are a part of the Shared Elements. Any Project Reserves that are collected by the Managing Owner shall be deposited into a separate account by the Managing Owner in trust for all Owners from whom such Project Reserves are collected.

(d) Allocation of Regular and Special Assessments Regular Assessments and Special Assessments shall be allocated based on each Owner's or Developer Subdivision Parcel Owner's respective Percentage Share, unless provided otherwise within this Declaration.

(e) City Reserve Funds. While the City is the Owner of the City Parcel, the Shared Expense Budget shall contain line items for City Operating Reserve and City Deductible

and Extraordinary Expense Reserve. The City reserve funds that are collected by the Managing Owner shall be deposited into a separate account by the Managing Owner in trust for City Parcel Owner.

(i) The "**City Operating Reserve**" is a reserve fund used to fund necessary but unanticipated adjustments to the Regular Assessment, as approved by the City Parcel Owner, and to fund any Reimbursement Assessments (defined below). The City will fund the City Operating Reserve in an amount that is not more than ten percent (10%) of budgeted Regular Assessments under the approved Shared Expense Budget.

(ii) The "**City Deductible and Extraordinary Expense Reserve**" is a reserve fund that may be used to fund necessary Special Assessments or other extraordinary expenses under this Agreement, including, but not limited to City's Percentage Share of any insurance deductible in the event of a casualty. The City contemplates funding the City Deductible and Extraordinary Expense Reserve in an amount that is not more than one hundred ten percent (110%) of City's Percentage Share of the deductible under the Property Insurance obtained by Managing Owner under Section 6.1; provided however, that City may elect at any time and from time to time to self-insure its deductible contribution, and will notify the Managing Owner of such election.

(iii) Managing Owner must seek and receive City's prior written approval before applying any funds in the City Operating Reserve or City Deductible and Extraordinary Expense Reserve to Assessments or other costs. If there are not adequate funds in the applicable City reserve fund for the Assessment or other expense, and City is unable to provide such funds to Managing Owner outside of its regular budgeting process, then the unpaid portion of the Assessment or other expense will not be considered overdue or be subject to interest or penalties, and City will not be considered delinquent or in default under this Agreement, but such amount will be included in the upcoming Shared Expense Budget as a City expense.

5.4 Reimbursement Assessments.

(a) The Managing Owner may impose an Assessment individually against any Owner to reimburse the Managing Owner for costs incurred: (a) to repair damage to the Project that the Managing Owner is obligated, or has the discretion, to maintain and repair, to the extent caused by gross negligence or knowing misconduct of the assessed Owner or the assessed Owner's Permittees; or (b) to enforce the Managing Owner's rights under this Declaration against a defaulting Owner (a "**Reimbursement Assessment**"). Reimbursement Assessments shall be due and payable when levied by written notice (with supporting documentation) to the assessed Owner and shall be delinquent if not paid within ninety (90) days after being levied. All costs and expenses incurred by the Managing Owner which are part of a Reimbursement Assessment shall bear interest at the Allowed Rate, from the date delinquent until the date the cost is paid in full by the assessed Owner. Before the Managing Owner undertakes an action that will result in a Reimbursement Assessment being levied against an Owner, the Managing Owner shall provide thirty (30) days' prior written notice (with supporting documentation) to such Owner. If any Owner disputes such action or the imposition of a Reimbursement Assessment within ten (10) business days of receipt of such notice, the disputed matter shall be submitted to mediation pursuant to Section 13.5 of this Declaration. If the Reimbursement Assessment is imposed and

paid before all or a portion of the costs have been incurred by the Managing Owner and the amount paid exceeds the costs incurred, the Managing Owner shall promptly refund the excess to the Owner or credit the amount against any future Assessments, at the Owner's election. If the costs exceed the amounts imposed by the Managing Owner as a Reimbursement Assessment, the Owner shall reimburse the Managing Owner within ninety (90) days after the date of the Managing Owner's notice to the Owner of the amount of the excess costs (with supporting documentation). If payment is not made when due, the payment shall be considered a delinquent assessment and the Managing Owner may enforce it rights for delinquent assessments as set forth in this Declaration.

(b) Notwithstanding anything to the contrary in the foregoing Subsection (a). while City is the owner of the City Parcel, City may authorize any Reimbursement Assessment due from City to be withdrawn from the City Operating Reserve or City Deductible and Extraordinary Expense Reserve, as applicable. If there are not adequate funds in the applicable City reserve fund for the Reimbursement Assessment, and City is unable to provide such funds to Managing Owner outside of its regular budgeting process, then the unpaid portion of the Reimbursement Assessment will not be considered overdue or be subject to interest or penalties, and City will not be considered delinquent or in default under this Agreement, but such amount will be included in the upcoming Shared Expense Budget as a City expense.

5.5 Personal Obligation for Assessments. The Assessments imposed against a Parcel or Developer Subdivision Parcel, together with interest, late charges, collection costs, and reasonable attorneys' fees, shall be the obligation of each Owner of the Parcel or Developer Subdivision Parcel when the Assessment was assessed. The obligation for delinquent Assessments shall pass to such Owner's successors in title whether or not expressly assumed by them; provided, however, that no Assessment shall be construed as a lien against City property, and the foregoing shall not apply to the City or the City Parcel. Except as otherwise set forth in this Declaration, no Owner shall be relieved of its personal obligation to pay such Assessment until such obligation is paid in full; provided, further no Permitted Mortgagee shall be obligated for any such assessments fees or assessments unless and until such Permitted Mortgagee becomes an Owner, and then only during such time as the Permitted Mortgagee is an Owner. No Owner shall be exempt from liability for payment of the Assessments levied against its Parcel by waiver of the use or enjoyment of any the Public Areas or other portions of the Project, or by the abandonment of such Owner's Parcel.

5.6 Enforcement and Remedies. Except as otherwise provided in this Section 5, any installment of an Assessment is delinquent if not paid within thirty (30) days after the Owner's receipt of an invoice therefor. Except as otherwise provided in this Section 5, any delinquent Assessment shall incur additional charges, as set forth in this Section 5, which shall commence and accrue from the date of the delinquency until paid. The Managing Owner has the right and power to bring all actions at law and in equity and exercise such other remedies provided in this Declaration against each Owner that is delinquent in the payment of its Assessments ("**Delinquent Owner**") for the collection of delinquent Assessments and additional charges. The Managing Owner may enforce the obligations of the Delinquent Owner to pay Assessments in any manner provided by law or in equity, and, without any limitation of the foregoing, by commencement and maintenance of a suit at law or equity against any Delinquent Owner, such suit is to be maintained by the Managing Owner. Any judgment rendered in any such action may include the amount of

the delinquency, plus interest at the Allowed Rate, court costs and reasonable attorneys' fees in such amount as the court may adjudge against the Delinquent Owner.

5.7 Payment of Delinquent Assessments Under Protest. An Owner may dispute a delinquent Assessment by paying in full to the Managing Owner the amount of Assessment in dispute, late charges, interest, and all fees and costs claimed due by Managing Owner, and by providing written notice to the Managing Owner that the amount is being paid under protest. Such notice shall be mailed by certified mail not more than thirty (30) days from the notice of delinquent Assessment received from the Managing Owner. Following receipt of such payment and notice, the Managing Owner shall inform the Owner that the Owner may resolve the dispute through mediation in accordance with Section 13.5 of this Declaration, by civil action, or by other dispute resolution procedure available to the Managing Owner.

5.8 Certificate as to Payment. The Managing Owner shall, upon written demand and for a reasonable charge, furnish a certificate signed by an officer of the Managing Owner setting forth whether the Assessments on a specified Parcel have been paid. Such certificate shall be deemed to be conclusive evidence of the payment of such Assessments.

5.9 Audit. Any Owner may, upon advance written notice to Managing Owner and during reasonable business hours, cause an audit of Managing Owner's books and records with respect to the then current calendar year and up to the seven (7) immediately preceding calendar years only to determine the accuracy of its applicable Assessments. Managing Owner shall make all pertinent records available for audit that are necessary for such Owner to conduct its review. If an Owner retains an agent, at such Owner's sole cost and expense, to audit Managing Owner's records, the agent shall be an independent accountant of national standing is not compensated on a contingency basis. Within a reasonable period of time after the records are made available to the Owner, such Owner shall have the right to give Managing Owner written notice (an "**Objection Notice**") stating in reasonable detail any objection to its Assessments. If Managing Owner and the Owner determine that the Shared Expenses for the fiscal year are less than estimated or reported, Managing Owner shall provide the Owners with a refund in the amount of the overpayment by each Owner, and if applicable, adjust the Shared Expense Budget accordingly. Likewise, if Managing Owner and such Owner determine that the Shared Expenses for the calendar year are greater than estimated or reported, the Owners shall pay Managing Owner the amount of any underpayment within thirty (30) days after an invoice reflecting such determination, and if applicable, adjust the Shared Expenses Budget accordingly. Furthermore, if Managing Owner and such Owner determine that the total Assessments paid by such Owner for any full calendar year exceeded the total amount actually owed by such Owner for such calendar year by three percent (3%) or more, Managing Owner shall reimburse such Owner for such Owner's reasonable expenses and fees incurred in conducting the audit of Managing Owner's records. The records obtained by any Owner shall be treated as confidential, except as otherwise required by Applicable Laws.

6. Insurance.

6.1 Managing Owner Insurance. No later than substantial completion of the Fire Station the Managing Owner shall obtain, on behalf of all Owners, commercial general liability insurance and insurance for property damage and other casualty losses ("**Property Insurance**")

covering the Covered Improvements, but not including Parcel Improvements, such as a Parcel's non-structural walls, ceilings, floor coverings, non-structural subfloors, fixtures, and finishes within individual Parcels. The cost of Property Insurance for the Covered Improvements shall constitute a Shared Expense, and the cost of the insurance premium shall be paid by the Owners in their Percentage Shares. Under no circumstances may there be a gap in coverage between the insurance provided during the construction of the Project and the placement of the Property Insurance.

(a) Requirements for Managing Owner's Insurance. All insurance carried by the Managing Owner shall comply with the following requirements and standards:

(i) The Property Insurance carried by the Managing Owner shall be Special Causes of Loss form property insurance, including, earthquake insurance, with reasonable limits as commercially available, on a Replacement Cost (as defined below) basis in an amount equal to the full cost of repairing, rebuilding, and replacing the Covered Improvements, insuring against, loss or damage by theft, fire, windstorm, hail, terrorism (if commercially available, at reasonable rates), explosion, damage from aircraft and vehicles, smoke damage, extended coverage, debris removal, vandalism and malicious mischief, and sprinkler leakage. The amount of coverage for such Property Insurance shall be in the full amount of the full replacement cost (without deduction for depreciation) of the Covered Improvements ("**Replacement Cost**"), except that catastrophic perils may be reasonably sub-limited, and with a deductible not exceeding two hundred fifty thousand Dollars ($250,000) per occurrence except for the peril of earthquake which can be no greater than five percent (5%%) of Total Insured Values such policy deductible amounts being reassessed, if economically feasible as reasonably determined by the Managing Owner and approved by the City Parcel Owner. The amount of coverage must meet any co-insurance requirements of the policy or policies or a waiver of any co-insurance provisions shall be obtained. Such Property Insurance shall include coverage or endorsements for increased construction costs due to changes in building codes, regulations, and similar laws and demolition costs, including, without limitation, an ordinance or law coverage endorsement providing coverages A, B, and C (as defined below) and an ordinance or law — increased period of restoration endorsement. The phrase "**coverages A, B, and C**" as used in this paragraph has the meaning customarily given to the three types of coverage customarily provided under ordinance and law endorsements (i.e., loss to the undamaged portion of the Project, increased demolition cost, and increased cost of construction) provided by insurance companies with a Best's rating of A-VIII or equivalent in their general course of business.

(ii) The Managing Owner shall procure and maintain throughout the term of this Declaration commercial general liability insurance to protect against liability for damages because of bodily injury (including, without limitation, death therefrom) or property damage arising out of or in connection with the use, operation, maintenance, and repair of the Covered Improvements. Such policy of commercial general liability insurance shall be provided on occurrence type forms with per occurrence and annual aggregate limits of not less than twenty-five million Dollars ($25,000,000) per occurrence and deductible or self-insured retention of not more than two hundred fifty thousand Dollars ($250,000) per occurrence (such policy limit and retention amounts being reassessed, if economically feasible as reasonably determined by the Managing Owner. Such policies shall (i) be primary and non-contributing with respect to other insurance, if any, maintained by the insureds thereunder; (ii) provide for the duty to defend (with

defense costs outside policy limits if available at a commercially reasonable cost); (iii) provide a separate limit of twenty-five million Dollars ($25,000,000) for completed operations coverage for at least the duration of all statutory limits on actions for property damage (including without limitation Section 337.15 of the California Code of Civil Procedure); and (iv) not exclude coverage for residential construction. The coverage required hereunder may be provided under a combination of primary, excess, master, or portfolio policies, provided that all such policies satisfy the requirements of this subparagraph.

(iii) The insurance may contain reasonable deductibles or self-insured retentions that conform to the insurance standards reasonably established by the Managing Owner, except as otherwise set forth in this Section 6.1.

(iv) All policies of insurance, to the extent possible, shall provide or be endorsed to provide that such policies may not be cancelled or substantially modified without at least thirty (30) days' prior written, notice to loss payees, including all Owners and Permitted Mortgagees, except that in the event of non-payment of premium, ten (10) days' prior written notice shall be provided.

(v) The Property Insurance policy shall contain, to the extent available on commercially reasonable terms as may be determined by the Managing Owner, the following endorsements or their equivalents: equipment breakdown (to the extent applicable), ordinance or law, replacement cost, and such other endorsements-as may customarily be obtained with respect to properties similar in construction, location and use, as may be determined by the Managing Owner.

6.2 Owner's Insurance.

(a) Required Insurance Policies. Each Owner shall maintain insurance coverage as set forth in this Section as well as property insurance for the portion of the Easement Areas owned by each Owner. Each Owner shall maintain commercial general liability insurance with respect to its activities in the Project and its respective Parcel or Developer Subdivision Parcel, as applicable. Nothing stated in this Section is intended to modify the indemnity or liability allocations of this Declaration.

(b) Property Insurance. Each Owner shall carry Property Insurance for non-structural improvements, fixtures and finishes installed within its respective Parcel or Developer Subdivision Parcel (as applicable), including but not limited to non-structural walls and ceilings, doors, drywall, floor coverings, non-structural subfloors, elevators, fixtures and finishes within its Parcel, and Utility Facilities within or serving the Parcel or Developer Subdivision Parcel (as applicable) ("**Parcel Improvements**"), with coverages in such Owners sole and absolute discretion. Any such commercial property insurance policies shall provide waivers of subrogation in favor of the other Owners and all Permitted Mortgagees.

(c) Environmental Liability Insurance. Each Owner shall carry Environmental Liability Insurance with limits of no less than $5,000,000, including coverage for first party clean up costs as well as third-party liability resulting from the actual or alleged release of pollutants.

(d) City Self-Insurance. Notwithstanding the foregoing, City may elect to self-insure in accordance with its self-insurance program in lieu of the commercial insurance coverages set forth in this Section 6.2.

6.3 General Insurance Requirements.

(a) All insurance policies required under this Declaration shall be written by companies authorized to do business in California which are governed by the rate-setting regulatory agency having jurisdiction in San Francisco County and which have a "*General Policyholders Rating*" of at least A-VIII as set forth in the most current issue of the Best's Insurance Guide (or have an equivalent rating from another industry-accepted rating agency).

(b) Annually, the Managing Owner shall deliver to it a certificate of insurance, signed by a broker or agent having authority to bind coverage, reflecting the maintenance of the required coverages, the issuing insurers, policy types, policy numbers, policy periods, and amounts of coverage, annotated, if commercially reasonable, to reflect a modified cancellation provision prohibiting cancellation by the insurer after the policy has been in effect for thirty (30) days except for nonpayment of premium, fraud or material increase in risk. Upon request of an Owner, Managing Owner will provide the requesting Owner will a full and complete copy of the insurance policies carried by Managing Owner.

(c) For all insurance required under Section 6.2, the Owners shall have the right, every five (5) years commencing after the Effective Date, to review the types and limits of insurance coverage required under this Declaration for the Tower Project and for the Station Project and to make reasonable adjustments, provided that such types and limits shall not exceed that typically carried by the owner and operator of a comparable project meeting the Project Standards.

(d) For all insurance required under Section 6.1, the Managing Owner and the other Owners shall have the right, every five (5) years commencing after the Effective Date, to review the types and limits of insurance coverage required under this Declaration for the Covered Improvements and to make reasonable adjustments, provided that such types and limits shall be commercially reasonable for comparable projects in San Francisco.

7. Casualty; Restoration; Allocation of Insurance Proceeds.

7.1 Casualty Insured by Owner. Subject to Section 7.4, in the event any of the improvements within a Parcel are damaged by an insured Casualty under an Owner's Property Insurance, subject to the requirements of any Permitted Mortgagee having a lien on such Parcel or Developer Subdivision Parcel under Section 16.17 below, the Owner of such Parcel or Developer Subdivision Parcel shall promptly obtain any required regulatory permits or approvals and remove the debris resulting from such event, and within a reasonable time, not to exceed ninety (90) days from date of receipt of any required regulatory permits or approvals, shall restore its Parcel or Developer Subdivision Parcel to a clean, safe and sightly condition such that the damage does not have a material adverse effect (other than in de minimis ways) on any other Parcel or Developer Subdivision Parcel and in accordance with the Project Standards. Notwithstanding the foregoing, if a restoration cannot reasonably be completed within ninety (90) days, then it shall not be

considered a default if the restoration is commenced within the ninety (90) day period and diligently prosecuted to completion.

7.2 Casualty Insured by Managing Owner.

(a) Subject to Section 7.4, upon the occurrence of a Casualty affecting the Covered Improvements as insured by the Managing Owner pursuant to Section 6.1, the Managing Owner shall coordinate with City for the filing and adjustment of all claims arising under the existing insurance policies. City may permit Managing Owner to represent the interests of all Owners in such proceedings, or City may represent its interest jointly with Managing Owner, as City may elect. Subject to the availability of Managing Owner funds and/or Shared Elements Insurance Proceeds, the Managing Owner shall take such actions as are necessary to complete demolition of any remaining portions of damaged improvements (if necessary), remove all debris from the Property as a result of the casualty, erect necessary structures to preclude unauthorized access to the damaged portions of the Project, remove all safety hazards at the Property as a result of the casualty, cause the Project to be reasonably safe and attractive (and as reasonably practicable, in accordance with Project Standards, where applicable), and continue commercial general liability insurance in accordance with Article 6 to protect the interests of the Owners for such period of time as the Managing Owner reasonably deems necessary (collectively, the "**Clean-Up Work**"). All costs and expenses actually incurred by the Managing Owner in connection with the Clean-Up Work shall be paid from funds collected by the Managing Owner through Assessments or from Shared Elements Insurance Proceeds collected in connection with such Casualty.

(b) The Managing Owner shall retain a Construction Manager and direct the Construction Manager and any Restoration Contractors in connection with the Restoration Work in accordance with Project Standards. Any Restoration Work that occurs or is required on the City Parcel must conform to the standards required by the City Parcel Owner for the restoration of the Station Parcel and City must approve all Restoration Contractors, which must comply with all requirements applicable to work done on City property. Notwithstanding the first sentence of this paragraph, the Owners shall have the right to approve the plans and specifications for the Restoration Work solely for purposes of ensuring that the Restoration Work will result in the Project being restored to a condition at least equal to, and with the same general appearance as, that existing immediately prior to the Casualty, or to such other condition and appearance as the affected Owner(s) may agree is consistent with Project Standards and that the City Parcel Owner may confirm is consistent with its restoration requirements. Subject to Section 7.4 and Section 16.17, all Shared Elements Insurance Proceeds that are disbursed to Managing Owner shall be applied by the Managing Owner to the Restoration of the damaged or destroyed Covered Improvements.

(c) Subject to Section 16.17, if the Shared Elements Insurance Proceeds exceed the amount actually required for Restoration of the Covered Improvements, then the excess Shared Elements Insurance Proceeds shall be paid to or retained by the Managing Owner as Project Reserves as provided in Section 5.3(c). In the event of any dispute between the Owners that the Restoration has been completed, the excess Shared Elements Insurance Proceeds shall be held in trust for Restoration purposes until the dispute has been resolved according to the dispute resolution provisions of this Declaration.

7.3 Repair Where Funds Not Sufficient. If the Shared Elements Insurance Proceeds and other funds available to the Managing Owner for effectuating the required Restoration of the Covered Improvements or the other portions of the Project that the Managing Owner is obligated to Repair under this Declaration are not adequate to complete such Restoration and Repair in accordance with Project Standards and City Parel requirements, the Managing Owner shall issue a Special Assessment for the costs of such Restoration and Repair that are not so covered by Shared Elements Insurance Proceeds.

7.4 Total Casualty. Notwithstanding anything to the contrary contained in this Declaration, in the event of a Total Casualty, the Owner(s) of the Parcel (including, if the Developer Parcel is legally subdivided, all Developer Subdivision Parcel Owners) affected by the casualty may elect not to perform the Restoration Work or rebuild the improvements located on the affected Parcel. If the Owner(s) of the Parcel elect not to rebuild the affected improvements, then this Declaration shall terminate, and all Shared Elements Insurance Proceeds representing the cost of reconstruction of the affected Covered Improvements on each of the Parcels as a percentage of the total cost of reconstruction of the Covered Improvements for each Parcel as reasonably determined by the Managing Owner shall be paid to each Owner. If the Developer Parcel is affected by the Total Casualty and has been legally subdivided, at the time of election to perform the Restoration Work, then the decision whether to proceed with such Restoration Work shall be made by the Developer Subdivision Parcel Owners who own a majority of the total improved and covered area of the Developer Parcel.

7.5 Selection of Insurance Trustee.

(a) Within ten (10) business days following the occurrence of a casualty for which Shared Elements Insurance Proceeds are payable, any Owner may elect, but is not obligated to do so, by sending written notice to the other Owner(s) to appoint an Insurance Trustee. Within five (5) business days after such election, Owners shall jointly and unanimously select an Insurance Trustee to receive and disburse such proceeds subject to and in accordance with the further provisions of this Article 7. If the Owners are unable to agree on an Insurance Trustee within such ten (10) business day period, then the Insurance Trustee shall be selected by a mediator in accordance with the application provisions of Section 13.5. If no Owner elects to appoint an Insurance Trustee, then the Managing Owner will act as Insurance Trustee for purposes of this Section 7.

(b) To the extent the Managing Owner or any Owner (or its designee, if other than the Insurance Trustee) receives any Shared Elements Insurance Proceeds for the Restoration of Covered Improvements, such Shared Elements Insurance Proceeds shall promptly be paid over to and held in trust by the appointed Insurance Trustee, for disbursement as allowed under this Section 7.

(c) All Shared Elements Insurance Proceeds shall then be paid out by the Insurance Trustee for Restoration Work, as applicable, as stages of the Clean-Up Work or the Restoration Work are completed. Until required to disburse any Shared Elements Insurance Proceeds pursuant hereto, the Insurance Trustee shall hold all Shared Elements Insurance Proceeds received by it in a separately held FDIC-insured interest-bearing account. If interest is earned or

accrued on such funds, then such interest shall be considered part of the Shared Elements Insurance Proceeds.

(d) The Insurance Trustee shall have authority to perform the following services:

(i) establishment of an escrow and disbursement account for disbursement of Shared Elements Insurance Proceeds for the Restoration Work.

(ii) disbursement of Shared Elements Insurance Proceeds to the Construction Manager or Restoration Contractors for the Restoration Work to perform in accordance with Project Standards and City requirements, as applicable; provided, that, prior to any such disbursement, the Insurance Trustee shall have received (A) from the Restoration Contractor, a written disbursement request, and a written authorization from the Construction Manager to release the requested disbursement; (B) unconditional lien waivers, or if the invoices have not been paid, conditional lien waivers; all lien waivers must meet the requirements of California Civil Code Section 8124 and be in the form prescribed by California Civil Code Sections 8132, 8134, 8136, and 8138, as applicable, and be executed by each subcontractor and material supplier; and (C) such other written authorizations as the Managing Owner or City determines are required.

(iii) disbursement of Shared Elements Insurance Proceeds to itself to reimburse itself for reasonable fees and costs for the services authorized by this Section 7.5; provided, that, upon seventy-two (72) hours' notice and a written request of the Managing Owner, or any Owner, shall provide the requesting party with complete access to any and all accounting and other records related to the Insurance Trustee's services that such person or entity may reasonably request.

7.6 Condemnation.

(a) If all or substantially all of the Project encompassing or adversely affecting material parts or use of the Developer Parcel (or the Developer Subdivision Parcels, if applicable) and the City Parcel is taken by condemnation, pursuant to the power of eminent domain, or sold in avoidance of such condemnation or other proceedings (each, a "**Taking**") and any remaining portion of the Project cannot reasonably be used in the manner and for the purposes originally intended and/or cannot be repaired or restored to such condition in a reasonable time to be so used as a result of such Taking, as reasonably determined by the Managing Owner after reasonable consultation with all other Owners in the Project at the time of determination solely about the material effect of the Taking on such Parcels (each, a "**Total Taking**"), then this Declaration shall terminate on the date of such Total Taking. If a Total Taking occurs, the total amount of the award or awards for the Total Taking, less the cost of the determination of the amount thereof (the "**Condemnation Proceeds**"), shall be paid to the Owners based on the extent the Parcel is affected by the Total Taking as determined by appraisal of each of the Parcels by a licensed and qualified appraiser selected by the Managing Owner and approved by the owner of the City Parcel or by the condemnation court or condemnation commissioner or other body authorized to make such award (collectively, the "**Condemnation Authority**"). If the Managing Owner and the City as City Parcel Owner disagree whether the City Parcel may be used in the manner and for the purposes

originally intended and/or cannot be repaired or restored to such condition in a reasonable time to be so used as a result of such Taking, then the determination of the City will govern.

(b) If a portion of the Project is Taken but, it is less than a Total Taking, then this Declaration shall not terminate or be affected in any way, the affected Owner(s) shall, at their sole cost and expense, repair, alter, and restore the remaining portion of the Project to their former condition to the extent that the same may be feasible. The Condemnation Proceeds shall be paid to the affected Owner(s) in amounts determined in the same manner as provided in the case of Total Taking in Section 7.6(a) above. If a Taking of the character referred to in this Section 7.6(b) occurs, this Declaration shall terminate as to the portion of the Project so Taken only if the portion so Taken is not burdened by or benefitted from any easements of support, access, or Shared Elements granted by this Declaration, in which case this Declaration shall not terminate as to such portion and will continue to run with the land acquired by any successor to the extent not prohibited by law.

(c) If the whole or any part of the Project, or of any Owner's interest in the same, is Taken for temporary use or occupancy, then Section 7.6(a) and (b) shall not apply, and the Owners shall perform and observe all of the terms, covenants, conditions, and obligations upon the part of the Owner to be performed and observed under this Declaration, as though such taking had not occurred, except only to the extent that the Owner may be prevented from so doing pursuant to the terms of the order of the condemning authority. If some, but not all, of the Owners are affected by the temporary Taking, then the affected Owners will be entitled to receive and retain the entire amount of the Condemnation Proceeds for the Taking, whether paid by damages, rent, or otherwise. If all Owners are equally affected by the temporary Taking, then each Owner shall be entitled to receive (and retain) the entire amount of its Percentage Share of the Condemnation Proceeds for the Taking, however paid. If all Owners are affected by the Taking, but not equally, then the Owners will equitably apportion the Condemnation Proceeds in proportion to the effect of the Taking on each Owner's Parcel or Developer Subdivision Parcel, as applicable. If the Owners are unable to agree on an equitable apportionment, then the matter will be referred to dispute resolution as provided under Section 13.5 below.

(d) Each Owner and its Permitted Mortgagee shall have the right to participate in any condemnation proceeding for the purpose of protecting their rights under this Section 7.6 to the extent the documents relating to any such Permitted Mortgage grant to the holder of the same the right to so participate.

(e) If an Owner assigns to any Permitted Mortgagee any of its rights to Condemnation Proceeds under Section 7.6(a), then the other Owners shall recognize such assignment and consents to the payment of such Condemnation Proceeds to such Permitted Mortgagee.

8. Signage. Other than signs as otherwise provided in this Declaration, no signs shall be displayed to the public view on any building or on any portion of the Project. Signs shall conform to all Applicable Laws, including applicable City ordinances. Each Owner shall be permitted to signage which is consistent with any applicable entitlements; permitted signage shall be in accordance with Project Standards and approved by the Managing Owner, such approval not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing or anything to the

contrary contained in this Declaration, (a) the Owner of the Tower Project may install such signage and displays on the Project other than on the Station Project in substance and style that is in keeping with the nature of the Tower Project, in accordance with the Project Standards and in compliance with the requirements of the City, and without impairing the use, visibility, or operation of the Station Project; and (b) the Owner of the Station Project may install signage and displays on the Station Project as desired by City, in accordance with the Project Standards.

9. Taxes and Assessments; Compliance. Subject to any available real property tax exemptions, each Owner shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Parcel or Developer Subdivision Parcel and its use of the Easement Areas. Developer 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 under this Declaration is withheld, then City will not be considered delinquent or in breach or default under this Declaration, and the Treasurer and Tax Collector will authorize release of any payments withheld under this paragraph, without interest, late fees, penalties, or other charges, upon the payee coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

10. No Rights in Public; No Implied Easements. This Declaration is for the exclusive benefit of the Declarants and the Owners of the Parcels, and not for the benefit of any other person nor shall it give rise to any claim or cause of action by any other person, and this Declaration shall not be deemed to have conferred any rights upon any person except the Declarants and the Owners. Nothing in this Declaration shall be deemed a dedication of any portion of the Easement Areas to or for the benefit of the general public. No easements, except those expressly set forth in Section 2.1, shall be implied or granted by this Declaration. There are no third-party beneficiaries to this Declaration except for Permitted Mortgagees.

11. Security. Each Owner shall be responsible, to the extent it elects to provide same, for the provision and maintenance of security for its Parcel or Developer Subdivision Parcel; provided, however, that if (a) an Owner elects to provide security to its Parcel or Developer Subdivision Parcel, such security may not interfere in any way with the security provided at the City Parcel or any operations of the City Parcel; and (b) City Parcel Owner elects to provide security to its Parcel, such security may not unreasonably interfere with any security being provided to the Developer Parcel or Developer Subdivision Parcel.

12. General Cooperation. Declarants and each Owner agree to cooperate with one another in good faith to expeditiously implement this Declaration and the Easements, and to undertake and complete all actions or proceedings reasonably necessary or appropriate to ensure that the Easements remain operational as intended by this Declaration.

13. Remedies and Enforcement.

13.1 Enforcement. In the event of a breach or threatened breach by the Developer Parcel Owner, any or Developer Subdivision Parcel Owner, or its Permittees of any of the terms, covenants, restrictions, or conditions of this Declaration, the City Parcel Owner shall be entitled

to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including, without limitation, payment of any amounts due and/or specific performance. In the event of a breach or threatened breach City Parcel Owner (or any portion thereof) or its Permittees of any of the terms, covenants, restrictions, or conditions of this Declaration, the Developer Parcel Owner or Developer Subdivision Parcel shall not be entitled to injunctive relief if it would impede, impair, reduce, or materially and adversely impact the ongoing full operation of the Station Project, but will be entitled such other available legal and equitable remedies from the consequences of such breach, including, without limitation, payment of any amounts due and/or specific performance. The only parties to this Declaration are City and Developer (and any successor Owners). This Declaration is not intended, and shall not be construed, to benefit or be enforceable by any other person or entity other than Permitted Mortgagees as set forth in Section 16.17.

13.2 Meet and Confer Process. Before sending a notice of default in accordance with Section 13.3 the Declarants or Owner that asserts that another Owner has failed to perform or fulfill its obligations under this Declaration shall first attempt to meet and confer with the defaulting Owner to discuss the alleged failure and shall permit such defaulting Owner a reasonable period, but not less than twenty (20) days, to respond to or cure such alleged failure; provided the meet and confer process shall not be required if a delay in sending a notice under Section 13.3 would impair, prejudice or otherwise adversely affect Declarants or an Owner under this Declaration.

13.3 Default. Except as otherwise expressly provided in this Declaration, the following shall constitute a "**Default**" under this Declaration: (i) the failure to make any payment within sixty (60) days following notice that such payment was not made when due and demand for compliance; and (ii) the failure to perform or fulfill any other material term, provision, obligation, or covenant of this Declaration and the continuation of such failure for a period of sixty (60) days following notice and demand for compliance. Notwithstanding the foregoing, if a failure cannot reasonably be completed within sixty (60) days, then it shall not be considered a Default if a cure is commenced within said sixty (60-) day period and diligently prosecuted to completion thereafter. Further, any failure hereunder shall not be considered a Default if such failure occurs as the result of a Force Majeure event. Any notice of default given pursuant to this Section 13.3 shall specify the nature of the alleged failure and the manner in which the failure may be cured.

13.4 Remedies. Following a Default, the remedies available shall include specific performance of this Declaration in addition to any other remedy available at law or in equity, and all remedies shall be cumulative, but (i) shall not include termination of this Declaration, (ii) any damages remedy shall be limited to actual damages only (and not consequential, punitive, or special damages, each of which are hereby expressly waived), and (iii) (A) subject to (C) of this subclause (iii), the City Parcel Owner may initiate a self-help cure if it determines that the self-help is required for its continued use of the Easements, (B) subject to (C) of this subclause (iii), the Developer Parcel Owner or Developer Subdivision Parcel Owner may initiate a self-help cure if it determines that the self-help is required for its continued use of the Easements, particularly including any easement of support; and (C) as a condition to exercising any self-help remedy, each Owner shall follow the prior notice procedures and other conditions to entry in the absence of an emergency and the same applicable to conditions of emergency set forth in Section 2.2(d) above; and (D) the defaulting Owner under (A) or (B) of this subclause (iii) will reimburse the other

Owner the actual costs of such self-help cure immediately upon demand accompanied by reasonable supporting documentation. If City is the defaulting Owner, then any demand for reimbursement must be made through the Managing Owner in the manner and subject to the timing set forth in Section 4.4(b) above. If the amount of the reimbursement is disputed, then the parties may proceed to dispute resolution under Section 13.5 below.

13.5 Resolution of Disputes. If a dispute arises, at any time before the date that is ten (10) days following delivery of a default notice under Section 13.3, any Owner may initiate non-binding mediation, or proceed directly to judicial remedy. The Owner may request the non-binding mediation by delivering a written request for mediation ("**Mediation Request**") to the other Owner(s). The Mediation Request must include a summary of the issue in dispute and the reasons why the requesting party believes that the other party(ies) is in default, together with any backup information or documentation it elects to provide. Within fifteen (15) days after receipt of the Mediation Request, if the dispute has not been resolved, any party may submit the matter for mediation to Judicial Arbitration and Mediation Services ("**JAMS**") in San Francisco. The parties will cooperate with JAMS and with one another in selecting a mediator from a JAMS panel of neutrals and in scheduling the mediation proceedings as quickly as feasible. The parties agree to participate in the mediation in good faith. No party may commence or if commenced, continue, a civil action with respect to the matters submitted to mediation until after the completion of the initial mediation session. The parties will each pay their own costs and expenses in connection with the mediation, and the party that requested mediation will pay all costs and fees of the mediator. Without limiting the foregoing, the provisions sections 1115 through 1128 of the California Evidence Code, inclusive, will apply in connection with any mediation. Any statute of limitations for bringing or maintaining a cause of action shall be tolled during any mediation under this Section. If JAMS does not exist, the parties may use AAA or a similar mediation service in San Francisco.

13.6 No Termination. Notwithstanding any provision of this Declaration to the contrary, no breach under this Declaration shall (a) entitle an Owner to cancel, rescind, or otherwise terminate this Declaration, or (a) defeat or render invalid the lien of any Permitted Mortgage, and the easements, covenants, conditions and restrictions of this Declaration shall be binding upon and effective against each Owner, including those who acquire title by foreclosure, trustee's sale, or otherwise.

13.7 Litigation Expenses.

(a) General. If Declarants or any Owner brings an action or proceeding (including any cross-complaint, counterclaim, or third-party claim) by reason of a default, or otherwise arising out of this Declaration, the prevailing party in such action or proceeding shall be entitled to its costs and expenses of suit, including but not limited to reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment. "Prevailing party" within the meaning of this Section 13.7 shall include without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action.

(b) Appeal. Attorneys' fees under this Section shall include reasonable attorneys' fees on any appeal, and, in addition, a party entitled to attorneys' fees shall be entitled to all other reasonable costs and expenses incurred in connection with such action.

(c) Fee Award for City's Attorneys. For purposes of this Declaration, reasonable fees of attorneys of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with an equivalent number of hours of professional experience in the subject matter area of the law for which City's counsel's services were rendered who practice in the City and County of San Francisco, State of California, in law firms with approximately the same number of attorneys as employed by the Office of City Attorney.

13.8 No Personal Liability. Notwithstanding anything to the contrary in this Declaration, no individual person, including any investor, member, equity holder, board member, director, commissioner, officer, employee, official or agent of an Owner, shall be personally liable in the event of any default under this Declaration.

14. Tropical Hardwood and Virgin Redwood Restrictions; Project Maintenance. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code. Owners shall not import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code. Managing Owner shall use commercially reasonable efforts to maintain the Project in compliance with Applicable Laws.

15. Term. The easements, covenants, conditions, and restrictions contained in this Declaration shall become effective on the date of Recordation of this Declaration and shall remain in full force and effect thereafter in perpetuity (unless terminated pursuant to Section 7.4 or by agreement of all then record Owners and all Permitted Mortgagees).

16. Miscellaneous.

16.1 Noise Reduction. Acoustical privacy is in the mutual interest and benefit of all Owners and Permittees. The Managing Owner and City Parcel Owner shall have the right, but not the obligation, to prepare reasonable rules and regulations regarding sound and noise reduction use requirements for the Parcels, for approval by all Owners. It shall be the responsibility of each Owner to cause its Permittees to abide by the sound and noise reduction requirements set forth in this Declaration, and/or otherwise established by the approved rules. The Owners and the Managing Owner acknowledge that a fire station will be operated on the Project and that common and usual sounds and noise necessary to such operations (including, but not limited to, fire trucks, training, events, and alarms incident to an emergency or drill) may be detectable at the Project and are expected and permitted under this Declaration. Unusual noise not associated with the normal course of operation as a fire station shall be subject to any applicable Project rules.

16.2 Assessments and Improvement Districts. Without written consent of the Owners, Managing Owner shall not cause or consent to the formation of any assessment district,

improvement district, community facilities district, special district, special improvement district, governmental district, or other similar district (any of the foregoing, a "**District**") not in effect on the date of this Declaration; nor shall Managing Owner cause or otherwise consent to the levying of special taxes or assessments against the Parcels (including any or Developer Subdivision Parcels) and Project by any such District not in existence on the date hereof or the future implementation of which has not been disclosed to and approved in writing by the Owners.

16.3 Amendment. The Owners agree that, subject to any other provision of this Declaration requiring the written consent of Permitted Mortgagees, the provisions of this Declaration may be modified or amended, in whole or in part, or terminated, only by unanimous consent of the Owners, evidenced by a Recorded document that has been fully executed and acknowledged by the Owners. The City's agreement to a material amendment, as determined by the Director of Property (i.e., any amendment that materially increases the City's obligations or reduces its benefits), shall require the prior approval of the City's Board of Supervisors; all other amendments may be approved and executed by the Director of Property.

16.4 Consents. Wherever in this Declaration the consent or approval of an Owner is required, unless expressly provided otherwise, such consent or approval shall not be unreasonably withheld, conditioned, or delayed; provided, however, that withholding of consent or approval shall not be considered unreasonable in the case of the City Parcel where use or operation of the Station Project or public health and safety would be materially and adversely affected. Whenever this Agreement requires or permits the giving by the City of its consent or approval, the Director of Property shall be authorized to provide such approval, except as otherwise provided by Applicable Laws. Any request for consent or approval shall: (a) be in writing; (b) specify the section of this Declaration that requires that the notice be given or that the consent or approval be obtained; and (c) be accompanied by such background information as is reasonably necessary to make an informed decision. The consent of an Owner under this Declaration, to be effective, must be in writing.

16.5 No Waiver. No waiver of any default or any failure to perform shall be implied from any omission by the other party to take any action with respect to such default or failure. Any waiver must be express, in writing, and signed by the party making the waiver.

16.6 No Agency. Nothing in this Declaration shall be deemed or construed by any party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

16.7 Covenants to Run with Land. It is intended that each of the Easements, covenants, conditions, restrictions, rights and obligations set forth in this Declaration shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any interest therein, and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

16.8 Grantee's Acceptance; Managing Owner Appointment and Succession; Recording.

(a) Any grantee, assignee, tenant, permittee, licensee or other person or entity accepting any interest in any Parcel or any portion thereof, will take such interest subject and

subordinate to this Declaration and each and all of the Easements, covenants, conditions, restrictions, and obligations contained in this Declaration. By acquiring an interest in a Parcel or portion thereof, each such grantee, assignee, tenant, permittee, licensee or other person or entity shall for itself and its successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth in this Declaration with respect to the property so acquired.

(b) The initial Managing Owner shall be the Developer Parcel Owner or the Owner of the Developer Subdivision Parcel with the largest in total improved and covered area, as applicable. The initial Managing Owner shall continue to serve as the Managing Owner until it, directly or indirectly through an affiliate, no longer owns any interest in the Project. At such time, the successor owner of the Developer Parcel, or of the largest of the Developer Subdivision Parcel in total improved area, shall become the successor Managing Owner as provided in a written agreement as provided in Subsection (d) below.

(c) Upon the written request of any Owner, the current Managing Owner shall provide within thirty (30) days of receipt a written notice to the requesting Owner, a list of then-current Owners and their respective Percentage Shares, and a designation of the Owners who are then eligible for appointment as the Managing Owner. In the absence of objection to the notice from the current Managing Owner or election of the eligible Owner not to become the successor Managing Owner, within fifteen (15) days from receipt of the notice by the Owners, the current managing Owner shall announce in writing the name and contact information for the Owner that shall become the successor Managing Owner as provided in this Declaration.

(d) Any successor Managing Owner must execute a written assumption agreement with the current Managing Owner under which the successor Managing Owner assumes all obligations of the office of Managing Owner under this Declaration. The current Managing Owner will not be relieved of its duties and obligations under this Declaration until and unless such assumption agreement has been executed. In the event that an Owner eligible to become a Managing Owner declines to serve, the right to serve as a successor Managing Owner shall pass to the next Owner who meets the Managing Owner eligibility requirements to be determined without consideration of the ownership percentage of the declining Owner. Unless and until a new Managing Owner is appointed and an assumption agreement is executed, the then current Managing Owner will continue to serve as the Managing Owner. Any such assignment and assumption agreement must be recorded in order to be valid.

16.9 Severability. Each provision of this Declaration and the application thereof to the Parcels (and subdivision thereof) are independent of and severable from the remainder of this Declaration. If any provision of this Declaration is held to be invalid or unenforceable or to not run with the land, such determination shall not affect the validity or enforceability of the remainder of this Declaration. Ownership of all of the Parcels by the same person or entity shall not terminate this Declaration nor in any manner affect or impair the validity or enforceability of this Declaration.

16.10 Conflicts. If there is conflict or inconsistency between the provisions of this Declaration and any other documents created in connection with the creation of the Project, this Declaration shall control.

16.11 Time of Essence. Time is of the essence for all terms and provisions of this Agreement.

16.12 Entire Agreement. This Declaration contains the complete understanding and agreement of the Declarants with respect to all matters referred to in this Declaration, and all prior representations, negotiations, and understandings are superseded by this Declaration.

16.13 Governing Law; Venue; Interpretation. The laws of the State of California shall govern the interpretation, validity, performance, and enforcement of this Declaration. All rights and obligations of the parties under this Declaration are to be performed in the City and County of San Francisco, and the City and County of San Francisco shall be the venue for any legal action or proceeding that may be brought, or arise out of, in connection with or by reason of this Declaration. The parties have mutually negotiated the terms and conditions of this Declaration and its terms and provisions have been reviewed and revised by legal counsel for both parties. Accordingly, no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Declaration. The captions of the paragraphs and subparagraphs of this Declaration are for convenience only and shall not be considered or referred to in resolving questions of construction.

16.14 Notices. Notices or other communication under this Declaration shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. A notice or communication shall be deemed given upon receipt or refusal to accept delivery. Declarants may change from time to time their respective addresses for notice by giving notice to the other Owners. Subject to the paragraphs below, the notice addresses of the Declarants are:

If to Developer: EQX JACKSON SQ HOLDCO LLC
c/o The Related Companies, L.P.
60 Columbus Circle
New York, NY 10023
Attention: General Counsel

With a copy to: The Related Companies, L.P.
44 Montgomery
San Francisco, CA 94104
Attention: Gino Canori
Email: gcanori@related.com

With a copy to: Greenberg Traurig, LLP
18565 Jamboree Road, Suite 500
Irvine, California 92612
Attention: Bruce Fischer, Esq.
Email: fischerb@gtlaw.com

If to 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: Washington & Sansome Fire Station
With a copy to:	Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4682 Attn: Real Estate & Finance Team Re: Washington & Sansome Fire Station

If notice is returned or not deliverable at the last address given by either Declarant, then the sending party may send a notice to the latest address on record in the San Francisco Tax Assessor's Office for tax bills to that Declarant.

If the Developer Parcel is further subdivided, then any and all notices or communications from a Developer Subdivision Parcel Owner to the City Parcel Owner, or vice versa, must be made through the Managing Owner, and notices or communication so given will be deemed received when actually received or refused by the City Parcel Owner or Developer Subdivision Owner, as applicable.

16.15 Estoppel Certificates. The Managing Owner, within twenty (20) days following its receipt of a written request from any Owner or any Permitted Mortgagee, shall from time to time provide the requesting Owner, or Permitted Mortgagee, a certificate stating: (a) to the best of Managing Owner's knowledge, whether the requesting Owner is in default or violation of this Declaration and if so identifying such default or violation; (b) that this Declaration is in full force and effect and identifying any amendments to the Declaration as of the date of such certificate; and (c) the amount of Assessments, if any, to which the Owner's Parcel is subject. The other Owners will reasonably cooperate with Managing Owner to provide any information Managing Owner may require to complete the certificate.

16.16 Bankruptcy. Each Owner's obligations under this Declaration are not dischargeable in bankruptcy. In the event of any bankruptcy affecting any Owner, the parties agree that this Declaration shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

16.17 Permitted Mortgagee Protections.

(a) Right to Encumber. Each Owner shall have the right to encumber its interest in its respective Parcel by any Permitted Mortgage, provided that such Permitted Mortgage is subject to and subordinate to this Declaration.

(b) Breach Will Not Defeat Lien. The breach of any of the provisions of this Declaration shall not defeat or render invalid the lien of any Permitted Mortgage of a Parcel or any portion thereof; provided that all provisions of this Declaration shall be binding and effective

against any third party who acquires a Parcel or any portion thereof by foreclosure, deed in lieu of foreclosure, trustee's sale, or otherwise.

(c) Prior Claims and Obligations. No Permitted Mortgagee shall have any liability beyond its interest in a Parcel or a portion thereof acquired by it through enforcement of its Permitted Mortgage for the performance or payment of any covenant, liability, warranty, or obligation under this Declaration and each Owner agrees that it shall look solely to the interests of such Permitted Mortgagee in such Parcel for payment or discharge of any such covenant, liability, warranty, or obligation.

(d) Notice to Permitted Mortgagees. The Permitted Mortgagee under any Permitted Mortgage encumbering the entire Developer Parcel, or the entire City Parcel shall be entitled to receive notice of any default by any Owner hereunder if such Permitted Mortgagee delivers a written notice to each Owner specifying the Permitted Mortgagee's name and address and requesting such notices. Failure of an Owner to deliver a copy of such notice of default to the Permitted Mortgagee whose Permitted Mortgage encumbers the entire Developer Parcel or the entire City Parcel shall in no way affect the validity of the notice of default as it respects the defaulting Owner but shall make the same invalid as it respects the interest of the Permitted Mortgagee and its lien upon the affected entire Developer Parcel or entire City Parcel. If the Developer Parcel or City Parcel is subdivided into more than one legal parcel, an Owner will have no obligation to send a notice of default to the Permitted Mortgagee of a Permitted Mortgage encumbering of any subdivision of the Developer Parcel or City Parcel. The Developer or City (or successor in interest) shall be solely responsible for sending any notices of default from the other Owner to the Permitted Mortgagees of Permitted Mortgages encumbering any such subdivision of the Developer Parcel or City Parcel. Any such notice to a Permitted Mortgagee shall be given in the same manner as provided in Section 13.3. The giving of any notice of default or the failure to deliver a copy to any Permitted Mortgagee shall in no event create any liability on the part of the Owner declaring a default.

(e) Right to Cure. If an Owner receives a notice that it is in default under this Declaration and the Owner fails to cure the default, then, the other Owner shall send a notice of such defaulting Owner's failure to cure or to commence to cure such default as provided in this Declaration to the Owner's Permitted Mortgagee, if required under Subsection (d) above. While the defaulting Owner remains in default its Permitted Mortgagee under a Permitted Mortgage affecting the Parcel of the defaulting Owner and such Permitted Mortgagee is entitled to notice as provided under Subsection (d) above, such Permitted Mortgagee shall have sixty (60) days after the receipt of such notice to cure any such default, or, if such default cannot be cured within sixty (60) days, to diligently commence curing within such time and diligently cure within a reasonable time thereafter. Permitted Mortgagees may jointly or singly pay any sum or take any other action reasonably necessary to cure any default of their mortgagors under this Declaration with the same effect as cure by the Owner itself. If any such default or event cannot be cured or remedied by the Permitted Mortgagee without the Permitted Mortgagee obtaining possession of the Parcel by appropriate proceedings and/or title to the Owner's Parcel by judicial or non-judicial foreclosure proceedings or by deed in lieu thereof, then any such default shall be remedied or deemed remedied if the Permitted Mortgagee shall have complied with the following provisions: (i) within thirty (30) days after receiving the notice, the Permitted Mortgagee (or its nominee) shall have acquired Owner's estate or shall have commenced judicial or non-judicial foreclosure proceedings or

appropriate proceedings to obtain possession of the Parcel; (ii) the Permitted Mortgagee shall diligently prosecute any such proceedings to completion; and (iii) after gaining possession of the Parcel, the Permitted Mortgagee (or its nominee) shall perform all other obligations of the Owner as and when the same are due in accordance with the terms of this Declaration. Nothing in this Section will prohibit a non-defaulting Owner from exercising its rights to self-help if the default affects health and safety of the Parcel occupants, the use or operation of the Station Project (or any replacement thereof) or is required in the non-defaulting Owner's reasonable determination to be performed to protect the improvements or personal property on the non-defaulting Owner's Parcel.

(f) Amendment. This Declaration shall not, without the prior written consent of a Permitted Mortgagee entitled to notice under Subsection (d) above, be amended so as to (i) materially modify the location of any Easements; (ii) materially modify the right to restore, rebuild, or replace any Covered Improvements upon a Casualty or Taking; (iii) terminate this Declaration; (iv) change the provisions applicable to insurance so as to reduce the required coverages or change the interest of any Owner in the allocation, adjustment, or distribution of Proceeds; or (v) otherwise change any provision of this Section 16.17 or any other provision of this Declaration which, by its terms is specifically for the benefit of Permitted Mortgagees or specifically confers rights on Permitted Mortgagees.

(g) Condemnation or Insurance Proceeds. Nothing in this Declaration shall impair the rights of any Permitted Mortgagee pursuant to its Permitted Mortgage to receive proceeds that are otherwise payable to the Owner granting such Permitted Mortgage.

(h) Title by Foreclosure. Except as otherwise set forth in this Declaration, all of the provisions contained in this Declaration shall be binding on and for the benefit of any person who acquires title to a Parcel by foreclosure, trustee's sale, deed in lieu of foreclosure, or other involuntary transfer under a Permitted Mortgage.

(i) Modification of Article; Conflicts. Each Owner hereby agrees to cooperate in including in this Declaration by suitable amendment from time to time any reasonable provision that is requested by a Permitted Mortgagee whose lien and security interest encumbers the entire Developer Parcel or the entire City Parcel to implement the mortgagee protection provisions contained in this Declaration and to protect or preserve the lien and security interest of the Permitted Mortgage. The Owners each agree to consider, and if approved, execute and deliver (and to acknowledge, if necessary, for recording purposes), any such amendment; provided, however, that any such amendment shall not in any way materially adversely affect any rights or materially increase any obligations of any Owner under this Declaration.

(j) Delegation to Mortgagee. An Owner may delegate irrevocably to any of its Permitted Mortgagees the non-exclusive authority to exercise any or all of such Owner's rights under this Declaration, but no such delegation shall be binding upon the other Owner unless and until either the delegating Owner or its Permitted Mortgagee gives to the Managing Owner and the other Owners a true copy of a written instrument effecting such delegation. Such delegation of authority may be created by the terms of the Permitted Mortgage itself, in which case service upon Managing Owner and the other Owners of an executed counterpart or conformed copy of said Permitted Mortgage in accordance with this Section 16.17 together with written notice specifying the provisions of the Permitted Mortgage that delegates such authority to said Permitted

Mortgagee, shall be sufficient to give the Managing Owner and the other Owners notice of such delegation.

(k) No Obligation to Cure. Nothing in this Declaration shall require any Permitted Mortgagee to cure any default of an Owner before its acquisition of title to a Parcel by foreclosure, trustee sale, or deed in lieu thereof. Upon acquisition of title to a Parcel, but only during such time as the Permitted Mortgagee holds title, such Permitted Mortgagee or the purchaser or grantee, as applicable, shall be liable and responsible for all continuing obligations and defaults existing on its Parcel from and after the date of such acquisition, including defaults and other conditions arising prior to the date of such acquisition.

(l) Separate Agreement. If a Permitted Mortgagee requests that the Owners acknowledge this Declaration and that the Owners have rights and obligations of the Owners under this Declaration, then at the sole cost and expense of the Owner whose Permitted Mortgagee requested it, the Owners will execute and deliver to the requesting Permitted Mortgagee such acknowledgement in form reasonably satisfactory to such Permitted Mortgagee and the Owners.

(m) Sunshine. Developer understands and agrees that under the City's Sunshine Ordinance (Administrative Code, Chapter 67) and the California Public Records Act (California Government Code Section 250 et seq.), this Declaration and any and all records, information, and materials submitted to the City hereunder are public records subject to public disclosure. Developer shall not be required to provide any information to City that is trade secret or that constitute proprietary confidential information. To the extent that Developer in good faith believes that any materials reasonably requested by the City constitutes a trade secret or confidential proprietary information protected from disclosure under the Sunshine Ordinance and other laws, the parties shall meet and confer. If the City obtains information from Developer that Developer has marked as trade secret or confidential proprietary information, and City determines that the information does not constitute a trade secret or proprietary information protected from disclosure, the City shall notify Developer of that conclusion and that the information will be released by a specified date, not sooner than fifteen (15) days, in order to provide Developer an opportunity to obtain a court order prohibiting disclosure.

(n) Nondiscrimination. In the performance of this Declaration, each Owner agrees not to discriminate against any employee of an Owner or any applicant for employment, any City employee working on or under this Declaration, or 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 such protected classes, or in retaliation for opposition to discrimination against such classes.

(o) 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.

(Signature page follows.)

IN WITNESS WHEREOF, the parties have executed this Declaration as of the date first written above.

DEVELOPER DECLARANT:

EQX JACKSON SQ HOLDCO LLC,
a Delaware limited liability company

_____
By:
Its:

CITY DECLARANT:

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: _____

Deputy City Attorney

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____ before me, _____ [Name and Title of Officer], 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)

STATE OF CALIFORNIA)
)
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit A-1

LEGAL DESCRIPTION OF CITY PARCEL

Exhibit A-2

LEGAL DESCRIPTION OF DEVELOPER PARCEL

Exhibit B

DEPICTION OF EASEMENTS FOR THE BENEFIT OF THE DEVELOPER PARCEL

Exhibit C

DEPICTION OF EASEMENTS FOR THE BENEFIT OF THE CITY PARCEL

Exhibit D

DEPICTION OF RECIPROCAL EASEMENTS

FIRST AMENDMENT TO CONDITIONAL PROPERTY EXCHANGE AGREEMENT

THIS FIRST AMENDMENT TO CONDITIONAL PROPERTY EXCHANGE AGREEMENT (this **"First Amendment"**) is entered into as of the __ day of _____, 2021, by and between EQX JACKSON SQ HOLDCO LLC, a Delaware limited liability company (**"Developer"**), and CITY AND COUNTY OF SAN FRANCISCO (**"City"**), with reference to the recitals set forth below.

RECITALS

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

B. Since execution of the CPEA, Developer and City have both worked, and continue to work, in good faith to reach agreement on the documents contemplated by Section 1.7 of the CPEA. However, notwithstanding such good faith efforts on the part of Developer and City, due to COVID -19 and its broad impact on the Country, the State of California and the City and County of San Francisco (including lockdowns and the remote working environment), the parties have not had sufficient opportunity to reach agreement on the documents referenced in Section 1.7 of the CPEA. In connection with the foregoing, Developer and City have agreed to modify the terms of the CPEA as set forth in this First Amendment.

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

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

2. Amendments.

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

(b) Extension of Time for Approval of Declaration of Easements, Construction Management Agreement, Ground Lease, Architect Contract and Construction Contract. Notwithstanding anything stated to the contrary in the CPEA, City and Developer hereby agree that the time period by which they are required to agree upon the respective forms of the Declaration of Easements, Construction Management Agreement, Ground Lease,

Architect Contract and Construction Contract shall be, and hereby is, extended to December 31, 2021, and, in furtherance of such extension, (i) all references in the CPEA to the "First Approval Deadline" shall mean December 31, 2021, and (ii) the terms and provisions of the CPEA shall be interpreted to take into account the extension provided for in this Paragraph 2(b).

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

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

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

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

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

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

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

[SIGNATURES ON NEXT PAGE]

"DEVELOPER"

EQX JACKSON SQ HOLDCO LLC,
a Delaware limited liability company

By: _____
Name: Gino Canori
Its: Executive Vice President

"CITY"

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: _____
_____, Deputy City Attorney

ESTOPPEL CERTIFICATE – TENANT

Dated: _____, 20__

The undersigned, **EQX Jackson SQ Holdco LLC**, a Delaware limited liability company, as tenant ("Tenant"), under that certain Ground Lease dated as of _____, 20__ (the "Lease") between Tenant and **City and County of San Francisco**, a Charter city and county, as landlord ("Landlord"), for those certain premises located at 530 Sansome Street, San Francisco, California, more particularly described in the Lease (the "Premises"), hereby certifies to Landlord that, as of the date of this Estoppel Certificate:

(1) Tenant is the current lessee/tenant under the Lease. Tenant has not entered into a sublease or assignment, or a mortgage encumbering Tenant's interest in the Lease except as follows: (if none, state NONE) _____.

[Add if Tenant lists a mortgage above: Tenant has not received a notice of default, that remains uncured, from any Leasehold Mortgagee or Mezzanine Lender.]

(2) Landlord has no obligation to make any improvements or alterations to or on the Premises.

(3) The Lease is in full force and effect, and the Lease, and all amendments or modifications thereto, are set forth on Exhibit A attached hereto, and the Lease has not been assigned by Tenant, amended, modified or supplemented in any way except as set forth on Exhibit A.

(4) The term of the Lease commenced on _____ and shall expire on _____, which is the date that is last day of the ninety-ninth (99^{th}) Lease Year (as defined in the Lease), unless earlier terminated as expressly provided in the Lease. Tenant acknowledges that it has the right to possession of the Premises. There are no unreimbursed expenses due Tenant including, but not limited to, capital expense reimbursements. Tenant does not have any option to expand the Premises or extend the Lease.

(5) Tenant has not paid any security deposit under the Lease.

(6) To Tenant's knowledge, Landlord is not in default under the Lease [except as follows: _____]. To Tenant's knowledge, no event has occurred that, with the passage of time or with the giving of notice, or both, would result in a default by Landlord under the Lease [except as follows: _____].

(7) To Tenant's knowledge, there are no existing defenses or offsets which Tenant has against the enforcement of the Lease by Landlord [except as follows: _____].

(8) Tenant is not entitled to any offset, rebate, abatement of, or credit against, Ground Rent or Additional Rent (as defined in the Lease) under the Lease [except as follows: _____].

(9) To Tenant's knowledge, Tenant has not received written notice indicating that the Premises is in violation of any governmental law or regulation applicable thereto, including, without limitation, any environmental requirements or the Americans with Disabilities Act [except as follows: _____].

(10) Tenant has the necessary power and authority to execute this Estoppel Certificate and has obtained all consents or approvals of any third-party necessary to permit its execution of this Estoppel Certificate, if any.

(11) To Tenant's knowledge, Tenant has complied (or Landlord has waived Tenant's obligation to comply) with the terms and provisions of Sections 7.2, 7.6 and 7.8 of the Lease with respect to [the subdivision of the Premises and adjoining property, and] the demolition and construction of the improvements on the Premises [If Tenant elects to specify which demolition and improvements comply: as set forth on Exhibit A][except as follows:_____] [Note, this paragraph can be deleted if the actions in this paragraph have not occurred as of the date of the estoppel certificate.]

The term "Tenant's knowledge" means the actual knowledge of [Matthew Witte] and [Jonathan Shum], the persons within Tenant that have the most knowledge of the matters set forth in this Estoppel Certificate as of the date of this certificate. The accuracy of the statements set forth herein may be relied upon by Landlord, and Landlord's successors, participants, assigns and transferees (collectively, the "Reliance Parties"), and said statements shall be binding upon Tenant and its successors and assigns, and inure to the benefit of the Reliance Parties; provided that nothing in this certificate will serve to amend the Lease; if there is any conflict between this certificate and the Lease, the Lease will prevail; provided, however, notwithstanding the foregoing, Tenant acknowledges and agrees that it shall be estopped form asserting, or taking, a position contrary to the certifications (as of the date made) set forth in this estoppel certificate. Capitalized terms used and not otherwise defined herein have the meanings assigned to them in the Lease.

[SIGNATURE PAGE FOLLOWS]

TENANT:

EQX Jackson SQ Holdco LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____
Date: _____

Exhibit A

Lease and Amendments
(Attached)

ESTOPPEL CERTIFICATE – LANDLORD

Dated: _____, 20__

The undersigned, **City and County of San Francisco**, a Charter city and county, as landlord ("Landlord"), under that certain Ground Lease dated as of _____, 20__ (the "Lease") between Landlord and **EQX Jackson SQ Holdco LLC**, a Delaware limited liability company, as tenant ("Tenant"), for those certain premises located at 530 Sansome Street, San Francisco, California, more particularly described in the Lease (the "Premises"), hereby certifies to Tenant[, _____ ("Subtenant")] and _____ ("Lender") that, as of the date of this Estoppel Certificate:

(1) Landlord is the owner of the fee simple estate in the Premises and is the current lessor/landlord under the Lease. Landlord has not entered into a mortgage encumbering the fee title to the Property except as follows: (if none, state NONE) _____. The improvements to be constructed by Tenant on the Premises, all as set forth in Exhibit A attached hereto, are considered a permitted use under the Lease, including without limitation Section 7 thereof, and (ii) pursuant to the "REA" (as defined in the Lease).

(2) The Lease is in full force and effect, and the Lease, and all amendments or modifications thereto, are set forth on Exhibit B attached hereto, and the Lease has not been assigned by Landlord, amended, modified or supplemented in any way except as set forth on Exhibit B.

(3) The term of the Lease commenced on _____ and shall expire on _____, which is the date that is last day of the ninety-ninth (99th) Lease Year (as defined in the Lease), unless earlier terminated as provided in Article 10 or Section 13.2 of the Lease.

(4) The Ground Rent payable by Tenant under the Lease for the entire Term (as defined in the Lease) is $1,000. The Ground Rent due under the Lease was paid by Tenant on or before the Commencement Date of the Lease (as defined in the Lease).

(5) Tenant has not paid any security deposit under the Lease.

(6) To Landlord's knowledge, Tenant is not in default under the Lease [except as follows: _____]. To Landlord's knowledge, no event has occurred that, with the passage of time or with the giving of notice, or both, would result in a default by Tenant under the Lease [except as follows: _____].

(7) To Landlord's knowledge, there are no existing defenses or offsets which the Landlord has against the enforcement of the Lease by Tenant [except as follows: _____].

(8) No rents have been paid more than one (1) month in advance of their due date under the Lease, other than as provided in the Lease. Tenant is not entitled to any abatement of, or credit against, Ground Rent or Additional Rent (as defined in the Lease) under the Lease [except as follows: _____].

(9) To Landlord's knowledge, Landlord has not received written notice indicating that the Premises is in violation of any governmental law or regulation applicable thereto, including, without limitation, any environmental requirements or the Americans with Disabilities Act [except as follows: _____].

(10) Landlord has the necessary power and authority to execute this Estoppel Certificate and has obtained all consents or approvals of any third-party necessary to permit its execution of this Estoppel Certificate, if any.

(11) To Landlord's knowledge, Tenant has complied with the terms and provisions of Sections 7.2, 7.6, and 7.8 of the Lease with respect to [the subdivision of the Premises and adjoining property, and] demolition and construction of the improvements on the Premises [If Landlord elects to specify which demolition and improvements comply: as set forth on Exhibit A][except as follows: _____]. [NOTE, THIS PARAGRAPH CAN BE DELETED IF THE ACTIONS IN THIS PARAGRAPH HAVE NOT OCCURRED AS OF THE DATE OF THE ESTOPPEL CERTIFICATE.]

(12) Landlord acknowledges that Lender is a Leasehold Mortgagee [and/or a Mezzanine Lender], and the holder of a Leasehold Mortgage [and/or the holder of a Mezzanine Loan], under the terms and provisions of the Lease, and, therefore, Lender is entitled to all of the rights and remedies under Section 12 of the Lease that are afforded to a Leasehold Mortgagee [and/or a Mezzanine Lender] under the Lease.

(13) To Landlord's knowledge, Tenant is in compliance with the City Requirements (as defined in the Lease) set forth in Section 7.9 of the Lease [except as follows: _____].

(14) [With respect to that certain Sublease attached hereto as Exhibit C to be entered into by and between Tenant and Subtenant, (a) Landlord acknowledges receipt of a copy of such Sublease, (b) such Sublease is a "Permitted Sublease" (as defined in the Lease) and complies with the provisions of Section 12.2.2 of the Lease or, if such Sublease does not comply with the provisions of Section 12.2.2 of the Lease, Landlord has otherwise approved of the same[, except as follows: _____], and (c) in accordance with the terms and conditions of Section 12.2.2 of the Lease, Landlord approves of Subtenant as the tenant under the Sublease.]

The term "Landlord's knowledge" means the actual knowledge of the City's Director of Property and the Fire Department Deputy Chief of Administration as of the date of this certificate. The accuracy of the statements set forth herein may be relied upon by (i) the Tenant [and Subtenant], and (ii) Lender, and their respective successors, participants, assigns and transferees (collectively, the "Reliance Parties"), and said statements shall be binding upon Landlord and its successors and assigns, and inure to the benefit of the Reliance Parties;

provided that nothing in this certificate will serve to amend the Lease; if there is any conflict between this certificate and the Lease, the Lease will prevail; provided, however, notwithstanding the foregoing, Landlord acknowledges and agrees that it shall be estopped from asserting, or taking, a position contrary to the certifications set forth in this estoppel certificate. Capitalized terms used and not otherwise defined herein have the meanings assigned to them in the Lease.

[SIGNATURE PAGE FOLLOWS]

LANDLORD:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
Name: _____
Title: Director of Property
Date: _____

Exhibit A

Improvements Previously Constructed and to be Constructed by or under Tenant

Exhibit B

Lease

[Exhibit C

Sublease]

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

PLANNING COMMISSION MOTION NO. 20956

HEARING DATE: JULY 29, 2021

Record No.:	2019-017481DNX
Project Address:	530 SANSOME STREET
Zoning:	C-3-O (Downtown Office) Zoning District 200-S Height and Bulk District Downtown Plan Area
Block/Lot:	0206 / 013, 014, & 017
Project Sponsor(s):	Jim Abrams, J. Abrams Law, P.C. on behalf of EQX Jackson SQ Holdco LLC One Maritime Plaza, Suite 1900 San Francisco, CA 94111 415.999.4402, jabrams@jabramslaw.com Josh Keene, San Francisco Bureau of Real Estate 415.554.9859, joshua.keene@sfgov.org Assistant Deputy Chief Dawn DeWitt, San Francisco Fire Department 415.674.5066, dawn.dewitt@sfgov.org
Property Owner(s):	City and County of San Francisco Real Estate Division 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102 EQX Jackson SQ Holdco LLC 44 Montgomery Street, Suite 1300 San Francisco, CA 94104
Staff Contact:	Nicholas Foster, AICP, LEED GA 628.652.7330, nicholas.foster@sfgov.org

ADOPTING FINDINGS TO APPROVE A DOWNTOWN PROJECT AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 309 TO ALLOW A PROJECT GREATER THAN 50,000 SQUARE FEET OF FLOOR AREA WITHIN THE C-3 ZONING DISTRICT WITH REQUESTS FOR EXCEPTIONS FOR REAR YARD (SECTION 134); DWELLING UNIT EXPOSURE (140); REDUCTION OF GROUND-LEVEL WIND CURRENTS IN C-3 DISTRICTS (SECTION 148); OFF-STREET FREIGHT LOADING (SECTION 152.1 AND 161); HEIGHT LIMITS FOR PARCELS WITHIN THE S BULK DISTRICT (SECTION 263.9); AND BULK CONTROLS (SECTION 270) TO PERMIT THE DEMOLITION OF TWO EXISTING COMMERCIAL STRUCTURES AND SAN FRANCISCO FIRE DEPARTMENT STATION 13 AND CONSTRUCTION OF A NEW MIXED-USE BUILDING REACHING A MAXIMUM ROOF HEIGHT OF UP TO 218 FEET TALL (236' INCLUSIVE OF ROOFTOP SCREENING/MECHANICAL EQUIPMENT) WITH A MAXIMUM TOTAL GROSS FLOOR AREA OF APPROXIMATELY 283,000 SQUARE FEET, LOCATED AT 530 SANSOME STREET, LOTS 013, 014, & 017 OF ASSESSOR'S BLOCK 0206, WITHIN THE C-3-O (DOWNTOWN OFFICE) ZONING DISTRICT AND 200-S HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On or after December 26, 2019, Jim Abrams of J. Abrams Law, P.C. (hereinafter "Project Sponsor") submitted the following applications with the Planning Department (hereinafter "Department") on behalf of EQX Jackson SW Holdco LLC and the City and County of San Francisco Division of Real Estate in association with the proposed project (hereinafter "Project"): Downtown Project Authorization; Conditional Use Authorization; Office Allocation; Shadow Analysis; Variance; and Transportation Demand Management. The application packets were accepted on or after January 31, 2020 and assigned to Case Numbers: 2019-017481DNX; 2019-017481CUA; 2019-017481OFA; 2019-017481SHD; 2019-017481VAR; and 2019-017481TDM, respectively.

The City and County of San Francisco, acting through the Department fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code section 21000 et seq., hereinafter "CEQA"), the State CEQA Guidelines (Cal. Code. Regs. Title 14, section 15000 et seq., (hereinafter "CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

The Department determined that a mitigated negative declaration (hereinafter "MND") was required and provided public notice of that determination by publication of a neighborhood notice sent November 19, 2020. The Department received three comments, one of which requested information on shadow effects to a private residential patio.

On April 28, 2021, the Department published the Preliminary Mitigated Negative Declaration (hereinafter "PMND") and provided public notice in a newspaper of general circulation of the availability of the PMND for public review and comment; this notice was mailed to the Department's list of persons requesting such notice, and to property owners and occupants within a 300- foot radius of the site on April 28, 2021. Notices of availability of the PMND were posted near the Site on April 28, 2021. The 20-day public review period for comments and appeal of the PMND ended at 5:00 p.m. on May 18, 2021.

During the 20-day public review period, the Department received one question regarding confirmation of proposed building height. Additionally, the Department received one written comment letter on May 20, 2021.

On May 18, 2021, an appeal of the PMND was filed with the Department.

On June 17, 2021, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on the Appeal of the PMND, Case No. 2019-017481ENV. Before hearing the item, the Commission voted 3-2 (Diamond, Fung Against; Koppel, Chan absent) to continue the item to July 8, 2021.

On June 24, 2021, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Downtown Project Authorization application No. 2019-017481DNX. Before hearing the item, the Commission voted 5-0 (Koppel, Chan absent) to continue the item to July 29, 2021.

On July 8, 2021, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on the Appeal of the PMND, Case No. 2019-017481ENV. Before hearing the item, the Commission voted 5-0 (Koppel, Chan absent) to continue the item to July 29, 2021.

On July 29, 2021, the Commission upheld the PMND and reviewed, considered, and approved the issuance of the Final Mitigated Declaration (hereinafter "FMND") as prepared by the Department in compliance with the California

Environmental Quality Act (California Public Resources Code Sections 21000 et seq.; hereinafter "CEQA"), Title 14 California Code of Regulations Sections 15000 et seq. (hereinafter the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code (hereinafter "Chapter 31").

The Commission found the FMND, including the Mitigation Monitoring and Reporting Program (MMRP) contained therein (which MMRP applies without distinction to both the Commercial Variant and Residential Variant of the Project as hereinafter defined) was adequate, accurate, and objective, reflected the independent analysis and judgment of the Department and the Commission, contained no significant revisions to the PMND, and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines, and Chapter 31.

On July 29, 2021, the Planning Commission and the Recreation and Park Commission held a duly noticed joint public hearing on and adopted Planning Commission Resolution No. 20954 and Recreation and Park Commission Resolution No. 2107-006 raising the absolute cumulative limit (ACL) for shadows on Maritime Plaza and setting an ACL for Sue Bierman Park, two (2) properties under the jurisdiction of the Recreation & Park Department that would be shadowed by the Project.

At the same hearing on July 29, 2021, the General Manager of the Recreation & Parks Department, in consultation with the Recreation and Park Commission, recommended to the Planning Commission that the shadows cast by either the Commercial Variant or Residential Variant of the Project (as hereinafter defined) on two (2) properties under the jurisdiction of the Recreation & Parks Department (Maritime Plaza and Sue Bierman Park) would not be adverse to the use of those properties (Case No. 2019-017481SHD). As part of this recommendation, the Recreation and Park Commission adopted environmental findings in accordance with CEQA, along with a Mitigation Monitoring and Reporting program ("MMRP") for the Project (Recreation and Park Commission Resolution No. 2107-007).

The Planning Department Commission Secretary is the custodian of records; all pertinent documents are located in the File for Case No. 2019-017481DNX, at 49 South Van Ness, Suite 1400, San Francisco, California.

On July 29, 2021, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Downtown Project Authorization application No. 2019-017481DNX.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Downtown Project Authorization as requested in Application No. 2019-017481DNX for each of the Commercial Variant and Residential Variant, subject to the conditions contained in "EXHIBIT A" of this motion, and to the Mitigation, Monitoring, and Reporting Program contained in "EXHIBIT C", and incorporated by reference, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. **The above recitals are accurate and constitute findings of this Commission.**

2. **Project Description.** The proposed project ("Project") includes the demolition of three existing buildings, including San Francisco Fire Department (SFFD) Station 13 and two vacant commercial buildings and the construction of a new mixed-use building reaching a roof height up to 218 feet tall (236' inclusive of rooftop screening/mechanical equipment). The Project proposes two distinct development programs that could be implemented, one that would construct various commercial uses further described below ("Commercial Variant") and one that would construct residential uses further described below ("Residential Variant"). Both the Commercial Variant and Residential Variant would include construction of a state-of-the-art, four-story Fire Station 13 (approximately 21,000 square feet of gross floor area with minor variations in square footage between the Commercial Variant and Residential Variant), as well as a below-grade non-accessory parking garage for the SFFD containing 18 spaces (approximately 7,800 square feet of gross floor area with minor variations in square footage between the Commercial Variant and Residential Variant). The Commercial Variant would include a total of approximately 248,000 square feet of gross floor area, including the SFFD uses, as well as various commercial uses contained in a 19-story tower, including approximately 141,000 square feet of hotel uses (200 rooms), approximately 37,000 square feet of office uses, approximately 32,000 square feet of gym uses, and approximately 7,900 square feet of restaurant uses. The Commercial Variant proposes 22 Class 1 and 26 Class 2 bicycle parking spaces, three (3) off-street freight loading spaces, as well as 30 parking spaces, and one (1) car-share below-grade parking space for the non-SFFD uses. The Residential Variant would include a total of approximately 283,000 square feet of gross floor area, including the SFFD uses, as well as approximately 247,000 square feet of residential uses (256 dwelling units) in a 21-story tower. The additional two building stories in the Residential Variant are the result of slightly smaller floor-to-floor ceiling heights for the residential floors. The Residential Variant proposes 143 Class 1 and 21 Class 2 bicycle parking spaces, three (3) off-street freight loading spaces, as well as 64 parking spaces, and two (2) car-share below-grade parking spaces for the residential uses. The Residential Variant would contain a mix 191 studio and one-bedroom units, 38 two-bedroom units, and 27 three-bedroom units. For both the Commercial Variant and Residential Variant, SFFD proposes changes to the lane configuration and traffic light facilities on Washington Street, such that SFFD engines would be able to safely make westbound and eastbound turns out to Washington Street to enhance SFFD's ability to promptly respond to emergency calls. For both the Commercial Variant and Residential Variant, EQX Jackson SQ Holdco LLC has offered, pursuant to a letter dated July 28, 2021, to make a $100,000 contribution to the Recreation and Park Department (RPD) for maintenance, repair, and potential improvements to Maritime Plaza, which requires acceptance by the Board of Supervisors (Admin Code Article XIII).

3. **Site Description and Present Use.** The project site ("Site") is property at 530 Sansome Street, 425 Washington Street and 439 Washington Street, located on the block bounded by Sansome Street, Washington Street, Battery Street, and Merchant; Lots 013, 014, & 017 in Assessor's Block 0206. The Site, totaling 17,733 square feet (0.41 acres) in area, is located within the C-3-O Zoning District and the 200-S Height and Bulk District. The Site is developed with two vacant commercial buildings and SFFD Station 13. The existing vacant commercial buildings on the Site are not considered historical resources pursuant to CEQA; however, Station 13 and an untitled sculpture (*Untitled)* on Station 13's Washington Street façade are considered contributors to an eligible Embarcadero Center Historic District.

4. **Surrounding Properties and Neighborhood.** The Site is located within the northern edge of the Financial District's C-3-O Downtown Office zoning district and is near or adjacent to Jackson Square, Chinatown, and North Beach. The area is characterized as an urban, mixed-use area. Office use is

prevalent in the Financial District, with government and public uses, residential uses, hotel uses, and other commercial uses interspersed in the area. On the north side of Washington Street across from the Site, is a C-2 Community Business zoning district that comprises a diverse mix of residential, commercial, and institutional uses, including a federal government building complex located immediately across Washington Street from the Site. To the northeast of the project site, north of Washington Street, and east of Battery Street, is a RC-4 Residential-Commercial, High Density zoning district. To the northwest and west are the CCB Chinatown-Community Business and CRNC Chinatown Residential Neighborhood Commercial districts.

5. **Public Outreach and Comments.** The Project Sponsor has conducted community outreach to stakeholders that includes local organizations and community groups. To date, the Department has received one (1) letter of support from the Downtown Community Benefit District (DCBD).

6. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

   A. **Use (Section 210.2).** The Planning Code lists the use controls for residential and non-residential uses within the C-3-G Zoning District.

   The Commercial Variant proposes the construction of a new mixed-use building with a total of 303,095 gross square feet (total gross floor area of 248,477 square feet per Planning Code Section 102). The Commercial Variant would include the following non-residential uses listed with approximate gross floor area square footage amounts: 20,730 square feet for the new San Francisco Fire Department's (SFFD) Fire Station No .13 (Institutional Use, Public Facility); 7,740 square feet of gross floor area for Fire Station non-accessory, Private Parking Garage (18 spaces); 143,060 square feet of gross floor area for Hotel use (200 rooms); 37,086 square feet of gross floor area for General Office use (Non-Retail Sales and Service Use); 32,010 square feet of gross floor area for Gym use (Retail Sales and Service Use); and 7,850 square feet of gross floor area for Restaurant use (Retail Sales and Service Use). Public Facility, Non-Retail Sales and Service Use, and Retail Sales and Service Uses are all principally permitted within the C-3-O Zoning District. Hotel uses and non-accessory, Private Parking Garage uses require Conditional Use Authorization, pursuant to Sections 303, 303(g) and 303(t). The Project Sponsor has filed a Conditional Use Authorization application, the findings and approval of which are made under Motion No. 20957 for Case No. 2019-017481CUA. Net new General Office uses larger than 25,000 square feet require an office allocation, pursuant to Section 321. The Project Sponsor has filed an Office Allocation application, the findings and approval of which are made under Motion No. 20958 for Case No. 2019-017481OFA).

   The Residential Variant proposes the construction of a new mixed-use building with a total of 331,465 gross square feet (total gross floor area of 282,519 per the Planning Code Section 102). The Residential Variant would include approximately 20,820 square feet of gross floor area for the new San Francisco Fire Department's (SFFD) Fire Station No .13 (Institutional Use, Public Facility); 7,665 square feet of gross floor area for Fire Station non-accessory, Private Parking Garage (18 spaces); and approximately 254,034 square feet of residential gross floor area (256 dwelling units). Public facility and Residential uses are both principally permitted within the C-3-O Zoning District. The non-accessory, Private Parking Garage use requires Conditional Use Authorization pursuant to Sections 303 and 303(t). The Project Sponsor has filed a Conditional Use Authorization application, the findings and approval of which are made under Motion No. 20957 for Case No. 2019-017481CUA.

Therefore, the uses proposed by each of the Commercial Variant and Residential Variant comply with Section 210.2.

B. Floor Area Ratio (Sections 123, 124, and 128). The Planning Code establishes a basic floor area ratio (FAR) for all zoning districts. For C-3 zoning districts, the numerical basic FAR limit is set in Section 210.2. The basic FAR limit for the C-3-O District is 9.0 to 1. Under Section 123, FAR can be increased to a maximum of 18.0 to 1 with the purchase of transferable development rights (TDR).

The Site is 17,733 square feet (0.41 acres) in area. Therefore, up to 159,597 square feet of gross floor area is allowed under the basic FAR limit (9:1). The Commercial Variant proposes a total of approximately 248,477 square feet of gross floor area, for a FAR of approximately 14-to-1. The Residential Variant proposes a total of approximately 282,519 square feet of gross floor area, for a FAR of approximately 15.9-to-1. The Project Sponsor has filed an application to the Department for a Certificate of Transfer to obtain transferable development rights (TDR) to permit construction of either the Commercial Variant or Residential Variant (Case No. 2020-002095TDT). The Conditions of Approval contained in Exhibit A address required approval from the Zoning Administrator before a building permit for construction of the project may be issued. After approval of the transferable development rights, each of the Commercial Variant and Residential Variant would comply with Sections 123, 124, 128, and 210.2.

C. Setbacks and Streetwall Articulation: C-3 Districts (Section 132.1). The Planning Code requires all structures in the S and S-2 Bulk Districts be set back from an interior property line which does not abut a public sidewalk and from the property line abutting the right-of-way of a public street or alley in order to provide light and air between structures, pursuant to Section 132.1(d)(1). Exceptions may be granted, pursuant to Section 309, to the extent restrictions on adjacent properties make it unlikely that development will occur at a height or bulk which will, overall, impair access to light and air or the appearance of separation between buildings, thereby making full setbacks unnecessary.

Each of the Commercial Variant and Residential Variant include setbacks from interior property lines and from centerline of public rights-of-way, that exceed the required setback of 15 feet up through a height of 300 feet above grade. Therefore, each of the Commercial Variant and Residential Variant complies with Section 132.1(d)(1).

D. Useable Open Space (Section 135). The Planning Code requires that a minimum of 36 square feet of private usable open space, or 48 square feet (1.33 times 36 square feet) of common usable open space be provided for dwelling units in C-3 zoning districts. The area counting as usable open space must meet minimum requirements for area, horizontal dimensions, and exposure.

The Commercial Variant does not propose any residential uses and therefore is not subject to a residential useable open space requirement.

The Residential Variant includes 256 dwellings units, and therefore requires private and/or common useable open space in service of the residential use. The Residential Variant includes 123 dwelling units with private balconies that meet the strict dimensional requirements for private useable open space (Code Section 135(f)). For the balance of the 133 dwelling units, 6,384 square feet of common useable open space would be required. The Residential Variant also includes a 6,384 square foot solarium

located on level 21 that meets the strict dimensional requirements for common useable open space (Code Section 135(g). Therefore, the Residential Variant complies with Section 135.

E. Publicly Accessible Open Space (Section 138). The Planning Code requires new buildings, or additions of Gross Floor Area equal to 20 percent or more to an existing building, in the C-3-O(SD) zoning district to provide public open space at a ratio of one square-foot per 50 gross square feet of all uses, except residential uses, institutional uses, and uses in a predominantly retail/personal services building.

The Commercial Variant includes a total of approximately 213,900 square feet of new, non-residential, non-institutional gross floor area, and therefore requires 4,278 square feet of privately-owned public open space (POPOS). The Project would provide exterior POPOS in the form of shared street improvements to Merchant Street. A conceptual shared street POPOS plan included in the plan set attached as Exhibit B, was reviewed by the City's Street Design Advisory Team and includes hardscaping, planting and furnishing improvements to the portion of Merchant Street adjacent to the Site, designed to prioritize pedestrians and bicyclists and slow vehicular speeds, as well as potential weekday lunchtime programming that could include temporary through-traffic street closure that would maximize opportunities for social use of Merchant Street at the time most likely to attract users. Hardscape improvements would include an approximately 8.5' feature zone that would include plantings, furniture, and public art installations designed to promote such social uses. The western boundary of this furnishing zone would be designed to accommodate 3 p.m. to 7p.m. afternoon rush hour (the "P.M. Peak") passenger loading for the Commercial Variant's proposed commercial uses, because the Site's other available passenger loading zone on Sansome Street is converted into a travel lane during these hours. The P.M. Peak loading zone on Merchant would be designed such that movable furniture could be moved into the zone during weekday lunchtime hours to expand the area available for social uses. Other improvements would include new street lighting, signage to inform vehicles of access, and use restrictions and potential bollards or gates to close Merchant Street to through vehicular traffic during weekday lunchtime hours. The improvements would be designed to be compatible with potential shared street improvements to the east of the Site that might be implemented as part of the proposed 447 Battery Street project (Case File No. 2014.1036). In total, the amount of POPOS credited is 6,476 square feet where 4,278 square feet is required by Code. Therefore, the Commercial Variant complies with Section 138.

The exact scope of improvements and on-going programming requirements would be finalized pursuant to a condition of approval contained in Exhibit A, which requires the Sponsor to submit a Programming and Maintenance Plan, to be approved by the Planning Department, Department of Public Works and Fire Department, prior to approval of Architectural Addenda.

The Residential Variant includes only residential and institutional gross floor area and therefore is not subject to Section 138 POPOS requirements. However, the Project Sponsor has voluntarily proposed that the Residential Variant will include shared street improvements to Merchant Street similar to those proposed in the Commercial Variant, except that the improved Merchant Street area would not be subject to regulation as POPOS under Section 138.

F. Streetscape and Pedestrian Improvements (Section 138.1). The Planning Code requires that additions of Gross Floor Area equal to 20 percent or more to an existing building provide streetscape

improvements consistent with the Better Streets Plan. Under Section 138.1(c), the Commission may also require the Project Sponsor to install additional sidewalk improvements such as lighting, special paving, seating, and landscaping in accordance with the guidelines of the Downtown Streetscape Plan if it finds that these improvements are necessary to meet the goals and objectives of the General Plan.

The Project Sponsor shall comply with this requirement. The conceptual plan for both of the Commercial Variant and Residential Variant shows improved pedestrian amenities along all three street frontages (Washington Street, Sansome Street, and Merchant Street) not limited to improved and enlarged sidewalks, bulb-outs, and new street trees (in addition to the shared street improvements to Merchant Street described in the Section 138 compliance above). The precise location, spacing, and species of the street trees, as well as other streetscape improvements, will be further refined throughout the building permit review process. Therefore, each of the Commercial Variant and Residential Variant complies with Section 138.1.

Each of the Commercial Variant and Residential Variant would apply to the San Francisco Municipal Transportation Agency's (SFMTA) Color Curb Program for a variety of changes to existing curb coloring. This would include installation of a new 99-foot passenger loading zone (white curb) on Sansome Street and a 40-foot passenger loading zone (white curb) on Merchant Street near the intersection with Sansome Street. For purposes of the new fire stations engine bays on Washington Street, the curb for the entirety of south side of Washington Street would be colored to prohibit on-street public parking (red curb). On the north side of Washington Street, an approximately 83-foot length of the curb west of Custom House Place and an approximately 73-foot length of the curb east of Custom House Place would be colored to prohibit on-street public parking (red curb). In consultation with the SFMTA and SFFD, no on-street parking is proposed for any of the three street frontages abutting the Site.

G. Standards for Bird-Safe Buildings (Section 139). The Planning Code outlines the standards for bird-safe buildings, including the requirements for location-related and feature-related hazards.

The Site is not located in close proximity to an Urban Bird Refuge as defined in Section 139. As such, the Project is only required to included feature-related standards, and includes such features. Therefore, the Project complies with Section 139.

H. Street Frontage in Commercial Districts (145.1(c)). The Planning Code requires that within Downtown Commercial Districts, space for "active uses" shall be provided within the first 25 feet of building depth on the ground floor. Spaces such as lobbies are considered active uses only if they do not exceed 25% of the building's frontage at the ground level, or 40 feet, whichever is greater. Section 145.1(c)(2) of the Planning Code requires that no more than one-third of the width or 20 feet, whichever is less, of any given street frontage of a new or altered structure parallel to and facing a street shall be devoted to parking and loading ingress or egress. With the exception of space allowed for parking and loading access, building egress, and access to mechanical systems, space for active uses as defined in Subsection (b)(2) and permitted by the specific district in which it is located shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. Section 145.1(c)(4) of the Planning Code requires that ground floor non-residential uses in all C-3 Districts shall have a minimum floor-to-floor height of 14 feet, as measured from grade. Section 145.1(c)(5) requires the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the

level of the adjacent sidewalk at the principal entrance to these spaces. Section 145.1(c)(6) of the Planning Code requires that within Downtown Commercial Districts, frontages with active uses must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building.

The Commercial Variant includes non-residential uses on the ground floor. The western portion of Site, positioned at the corner of Washington, Sansome, and Merchant Streets, includes floor area devoted to Restaurant Use (Retail Sales and Service Use), separate lobbies for the General Office use and Gym use, general building circulation, and one (1) off-street (standard-sized) freight loading space). The retail space and building lobbies meet the strict active use requirements of Section 145.1(c)(3). The areas devoted to building circulation and back of house space for the restaurant are generally positioned within the center of the building, or more than 25 feet away from the building frontages, meeting the requirements of Section 145.1(c)(3). The opening for the off-street (standard-sized) freight loading space meets the strict requirements of Section 145.1(c)(2) and is otherwise exempt from the controls of Section 145.1(c)(3). The ground floor heights range between 11'-6" for the service corridors and back-of-house spaces, and double-story height spaces of 23 feet for the restaurant space and building lobbies, meeting the strict requirements of Section 145.1(c)(4). With more than one-half of the ground floor ceiling height exceeding 14 feet, all of the non-residential uses fronting streets, and with at least 60% of the ground floor fenestrated with transparent windows and doorways, the western portion of the Site complies with Sections 145.1(c)(4-6).

The center of the Site, devoted to the new SFFD Station 13 (Public Facility), is not Code compliant due to the unique and essential operational requirements of a fire station. The fires station requires non-transparent walls facing public streets, parking for SFFD engines and service vehicles at-grade with four engine bays that exceed the maximum permitted length, accessory space devoted to SFFD operations, and ceiling heights of less than 14 feet for portion of the Fire Station fronting Merchant Street. As such, the Commercial Variant requires Code relief from Section 145.1 through a Variance, subject to review and approval by the Zoning Administrator, pursuant to Section 305. The Project Sponsor has filed a Variance application, the findings and approval of which are made under the Variance Decision for Case No. 2019-017481VAR.

The Residential Variant includes a mix of accessory residential uses and non-residential uses on the ground floor. The western portion of the Site, positioned at the corner of Washington, Sansome, and Merchant Streets, includes a ground floor with a residential building lobby for the 256 dwelling units located above the ground floor, accessory residential floor including a fitness space, mailroom, meeting room, and coffee bar, general building circulation, and one (1) off-street (standard-sized) freight loading space. The building lobby and floor area devoted to accessory residential uses have direct access to the public sidewalk or street and therefore meet the strict active use requirements of Section 145.1(c)(3). The areas devoted to building circulation and back of house space devoted to building-serving functions, are generally positioned within the center of the building, or more than 25 feet away from the building frontages, meeting the requirements of Section 145.1(c)(3). The opening for the off-street (standard-sized) freight loading space meets the strict requirements of Section 145.1(c)(2) and is otherwise exempt from the controls of Section 145.1(c)(3). The ground floor heights range between 9'-5" for the service corridors and back-of-house spaces, and double-story height spaces of 18'-10" for the building lobby and floor area devoted to accessory residential uses, meeting the strict requirements of Section 145.1(c)(4). With more than one-half of the ground floor ceiling height exceeding 14 feet, all of the

accessory residential uses fronting streets, and with at least 60% of the ground floor fenestrated with transparent windows and doorways, the western portion of Site complies with Sections 145.1(c)(4-6).

Similar to the Commercial Variant, the center of the Site, devoted to the new SFFD Station 13 (Public Facility), is not Code compliant due to the unique and essential operational requirements of a fire station. The fires station requires non-transparent walls facing public streets, parking for SFFD engines and service vehicles at-grade with four engine bays that exceed the maximum permitted length, accessory space devoted to SFFD operations, and ceiling heights of less than 14 feet for portion of the Fire Station fronting Merchant Street. As such, the Commercial Variant requires Code relief from Section 145.1 through a Variance, subject to review and approval by the Zoning Administrator, pursuant to Section 305. The Project Sponsor has filed a Variance application, the findings and approval of which are made under the Variance Decision for Case No. 2019-017481VAR.

I. **Shadows on Public Sidewalks (Section 146).** The Planning Code establishes design requirements for buildings on certain streets in order to maintain direct sunlight on public sidewalks in certain downtown areas during critical use periods. Section 146(c) requires that other buildings should be shaped so as to reduce substantial shadow impacts on public sidewalks, if doing so would not create an unattractive design and without unduly restricting the development potential of the site in question.

Section 146(a) does not apply to Washington Street, Sansome Street, or Merchant Street and therefore does not apply to the Project. Regarding Section 146(c), each of the Commercial Variant and Residential Variant would create new shadows on sidewalks and pedestrian areas adjacent to the Site. The amount of shadow cast on sidewalks would vary based on time of day, day of year, and weather conditions. Additionally, in certain locations, existing and future development would mask or subsume new shadows from the Project that would otherwise be cast on sidewalks in the Project vicinity. The Project's shadows would be limited in scope and would not increase the total amount of shading above levels that are commonly accepted in dense urban areas. Therefore, each of the Commercial Variant and Residential Variant complies with Section 146.

J. **Shadows on Public Open Spaces (Section 147).** The Planning Code requires new buildings in the C-3 districts exceeding 50 feet in height to be shaped, consistent with the dictates of good design and without unduly restricting the development potential of the site, to reduce substantial shadow impacts on public plazas and other publicly-accessible spaces other than those under the jurisdiction of the Recreation and Parks Department under Section 295. The following factors shall be taken into account: (1) the amount of area shadowed; (2) the duration of the shadow; (3) the importance of sunlight to the type of open space being shadowed.

Background

A shadow study was performed by a qualified consultant (Prevision Design) that analyzed potential shadow impacts on publicly-accessible spaces caused by net new project shadow. Prevision Design created a 3D computer model of the Project to evaluate the shadow impacts. The context model was used to generate a full-year shadow fan diagram, which depicts all areas that would receive net new shadow (factoring in the presence of current and intervening shadow from existing buildings) between one hour after sunrise through one hour before sunset ("the daily analysis period") throughout the year.

As there are no broadly established or accepted methodologies for technical evaluation of shadow effects under the San Francisco General Plan or CEQA, for review of shadow impacts on open spaces not subject to Section 295, the Planning Department typically adapts many of the Section 295 technical standards. This analysis uses many of the standards for review of shadow under Section 295. The shadow fan analysis prepared by Prevision Design follows the criteria adopted by the Recreation and Parks Commission and the Planning Commission in 1987 and 1989.

The FMND analyzed potential shadow impacts that could occur as a result of either the Commercial Variant or Residential Variant. For open spaces and parks not subject to Section 295 review, the general timing of net new shadow effects was analyzed, but quantitative shadow calculations were not conducted.

Analysis of Existing Open Spaces

Transamerica Redwood Park

The Transamerica Redwood Park is an approximately 1.25 acre (55,880 square foot) mid-block privately owned public open space located on Assessor's Block 0207 / Lot 033 between the Transamerica Building (600 Montgomery) to the west, Washington Street to the North, the 500-block of Sansome Street to the east, and Clay Street to the south. Public entrances are located on the north and south street frontages along with an east-west pedestrian walkway between buildings connecting to Sansome street. The park is comprised of several dozen mature redwood and other trees along with other landscape plantings, a fountain, numerous fixed benches, and points of access to the surrounding buildings. The dense redwood canopy above the park is a defining feature of the park.

Under current conditions, the park is predominantly shaded throughout the day due to shadows cast by existing buildings as well as substantial tree canopy cover. The shadow analysis conducted did not factor the presence of shadow from the substantial tree canopy cover existing over the park.

Even factoring out the presence of shadow from existing trees, each of the Commercial Variant and Residential Variant would generate small amounts of net new shadow on Redwood Park from approximately early April through early September, with the largest amount of shadow occurring on or near the summer solstice (June 24). Net new shadow from each of the Commercial Variant and Residential Variant would be cast in the morning lasting between a few minutes in the spring and fall up to about four hours on the summer solstice. The amount of area affected by such shadow would cover 5% or less of the park area (under 3,000 square feet) at any given time. The portions of the park that would be affected include the northern quarter of the park along Washington Street and a narrow section in the middle of the space.

Conclusion

The portions of Transamerica Redwood Park that would receive net new shadow from each of the Commercial Variant and Residential Variant include some areas containing fixed seating between the middle and northern edge of the park along Washington Street. While seating areas are typically considered a more sensitive open space, the substantial redwood tree canopy would likely capture a substantial amount of net new shadow cast by the Commercial Variant or Residential Variant, making it reasonable to conclude there is reduced importance of sunlight for enjoyment of these seating areas and that any net new shadowing would be less noticeable. Therefore, the each of the Commercial Variant and Residential Variant complies with Section 147.

K. Off-Street Parking (Section 151.1). The Planning Code does not require any off-street parking spaces be provided, but instead provides maximum parking amounts of parking permitted as accessory based on land use type. Off-street accessory parking for all non-residential uses in the C-3-G zoning district is limited to 7% of the gross floor area for such uses. For residential uses, one off-street parking space is principally permitted for every two dwelling units.

The Commercial Variant would provide a total of 14,835 gross square feet of off-street, accessory parking located within a below-grade garage (basement levels B1 and B2) for the Office and Hotel uses (30 parking spaces), which would be within the limit of 7% of occupied floor area for non-residential uses (excluding the SFFD Fire Station). The Commercial Variant would also provide non-accessory parking within basement level B3 for use by SFFD personnel (18 parking spaces). The non-accessory parking for SFFD Station 13 requires Conditional Use Authorization as the amount of parking exceeds what is permitted as accessory by Code Section 151.1. The Project Sponsor has filed a Conditional Use Authorization application, the findings and approval of which are made under Motion No. 20957 for Case No. 2019-017481CUA.

The Residential Variant would provide a total of 64 off-street accessory parking spaces within a below-grade garage (basement levels B1 and B2) for the residential uses on the Site, representing an off-street parking ratio of 0.25 spaces per dwelling unit, well below the principally permitted ratio of 0.5 spaces per dwelling unit. The Residential Variant's provision of off-street accessory parking below the amount that is principally permitted by Code for residential uses supports the City's policy aim of reducing off-street in parking in favor non-automotive means of transit. The Residential Variant would also provide non-accessory parking within basement level B3 for use by SFFD personnel (18 parking spaces). The non-accessory parking for SFFD Station 13 requires Conditional Use Authorization as the amount of parking exceeds what is permitted as accessory by Code Section 151.1. The Project Sponsor has filed a Conditional Use Authorization application, the findings and approval of which are made under Motion No. 20957 for Case No. 2019-017481CUA.

L. General Standards for Location and Arrangement of Off-Street Parking, Freight Loading, and Service Vehicle Facilities (Section 155). The Planning Code requires all off-street freight loading and service vehicle spaces in the C-3 Zoning District be completely enclosed, and access from a public Street or Alley shall be provided by means of a private service driveway that is totally contained within the structure. Such a private service driveway shall include adequate space to maneuver trucks and service vehicles into and out of all provided spaces, and shall be designed so as to facilitate access to the subject property while minimizing interference with street and sidewalk circulation. Any single development is limited to a total of two façade openings of no more than 11 feet wide each or one opening of no more than 22 feet wide for access to off-street parking and one façade opening of no more than 15 feet wide for access to off-street loading. Shared openings for parking and loading are encouraged. The maximum permitted width of a shared parking and loading garage opening is 27 feet.

Each of the Commercial Variant and Residential Variant includes a total of three (3) openings for access to off-street parking and loading. Along the Washington Street frontage, the Project includes two (2) openings: an approximately 10-foot-wide entrance to the off-street loading dock and an approximately 73-feet entrance for four SFFD Station 13 engine bays. Along the Merchant Street, the Project includes

an approximately 12-foot entrance to the basement garage (for the accessory and non-accessory parking). The two non-SFFD openings comply with Section 155(s)(4). The approximately 73-feet opening for four SFFD Station 13 engine bays, while exceeding the maximum length permitted by Code, are necessary to support the primary operation of SFFD Station 13 as a Public Facility. The SFFD entrance along the Washington Street frontage therefore requires Code-relief through a Variance, subject to review and approval by the Zoning Administrator, pursuant to Section 305. The Project Sponsor has filed a Variance application, the findings and approval of which are made under the Variance Decision for Case No. 2019-017481VAR.

M. Bicycle Parking (Sections 155.1, 155.2). The Planning Code establishes bicycle parking requirements for new developments, depending on use. For projects with over 100 residential dwelling units, 100 Class 1 spaces are required, plus 1 additional space for every four units over 100. One Class 2 space is required for every 20 dwelling units. One Class 1 space is required for every 7,500 square feet of occupied floor area devoted to Restaurants, Limited Restaurants, and Bars. One Class 2 space is required for every 750 square feet of occupied retail area devoted to Restaurants, Limited Restaurants, and Bars, and in no case less than two Class 2 spaces. Class 1 spaces must be located within a secure, weather-protected facility and intended for long-term use by residents and employees. Class 2 spaces must be located in a publicly-accessible and visible location, and intended for use by visitors, guests, and patrons.

The Commercial Variant includes a total of 23 Class 1 spaces and 26 Class 2 spaces, thereby providing the required number of Class 1 spaces and 26 of the 40 Class 2 spaces required by Code. The Class 2 bicycle parking spaces would be located along Sansome Street and Merchant Street. Due to the potential of conflicts with SFFD Station 13, Class 2 spaces are not suitable for placement within the public right-of-way along the Washington Street frontage. The Project Sponsor would pay an in-lieu fee for the 14 Class 2 spaces that cannot be provide on the Site, in accordance with Section 155.2(d) (language included in Sections 305 and 307(k)(2)(E) indicating that a variance is required to satisfy the Code's Class 2 bicycling parking requirement by payment of the in-lieu fee was superseded by Section 155.2(d)). The Class 1 bicycle parking would be located on basement (B1), accessible by elevators. Therefore, the Commercial Variant complies with Section 155.1 and 155.2.

The Residential Variant includes a total of 143 Class 1 spaces and 21 Class 2 spaces, where 143 Class 1 spaces and 21 Class 2 spaces are required by Code. The Class 2 bicycle parking spaces would be located along Sansome Street and Merchant Street (no Class 2 spaces are proposed on Washington Street to avoid potential conflicts with SFFD Station 13). The Class 1 bicycle parking would be located on basement level (B1), accessible by elevators. Therefore, the Residential Variant complies with Section 155.1 and 155.2.

N. Shower Facilities and Lockers (Section 155.4). The Planning Code requires shower facilities and lockers for Non-Retail Sales and Service and Institutional Uses in the following amounts: two showers and 12 clothes lockers where the Occupied Floor Area exceeds 20,000 square feet but is no greater than 50,000 square feet, and four showers and 24 clothes lockers are required where the Occupied Floor Area exceeds 50,000 square feet. For Retail Sales and Services Uses, one shower and six lockers are required where Occupied Floor Area exceeds 25,000 square feet but is no greater than 50,000 square feet, and two showers and 12 clothes lockers are required where Occupied Floor Area exceeds 50,000 square feet.

The Commercial Variant includes more than 50,000 square feet of non-retail sales and services occupied floor area and more than 50,000 square of retail sales and services occupied floor area, meaning a total of six (6) showers and 36 clothes lockers are required. The Commercial Variant would provide the required shower and locker facilities at basement level 2, accessible by elevators. In addition, various shower and locker facilities would be provided within the occupied areas of the building. Therefore, the Commercial Variant complies with Section 155.4.

The Residential Variant proposes Institutional uses (SFFD) over 10,000 square feet, but under 20,000 square feet, meaning one (1) shower and six (6) clothes lockers are required. The SFFD Station 13 would include more shower and locker facilities than required by Code. Therefore, the Residential Variant complies with Section 155.4.

O. Transportation Management Programs (Section 163). The Planning Code requires, for all applicable projects, that property owner provide on-site transportation brokerage services for the actual lifetime of the project.

Each of the Commercial Variant and Residential Variant would be subject to the requirements of Section 163 and will provide on-site transportation brokerage services for the actual lifetime of the project. Prior to the issuance of a temporary permit of occupancy, the property owner shall execute an agreement with the Planning Department for the provision of on-site transportation brokerage services. Therefore, each of the Commercial Variant and Residential Variant complies with Section 163.

P. Car Sharing (Section 166). The Planning Code establishes requirements for new developments to provide off-street parking spaces for car-sharing services. The number of spaces depends on the amount and type of residential or office use. One car share space is required for any project with between 50-200 residential units. Projects with over 200 residential units but less than 400 units require two spaces. For non-residential uses, one space is required if the project provides 25-49 off-street spaces for those uses. One car share space is required for every 50 additional parking spaces devoted to non-residential use. The car-share spaces must be made available to a certified car-share organization at the building site or within 800 feet of it.

The Commercial Variant includes one (1) car share spaces where one is required by Code. Therefore, the Commercial Variant complies with Section 163.

The Residential Variant includes two (2) car shares spaces where two are required by Code. Therefore, the Residential Variant complies with Section 163.

Q. Unbundled Parking (Section 167). The Planning Code requires all off-street parking spaces accessory to residential uses in new structures of 10 dwelling units or more, or in new conversions of non-residential buildings to residential use of 10 dwelling units or more, shall be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units, such that potential renters or buyers have the option of renting or buying a residential unit at a price lower than would be the case if there were a single price for both the residential unit and the parking space.

The Commercial Variant is not subject to Section 167.

The Residential Variant will lease all accessory off-street parking spaces separately from the rental fees for dwelling units for the life of the dwelling units. Therefore, the Residential Variant complies with Section 167.

R. Transportation Demand Management (TDM) Plan (Section 169). The Planning Code requires applicable projects to finalize a TDM Plan prior Planning Department approval of the first Building Permit or Site Permit.

A complete Project Application was deemed accepted on January 30, 2020. Therefore, the Project must achieve 100% of the point target established in the TDM Program Standards, resulting in a required target of 30 points.

As currently proposed, the Commercial Variant will achieve a total of 31 of its required 30 points through the following TDM measures:

- *Improve Walking Conditions (Option A) – Office/Hotel*
- *Bicycle Parking (Option A) – Retail, Office/Hotel, SFFD*
- *Showers and Lockers – Retail, Office/Hotel, SFFD*
- *Multimodal Wayfinding Signage – Retail and SFFD*
- *Unbundled Parking (Location D) – Office/Hotel*
- *Parking Supply (Option G) – Office/Hotel*
- *Parking Supply (Option K) -- Retail*

As currently proposed, the Residential Variant will achieve a total of 18 of its required 18 points through the following TDM measures:

- *Improve Walking Conditions (Option A) – Residential*
- *Bicycle Parking (Option A) – Residential, SFFD*
- *Showers and Lockers – SFFD*
- *Car-Share Parking – Residential*
- *Delivery Supportive Amenities – Residential*
- *Multimodal Wayfinding Signage – Residential, SFFD*
- *Real Time Transportation Displays – Residential*
- *Tailored Transportation Market Services (Option A) – Residential*
- *Unbundled Parking (Location D) – Residential*
- *Parking Supply (Option F) – Residential*

Therefore, each of the Commercial Variant and Residential Variant complies with Section 169.

S. Dwelling Unit Mix (Section 207.7). The Planning Code requires that no less than 25% of the total number of proposed dwelling units shall contain at least two bedrooms and that no less than 10% of the total number of proposed dwelling units shall contain at least three bedrooms. Any fraction resulting from this calculation shall be rounded to the nearest whole number of dwelling units and units counted towards the three-bedroom requirement may also count towards the requirement for units with two or more bedrooms.

The Commercial Variant contains only non-residential uses (no dwelling units) and is therefore not subject to Section 207.7.

The Residential Variant contains residential uses (256 dwelling units) and is therefore subject to Section 207.7. The Residential Variant will provide the following dwelling unit mix: 100 studios (39%); 91 one-bedroom units (35%), 38 two-bedroom units (15%), and 27 three-bedroom units (10%). With 25% of the dwelling units containing at least two bedrooms, the Project meets the dwelling unit mix requirement. Therefore, the Project complies with Section 207.7.

T. Shadows on Parks (Section 295). The Planning Code requires a shadow analysis for projects over 40 feet in height to ensure that new buildings do not cast new shadows on properties that are under the jurisdiction of the San Francisco Recreation and Park Department.

Background

The Department prepared an initial shadow fan that indicated the Project could potentially cast new shadow on properties under the jurisdiction of the San Francisco Recreation and Park Department. The initial Department analysis did not account for the precise articulation of the envelope of the Project, nor did it account for the shading from existing buildings.

A Shadow Study was prepared by qualified consultants ("Prevision Design"), finalized on February 5, 2021, that analyzed the potential shadow impacts of both the Commercial Variant and Residential Variant to properties under the jurisdiction of the RPD (Case No. 2019-017481SHD). The analysis was conducted according to criteria and methodology as described in (1) the February 3, 1989 memorandum titled "Proposition K – The Sunlight Ordinance" ("the 1989 memorandum") prepared by RPD and the San Francisco Planning Department ("Planning"), (2) the July 2014 memorandum titled "Shadow Analysis Procedures and Scope Requirements" ("the 2014 memorandum") prepared by Planning, and (3) direction from current Planning and RPD staff regarding the appropriate approach, deliverables, and scope of analysis appropriate in consideration of the open spaces affected.

Shadow Analysis Results

The Shadow Study indicates that each of the Commercial Variant and Residential Variant would cast new shadows on the following two (2) properties under the jurisdiction of RPD: Maritime Plaza and Sue Bierman Park.

Maritime Plaza

Maritime Plaza is a 1.99-acre (86,676-square foot) urban plaza located in the Financial District of San Francisco on Assessor's Block 0204/Lots 020 and 022. The plaza is elevated above street level above a parking structure and consists of two separated sections of the double-block between Washington and Clay, the west section bordering Battery Street, and east section bordering Davis Street. Public access to Maritime Plaza is via public stairwells located at Washington and Clay streets as well as elevated walkways that connect across Washington and Clay streets to adjacent properties to the north and south. Connection between the two portions of the plaza is via breezeway through the Alcoa building (One Maritime Plaza). The official hours of operation are from 5 a.m. to 12 a.m. (midnight). The park contains a large fountain on the eastern side and a wide plaza area with a square lawn on the western portion. Flanking these plaza areas are fenced rectangular sculpture areas with seating which are ringed by small trees. Each side of the plaza includes a one-story building, with the Punchline Comedy

club on the western side and private offices in the building on the eastern side. Behind each of these buildings, connected to the main plaza area by walkways are two other landscaped seating areas.

Under current conditions, the plaza receives 218,954,785 annual square-foot-hours (sfh) of shadow. Based on a calculated Theoretical Annual Available Sunlight (TAAS) of 322,556,066 sfh, the plaza's existing annual shadow load is 67.88 percent of its TAAS. Under existing conditions, the plaza is substantially shaded in the mornings and afternoons with some increased areas of sun around midday during the spring, summer, and early fall. The plaza is almost entirely shaded throughout the day during late fall and winter months.

The Commercial Variant would result in net new shadow cast on Maritime Plaza, adding 2,275,914 net new annual sfh of shadow and increasing the sfh of shadow by 0.71% annually above current levels. This increase would result in a new annual total shadow load of 68.59%.

The Residential Variant would result in similar but slightly lesser amount of net new shadow on the plaza, adding approximately 2,219,243 net new annual sfh of shadow, increasing the sfh of shadow by 0.69% annually above current levels. This increase would result in a new annual total shadow load of 68.57%.

The pattern of net new shadow from both the Commercial Variant and Residential Variant would be nearly identical, occurring for approximately 223 days a year between approximately March 2 and October 10. Net new shadowing from both the Commercial Variant and Residential Variant would fall primarily on the western portion of Maritime Plaza, with only a small band along the northern edge of the eastern portion of the plaza receiving any net new shadow. Net new shadow from both the Commercial Variant and Residential Variant would be cast only during afternoon hours, no earlier than 3:30 p.m. The most net new shadowing would occur in spring and summer after 4 p.m.

Most of the observed activities in the plaza are transitory in nature, including dog walking and pedestrian travel through the plaza. Net new shadow on areas of Maritime Plaza which could be of higher sensitivity to shadowing include seating areas and the western lawn, observed to be used for midday and afternoon eating or conversing. These areas would receive shadow from the Commercial Variant and Residential Variant only within the last one to four hours before sunset, depending on time of spring, summer, or early fall. In addition, during most affected times, there would be other seating areas of the park that would be unshaded where, assuming sunlight is desirable for the park user, the user(s) would be able to sit down in sunlight instead of the areas receiving net new shadow from the Commercial Variant or Residential Variant. One exception is the date of maximum shading (August 16 and April 26) where nearly the entire plaza would be shaded for approximately 17 minutes from 6:45 p.m. until sunset at 7:02 p.m. At this point in the day, the majority of the plaza is already shaded under existing conditions. It is anticipated park users would be accustomed to and expect shade during these late afternoon hours just before sunset and would be less likely to be using the plaza for eating or conversing. Therefore, given the time of day and relatively limited extent of net new shadow, park users are not anticipated to be substantially or adversely affected by new shadow.

Sue Bierman Park

Sue Bierman Park is a 4.08-acre (177,577-square foot) urban park located in the Financial District of San Francisco on Assessor's Block 0203 / Lot 014 and Block 0202 / Lots 006, 015, 018, and 020. The Park is physically divided by Drumm Street into two parts, the western portion is bounded by Washington Street to the north, Clay Street to the south, Drumm Street to the east, and Davis Street to the west, while the eastern portion is bounded by Washington Street to the north, Clay Street to the south, the Embarcadero to the east, and Drumm Street to the west.

The Park did not exist in its current form, size, and configuration when the absolute cumulative limits were adopted in 1989. At that time, an Absolute Cumulative Limit (ACL) of zero percent was adopted for "Embarcadero Plaza I (North)," a park east of Drumm Street which has since been subsumed within the larger Sue Bierman Park. In addition, at the time of the adoption of ACLs for downtown parks, Embarcadero Plaza I (North) experienced substantial shading from the Embarcadero Freeway. The freeway has since been demolished following damage in the 1989 Loma Prieta earthquake. Portions of the former freeway right-of-way were acquired and reconfigured into an expanded open space that is now known as Sue Bierman Park. No formal shadow criteria or limits had ever been adopted for Sue Bierman Park, in its present form, size, and configuration.

A previously proposed project located at 8 Washington Street (Case No. 2007.0030) would have cast net new shadow on Sue Bierman Park in its current form, size, and configuration. The Planning Commission and the Recreation and Park Commission held a duly advertised joint public hearing on March 22, 2012 to consider whether to set an ACL equal to 0.00067% of the TAAS, equal to approximately 4,425 sfh of net new shadow for Sue Bierman Park. Through Motion No. 18562, the Planning Commission adopted the findings under Shadow Analysis Application No. 2007.0030K to set an ACL equal for Sue Bierman Park of 0.00067% of TAAS. The vested development rights and corresponding Planning Commission motions for the previously proposed project located at 8 Washington Street (Case No. 2007.0030) are deemed expired. As such, no formal shadow criteria or limits exist for Sue Bierman Park, in its present form, size, and configuration.

The net new shadow from both the Commercial Variant and Residential Variant would only affect the western portion of the park (west of Drumm Street).

The park is not fenced, and the official hours of operation are from 5 a.m. to 12 a.m. (midnight). The western portion of the park contains grassy and heavily vegetated landscape areas, divided by three paved walkways connecting the northwest, southwest, and southeast corners of the park. A large sculpture is located in the center of a large grassy area near Drumm Street. The southwestern corner is heavily wooded with unpaved trails through a natural area. The northeast corner features a stand of tall trees surrounding a small utility building complex owned by the San Francisco Public Utilities Commission.

Under current conditions, the park receives 281,550,861 annual sfh of shadow. Based on a calculated TAAS of 660,834,406 sfh, Sue Bierman Park's existing annual shadow load is 42.6054 percent of its TAAS. Under existing conditions, the park is predominantly unshaded during the morning hours, with shadow levels generally growing toward the afternoon. The park is almost entirely shaded throughout the afternoon during late fall and winter months.

The Commercial Variant would result in net new shadowing on the park of approximately 976 net new annual sfh of shadow, resulting in an increased annual shadow load of just 0.00001% and a new annual total shadow load of 42.6055%.

The Residential Variant would result in net new shadowing on the park of approximately 892 net new annual sfh of shadow, resulting in an increased annual shadow load of just 0.00001% and a new annual total shadow load of 42.6055%.

Net new shadow from both the Commercial Variant and Residential Variant would occur for a total of approximately 26 days between approximately March 16 through March 28 and September 14 and September 26. Net new shadow on the western portion of Sue Bierman Park from both the Commercial Variant and Residential Variant would be limited to northern edge of the western portion of the park adjacent to the Washington Street sidewalk. Observed uses in this area were transitory in nature and would not likely be affected by the presence of a small amount of new shadow.

Conclusion

While each of the Commercial Variant and Residential Variant would cast net new shadow on two (2) existing parks, neither would create new shadow that would substantially and adversely affect the use or enjoyment of publicly accessible open spaces based upon the amount and duration of new shadow and the importance of sunlight to each of the open spaces analyzed.

On July 29, 2021, the Planning Commission and the Recreation and Park Commission held a duly noticed joint public hearing on and adopted Planning Commission Resolution No. 20954 and Recreation and Park Commission Resolution No. 2107-006 raising the absolute cumulative limit (ACL) for shadows on Maritime Plaza and setting an ACL for Sue Bierman Park, two (2) properties under the jurisdiction of the Recreation & Park Department that would be shadowed by the Project.

At the same hearing on July 29, 2021, the General Manager of the Recreation & Parks Department, in consultation with the Recreation and Park Commission, recommended to the Planning Commission that the shadows cast by either the Commercial Variant or Residential Variant of the Project (as hereinafter defined) on two (2) properties under the jurisdiction of the Recreation & Parks Department (Maritime Plaza and Sue Bierman Park) would not be adverse to the use of those properties (Case No. 2019-017481SHD). As part of this recommendation, the Recreation and Park Commission adopted environmental findings in accordance with CEQA, along with a Mitigation Monitoring and Reporting program ("MMRP") for the Project (Recreation and Park Commission Resolution No. 2107-007).

U. Review of Residential, Hotel, and Motel Projects (Section 314). In addition to any other factors appropriate for consideration under the Planning Code, the Planning Department and Planning Commission shall consider the compatibility of uses when approving Residential Uses, Hotel Uses, or Motel Uses, as those terms are defined in Chapter 116 of the Administrative Code, adjacent to or near existing permitted Places of Entertainment and shall take all reasonably available means through the City's design review and approval processes to ensure that the design of such new residential, hotel, or motel project takes into account the needs and interests of both the Places of Entertainment and the future residents or guests of the new development. Such considerations may include, among others: (a) the proposed project's consistency with applicable design guidelines; (b) any proceedings held by the Entertainment Commission relating to the proposed project, including but not limited to

any acoustical data provided to the Entertainment Commission, pursuant to Administrative Code Section 116.6; and (c) any comments and recommendations provided to the Planning Department by the Entertainment Commission regarding noise issues related to the project pursuant to Administrative Code Section 116.7.

The Project is located within 300 radial feet of three Places of Entertainment ("POE") and is subject to Chapter 116 of the Administrative Code. On April 7, 2021, the Entertainment Commission received notification of both the Commercial Variant and Residential Variant, each of which are subject to Chapter 116. In accordance with the Entertainment Commission's approved recommended noise attenuation conditions Entertainment Commission staff determined on May 5, 2021, that a hearing on this project was not required under Section 116.7(b) of the Administrative Code. The Commission recommends that the Planning Department and/or Department of Building Inspection impose standard conditions on the development permit(s) for either the Commercial Variant or Residential Variant, reflected in Exhibit A hereto. Therefore, each of the Commercial Variant and Residential Variant complies with Section 314.

V. **Inclusionary Affordable Housing Program (Section 415).** The Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, the current percentage requirements apply to projects that consist of ten or more units. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee ("Fee"). This Fee is made payable to the Department of Building Inspection ("DBI") for use by the Mayor's Office of Housing and Community Development for the purpose of increasing affordable housing citywide. The applicable percentage is dependent on the number of units in the project, the zoning of the property, if the project is a rental or ownership project, and the date that the project submitted a complete Project Application.

The Commercial Variant is not subject to Section 415.

The Residential Variant includes 256 rental dwelling units and is therefore subject to Section 415. The Project Sponsor has submitted an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415, to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor's Office of Housing and Community Development. The applicable percentage is dependent on the total number of units in the project, the zoning of the property, whether the project is rental or ownership, and the date that the project submitted a complete Project Application. The Department's Environmental Planning division accepted an application from the Project Sponsor to study the Residential Variant under CEQA on September 15, 2020; therefore, pursuant to Planning Code Section 415.3 the Inclusionary Affordable Housing Program requirement for the Affordable Housing Fee is at a rate equivalent to 30% of the Residential Variant's residential gross floor area.

Therefore, the Residential Variant complies with Section 415.

W. **Public Art (Section 429).** The Planning Code Section requires a project to include works of art costing an amount equal to one percent of the construction cost of the building for construction of a new building or addition of floor area in excess of 25,000 square feet to an existing building in a C-3 District.

Each of the Residential Variant and Commercial Variant will comply with this Code requirement by dedicating one percent of the Project's construction cost to works of art. The public art is proposed to be installed as part of the hardscaping and furnishing improvements to Merchant Street.

7. **Exceptions Request Pursuant to Planning Code Section 309.** The Planning Commission has considered the following exceptions to the Planning Code, makes the following findings, and grants each exception to the Project as further described below:

   A. **Rear Yard (Section 134).** The Planning Code requires that the Project provide a rear yard equal to 25 percent of the lot depth at the first level containing a dwelling unit, and at every subsequent level. Exceptions to the rear yard requirements may be granted if the building location and configuration assure adequate light and air to the residential units and the open space provided.

   The Commercial Variant does not propose any residential uses and therefore is not subject to a rear yard requirement of Section 134.

   The rear yard requirements of Section 134 apply to the Residential Variant, commencing at the lowest story containing a dwelling unit, and at each succeeding level or story of the building. With a lot depth of approximately 179 feet (as measured from Sansome Street), the rear yard requirement for the Residential Variant is approximately 45 feet. Due to the unique mix of uses proposed, including construction of a new SFFD Station 13, the Residential Variant does not provide a traditional rear yard, but rather provides a large, outer court along the eastern boundary of the Site, measuring approximately 33 feet in depth, that is open to both adjacent street frontages (Washington and Merchant Streets).

   Section 134(d) allows for an exception to the rear yard requirement pursuant to the Section 309 process so long as the "building location and configuration assure adequate light and air to windows within the residential units and to the usable open space provided." While the Residential Variant does not propose a rear yard and thus does not meet the strict requirements of the Code, it does ensure adequate open space through a large, open court, and allows sufficient light and air to reach the residential units through the provision of private balconies for 123 of the 256 dwelling units, as well as an approximately 6,384 square foot solarium for the enjoyment of residents.

   Due to the adequate air and light and open space provided by the Residential Variant, it is appropriate to grant an exception from the rear yard requirements of Section 134.

   B. **Dwelling Unit Exposure (140).** The Planning Code requires that at least one room of each dwelling unit must face onto a public street, a rear yard, or other open area that meets minimum requirements for area and horizontal dimensions.

   The dwelling unit exposure requirement only applies to Residential Variant, as the Commercial Variant does not propose any dwelling units. The Site is a corner lot with frontages along Washington Street, Sansome Street, and Merchant Street, with all three streets meeting the minimum width requirements established by Code. Further, beginning at level 6, the Residential Variant proposes a large, outer court between its eastern façade (which does not front a street) and the eastern boundary of the Site that would have a minimum dimension of at least 33', thereby meeting the dimensional requirements

established by Code. A total of four (4) eastward-facing dwelling units at level 4 and 5 would face onto the SFFD podium structure and would not meet the Code's dwelling unit exposure requirements, therefore requiring an exception under Section 309. Exceptions to dwelling unit exposure requirements are permitted as part of a downtown project authorization approval pursuant to Section 309(a)(14). The minimum unobstructed distance from each of the four dwelling units would be 6'6". While the four (4) dwelling units would not meet the strict exposure standards of the Code, the units would have adequate light and air and be part of an overall desirable design of a mixed-use development that will maximize residential density in a vibrant, mixed-use project that will provide the City with a new state-of-the-art fire station.

It is therefore appropriate to grant an exception from the dwelling unit exposure requirements of Section 140.

C. Reduction of Ground-Level Wind Currents in C-3 Districts (Section 148). Within the C-3 zoning districts, new buildings are required to be shaped, or other wind-baffling measures adopted, so that the building will not cause ground-level wind currents to exceed the comfort level of 11 mph equivalent wind speed in areas of substantial pedestrian use or 7 m.p.h. equivalent wind speed in public seating areas, for more than 10 percent of the time year-round, between 7 am and 6 pm. If pre-existing wind speeds exceed the comfort level, or if the building would cause speeds to exceed the comfort level, the building should be designed to reduce wind speeds to the comfort level. Exceptions can be granted pursuant to Section 309 allowing the building to add to the amount of time the comfort level is exceeded if (1) the building cannot be shaped and other wind-baffling features cannot be adopted without creating an unattractive and ungainly building form, and without unduly restricting the development potential of the site; and (2) the addition is insubstantial, either due to the limited amount of exceedances, the limited location where the exceedances take place, or the short time when the exceedances occur. No exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year.

Background

A qualified wind consultant (Rowan Williams Davies & Irwin Inc., "RWDI") analyzed ground-level wind currents in the vicinity of the Site through a series of wind studies. The wind studies were prepared using wind testing analysis and evaluation methods to determine conformity with Section 148 criteria. The wind studies measured wind speeds for the existing, existing plus project, and cumulative scenario. The cumulative scenario included massing models of other potential future development in the vicinity. The wind consultant determined that for purposes of wind analysis and evaluation, the respective designs of the Commercial Variant and Residential Variant were sufficiently similar that any effects from wind would not greatly vary from a pedestrian wind comfort or hazard perspective. As such, the wind testing analysis studied the Commercial Variant and concluded that wind effects associated with the Residential Variant would be anticipated to be congruent with the reported for the Commercial Project. Wind speed measurements were taken at a total 77 locations for the project and cumulative scenarios. No street trees or landscaping was included in the wind testing analysis, meaning the testing results represent conservative assessments of potential wind effects of the Project, which would likely be less after implementation of required street tree plantings and other landscaping improvements.

Hazard Criterion

The wind studies found that, under existing conditions, 12 of the 77 locations exceeded the 26-mph wind hazard criterion for a total of 249 hours per year. With the addition of either the Commercial Variant or Residential Variant, the number of locations with hazardous wind conditions would decrease to 10 (net reduction of two locations), and the total number of hours with hazardous wind conditions would decrease from 249 to 138 (a reduction of 111 hours).

The FMND concluded that each of the Commercial Variant and Residential Variant would have a less than significant impact with regards to potential wind impacts under CEQA.

Pedestrian & Seating Comfort Criterion

The wind studies found that, under the existing scenario, wind speeds exceed the 11-mph comfort criterion at 53 out of 77 test locations, with the average 90th percentile wind speed for the 77 test locations being 14 mph, exceeding the applicable criterion on average 21% of the year. With the addition of either the Commercial Variant or Residential Variant, wind speeds would exceed the 11-mph comfort criterion at 55 out of 77 test locations (a net increase of two (2) locations), with no net increase or decrease in average speed for the 77 test locations (i.e., 14 mph), exceeding the applicable criterion on average 20% of the year (a net decrease of 1%).

Conclusion

Either the Commercial Variant or Residential Variant would result in a net decrease of two test locations exceeding the wind hazard criterion. In addition, the total number of hours with hazardous wind conditions would decrease by 111 hours under either the Commercial Variant or Residential Variant. The addition of the proposed street tree plantings and other landscaping is expected to further improve the wind hazard conditions compared to existing conditions.

Although either the Commercial Variant or Residential Variant would reduce by 1% the percentage time of the year during which wind comfort criteria would be exceeded and would not result in a net increase in average wind speed, the addition of two pedestrian comfort criterion exceedances requires an exception under the (Section 309) Downtown Project Authorization process. The exception to the ground-level wind current requirements (Section 148) is warranted since it is unlikely that either the Commercial Variant or Residential Variant could be designed in a manner that would eliminate all existing comfort criterion exceedances. Moreover, because there would be no net increase in wind speed, the two net new exceedances can be considered insubstantial, particularly given a 1% net decrease in the percentage time of year during which an exceedance would occur.

It is therefore appropriate to grant an exception from the strict requirements of Section 148.

D. Off-Street Freight Loading (Sections 152.1,153, 154, 161). The Planning Code requires certain amounts of off-street freight loading space based on the type and size of uses in a project. For office, 0.1 spaces are required for every 10,000 square feet of Occupied Floor Area, rounded to the nearest whole number. For hotels and residential units, 2 off-street spaces are required between 200,001 and 500,000 square feet of Occupied Floor Area for each use, and hotel and residential uses exceeding 500,000 square feet of Occupied Floor Area are required 3 spaces, plus one space for each additional 400,000 square feet of Occupied Floor Area. Pursuant to Section 153(a)(6), two service vehicle spaces can be substituted for one required freight loading space if at least 50% of the required number of freight

loading spaces are provided. Planning Code Section 154 sets forth standards as to location and arrangement of off-street freight loading and service vehicle spaces. Off-street loading spaces are required to have a minimum length of 35 feet, a minimum width of 12 feet, and a minimum vertical clearance including entry and exit of 14 feet, except that the first freight loading space required for any structure or use shall have a minimum width of 10 feet, a minimum length of 25 feet, and a minimum vertical clearance, including entry and exit, of 12 feet. Exceptions to the Code's off-street freight loading requirements may be granted by the Planning Commission pursuant to Section 309.

The Residential Variant requires two (2) off-street loading spaces. The Residential Variant proposes one (1) standard-sized loading space meeting strict dimensional standards along the Washington Street frontage and two (2) substituted service vehicle spaces meeting strict dimensional standards at basement level (B1) that count as a one (1) standard space. Therefore, the Residential Variant complies with the Code's off-street freight loading requirements.

The Commercial Variant requires a total of four (4) off-street loading spaces. The Commercial Variant proposes a total of two (2) spaces off-street loading spaces: one (1) standard-sized loading space meeting strict dimensional standards along the Washington Street frontage and two (2) substituted service vehicle spaces meeting strict dimensional standards at basement level (B1) that count as a one (1) standard space. Therefore, the Commercial Variant requires a Section 309 exception from the freight loading and service vehicle space requirements of Section 152.1. The proposed mix of uses for the Commercial Variant, including the new SFFD Station 13, creates unique site constraints making infeasible the provision of the adequate number of off-street loading spaces meeting the Code's technical requirements. Specifically, SFFD Station 13 requires that Washington Street—the street most suitable for large delivery truck loading facilities—be nearly devoid of non-SFFD vehicle facilities to avoid potential conflicts between SFFD engines and other vehicular activity associated with the Commercial Variant. The Commercial Variant design reflects careful coordination between SFFD, SFMTA, and the Project Sponsor to accommodate one (1) standard-sized, off-street freight loading space, accessible from the Washington Street frontage, in a manner that would not conflict with the operations at SFFD Station 13. Moreover, the Commercial Variant also proposes two Code-compliant substituted service vehicle spaces on basement level (B1), accessible from Merchant Street.

A qualified transportation consultant (Fehr & Peers) prepared a transportation impact study which analyzed whether the Commercial Variant could result in a loading deficit that could create potentially hazardous conditions for people walking, bicycling, driving, or substantial delay public transit. The consultant's analysis supports that the Commercial Variant would not create hazardous conditions for people walking, bicycling, driving, or create substantial delays to transit. In addition, the Commercial Variant would be subject to a Driveway Loading and Operations Plan (DLOP) as a condition of approval in Exhibit A, intended to reasonably ensure safe and orderly loading activity at the Site.

It is therefore appropriate to grant an exception from the strict requirements of Code Section 152.2.

E. Height (Sections 250 and 263.9). The Planning Code requires that the height of buildings not exceed the limits specified in the Zoning Map and defines rules for the measurement of height. In the S bulk district, additional height up to 10 percent of the otherwise permitted height may be allowed by Section 309 exception, as an extension of the upper tower, provided that the volume of the upper tower as extended is reduced by the percentage shown in Chart C of Section 271. If granting a height extension pursuant to Section 263.9, the Section 309 exception must include a determination that the

upper tower volume is distributed in a way that will add significantly to the sense of slenderness of the building and to the visual interest to the termination of the building, and that the added height will improve the appearance of the sky-line when viewed from a distance, will not adversely affect light and air to adjacent properties, and will not add significant shadows to public open spaces.

The Site is located within the 200-S Height and Bulk District, meaning an extension up to 20' above the otherwise applicable 200' height limit is allowable pursuant to Section 263.9. The Commercial Variant would construct an upper tower reaching approximately 217'7", while the Residential Variant would construct an upper tower reaching approximately 218' (the minor variation is the result of different floor-to-ceiling heights for the 19-story upper tower of the Commercial Variant and the 21-story upper tower of the Residential Variant). Therefore, the height of the upper tower of either the Commercial Variant or Residential Tower is allowable with benefit of a Section 309 exception for height.

The design of the Commercial Variant upper tower presents an initial appearance of uniform bulk, that gently shifts with each perspective of the tower due to a geometric system of metal horizontal fins and vertical pipes framing the recessed glass line of the tower. The result is a visually distinctive and elegant upper tower form that is compatible with nearby buildings such as One Maritime Plaza and the Embarcadero Center towers, while enhancing the downtown skyline. The extended height achieves a sense of slenderness by shifting building massing from lower levels of the tower, thereby creating enhanced separation from the seven-story building at 423 Washington Street. Accentuated by its crowning, opaque rooftop screening, the upper tower volume is distributed in a manner that creates visual interest and will improve the appearance of the skyline when viewed from a distance. The height extension will not adversely affect light and air to adjacent properties or add significant shadows to public open spaces.

The design of the Residential Variant's upper tower is materially similar to that of the Commercial Variant, with minor variations in the form of permitted roof top screening that do not detract from the visual interest of the Residential Variant's upper tower or adversely affect light and air to adjacent properties or add significant shadows to public open spaces.

The exception for height is therefore warranted for each of the Commercial Variant and Residential Variant.

F. Bulk (Section 270). The Planning Code establishes bulk controls by district. For buildings located within the "S" Bulk District, there are no bulk limitations below the base of the building (90' in the case of the Site), with lower tower and upper tower established by Section 270(d)(2)-(3). Bulk controls for the lower tower apply to that portion of the building height above the base as shown on Chart B of Section 270(d). The bulk controls for the lower tower are a maximum length of 160 feet, an average floor size of 17,000 square feet, and a maximum floor size of 20,000 square feet, and a maximum diagonal dimension of 190 feet. Pursuant to Chart B, upper tower bulk controls apply beginning at 160' and are a maximum length of 130 feet, a maximum average floor size of 12,000 square feet, a maximum floor size for any floor of 17,000 square feet, and a maximum average diagonal measure of 160 feet. When the average floor size of the lower tower exceeds 5,000 square feet, the volume of the upper tower shall be reduced to a percentage of the volume that would occur if the average floor size of the lower tower were extended to the proposed building height. The percentage varies with the bulk of the lower tower and with whether or not a height extension is employed pursuant to Section

263.7 and is shown on Chart C of Section 270(d). In achieving the required volume reduction, a setback or change in profile at a specific elevation is not required.

For both the Commercial Variant and Residential Variant, bulk controls apply to the lower tower, starting at 90 feet above grade, and to the upper tower, starting at 160 feet above grade. The mass for both the Commercial Variant and Residential Variant is positioned as far west on the Site as feasible to minimize shadow impacts on Maritime Plaza and Sue Bierman Park, two (2) properties under the jurisdiction of the Recreation and Parks Department that are subject to the controls of Section 295.

The Commercial Variant proposes a 19-story tower, with a Code-compliant lower tower (floors 8 through 14), and an upper tower (floors 15 through 19) with a maximum length of 146 feet, a maximum diagonal of 171 feet and an average floor size of 12,313 square feet. While the lower tower's average floor size is 2,590 square feet less than what is permitted by Code, the upper tower exceeds the limits established within Code Section 270(d)(2)(A) for maximum length, diagonal, and average floor size due to the form of the upper tower mimicking the form of the lower tower. Further, Section 270(d)(3)(B) requires a volume reduction of 21.5% from the average floor size of the lower tower, whereas the upper tower only achieves a reduction of 7.1% from the average floor size from the lower tower. However, because the average floor area of the lower tower is smaller than the allowable by Code by a total of 18,130 square feet (2,590 square feet per floor), in practical terms, the upper tower achieves a reduction of 22.3% from the maximum allowable lower tower average floor area (15,840 square feet) as permitted by Code. Nonetheless, the Commercial Variant requires an exception pursuant to Section 309 from the bulk limits established within Section 270.

The Residential Variant proposes a 21-story tower, with a Code-compliant lower tower (floors 9 through 15) and an upper tower (floors 16 through 21) with a maximum length of 146 feet, a maximum diagonal of 171 feet and an average floor size of 11,642 square feet. While the lower tower's average floor size is 2,840 square feet less than what is permitted by Code, the upper tower exceeds the limits established within Code Section 270(d)(2)(A) for maximum length, diagonal and average floor size due to the form of the upper tower mimicking the form of the lower tower. Further, Section 270(d)(3)(B) requires a volume reduction of 21.5% from the average floor size of the lower tower, whereas the upper tower only achieves a reduction of 10.4% from the average floor size from the lower tower. However, because the average floor area of the lower tower is smaller than the allowable by Code by a total of 19,880 square feet (2,840 square feet per floor), in practical terms, the upper tower achieves a reduction of 26.5% from the maximum allowable lower tower average floor area (15,840 square feet) as permitted by Code. Nonetheless, the Residential Variant requires an exception pursuant to Section 309 from the bulk limits established within Section 270.

The design of either the Commercial Variant or Residential Variant tower includes an elegant form achieved in significant part by consistent massing from the lower level to the upper tower, accentuated by a geometric system of metal horizontal fins and vertical pipes framing the recessed glass line of the tower. This design is desirable in the setting of the Financial District, provided that the footprint of the lower tower has been substantially reduced from what would be permitted by Code. The slender form of the tower does not result in aggravated shadowing on nearby open spaces and creates a sense of separation of the Commercial Variant or Residential Variant tower from nearby towers. Further, either the Commercial Variant or Residential Variant tower includes community-serving uses in the form of a

new state-of-the-art fire station and new shared-street POPOS improvements on Merchant Street, resulting in a desirable building and program.

The exception for bulk for each of the Commercial Variant and Residential Variant is therefore warranted.

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

GENERAL PLAN: HOUSING ELEMENT
Objectives and Policies

OBJECTIVE 1
IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1
Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

Policy 1.8
Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional, or other single use development projects.

Policy 1.10
Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

OBJECTIVE 4
FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1
Develop new housing, and encourage the remodeling of existing housing, for families with children.

Policy 4.5
Ensure that new permanently affordable housing is located in all of the City's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

OBJECTIVE 5
ENSURE THAT ALL RESIDENTS HAVE EQUAL ACCESS TO AVAILABLE UNITS.

Policy 5.4
Provide a range of unit types for all segments of need, and work to move residents between unit types as their needs change.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1
Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.2
Ensure implementation of accepted design standards in project approvals.

Policy 11.3
Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.4
Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6
Foster a sense of community through architectural design, using features that promote community interaction.

OBJECTIVE 12
BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

Policy 12.1
Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

Policy 12.2
Consider the proximity of quality of life elements such as open space, child care, and neighborhood services, when developing new housing units.

Policy 12.3
Ensure new housing is sustainably supported by the City's public infrastructure systems.

OBJECTIVE 13
PRIORITIZE SUSTAINABLE DEVELOPMENT IN PLANNING FOR AND CONSTRUCTING NEW HOUSING.

Policy 13.1
Support "smart" regional growth that located new housing close to jobs and transit.

Policy 13.3
Promote sustainable land use patterns that integrate housing with transportation in order to increase transit, pedestrian, and bicycle mode share.

GENERAL PLAN: URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3
Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

Policy 1.7
Recognize the natural boundaries of districts, and promote connections between districts.

OBJECTIVE 3

MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

Policy 3.1
Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3.3
Promote efforts to achieve high quality of design for buildings to be constructed at prominent locations.

GENERAL PLAN: COMMERCE AND INDUSTRY

Objectives and Policies

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1
Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

Policy 1.2
Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3
Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.3
Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

OBJECTIVE 8
ENHANCE SAN FRANCISCO'S POSITION AS A NATIONAL CENTER FOR CONVENTIONS AND VISITOR TRADE.

Policy 8.1
Guide the location of additional tourist related activities to minimize their adverse impacts on existing residential, commercial, and industrial activities.

GENERAL PLAN: TRANSPORTATION
Objectives and Policies

OBJECTIVE 1
MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT, AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.2
Ensure the safety and comfort of pedestrians throughout the city.

Policy 1.3
Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs particularly those of commuters.

Policy 1.6
Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

OBJECTIVE 2
USE THE EXISTING TRANSPORTATION INFRASTRUCTURE AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.1
Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development and coordinate new facilities with public and private development.

DOWNTOWN AREA PLAN
Objectives and Policies

OBJECTIVE 1
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which produces substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences which cannot be mitigated.

OBJECTIVE 2
MAINTAIN AND IMPROVE SAN FRANCISCO'S POSITION AS A PRIME LOCATION FOR FINANCIAL, ADMINISTRATIVE, CORPORATE, AND PROFESSIONAL ACTIVITY.

Policy 2.1
Encourage prime downtown office activities to grow as long as undesirable consequences of growth can be controlled.

Policy 2.2
Guide location of office development to maintain a compact downtown core and minimize displacement of other uses.

OBJECTIVE 6
EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

Policy 6.1
Adopt a downtown land use and density plan which establishes subareas of downtown with individualized controls to guide the density and location of permitted land use.

OBJECTIVE 7
WITHIN ACCEPTABLE LEVELS OF DENSITY, PROVIDE SPACE FOR FUTURE OFFICE, RETAIL, HOTEL, SERVICE AND RELATED USES IN DOWNTOWN SAN FRANCISCO.

Policy 7.1
Promote the inclusion of housing in downtown commercial developments.

Policy 7.2
Facilitate conversion of underused industrial and commercial areas to residential use.

OBJECTIVE 10
ASSURE THAT OPEN SPACES ARE ACCESSIBLE AND USABLE.

Policy 10.2
Encourage the creation of new open spaces that become a part of an interconnected pedestrian network.

OBJECTIVE 13
CREATE AN URBAN FORM FOR DOWNTOWN THAT ENHANCES SAN FRANCISCO'S STATURE AS ONE OF THE WORLD'S MOST VISUALLY ATTRACTIVE CITIES.

Policy 13.1
Relate the height of buildings to important attributes of the city pattern and to the height and character of existing and proposed development.

The Project proposes two distinct development programs that could be implemented, one that would construct various commercial uses (Commercial Variant) and one that would construct residential uses (Residential Variant). The Commercial Variant includes a mix of commercial uses (200-room hotel, 32,000-square-foot gym, 37,000 square feet of office floor area, and 7,900 square feet of ground floor retail (restaurant)) that would reinforce one of the primary roles of downtown San Francisco's C-3 districts as representing the largest concentration of commercial activity and employment in the Bay Area Region. Future commercial tenants and patrons alike can walk, bike, or access BART, MUNI, or regional bus service from the Site. The Residential Variant includes 256 dwelling units in lieu of the commercial uses, adding a significant amount of housing to a Site that is currently well-served by existing transit, and is within walking distance of substantial goods and services. Similarly, future residents can walk, bike, or access BART, MUNI, or regional bus service from the Site. Further, both Commercial Variant or Residential Variant includes community-serving uses in the form of a new, state-of-the-art fire station (SFFD Station 13), and shared-street improvements along Merchant Street, including new street trees and landscaping. On balance, the Project is consistent with the Objectives and Policies of the City's General Plan and the Downtown Area Plan.

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project complies with said policies in that:

   A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

   The Commercial Variant would have a positive effect on existing neighborhood-serving retail uses because it would bring additional visitors and workers to the neighborhood, thus increasing the customer base of existing neighborhood-serving retail. The Commercial Variant will provide significant employment opportunities with the addition of restaurant, gym, office, and hotel uses.

   The Residential Variant would have a positive effect on existing neighborhood-serving retail uses because it would bring new residents to the neighborhood, thus increasing the customer base of existing neighborhood-serving retail.

   B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

   Neither the Commercial Variant nor Residential Variant would negatively affect the existing housing and neighborhood character. The Site contains non-historic commercial and institutional buildings containing non-residential uses. Each of the Commercial Variant and Residential Variant would replace the existing fire station on the Site with a state-of-the-art fire station, contributing significantly to the quality of life in the neighborhood. The Commercial Variant's unique mixed-use program would provide outstanding amenities to visitors and residents, and contributes significantly to the neighborhood, while the Residential Variant would provide needed housing in immediate proximity to the city's job center.

   C. That the City's supply of affordable housing be preserved and enhanced,

   Neither the Commercial Variant nor the Residential Variant would displace housing given the Site

contains only non-residential uses. Each of the Commercial Variant and Residential would generate impact fees to support the development of new affordable housing.

D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

Neither the Commercial Variant nor Residential Variant would impede MUNI transit service or overburden local streets or parking. Each of the Commercial Variant and Residential Variant would implement shared-street improvements to a portion of Merchant Street, enhancing the pedestrian experience in the Financial District.

E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

Neither the Commercial Variant nor Residential Variant would negatively affect the industrial and service sectors, nor would either displace any existing industrial uses. Each of the Commercial Variant and Residential Variant includes uses that are consistent with the character of existing development in the Financial District.

F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Each of the Commercial Variant and Residential Variant will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. As such, this Project will improve the property's ability to withstand an earthquake.

G. That landmarks and historic buildings be preserved.

Currently, the Site does not contain any City Landmarks or historic buildings. A historic sculpture located on the Washington Street façade of the existing fire station will be relocated in accordance with the MMRP applicable to each of the Commercial Variant and Residential Variant. The MMRP also includes measures to ensure that construction of the Commercial Variant or Residential Variant will not adversely impact the adjacent historic structure at 447 Battery Street.

H. That our parks and open space and their access to sunlight and vistas be protected from development.

A Shadow Study indicated that each of the Commercial Variant and Residential Variant may cast a shadow on Maritime Plaza and Sue Bierman Park. However, based upon the amount and duration of new shadow and the importance of sunlight to each of the open spaces analyzed, neither the Commercial Variant nor Residential Variant would substantially affect, in an adverse manner, the use or enjoyment of these open spaces. Shadow from the Commercial Variant or Residential Variant on public plazas, and other publicly-accessible spaces other than those protected under Section 295 would be generally be limited to certain days of the year and would be limited in duration and

noticeability on those days. If accepted by the Board of Supervisors, the $100,000 contribution from EQX Jackson SQ Holdco LLC to RPD for the maintenance, repair, and potential improvement of Maritime Plaza will help ensure that that important public open space remains a key component of the unique character of the Financial District and surrounding area.

10. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Administrative Code Section 83.11), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

    The Project Sponsor submitted a First Source Hiring Affidavit for each of the Commercial Variant and Residential Variant and prior to issuance of a building permit will execute a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.

11. Each of the Commercial Variant and Residential Variant is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, either the Commercial Variant or Residential Variant would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

12. The Commission hereby finds that approval of the Downtown Project Authorization for each of the Commercial Variant and Residential Variant would promote the health, safety, and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby APPROVES Downtown Project Authorization Application No. 2019-017481DNX subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated April 23, 2021, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission hereby adopts the MMRP attached hereto as "EXHIBIT C" and incorporated herein as part of this Motion by this reference thereto. All required improvement and mitigation measures identified in the FMND and contained in the MMRP are included as Conditions of Approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. Any appeal shall be made to the Board of Appeals, unless an associated entitlement is appealed to the Board of Supervisors, in which case the appeal of this Motion shall also be made to the Board of Supervisors (see Charter Section 4.135). For further information, please contact the Board of Appeals at (628) 652-1150, 49 South Van Ness Avenue, Suite 1475, San Francisco, CA 94103, or the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action, or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on July 29, 2021.

Jonas P Ionin Digitally signed by Jonas P Ionin Date: 2021.08.24 10:53:04 -07'00'

Jonas P. Ionin
Commission Secretary

AYES:	Tanner, Diamond, Fung, Imperial, Moore, Koppel
NAYS:	None
ABSENT:	Chan
ADOPTED:	July 29, 2021

EXHIBIT A

Authorization

This authorization is for a Downtown Project Authorization and Request for Exceptions relating to implementation of the Project located at 530 Sansome Street, within Assessor's Block 0206, Lots 013, 014, & 017, within the C-3-O (Downtown Office) Zoning District and 200-S Height and Bulk District, in general conformance with plans, dated April 23, 2021, and stamped "EXHIBIT B" included in the docket for Record No. 2019-017481DNX and subject to conditions of approval reviewed and approved by the Commission on July 29, 2021 under Motion No. 20956.

In the case of the Project's Commercial Variant, this authorization, pursuant to Planning Code Section 148, 151.1, 263.9, 270, and 309 would allow for the construction of mixed-use building up to approximately 217'7"-feet tall (236' feet inclusive of rooftop mechanical features) with a total gross floor area of approximately 303,100 gross square feet, including a new Fire Station 13 (approximately 20,800 square feet of gross floor area), as well as a below-grade non-accessory parking garage for the San Francisco Fire Department containing 18 spaces (approximately 7,800 square feet of gross floor, as well as various commercial uses, including approximately 140,700 square feet of hotel uses (200 rooms), approximately 37,100 square feet of office uses, approximately 32,500 square feet of gym uses, and approximately 7,900 square feet of restaurant uses. The Commercial Variant proposes 22 Class 1 and 26 Class 2 bicycle parking spaces, as well as 30 parking spaces, and one (1) car share below-grade parking spaces for the non-Fire Department uses. In the case of the Project's Residential Variant, this authorization, pursuant to Planning Code Sections 134, 140, 148, 263.9, 270 and 309, would include a total of approximately 282,600 square feet of gross floor area, including the Fire Department uses, as well as approximately 246,900 square feet of residential uses (256 dwelling units) in a 21-story tower. The Residential Variant proposes 143 Class 1 and 21 Class 2 bicycle parking spaces, as well as 64 parking spaces, and two (2) car-share below-grade parking spaces for the residential uses. For both the Commercial Variant and Residential Variant, SFFD proposes changes to the lane configuration and traffic light facilities on Washington Street, such that SFFD engines would be able to safely make westbound and eastbound turns out to Washington Street to enhance SFFD's ability to promptly respond to emergency calls.

This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

Recordation of Conditions of Approval

Prior to the issuance of the building permit or commencement of use for either the Project's Commercial Variant or Residential Variant, the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on July 29, 2021 under Motion No. 20956.

Printing of Conditions of Approval on Plans

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 20956 shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for

either the Project's Commercial Variant and Residential Variant. The Index Sheet of the construction plans shall reference to the Downtown Project Authorization and any subsequent amendments or modifications.

Severability

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section, or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

Changes and Modifications

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

CONDITIONS OF APPROVAL, COMPLIANCE, MONITORING, AND REPORTING

Performance

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval. A Site Permit application was filed for the Commercial Variant of the Project prior to the effective date of the 2020 San Francisco Building Code, and accordingly, the Commercial Variant of the Project is grandfathered under the prior San Francisco Building Code.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

6. **Additional Project Authorization.** For each of the Commercial Variant and Residential Variant, the Project Sponsor must also obtain a Conditional Use Authorization, pursuant to Section 303; a Variance pursuant to Section 305; and adoption of shadow findings, pursuant to Section 295, and satisfy all the conditions thereof. For the Commercial Variant, the Project Sponsor must also obtain an Office Allocation, pursuant to Section 312, and satisfy all the conditions thereof. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

7. **Mitigation Measures.** Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

   For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

8. **Transferable Development Rights.** Pursuant to Section 128, the Project Sponsor shall purchase the required number of units of Transferrable Development Rights (TDR) and secure a Notice of Use of TDR prior to the issuance of a site permit for all development which exceeds the base FAR of 9.0 to 1. The net addition of gross floor area subject to this requirement shall be determined based on drawings submitted with the Building Permit Application.

   For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

Entertainment Commission – Noise Attenuation Conditions

9. **Chapter 116 Residential Projects.** The Project Sponsor shall comply with the "Recommended Noise Attenuation Conditions for Chapter 116 Residential Projects," which were recommended by the Entertainment Commission on May 6, 2021. These conditions state:

   A. Community Outreach. Project Sponsor shall include in its community outreach process any businesses located within 300 feet of the proposed project that operate between the hours of 9PM-5AM. Notice shall be made in person, written or electronic form (email).

   B. Sound Study. Project sponsor shall conduct an acoustical sound study, which shall include sound readings taken when performances are taking place at the proximate Places of Entertainment, as well as when patrons arrive and leave these locations at closing time. Readings should be taken at locations that most accurately capture sound from the Place of Entertainment to best of their ability. Any recommendation(s) in the sound study regarding window glaze ratings and soundproofing materials including but not limited to walls, doors, roofing, etc. shall be given highest consideration by the project sponsor when designing and building the project.

C. Design Considerations.

i. During design phase, project sponsor shall consider the entrance and egress location and paths of travel at the Place(s) of Entertainment in designing the location of (a) any entrance/egress for the residential building and (b) any parking garage in the building.

ii. In designing doors, windows, and other openings for the residential building, project sponsor should consider the POE's operations and noise during all hours of the day and night.

iii. During the design phase, project sponsor shall consider an outdoor lighting plan at the development site to protect residents as well as patrons of surrounding Places of Entertainment.

D. Construction Impacts. Project sponsor shall communicate with adjacent or nearby Place(s) of Entertainment as to the construction schedule, daytime and nighttime, and consider how this schedule and any storage of construction materials may impact the POE operations.

E. Communication. Project Sponsor shall make a cell phone number available to Place(s) of Entertainment management during all phases of development through construction. In addition, a line of communication should be created to ongoing building management throughout the occupation phase and beyond.

Design – Compliance at Plan Stage

10. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

11. **Garbage, Composting, and Recycling Storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility, and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

12. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330,

www.sfplanning.org

13. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all street improvements required by the Department of Building Inspection for issuance of a first temporary certificate of occupancy. All required street improvements must be completed prior to the issuance of the final certificate of occupancy.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

14. **Open Space Provision - C-3 Districts.**

Pursuant to Planning Code Section 138, should the Sponsor pursue implementation of the Commercial Variant, the Project Sponsor shall continue to work with Planning Department staff to refine the design and programming of the improvements to Merchant Street, as noted below. The Project Sponsor shall complete final design of all required open space improvements, submit a Programming and Maintenance Plan and procure relevant City permits for the implementation of the open space improvements, prior to issuance of first architectural addenda. The Sponsor shall complete construction of all required open space improvements required by the Department of Building Inspection for issuance of a first temporary certificate of occupancy. All required open space improvements must be completed prior to the issuance of the final certificate of occupancy.

A. The project sponsor shall submit improvements to Merchant Street, at minimum shall include the following:

i. The Project Sponsor shall repave Merchant Street (north of Merchant Street's southern sidewalk) as a shared street using high-quality pavers. The pavers are to be installed between the proposed curbs in the vehicle lane and meet requirements of Public Works and SFPUC. Special paving in the right-of-way will require a Major Encroachment Permit from Public Works and the exact materials used to implement the shared street improvements remains subject to review and approval by Public Works. Other permits and legislation may be required to authorize the programming of the space. A partial shared street or sidewalk widening shall be investigated at Merchant Street in the area of the project frontage, for benefit of tree planting and permanent bench installation at Merchant Street.

ii. The Project Sponsor shall design a minimal barrier such as movable planting boxes on casters or other mechanism that can be rolled so as to create public gathering space.

iii. The Project Sponsor shall be responsible for setting up chairs and tables in Merchant Street at minimum between 11 a.m and 3 p.m, seven days per week. The Project Sponsor shall either establish to the satisfaction of the City that the chairs and tables can be moved and stored in the pedestrian sidewalk area of the improved Merchant Street or dedicate storage space in

the subject building for storage of the tables and chairs. Table and chair design is to be easily moveable in case of emergency.

iv. The project sponsor shall engage with area food service retailers to learn about the potential for extension of food service to this site (which may require additional permits from City Agencies), prepared/to-go foods to be brought to this Site, or some alternative proposal to have food service available at the open space.

v. The Project Sponsor shall ensure that the dumpsters for the Commercial Variant are retrieved after trash/recycling/compost service by the Site. The Project Sponsor shall engage with adjacent property owners lining Merchant Street to work towards ensuring that the dumpsters at those properties are retrieved after trash/recycling/compost service. Commercial Variant dumpsters are not to be stored in the Commercial Variant's Merchant Street POPOS area.

B. The Project Sponsor shall submit a Programming and Maintenance Plan subject to review and approval by Planning Department, Department of Public Works, and Fire Department. At minimum, the plan shall include:

i. Hours of operation for plaza, at minimum 11 a.m. to 3 p.m. seven days per week, with anticipation for extension with inclusion of community input and agency input.

ii. Details on how vehicles will circulate through the shared street during the above-referenced hours of operation. The plan shall not require that the street be closed to vehicular access without the consent of the fronting property owners along Merchant Street.

iii. Programming for plaza, including assigning task for moving tables and chairs and identifying a dedicated area for storage for tables and chairs.

iv. Process for ensuring garbage collection at property and surrounding properties.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sf-planning.org

15. **Open Space Plaques - C-3 Districts.** For the Commercial Variant, pursuant to Planning Code Section 138, the Project Sponsor shall install the required public open space plaques within the Merchant Street POPOS space shown on Exhibit B, including the standard City logo identifying it and contact information for building management. Design of the plaques shall utilize the standard templates provided by the Planning Department, as available, and shall be approved by the Department staff prior to installation.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sf-planning.org

16. **Signage.** The Project Sponsor shall develop a signage program for the Project which shall be subject to review and approval by Planning Department staff before the Planning Department approves the architectural addendum of the Site Permit for either the Project's Commercial Variant or Residential Variant. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage

program/plan information shall be submitted and approved as part of the site permit for the Project. All exterior signage shall be designed to complement, not compete with, the existing architectural character and architectural features of the building.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sf-planning.org

17. **Transformer Vault Location.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department in consultation with Public Works shall require the following location(s) for transformer vault(s) for this project: on-site PG&E meter and disconnect room. This location has the following design considerations: on basement level one, accessible from Washington Street. The above requirement shall adhere to the Memorandum of Understanding regarding Electrical Transformer Locations for Private Development Projects between Public Works and the Planning Department dated January 2, 2019.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 628.271.2000, www.sfpublicworks.org

18. **Overhead Wiring.** The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.

For information about compliance, contact San Francisco Municipal Railway (Muni), San Francisco Municipal Transit Agency (SFMTA), at 415.701.4500, www.sfmta.org

19. **Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

20. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans if applicable as determined by the project planner. Odor control ducting shall not be applied to the primary façade of the building.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

Parking and Traffic

21. **Transportation Demand Management (TDM) Program.** Pursuant to Planning Code Section 169, the Project shall finalize a TDM Plan prior to the issuance of the first Building Permit or Site Permit to construct the project and/or commence the approved uses. The Property Owner, and all successors, shall ensure ongoing

compliance with the TDM Program for the life of the Project, which may include providing a TDM Coordinator, providing access to City staff for site inspections, submitting appropriate documentation, paying application fees associated with required monitoring and reporting, and other actions. Prior to the issuance of the first Building Permit or Site Permit, the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property to document compliance with the TDM Program. This Notice shall provide the finalized TDM Plan for the Project, including the relevant details associated with each TDM measure included in the Plan, as well as associated monitoring, reporting, and compliance requirements.

For information about compliance, contact the TDM Performance Manager at tdm@sfgov.org or 628.652.7340, www.sfplanning.org

22. **Car Share.** Pursuant to Planning Code Section 166, the Commercial Variant shall contain no fewer than one (1) car share space and the Residential Variant shall contain no fewer than two (2) car share spaces, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

23. **Bicycle Parking.** Pursuant to Planning Code Sections 155, 155.1, and 155.2, the Commercial Variant shall provide no fewer than 22 Class 1 and 26 Class 2 bicycle parking spaces and shall pay the Code Section 430 Class 2 in-lieu for the 14 additional Class 2 bicycle parking spaces required by Code that cannot reasonably be provided adjacent to the Site. The Residential Variant shall provide no fewer than 143 Class 1 and 21 Class 2 bicycle parking spaces. SFMTA has final authority on the type, placement, and number of Class 2 bicycle racks within the public ROW. Prior to issuance of first architectural addenda, the project sponsor shall contact the SFMTA Bike Parking Program at bikeparking@sfmta.com to coordinate the installation of on-street bicycle racks and ensure that the proposed bicycle racks meet the SFMTA's bicycle parking guidelines. Depending on local site conditions and anticipated demand, SFMTA may request the project sponsor pay an in-lieu fee for Class II bike racks required by the Planning Code.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

24. **Showers and Clothes Lockers**. Pursuant to Planning Code Section 155.3, the non-SFFD uses in the Commercial Variant shall provide no fewer than 6 showers and 36 clothes lockers and the SFFD uses shall provide no fewer than 2 showers and 12 clothes lockers. For the Residential Variant, the SFFD uses shall provide no fewer than 2 showers and 12 clothes lockers.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

25. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the non-SFFD uses in the Commercial Variant shall dedicate no more than 7% of the Occupied Floor Area of non-SFFD, non-residential uses to accessory parking (not including car share spaces). The Residential Variant shall include no more than 64 parking spaces for the residential uses. In each of the Commercial Variant and Residential Variant, SFFD shall maintain no more than 18 non-accessory parking spaces.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

26. **Off-Street Loading.** Pursuant to Planning Code Section 152.1 and, in the case of the Commercial Variant Section 309, each of the Commercial Variant and Residential Variant will provide 3 off-street loading spaces (1 freight loading space and 2 service vehicle spaces), or another number of off-street loading spaces meeting the requirements of Section 152.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

27. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

    For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

Provisions

28. **Anti-Discriminatory Housing.** The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

29. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

    For information about compliance, contact the First Source Hiring Manager at 415.581.2335, www.onestopSF.org

30. **Transportation Brokerage Services - C-3, EN, and SOMA**. Pursuant to Planning Code Section 163, the Project Sponsor shall provide on-site transportation brokerage services for the actual lifetime of the project. Prior to the issuance of any certificate of occupancy, the Project Sponsor shall execute an agreement with the Planning Department documenting the project's transportation management program, subject to the approval of the Planning Director.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

31. **Employment Brokerage Services - C-3 District.** Pursuant to Planning Code Section 164, the Project Sponsor shall provide employment brokerage services for the actual lifetime of the project. Prior to the issuance of any

certificate of occupancy, the Project Sponsor shall execute an agreement with the Planning Department documenting the project's local employment program, subject to the approval of the Planning Director.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sf-planning.org

32. **Child Care Brokerage Services - C-3 District.** Pursuant to Planning Code Section 165, the Project Sponsor shall provide on-site child-care brokerage services for the actual lifetime of the project. Prior to the issuance of any certificate of occupancy, the Project Sponsor shall execute an agreement with the Planning Department documenting the project's child-care program, subject to the approval of the Planning Director.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sf-planning.org

33. **Transportation Sustainability Fee.** The Project is subject to the Transportation Sustainability Fee (TSF), as applicable, pursuant to Planning Code Section 411A.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

34. **Downtown Park Fee - C-3 District.** The Commercial Variant is subject to the Downtown Park Fee, as applicable, pursuant to Planning Code Section 412.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sf-planning.org

35. **Jobs-Housing Linkage.** The Commercial Variant is subject to the Jobs Housing Linkage Fee, as applicable, pursuant to Planning Code Section 413.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sf-planning.org

36. **Child-Care Requirements for Office and Hotel Development**. The Commercial Variant is subject to the child-care requirements for office and hotel development projects, pursuant to Planning Code Section 414.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sf-planning.org

37. **Residential Child Care Impact Fee.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

    For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

38. **Inclusionary Affordable Housing Program.** The following Inclusionary Affordable Housing Requirements

are those in effect at the time of Planning Commission action. In the event that the requirements change, the Project Sponsor shall comply with the requirements in place at the time of issuance of first construction document.

A. Requirement. Pursuant to Planning Code Section 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is thirty percent (30%) because it is a rental project. The Project Sponsor shall pay the applicable Affordable Housing Fee at the prior to the issuance of the first construction document.

For information about compliance, contact the Case Planner, Planning Department at (628.652.7330, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

B. Other Conditions. The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and the terms of the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing and Community Development ("MOHCD") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing and Community Development's websites, including on the internet at:

http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.

For information about compliance, contact the Case Planner, Planning Department at (628.652.7330, www.sfplanning.org or the Mayor's Office of Housing and Community Development at (415) 701-5500, www.sfmohcd.org.

a. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOHCD prior to the issuance of the first construction document.

b. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.

c. If project applicant fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of

occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law, including interest and penalties, if applicable.

39. Art. The Project is subject to the Public Art Fee, as applicable, pursuant to Planning Code Section 429.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

40. Art Plaques. Pursuant to Planning Code Section 429(b), the Project Sponsor shall provide a plaque or cornerstone identifying the architect, the artwork creator, and the Project completion date in a publicly conspicuous location on the Project Site. The design and content of the plaque shall be approved by Department staff prior to its installation.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

41. Art. Pursuant to Planning Code Section 429, the Project Sponsor, and the Project artist shall consult with the Planning Department during design development regarding the height, size, and final type of the art. The final art concept shall be submitted for review for consistency with this Motion by, and shall be satisfactory to, the Director of the Planning Department in consultation with the Commission. The Project Sponsor and the Director shall report to the Commission on the progress of the development and design of the art concept prior to the submittal of the first building or site permit application.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

42. Art. Pursuant to Planning Code Section 429, prior to issuance of any certificate of occupancy, the Project Sponsor shall install the public art generally as described in this Motion and make it available to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330, www.sfplanning.org

43. Art - Residential Projects. Pursuant to Planning Code Section 429, the Project Sponsor must provide on-site artwork, pay into the Public Artworks Fund, or fulfill the requirement with any combination of on-site artwork or fee payment as long as it equals one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. The Project Sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder. Payment into the Public Artworks Fund is due prior to issuance of the first construction document.

For information about compliance, contact the Case Planner, Planning Department at 628.652.7330,

www.sfplanning.org

Monitoring - After Entitlement

44. Enforcement. Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

45. Monitoring. The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 351(e) (1) and work with the Planning Department for information about compliance.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

46. Revocation due to Violation of Conditions. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

Operation

47. Eating and Drinking Uses. As defined in Planning Code Section 202.2, Eating and Drinking Uses, as defined in Section 102, shall be subject to the following conditions:

A. The business operator shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Street and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of paper or other litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.

For information about compliance, contact the Bureau of Street Use and Mapping, Department of Public Works at 628.271.2000, www.sfpublicworks.org.

B. When located within an enclosed space, the premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building, and fixed-source equipment noise shall not exceed the decibel levels

specified in the San Francisco Noise Control Ordinance.

For information about compliance of fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at 415.252.3800, www.sfdph.org.

For information about compliance with construction noise requirements, contact the Department of Building Inspection at 628.652.3200, www.sfdbi.org.

For information about compliance with the requirements for amplified sound, including music and television, contact the Police Department at 415.553.0123, www.sf-police.org

C. While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 628.652.7600, www.sfplanning.org

D. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact the Bureau of Street Use and Mapping, Department of Public Works at 628.271.2000, www.sfpublicworks.org

48. Sidewalk Maintenance. The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 628.271.2000, www.sfpublicworks.org

49. Community Liaison. Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator and registered neighborhood groups shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

50. Driveway Loading and Operations Plan (DLOP) Conditions of Approval. The Project Sponsor must prepare and submit a Driveway Operations and Loading Plan (DLOP). The DLOP must be submitted prior to the issuance of the first site or building permit.

A. *Coordination with For-Hire Vehicle Companies (i.e., Geofencing).* The property owner will submit a request to for-hire vehicle companies that passenger loading zones on Sansome Street (all hours except PM peak) and Merchant Street (during PM peak) are incorporated into for-hire vehicle companies' (including transportation network companies) phone technology application device to guide passengers and drivers for passenger loading activities.

B. *Off-Street Facilities Attendant.* The property owner will ensure that building management employs an attendant(s) for the project's non-SFFD off-street parking and loading facilities, including management of off-street loading and parking (the "Off-Street Facilities Attendant"). The Off-Street Facilities Attendant shall be responsible for overseeing on-going operations of the off-street parking and loading facilities and addressing any observed conflicts between maneuvering vehicles and public right-of-way users, as well as any parking or loading queueing that results in a public right of way being blocked. The attendant(s) shall record and submit to the property owner any observed or reported conflicts between maneuvering vehicles and public right-of-way uses or instances where parking or loading queueing ("Queueing"), defined as the public right of way being blocked for: 1) a combined 2 minutes for a consecutive 60-minute period from 7 a.m to 9 a.m. or 4 p.m. to 6 p.m. or 2) a combined 15 minutes between the hours of 6 a.m. and 10 p.m. on any given day. The Off-Street Facilities Attendant shall be on-site, at a minimum, from 6 a.m to 10 p.m..

C. *Signage/Warning/Safety Devices.* To the extent the non-SFFD off-street parking uses are not entirely valet-managed and/or reserved spaces for specific tenants, the property owner will install "Full" signage near the off-street facility entrance. In the event "Full" signage is installed, the Off-Street Facilities Attendant will indicate "Full" if the off-street facility is fully occupied or if the Off-Street Facilities Attendant anticipates it will be occupied by a forthcoming (e.g., in the next 10 minutes) delivery. The property owner will also install signage at and within the off-street facility to alert drivers or other public right-of-way users of potential conflict areas (e.g., caution sign that alert vehicle drivers of people walking or bicycling that may be behind the vehicle or in the vehicle drivers' blind spots during driveway access or egress), speed limits and any circulation/access restrictions (e.g., vertical clearance and size limits or restrictions on ingress or egress movements).

The property owner will also install audible visual warning devices at locations where the off-street facility interfaces with public right-of-way to alert other public right-of-way users of vehicles entering or exiting the off-street facility. The audio device will issue alerts above the surrounding noise levels by approximately 5 decibels.

D. *Loading Coordination System.* The Off-Street Facilities Attendant will implement a loading coordination system for scheduling project loading delivery vehicles so that they may identify and direct these vehicles to convenient on-site or, if necessary, on-street (within 250 feet of the site) loading spaces that are available at the time of a vehicle's arrival.

E. *Limitations on Peak-Hour Deliveries.* The property owner shall implement written protocols applicable to all building tenants ensuring that building tenants do not voluntarily schedule commercial loading

activities during A.M. (7-9 A.M.) and P.M. (4-6 P.M.) peak periods, where such commercial loading can reasonably occur during off-peak periods.

F. *Large Truck Access Protocol.* To address instances where a delivery vehicle is too large to access the project's off-street facilities (a "Large Truck"), the property owner will establish a protocol applicable to building tenants for advising Large Truck drivers on potential locations of convenient on-street loading spaces (prioritizing locations within 250 feet of the site) that could accommodate the Large Truck and, as feasible, procedures to reserve these spaces from the San Francisco Municipal Transportation Agency (SFMTA). The protocol shall also prohibit Large Truck activities during A.M. (7-9 A.M.) and P.M. (4-6 P.M.) peak periods, to the extent such Large Truck activities can reasonably occur during off-peak periods.

G. *Unassisted Delivery Systems.* The property owner shall explore opportunities for unassisted delivery systems such as electronic fob, parcel lockers, delivery boxes, or common carrier locker systems. These systems allow someone to deliver goods during all hours without the need for human intervention at the receiving end such as the business or residence. Examples include the property owner:

- providing a key or electronic fob to loading vehicle operators, which enables the loading vehicle operator to deposit the goods in secured area within the building; and
- installing lockers in locations that users of the building can share and use (e.g., delivery supportive amenities required by a TDM plan).

H. *Operations Queue Management.* Should the property owner receive a report of Queueing, the Property Owner shall consider implementing proactive abatement methods such as: redesign of off-street facilities; expanding the driveway throat; use of shared off-street facilities with nearby uses; use of parking occupancy sensors and signage directing drivers to available spaces; TDM strategies such as those in the Planning Commission Standards for the TDM Program pursuant to Planning Code section 169; or other opportunities to further improve other Driveway Loading and Operation measures described above Potential abatement methods will not include additional off-street parking spaces.

51. Lighting. All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, www.sfplanning.org

EXHIBIT B:

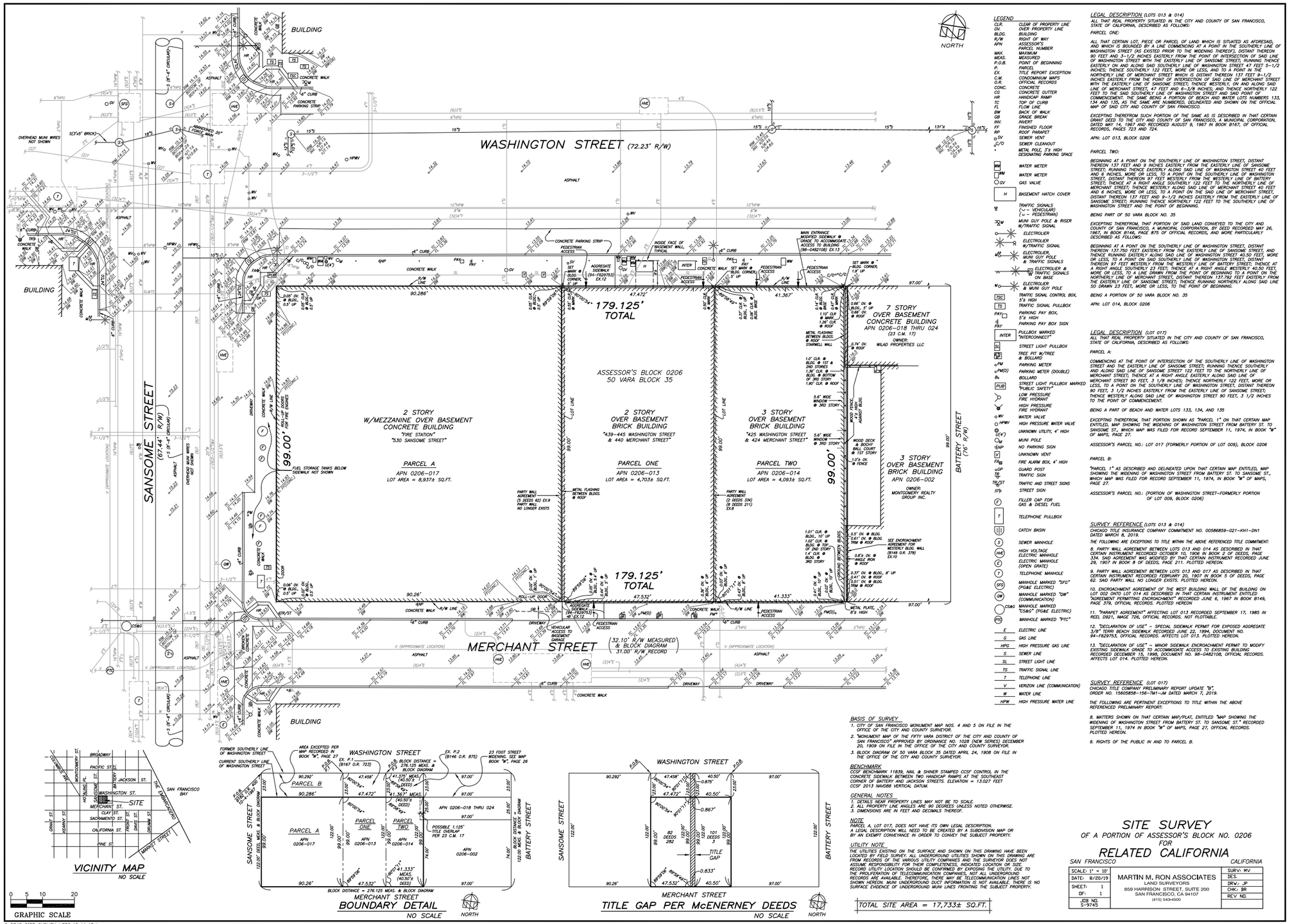
PLANS

530 SANSOME STREET
San Francisco, CA

Revised Project Application (PRJ)
Updated April 23rd, 2021

With Revised Residential Variant

SOM



LEGEND

CLR.	CLEAR OF PROPERTY LINE
OV.	OVER PROPERTY LINE
BLDG.	BUILDING
R/W	RIGHT OF WAY
APN	ASSESSOR'S PARCEL NUMBER
MAX.	MAXIMUM
MEAS.	MEASURED
P.O.B.	POINT OF BEGINNING
P.	PARCEL
EX.	TITLE REPORT EXCEPTION
C.M.	CONDOMINIUM MAPS
O.R.	OFFICIAL RECORDS
CONC.	CONCRETE
CG	CONCRETE GUTTER
HR	HANDICAP RAMP
TC	TOP OF CURB
FL	FLOW LINE
BW	BACK OF WALK
GB	GRADE BREAK
INV.	INVERT
FF	FINISHED FLOOR
RP	ROOF PARAPET
SV	SEWER VENT
CO	SEWER CLEANOUT
	METAL POLE, 3'± HIGH DESIGNATING PARKING SPACE
WM	WATER METER
RPM	WATER METER
GV	GAS VALVE
H	BASEMENT HATCH COVER
	TRAFFIC SIGNALS (V – VEHICULAR) (P – PEDESTRIAN)
MM	MUNI GUY POLE & RISER W/TRAFFIC SIGNAL
	ELECTROLIER
	ELECTROLIER W/TRAFFIC SIGNAL
M	ELECTROLIER, MUNI GUY POLE & TRAFFIC SIGNALS
	ELECTROLIER & TRAFFIC SIGNALS ON BASE
M	ELECTROLIER & MUNI GUY POLE
TSC	TRAFFIC SIGNAL CONTROL BOX, 5'± HIGH
TS	TRAFFIC SIGNAL PULLBOX
PAY	PARKING PAY BOX, 5'± HIGH
PAY	PARKING PAY BOX SIGN
INTER	PULLBOX MARKED "INTERCONNECT"
SL	STREET LIGHT PULLBOX
	TREE PIT W/TREE & BOLLARD
PM	PARKING METER
PM(D)	PARKING METER (DOUBLE)
BOL	BOLLARD
PUB	STREET LIGHT PULLBOX MARKED "PUBLIC SAFETY"
	LOW PRESSURE FIRE HYDRANT
	HIGH PRESSURE FIRE HYDRANT
WV	WATER VALVE
HPWV	HIGH PRESSURE WATER VALVE
U(4')	UNKNOWN UTILITY, 4' HIGH
MM	MUNI POLE
NP	NO PARKING SIGN
V	UNKNOWN VENT
FA	FIRE ALARM BOX, 4' HIGH
GP	GUARD POST
TS	TRAFFIC SIGN
TR/ST	TRAFFIC AND STREET SIGNS
ST	STREET SIGN
F	FILLER CAP FOR GAS & DIESEL FUEL
T	TELEPHONE PULLBOX
	CATCH BASIN
S	SEWER MANHOLE
HVE	HIGH VOLTAGE ELECTRIC MANHOLE
E	ELECTRIC MANHOLE (OPEN GRATE)
T	TELEPHONE MANHOLE
SFG	MANHOLE MARKED "SFG" (PG&E ELECTRIC)
CM	MANHOLE MARKED "CM" (COMMUNICATION)
CS&G	MANHOLE MARKED "CS&G" (PG&E ELECTRIC)
PTC	MANHOLE MARKED "PTC"
E	ELECTRIC LINE
G	GAS LINE
HPG	HIGH PRESSURE GAS LINE
S	SEWER LINE
SL	STREET LIGHT LINE
TS	TRAFFIC SIGNAL LINE
T	TELEPHONE LINE
V	VERIZON LINE (COMMUNICATION)
W	WATER LINE
HPW	HIGH PRESSURE WATER LINE

BASIS OF SURVEY

1. CITY OF SAN FRANCISCO MONUMENT MAP NOS. 4 AND 5 ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.
2. "MONUMENT MAP OF THE FIFTY VARA DISTRICT OF THE CITY AND COUNTY OF SAN FRANCISCO" APPROVED BY ORDINANCE NO. 1028 (NEW SERIES) DECEMBER 20, 1909 ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.
3. BLOCK DIAGRAM OF 50 VARA BLOCK 35 DATED APRIL 24, 1908 ON FILE IN THE OFFICE OF THE CITY AND COUNTY SURVEYOR.

BENCHMARK

CCSF BENCHMARK 11839, NAIL & SHINER STAMPED CCSF CONTROL IN THE CONCRETE SIDEWALK BETWEEN TWO HANDICAP RAMPS AT THE SOUTHEAST CORNER OF BATTERY AND JACKSON STREETS. ELEVATION = 13.027 FEET CCSF 2013 NAVD88 VERTICAL DATUM.

GENERAL NOTES

1. DETAILS NEAR PROPERTY LINES MAY NOT BE TO SCALE.
2. ALL PROPERTY LINE ANGLES ARE 90 DEGREES UNLESS NOTED OTHERWISE.
3. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

NOTE

PARCEL A, LOT 017, DOES NOT HAVE ITS OWN LEGAL DESCRIPTION. A LEGAL DESCRIPTION WILL NEED TO BE CREATED BY A SUBDIVISION MAP OR BY AN EXEMPT CONVEYANCE IN ORDER TO CONVEY THE SUBJECT PROPERTY.

UTILITY NOTE

THE UTILITIES EXISTING ON THE SURFACE AND SHOWN ON THIS DRAWING HAVE BEEN LOCATED BY FIELD SURVEY. ALL UNDERGROUND UTILITIES SHOWN ON THIS DRAWING ARE FROM RECORDS OF THE VARIOUS UTILITY COMPANIES AND THE SURVEYOR DOES NOT ASSUME RESPONSIBILITY FOR THEIR COMPLETENESS, INDICATED LOCATION OR SIZE. RECORD UTILITY LOCATION SHOULD BE CONFIRMED BY EXPOSING THE UTILITY, DUE TO THE PROLIFERATION OF TELECOMMUNICATION COMPANIES, NOT ALL UNDERGROUND RECORDS ARE AVAILABLE; THEREFORE, THERE MAY BE TELECOMMUNICATION LINES NOT SHOWN HEREON. MUNI UNDERGROUND DUCT INFORMATION IS NOT AVAILABLE. THERE IS NO SURFACE EVIDENCE OF UNDERGROUND MUNI LINES FRONTING THE SUBJECT PROPERTY.

TOTAL SITE AREA = 17,733± SQ.FT.

LEGAL DESCRIPTION (LOTS 013 & 014)

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

PARCEL ONE:

ALL THAT CERTAIN LOT, PIECE OR PARCEL OF LAND, WHICH IS SITUATED AS AFORESAID, AND WHICH IS BOUNDED BY A LINE COMMENCING AT A POINT IN THE SOUTHERLY LINE OF WASHINGTON STREET (AS EXISTED PRIOR TO THE WIDENING THEREOF), DISTANT THEREON 90 FEET AND 3-1/2 INCHES EASTERLY FROM THE POINT OF INTERSECTION OF SAID LINE OF WASHINGTON STREET WITH THE EASTERLY LINE OF SANSOME STREET; RUNNING THENCE EASTERLY ON AND ALONG SAID SOUTHERLY LINE OF WASHINGTON STREET 47 FEET 5-1/2 INCHES; THENCE SOUTHERLY 122 FEET, MORE OR LESS, AND TO A POINT IN THE NORTHERLY LINE OF MERCHANT STREET WHICH IS DISTANT THEREON 137 FEET 9-1/2 INCHES EASTERLY FROM THE POINT OF INTERSECTION OF SAID LINE OF MERCHANT STREET WITH THE EASTERLY LINE OF SANSOME STREET; THENCE WESTERLY, ON AND ALONG SAID LINE OF MERCHANT STREET, 47 FEET AND 6-5/8 INCHES; AND THENCE NORTHERLY 122 FEET TO THE SAID SOUTHERLY LINE OF WASHINGTON STREET AND SAID POINT OF COMMENCEMENT. THE SAME BEING A PORTION OF BEACH AND WATER LOTS NUMBERS 133, 134 AND 135, AS THE SAME ARE NUMBERED, DELINEATED AND SHOWN ON THE OFFICIAL MAP OF SAID CITY AND COUNTY OF SAN FRANCISCO.

EXCEPTING THEREFROM SUCH PORTION OF THE SAME AS IS DESCRIBED IN THAT CERTAIN GRANT DEED TO THE CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION, DATED MAY 14, 1967 AND RECORDED AUGUST 9, 1967 IN BOOK B167, OF OFFICIAL RECORDS, PAGES 723 AND 724.

APN: LOT 013, BLOCK 0206

PARCEL TWO:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF WASHINGTON STREET, DISTANT THEREON 137 FEET AND 9 INCHES EASTERLY FROM THE EASTERLY LINE OF SANSOME STREET; RUNNING THENCE EASTERLY ALONG SAID LINE OF WASHINGTON STREET 40 FEET AND 6 INCHES, MORE OR LESS, TO A POINT ON THE SOUTHERLY LINE OF WASHINGTON STREET, DISTANT THEREON 97 FEET WESTERLY FROM THE WESTERLY LINE OF BATTERY STREET; THENCE AT A RIGHT ANGLE SOUTHERLY 122 FEET TO THE NORTHERLY LINE OF MERCHANT STREET; THENCE WESTERLY ALONG SAID LINE OF MERCHANT STREET 40 FEET AND 6 INCHES, MORE OR LESS, TO A POINT ON THE SAID LINE OF MERCHANT STREET, DISTANT THEREON 137 FEET AND 9-1/2 INCHES EASTERLY FROM THE EASTERLY LINE OF SANSOME STREET; RUNNING THENCE NORTHERLY 122 FEET TO THE SOUTHERLY LINE OF WASHINGTON STREET AND THE POINT OF BEGINNING.

BEING PART OF 50 VARA BLOCK NO. 35

EXCEPTING THEREFROM, THAT PORTION OF SAID LAND CONVEYED TO THE CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION, BY DEED RECORDED MAY 26, 1967, IN BOOK B146, PAGE 875 OF OFFICIAL RECORDS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF WASHINGTON STREET, DISTANT THEREON 137.750 FEET EASTERLY FROM THE EASTERLY LINE OF SANSOME STREET; AND THENCE RUNNING EASTERLY ALONG SAID LINE OF WASHINGTON STREET 40.50 FEET, MORE OR LESS, TO A POINT ON SAID SOUTHERLY LINE OF WASHINGTON STREET, DISTANT THEREON 97 FEET WESTERLY FROM THE WESTERLY LINE OF BATTERY STREET; THENCE AT A RIGHT ANGLE SOUTHERLY 23 FEET; THENCE AT A RIGHT ANGLE WESTERLY 40.50 FEET, MORE OR LESS, TO A LINE DRAWN FROM THE POINT OF BEGINNING TO A POINT ON THE NORTHERLY LINE OF MERCHANT STREET, DISTANT THEREON 137.792 FEET EASTERLY FROM THE EASTERLY LINE OF SANSOME STREET; THENCE RUNNING NORTHERLY ALONG SAID LINE 50 DRAWN 23 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

BEING A PORTION OF 50 VARA BLOCK NO. 35

APN: LOT 014, BLOCK 0206

LEGAL DESCRIPTION (LOT 017)

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

PARCEL A:

COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTHERLY LINE OF WASHINGTON STREET AND THE EASTERLY LINE OF SANSOME STREET; RUNNING THENCE SOUTHERLY AND ALONG SAID LINE OF SANSOME STREET 122 FEET TO THE NORTHERLY LINE OF MERCHANT STREET; THENCE AT A RIGHT ANGLE EASTERLY ALONG SAID LINE OF MERCHANT STREET 90 FEET, 3 1/8 INCHES; THENCE NORTHERLY 122 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY LINE OF WASHINGTON STREET, DISTANT THEREON 90 FEET, 3 1/2 INCHES EASTERLY FROM THE EASTERLY LINE OF SANSOME STREET; THENCE WESTERLY ALONG SAID LINE OF WASHINGTON STREET 90 FEET, 3 1/2 INCHES TO THE POINT OF COMMENCEMENT.

BEING A PART OF BEACH AND WATER LOTS 133, 134, AND 135

EXCEPTING THEREFROM, THAT PORTION SHOWN AS "PARCEL 1" ON THAT CERTAIN MAP ENTITLED, MAP SHOWING THE WIDENING OF WASHINGTON STREET FROM BATTERY ST. TO SANSOME ST., WHICH MAP WAS FILED FOR RECORD SEPTEMBER 11, 1974, IN BOOK "W" OF MAPS, PAGE 27.

ASSESSOR'S PARCEL NO.: LOT 017 (FORMERLY PORTION OF LOT 009), BLOCK 0206

PARCEL B:

"PARCEL 1" AS DESCRIBED AND DELINEATED UPON THAT CERTAIN MAP ENTITLED, MAP SHOWING THE WIDENING OF WASHINGTON STREET FROM BATTERY ST. TO SANSOME ST., WHICH MAP WAS FILED FOR RECORD SEPTEMBER 11, 1974, IN BOOK "W" OF MAPS, PAGE 27.

ASSESSOR'S PARCEL NO.: (PORTION OF WASHINGTON STREET–FORMERLY PORTION OF LOT 009, BLOCK 0206)

SURVEY REFERENCE (LOTS 013 & 014)

CHICAGO TITLE INSURANCE COMPANY COMMITMENT NO. 00586859–021–KH1–DN1 DATED MARCH 8, 2019.

THE FOLLOWING ARE EXCEPTIONS TO TITLE WITHIN THE ABOVE REFERENCED TITLE COMMITMENT:

8. PARTY WALL AGREEMENT BETWEEN LOTS 013 AND 014 AS DESCRIBED IN THAT CERTAIN INSTRUMENT RECORDED OCTOBER 10, 1906 IN BOOK 2 OF DEEDS, PAGE 334. SAID AGREEMENT WAS MODIFIED BY THAT CERTAIN INSTRUMENT RECORDED JUNE 29, 1907 IN BOOK 8 OF DEEDS, PAGE 211. PLOTTED HEREON.

9. PARTY WALL AGREEMENT BETWEEN LOTS 013 AND 017 AS DESCRIBED IN THAT CERTAIN INSTRUMENT RECORDED FEBRUARY 20, 1907 IN BOOK 5 OF DEEDS, PAGE 62. SAID PARTY WALL NO LONGER EXISTS. PLOTTED HEREON.

10. ENCROACHMENT AGREEMENT OF THE WEST BUILDING WALL OF THE BUILDING ON LOT 002 INTO LOT 014 AS DESCRIBED IN THAT CERTAIN INSTRUMENT ENTITLED "AGREEMENT PERMITTING ENCROACHMENT" RECORDED JUNE 6, 1967 IN BOOK B149, PAGE 379, OFFICIAL RECORDS. PLOTTED HEREON

11. "PARAPET AGREEMENT" AFFECTING LOT 013 RECORDED SEPTEMBER 17, 1985 IN REEL 0921, IMAGE 726, OFFICIAL RECORDS. NOT PLOTTABLE.

12. "DECLARATION OF USE" – SPECIAL SIDEWALK PERMIT FOR EXPOSED AGGREGATE 3/8" TERRI BEACH SIDEWALK RECORDED JUNE 22, 1994, DOCUMENT NO. 94–F629753, OFFICIAL RECORDS. AFFECTS LOT 013. PLOTTED HEREON.

13. "DECLARATION OF USE" – MINOR SIDEWALK ENCROACHMENT PERMIT TO MODIFY EXISTING SIDEWALK GRADE TO ACCOMMODATE ACCESS TO EXISTING BUILDING RECORDED DECEMBER 15, 1998, DOCUMENT NO. 98–G482108, OFFICIAL RECORDS. AFFECTS LOT 014. PLOTTED HEREON.

SURVEY REFERENCE (LOT 017)

CHICAGO TITLE COMPANY PRELIMINARY REPORT UPDATE "B", ORDER NO. 15603858–156–TM1–JM DATED MARCH 7, 2019.

THE FOLLOWING ARE PERTINENT EXCEPTIONS TO TITLE WITHIN THE ABOVE REFERENCED PRELIMINARY REPORT:

8. MATTERS SHOWN ON THAT CERTAIN MAP/PLAT, ENTITLED "MAP SHOWING THE WIDENING OF WASHINGTON STREET FROM BATTERY ST. TO SANSOME ST." RECORDED SEPTEMBER 11, 1974 IN BOOK "W" OF MAPS, PAGE 27, OFFICIAL RECORDS. PLOTTED HEREON.

9. RIGHTS OF THE PUBLIC IN AND TO PARCEL B.

SITE SURVEY

OF A PORTION OF ASSESSOR'S BLOCK NO. 0206

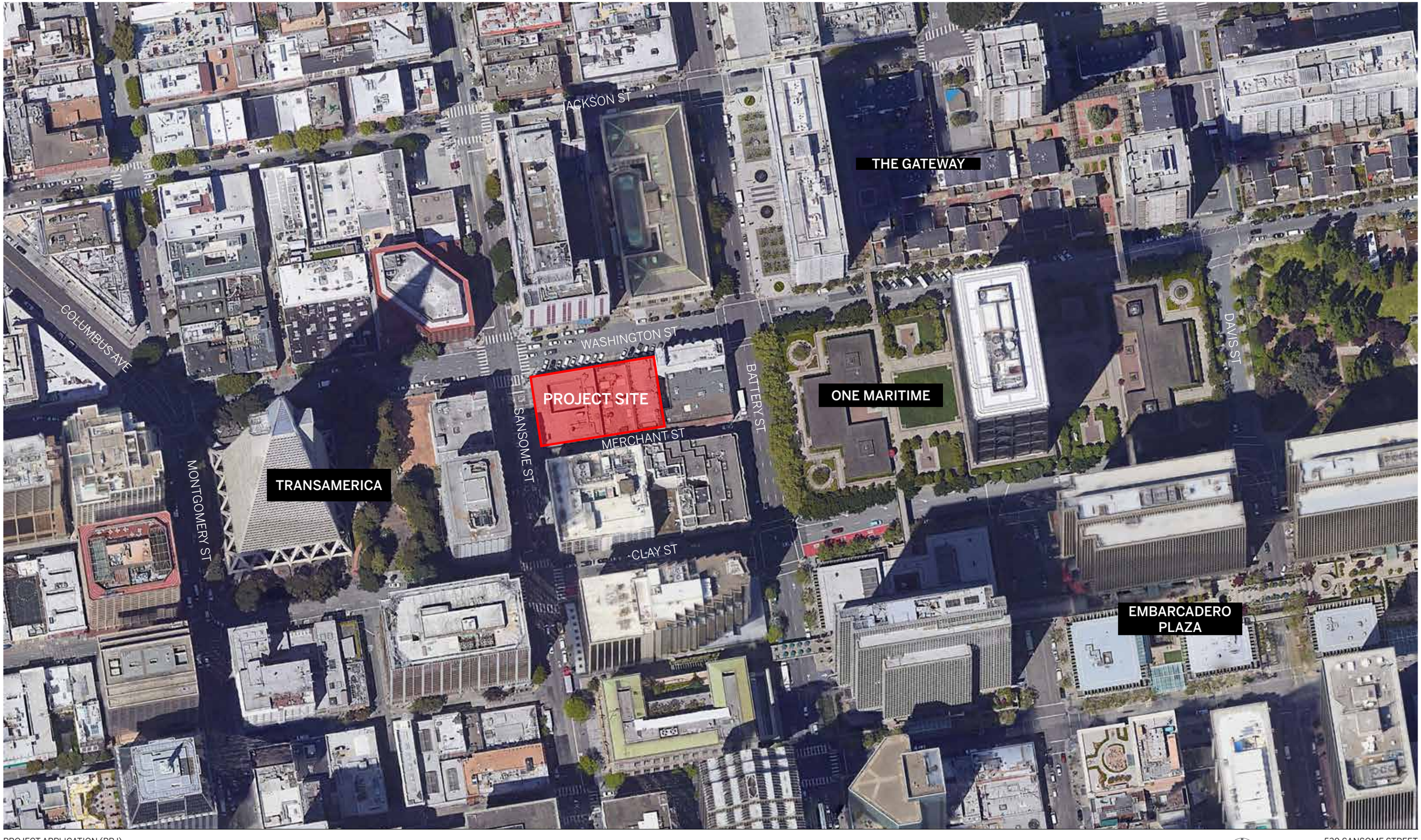
FOR

RELATED CALIFORNIA

SAN FRANCISCO, CALIFORNIA

SCALE: 1" = 10'	MARTIN M. RON ASSOCIATES LAND SURVEYORS 859 HARRISON STREET, SUITE 200 SAN FRANCISCO, CA 94107 (415) 543-4500	SURV: MV
DATE: 8/20/19		DES.:
SHEET: 1 OF: 1		DRN.: JP
JOB NO. S-9745		CHK.: RR
		REV. NO.

S-9745 SITE SURVEY LOTS 13-14-17.dwg



PROJECT APPLICATION (PRJ)

APRIL 2021

Project Location Plan

SCALE: N.T.S.

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP


SFFD
1


425
2


1
2
PROJECT SITE
3
4


SFFD
4


THE PARLOR
3

	EXISTING USES:	EXISTING USES TO BE RETAINED:	NET NEW CONSTRUCTION AND/OR ADDITION:	PROJECT TOTALS:
PROJECT FEATURES				
Dwelling Units	0 units	0 units	0 units	0 units
Hotel Rooms	0 rooms	0 rooms	200 rooms	200 rooms
Number of Buildings	3 buildings	3 buildings	-1 buildings	2 buildings
Height of Building(s)			217' - 7' - Hotel Tower 52' - 10 1/2" - Fire Station	217' - 7' - Hotel Tower 52' - 10 1/2" - Fire Station
Number of Stories	2-3 stories	-	19 stories - Hotel Tower 5 stories - Fire Station	19 stories - Hotel Tower 5 stories - Fire Station
Parking Spaces*	21 spaces		27 spaces	48 spaces
Loading Spaces**	-	-	1 loading, 2 service vehicles (Exception Request)	1 loading, 2 service vehicles (Exception Request)
Class 1 Bike Parking Spaces	-		22 spaces	22 spaces
Class 2 Bike Parking Spaces			26*** spaces	26*** spaces
Car Share Parking Spaces	-	-	1****	1****
GROSS SQUARE FOOTAGE (GSF)*****				
Accessory Parking	8,850	-	5,985	14,835
Residential	-	-	-	-
Retail/Commercial	-	-	44,000	44,000
Office	20,718	-	19,772	40,490
Industrial/PDR	-	-	-	-
Medical	-	-	-	-
Visitor (Hotel)	-	-	149,965	149,965
Public Facility (Fire Station)	18,626	-	2,104	20,730
Non - Accessory SFFD Parking	-	-	7,740	7,740
Other (Loading and BOH)	-	-	25,335	25,335
Usable Open Space	-	-	-	-
Public Open Space	-	-	6,476	6,476******
TOTAL GSF	48,194		254,901	303,095*****

* Parking provided exceeds San Francisco Planning Code. Conditional use requested for SFFD Non-accessory parking garage. Space devoted to non-SFFD off street car parking is 14,835 SF, which is 6.94% of Non-SFFD OFA

** Loading spaces are calculated per San Francisco Planning Code Art. 1.5, Sec.152.1. Exception Requested to allocate 1 loading bay in lieu of the 2 loading bays required per code.

*** Bike Parking is calculated per San Francisco Planning Code Sec. 155.2 - Project provides 26 out of the 40 class 2 bike parking code required spaces. Remainder parking spaces (14) are proposed to be provided through a Zoning Administrator, Section 305 variance and in-lieu payment pursuant to Section 307(k)(2)(E)

**** Car Share Parking is calculated per San Francisco Planning Code Sec. 166

***** Total GSF excludes POPOS

****** Represents extent of area of pedestrian-favored public realm improvements on Merchant Street. The POPOS requirements is () square feet per Section 138. See landscape street level plan sheets for detail on proposed scope of improvements

*******Represents industry standard method of calculation for CEQA purposes, see table on page (7) for GFA and OFA calculations.

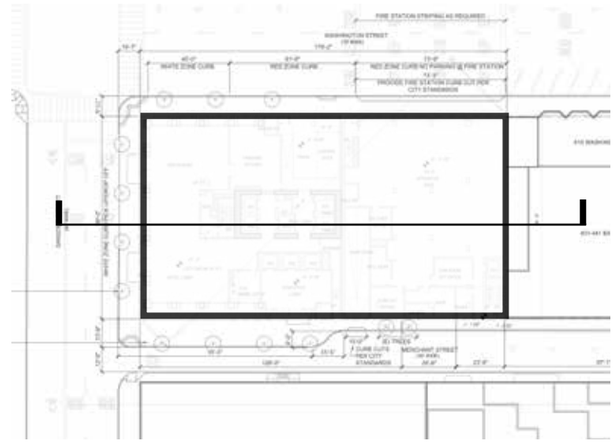
					# of Bike Spaces Required	
Use Category	**Requirement Class 1**	**Requirement Class 2**	**# of rooms / spaces**	**OFA**	**Class 1**	**Class 2**
Hotel	One Class 1 space for every 30 rooms.	Minimum two spaces. One Class 2 space for every 30 rooms	200	N/A	7	7
Hotel Conference Space	N/A	One Class 2 space for every 5,000 square feet of Occupied Floor Area of conference, meeting or function rooms.	N/A	4,433	0	1
Retail/Gym	One Class 1 space for every 7,500 square feet of Occupied Floor Area.	Minimum two spaces. One Class 2 space for every 2,500 sq. ft. of Occupied Floor Area. For uses larger than 50,000 occupied square feet, 10 Class 2 spaces plus one Class 2 space for every additional 10,000 occupied square feet	N/A	31,280	4	13
Restaurant (Eating and Drinking Facility	One Class 1 space for every 7,500 square feet of Occupied Floor Area.	Minimum two spaces. One Class 2 space for every 750 square feet of Occupied Floor Area.	N/A	6,995	1	9
Office	One Class 1 space for every 5,000 square feet of Occupied Floor Area.	Minimum two spaces for any Office Use greater than 5,000 square feet of Occupied Floor Area, and one Class 2 space for each additional 50,000 occupied square feet.	N/A	36,331	7	2
Fire Station (Public Facility)	Minimum two spaces or one Class 1 space for every 5,000 square feet of Occupied Floor Area.	Minimum two spaces or one Class 2 space for every 2,500 occupied square feet of publicly-accessible or exhibition area.	N/A	19,610	4	2
SFFD Non-Accessory Parking Garage	None are required. However, if Class 1 spaces that can be rented on an hourly basis are provided, they may count toward the garage's requirement for Class 2 spaces.	One Class 2 space for every 20 car spaces, except in no case less than six Class 2 spaces.	18 Spaces	N/A	0	6
			Total Required Spaces:		**23**	**40**

Level	FL to FL	Elevation	Program Type - GSF												Exclusions to GFA						Program Type - GFA								Program Type - OFA							
			Fire Station	FS Parking	Gym	Retail/ Rest.	Hotel	Meet. Space	Keys	Office	Loading	Parking	BOH	POPOS (6)	TOTAL GSF	MEP (2)	(3) Parking & Loading	(2) Utility Storage	Below Grade Parking (4)	Bicycle Storage (5)	Total Exempt	Fire Station	FS Parking	Gym	Retail/ Rest.	Hotel	Meet. Space	Office	Parking (Hotel)	BOH (Hotel)	TOTAL GFA	Fire Station	FS Parking	Gym	Retail/ Rest.	Hotel	Meet. Space	Office	Parking (Hotel)	BOH (Hotel)	TOTAL OFA
T.O.P		236' 0"																																				
Roof		217' 7"	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
19	15' 0"	202' 7"	-	-	-	-	9,445	-	-	-	-	-	-	-	9,445	360	-	-	-	-	360	-	-	-	-	9,085	-	-	-	-	9,085	-	-	-	-	8,885	-	-	-	8,885
18	13' 5"	189' 2"	-	-	-	-	7,837	4,533	3	-	-	-	-	-	12,370	500	-	-	-	-	500	-	-	-	-	7,337	4,533	-	-	-	11,870	-	-	-	-	7,237	4,433	-	-	11,670
17	10' 8"	178' 6"	-	-	-	-	13,250	-	22	-	-	-	-	-	13,250	530	-	-	-	-	530	-	-	-	-	12,720	-	-	-	-	12,720	-	-	-	-	12,485	-	-	-	12,485
16	9' 8"	168' 10"	-	-	-	-	13,250	-	22	-	-	-	-	-	13,250	530	-	-	-	-	530	-	-	-	-	12,720	-	-	-	-	12,720	-	-	-	-	12,485	-	-	-	12,485
15	9' 8"	159' 2"	-	-	-	-	13,250	-	22	-	-	-	-	-	13,250	530	-	-	-	-	530	-	-	-	-	12,720	-	-	-	-	12,720	-	-	-	-	12,485	-	-	-	12,485
14	9' 8"	149' 6"	-	-	-	-	13,250	-	22	-	-	-	-	-	13,250	530	-	-	-	-	530	-	-	-	-	12,720	-	-	-	-	12,720	-	-	-	-	12,485	-	-	-	12,485
13	9' 8"	139' 10"	-	-	-	-	13,250	-	22	-	-	-	-	-	13,250	530	-	-	-	-	530	-	-	-	-	12,720	-	-	-	-	12,720	-	-	-	-	12,485	-	-	-	12,485
12	9' 8"	130' 2"	-	-	-	-	13,250	-	22	-	-	-	-	-	13,250	530	-	-	-	-	530	-	-	-	-	12,720	-	-	-	-	12,720	-	-	-	-	12,485	-	-	-	12,485
11	9' 8"	120' 6"	-	-	-	-	13,250	-	22	-	-	-	-	-	13,250	530	-	-	-	-	530	-	-	-	-	12,720	-	-	-	-	12,720	-	-	-	-	12,485	-	-	-	12,485
10	9' 8"	110' 10"	-	-	-	-	13,250	-	22	-	-	-	-	-	13,250	530	-	-	-	-	530	-	-	-	-	12,720	-	-	-	-	12,720	-	-	-	-	12,485	-	-	-	12,485
9	9' 8"	101' 2"	-	-	-	-	13,250	-	21	-	-	-	-	-	13,250	530	-	-	-	-	530	-	-	-	-	12,720	-	-	-	-	12,720	-	-	-	-	12,485	-	-	-	12,485
8	12' 5"	88' 9"	-	-	-	-	230	-	-	13,020	-	-	-	-	13,250	1,135	-	-	-	-	1,135	-	-	-	-	230	-	11,885	-	-	12,115	-	-	-	-	230	-	11,650	-	-	11,880
7	12' 5"	76' 4"	-	-	-	-	230	-	-	13,020	-	-	-	-	13,250	1,135	-	-	-	-	1,135	-	-	-	-	230	-	11,885	-	-	12,115	-	-	-	-	230	-	11,650	-	-	11,880
6	12' 5"	63' 11"	-	-	-	-	230	-	-	13,020	-	-	-	-	13,250	1,135	-	-	-	-	1,135	-	-	-	-	230	-	11,885	-	-	12,115	-	-	-	-	230	-	11,650	-	-	11,880
5	14' 0"	49' 11"	-	-	13,210	-	230	-	-	170	-	-	-	-	13,610	1,210	-	-	-	-	1,210	-	-	12,000	-	230	-	170	-	-	12,400	-	-	11,780	-	230	-	170	-	-	12,180
4	14' 0"	35' 11"	2,250	-	13,210	-	230	-	-	170	-	-	-	-	15,860	1,210	-	-	-	-	1,210	2,250	-	12,000	-	230	-	170	-	-	14,650	1,970	-	11,880	-	230	-	170	-	-	14,250
3	12' 5"	23' 6"	7,750	-	7,980	-	230	-	-	170	-	-	-	-	16,130	800	-	-	-	-	800	7,750	-	7,180	-	230	-	170	-	-	15,330	7,470	-	6,840	-	230	-	170	-	-	14,710
2	12' 0"	11' 6"	3,300	-	180	3,920	230	-	-	220	-	-	-	-	7,850	720	-	-	-	-	720	3,300	-	180	3,200	230	-	220	-	-	7,130	3,020	-	180	2,860	230	-	220	-	-	6,510
1	11' 6"	0' 0"	6,940	-	650	2,550	3,390	-	-	700	1,225	725	-	6,476	16,180	410	1,225	-	-	-	1,635	6,940	-	650	2,550	2,980	-	700	725	-	14,545	6,660	-	600	2,435	2,580	-	650	675	-	13,600
B1	12' 0"		-	-	-	-	-	-	-	-	400	8,260	8,890	-	17,550	4,995	400	2,920	8,260	446	17,021	-	-	-	-	-	-	-	-	529	529	-	-	-	-	-	-	-	129	129
B2	12' 0"		-	1,140	-	2,300	3,900	-	-	-	-	5,850	4,360	-	17,550	200	-	6,650	5,850	-	12,700	-	1,140	-	2,100	575	-	-	-	1,035	4,850	-	1,140	-	1,700	575	-	-	635	4,050
B3	12' 0"		490	6,600	-	-	-	-	-	-	-	-	10,460	-	17,550	6,640	-	3,650	-	-	10,290	490	6,600	-	-	-	-	-	-	170	7,260	490	5,800	-	-	-	-	-	-	170	6,460
			20,730	7,740			145,432	4,533														20,730	7,740			136,069	4,533					19,610	6,940			133,254	4,433				
TOTAL			**28,470**		**35,230**	**8,770**	**149,965**		**200**	**40,490**	**1,625**	**14,835**	**23,710**	**6,476**	**303,095**	**25,217**	**1,625**	**13,220**	**14,110**	**446**	**54,618**	**28,470**		**32,010**	**7,850**	**140,602**		**37,086**	**725**	**1,734**	**248,477**	**26,550**		**31,280**	**6,995**	**137,687**		**36,331**	**675**	**934**	**240,452**
															303,095																								

Site Area	17,733
FAR	14

	GFA	OFA
Hotel	143,060	139,295
Office	37,086	36,331
Public Facility	20,730	19,610
SFFD Parking Garage	7,740	6,940
Restaurant	7,850	6,995
Gym	32,010	31,280
Total Non-SFFD OFA		**213,902**
Space Devoted to off-street car parking		**14,835**
Non - SFFD Parking =	**6.94%**	**Total Non SFFD OFA**

(2) Excluded under SF planning Code section 102 Floor Area, Gross definition: b.1, b.3, b.4
(3) Excluded under SF planning Code section 102 Floor Area, Gross definition: a.8.
(4) Parking for all uses except non-accessory SFFD parking is limited to 7% of total OFA and excluded from GFA
(5) Excluded under SF planning Code section 102 Floor Area, Gross definition: a.8., b.8.
(6) Proposed Merchant St Improvement - GFA (excluding FS) / 50



PROJECT APPLICATION (PRJ)

APRIL 2021

East/West Building Section

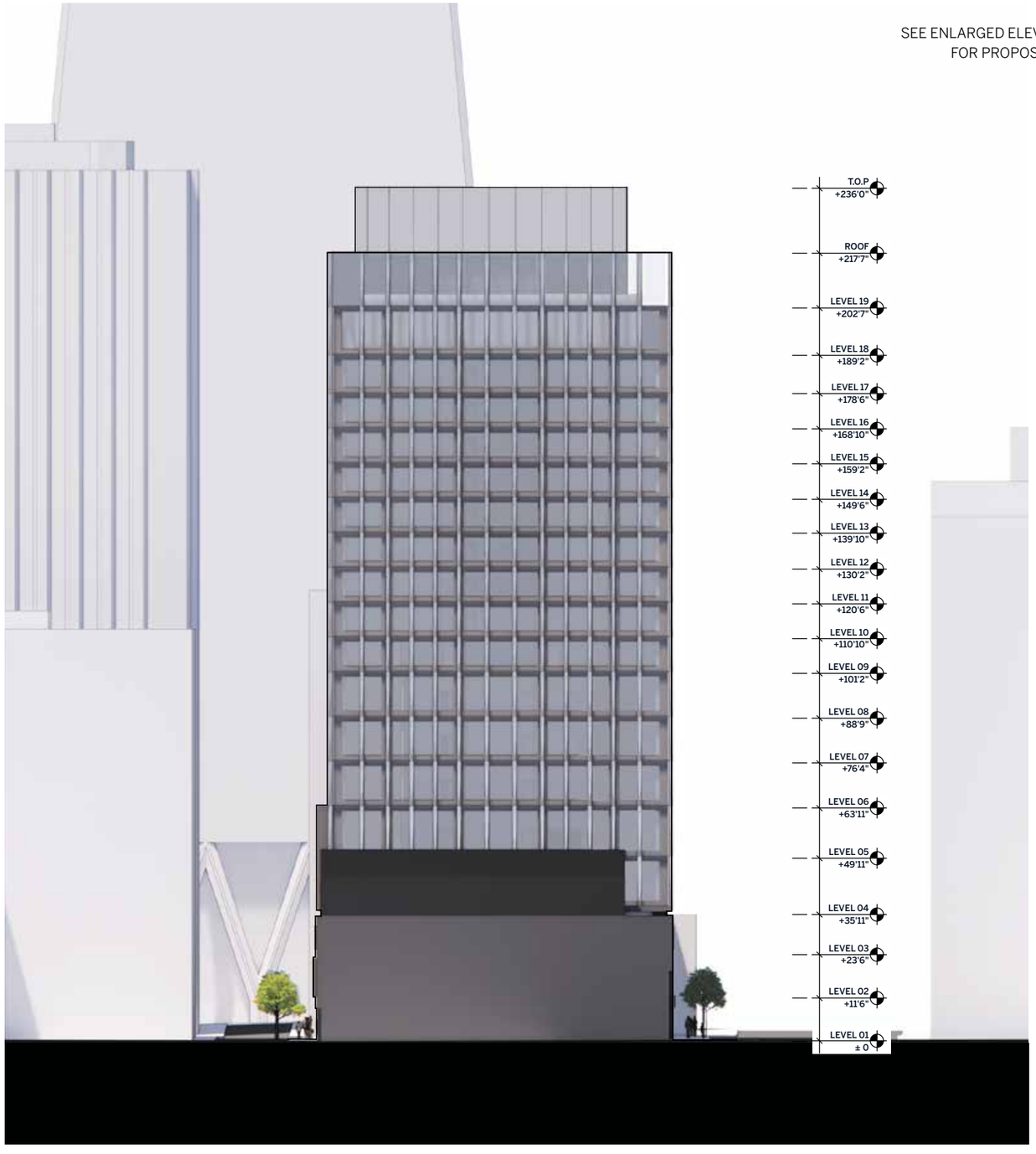
SCALE: N.T.S.

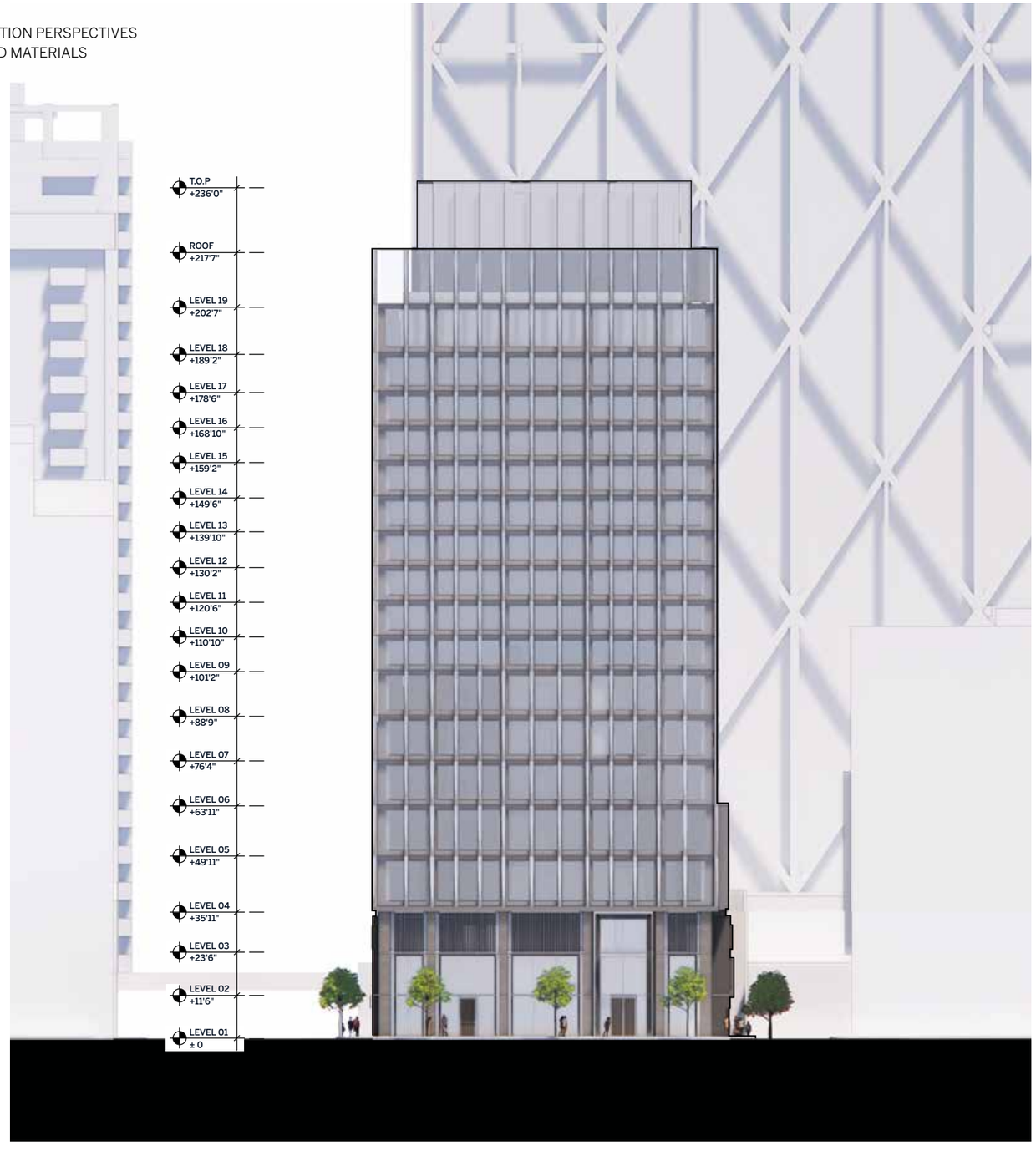
SEE ENLARGED ELEVATION PERSPECTIVES
FOR PROPOSED MATERIALS

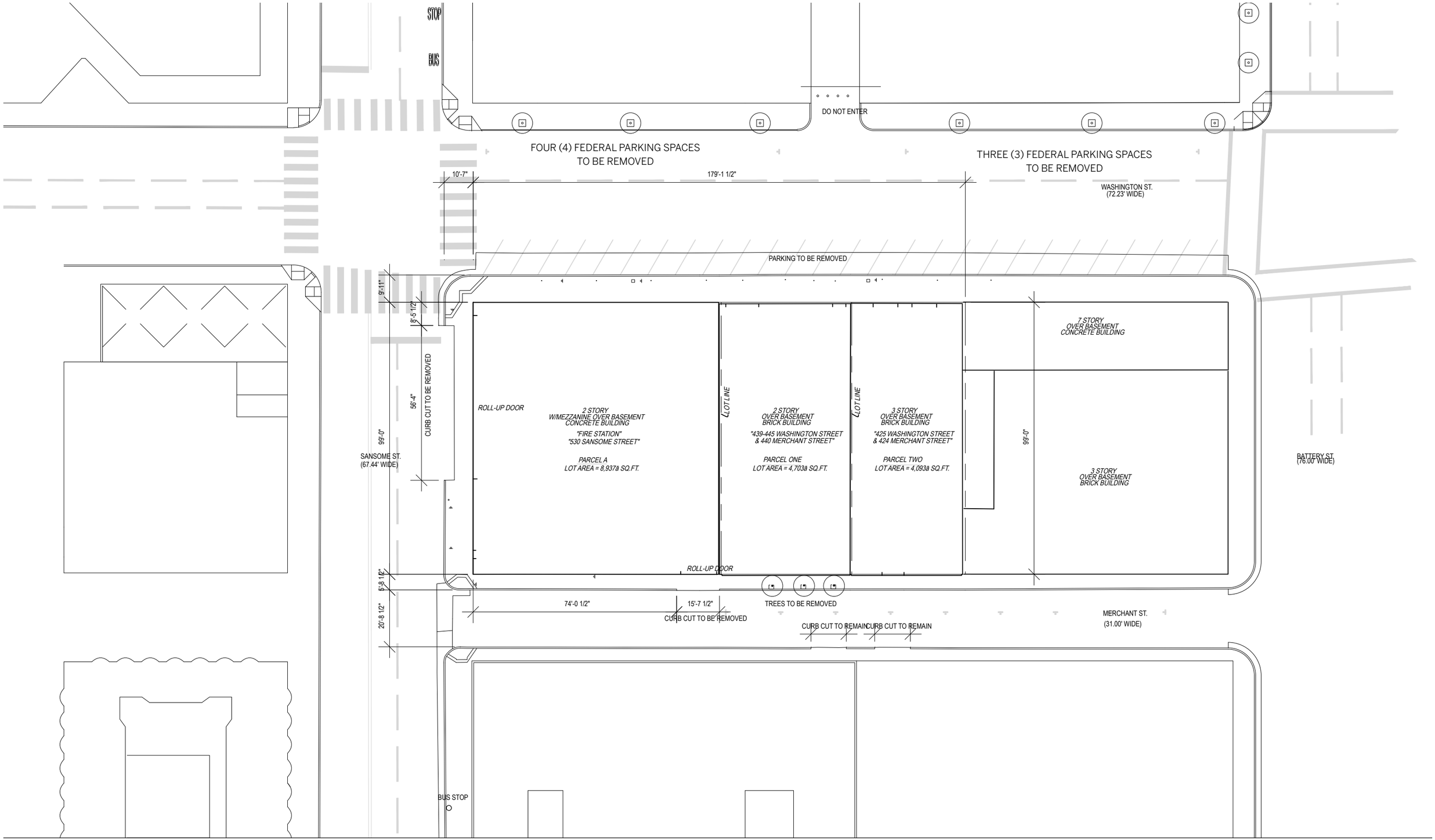
North Elevation
SCALE: NTS

South Elevation
SCALE: NTS

SEE ENLARGED ELEVATION PERSPECTIVES
FOR PROPOSED MATERIALS







PROJECT APPLICATION (PRJ)

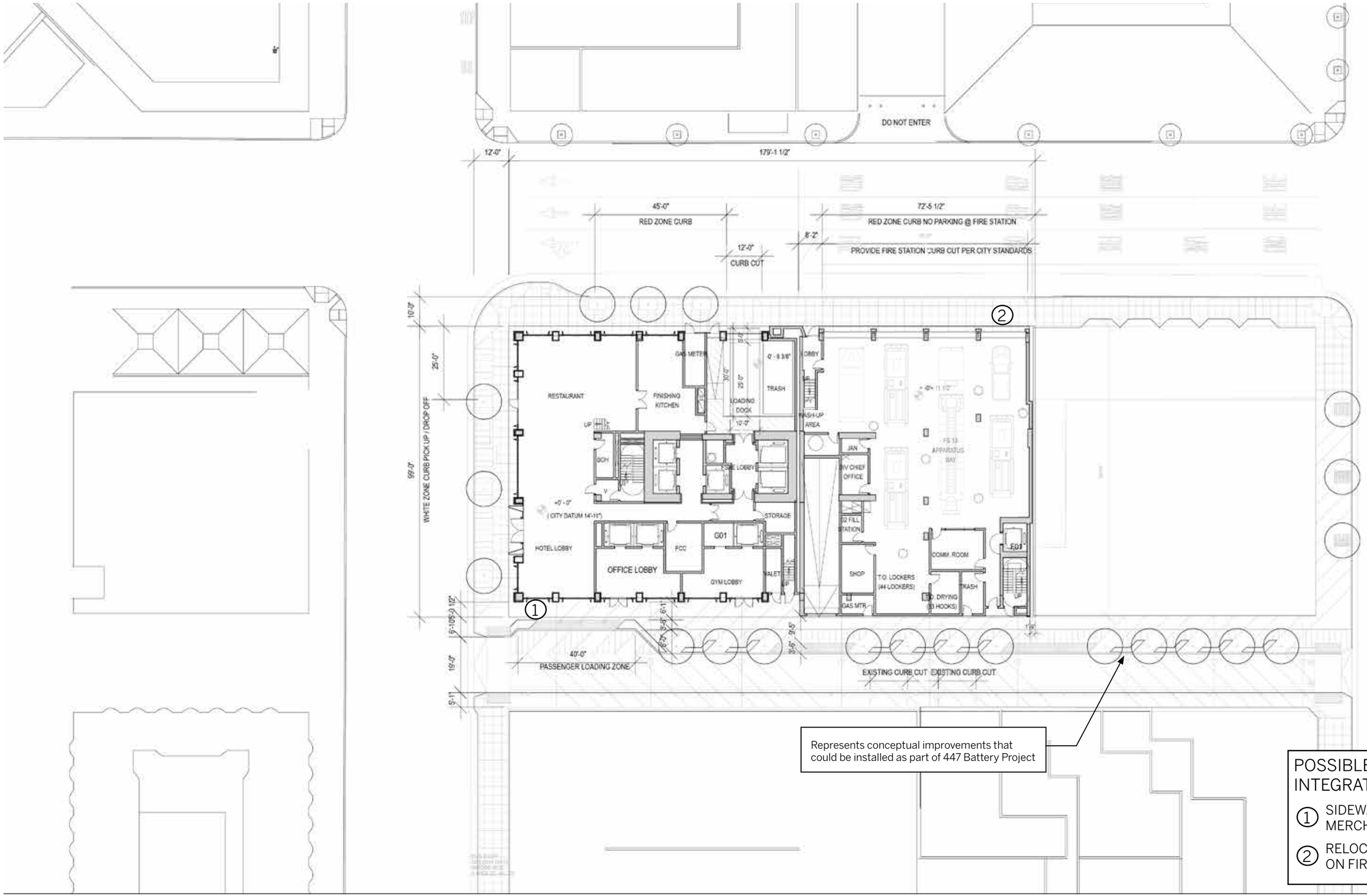
APRIL 2021

Existing Site Plan

SCALE: 1/32"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



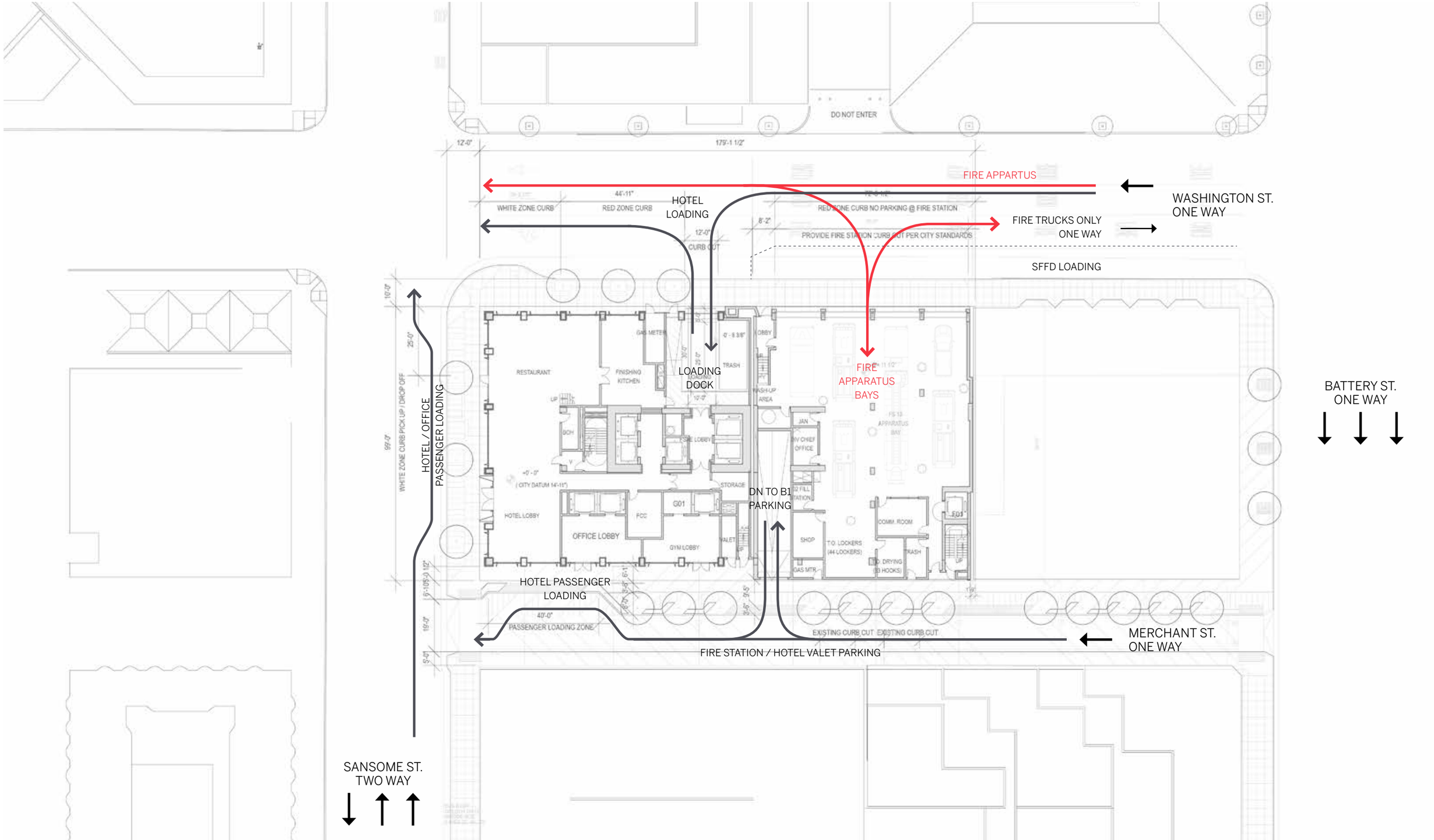
Represents conceptual improvements that could be installed as part of 447 Battery Project

POSSIBLE LOCATIONS TO INTEGRATE PUBLIC ART

1. SIDEWALK EXTENSION ON MERCHANT STREET
2. RELOCATED SFFD SCULPTURE ON FIRE STATION FACADE

Proposed Site Plan

SCALE: 1/32"= 1'-0



PROJECT APPLICATION (PRJ)

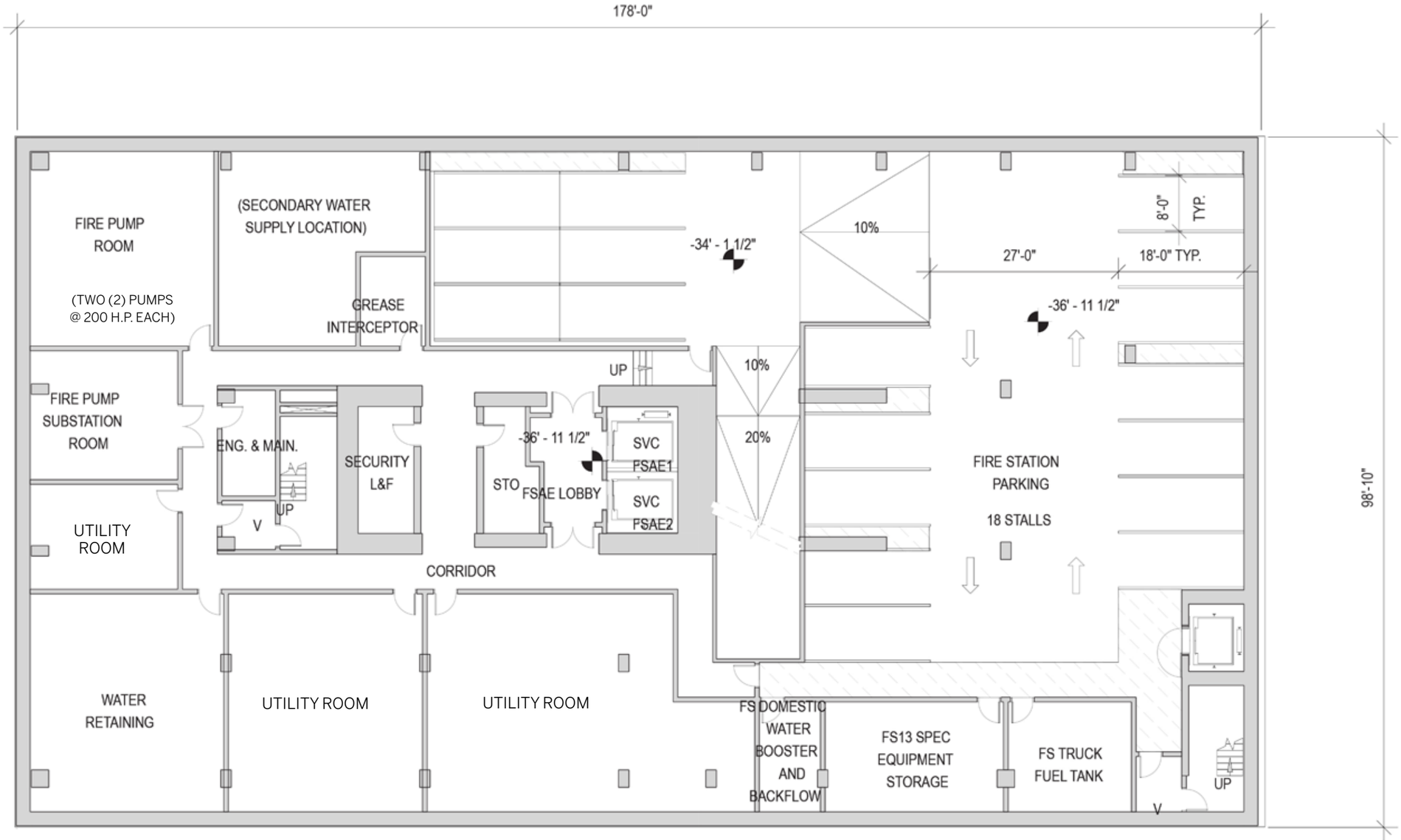
APRIL 2021

Vehicle Circulation Diagram

SCALE: 1/32"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

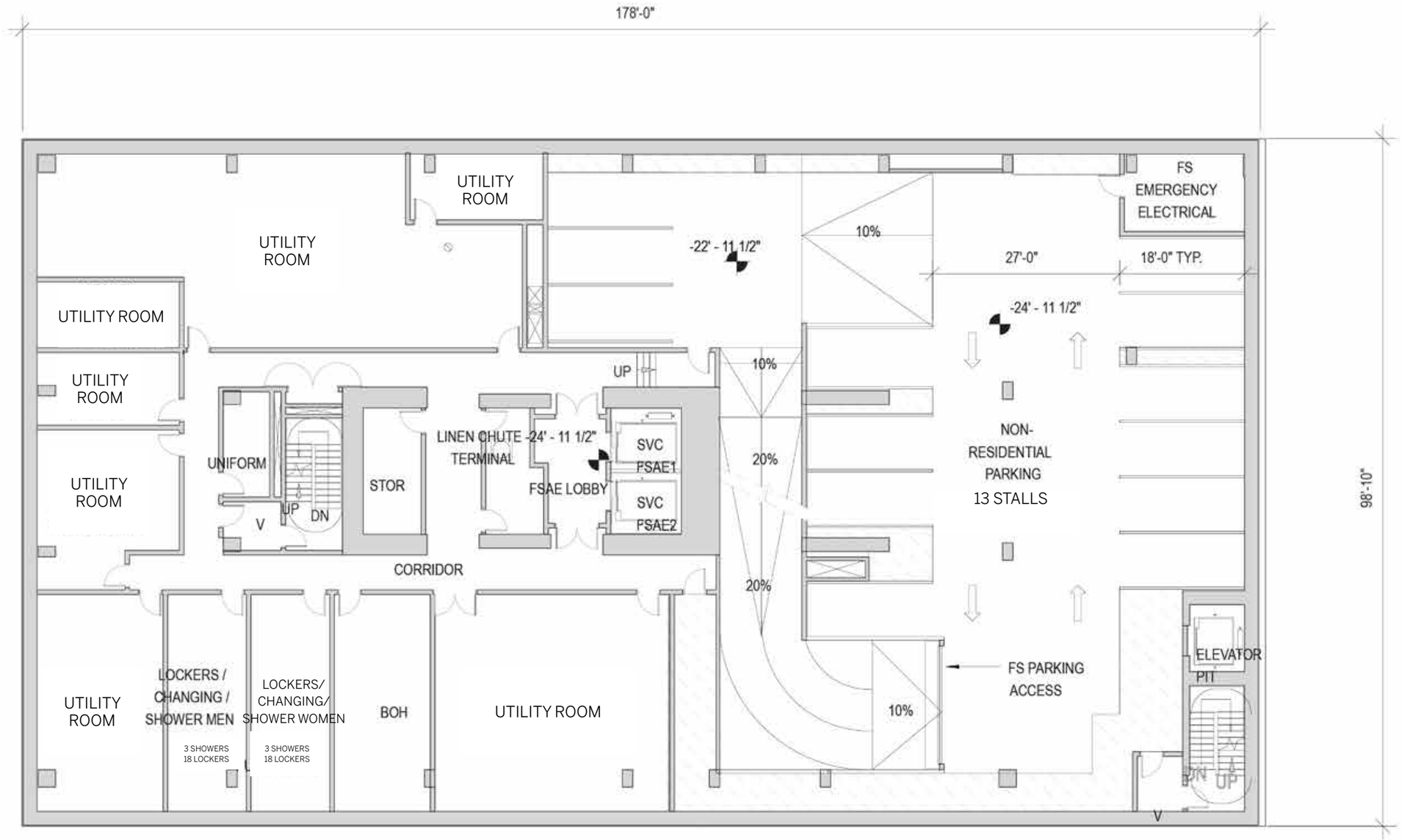
APRIL 2021

B3 Floor Plan

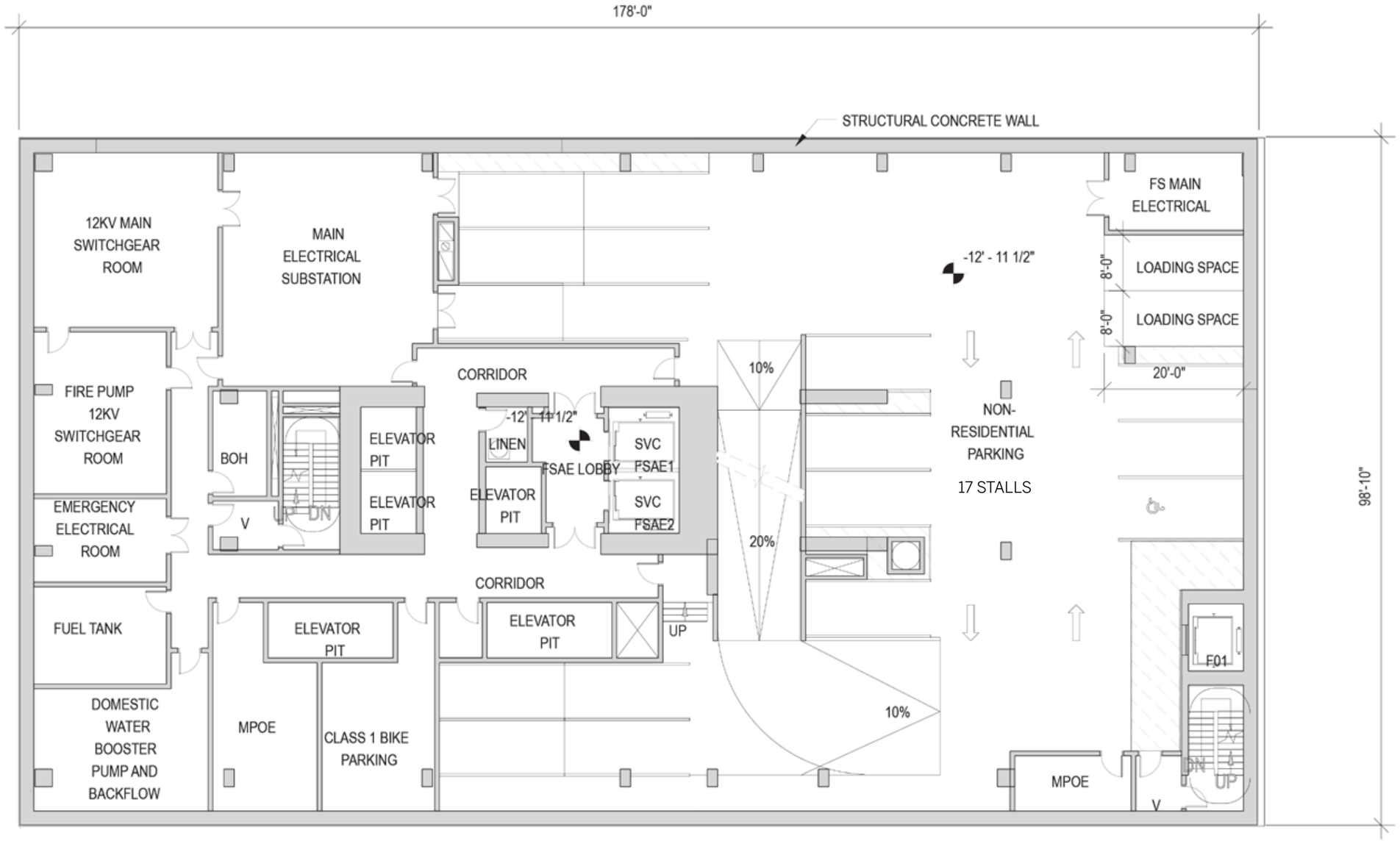
SCALE: 1/16"= 1'-0

530 SANSOME STREET

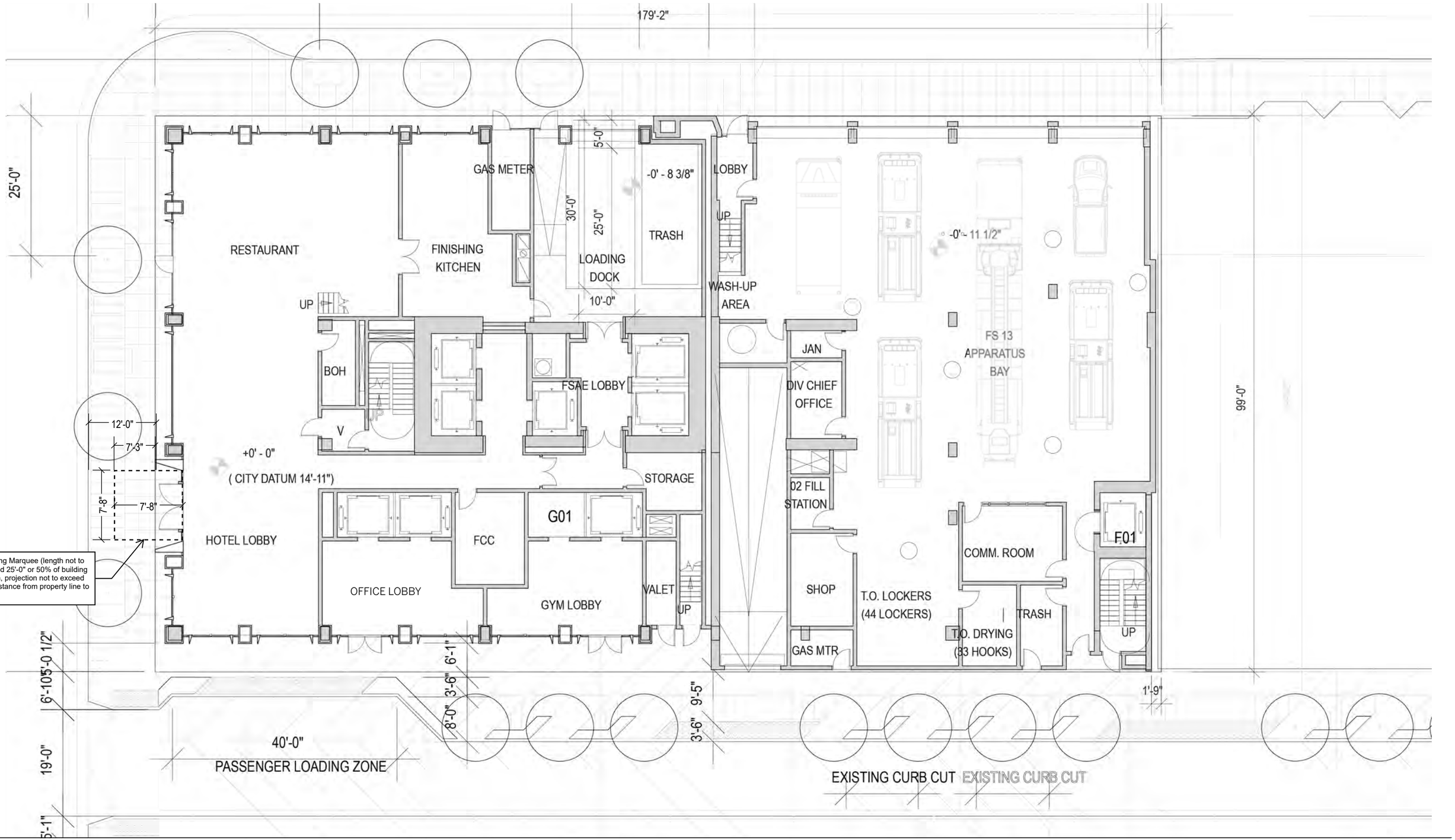
SKIDMORE, OWINGS & MERRILL LLP



* Valet Parking may be used to park more automobiles than can be accommodated in individual parking spaces.



* Valet Parking may be used to park more automobiles than can be accommodated in individual parking spaces.



PROJECT APPLICATION (PRJ)

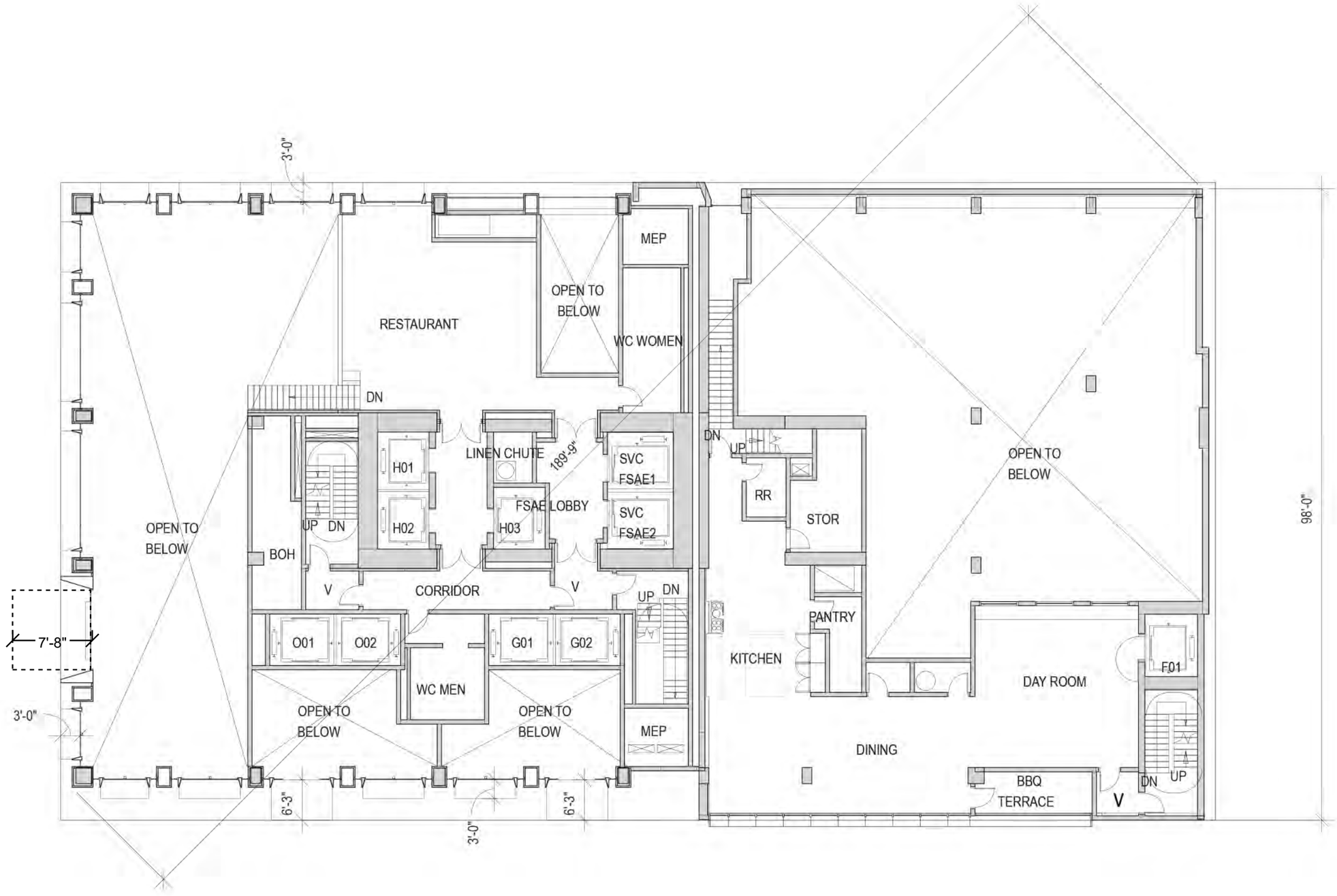
APRIL 2021

L1 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

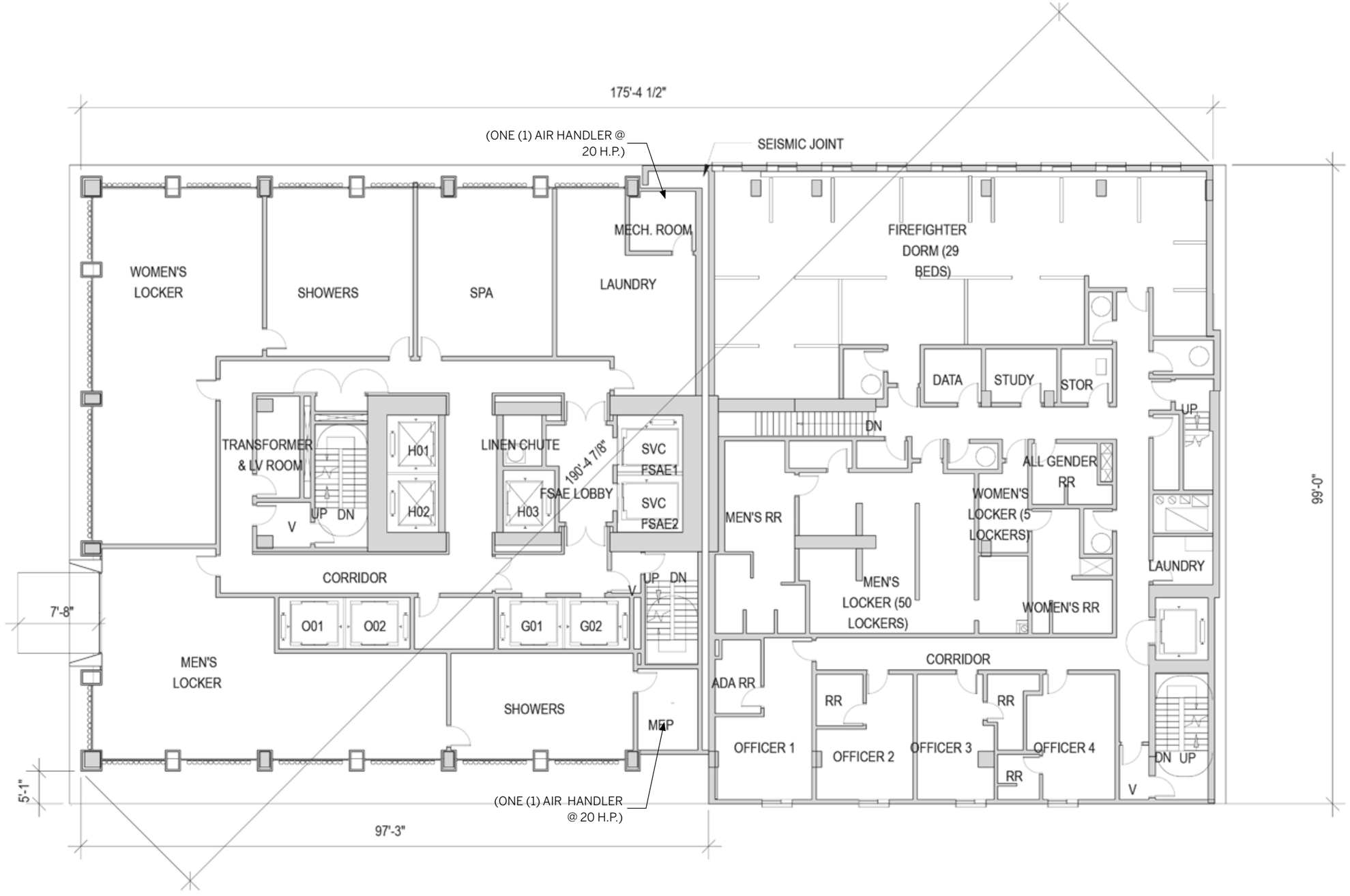
APRIL 2021

L2 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

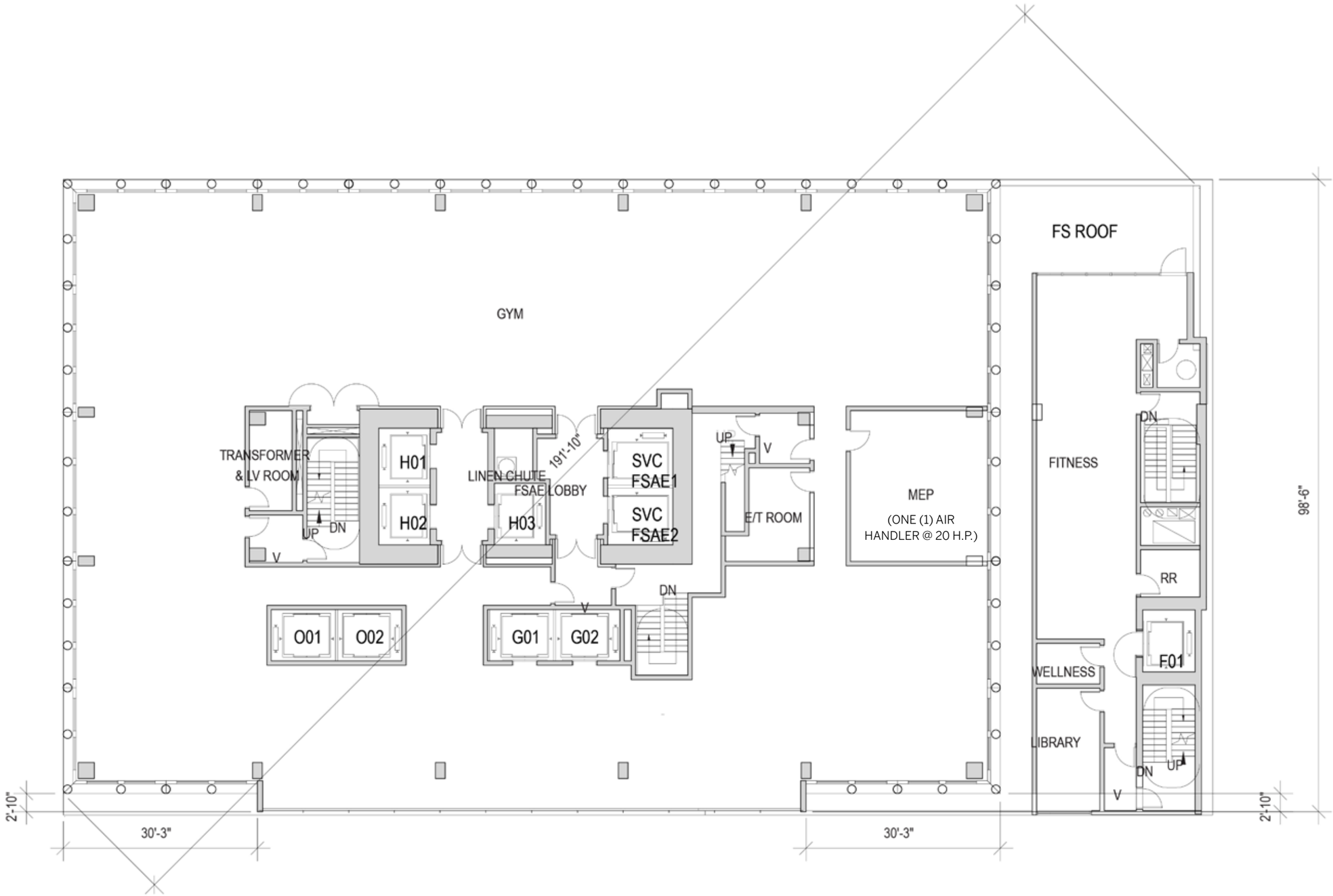
APRIL 2021

L3 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

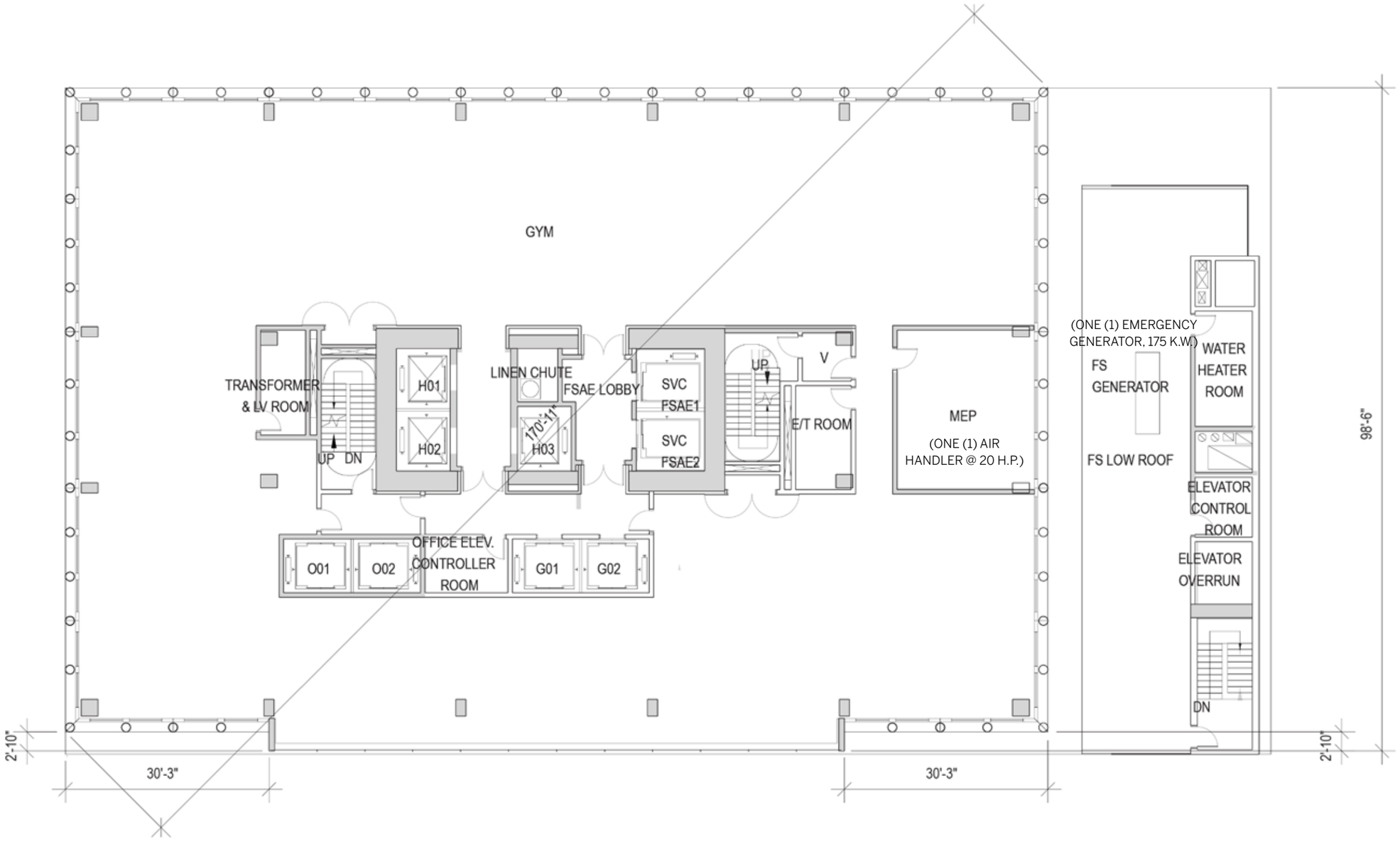
APRIL 2021

L4 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

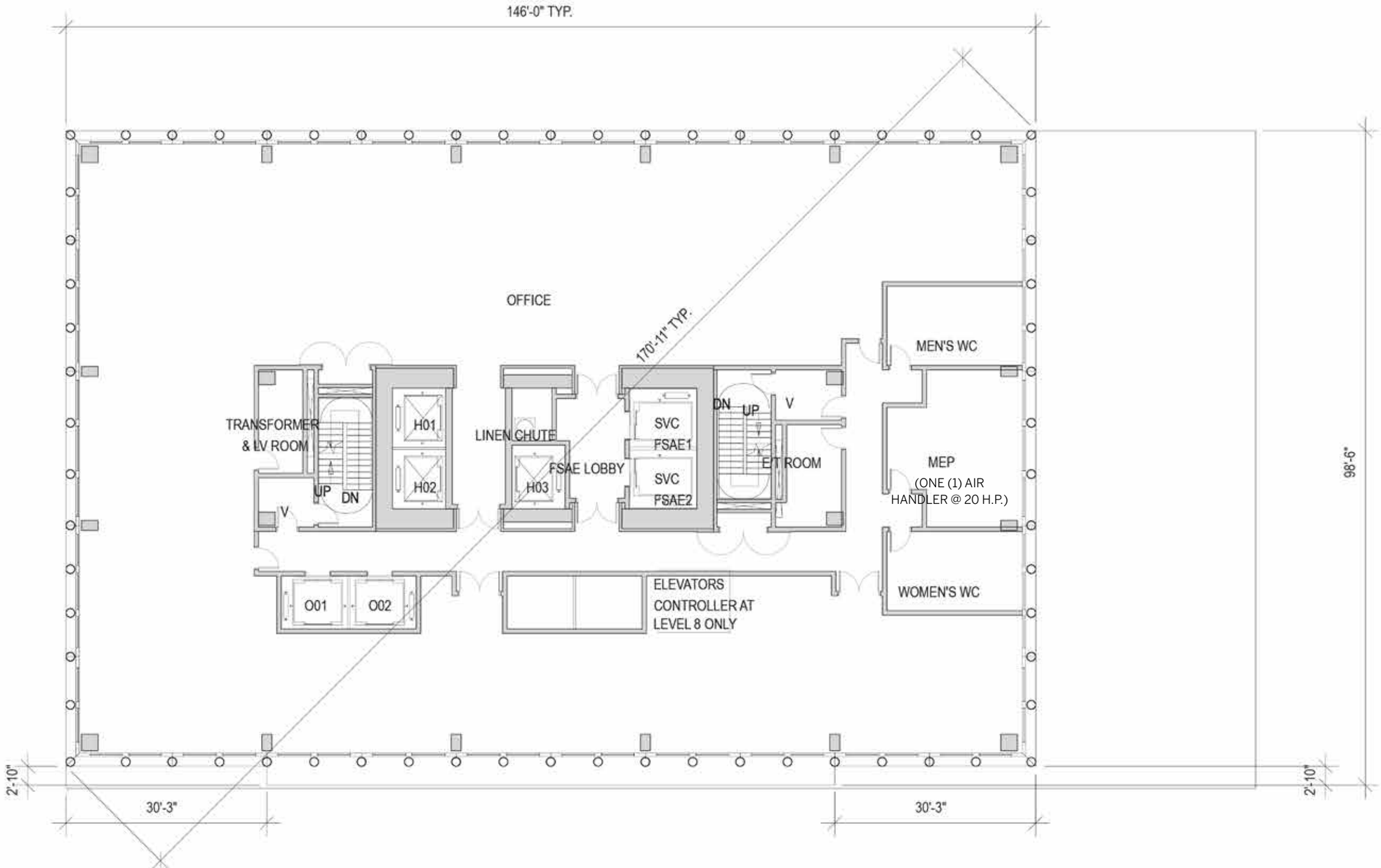
APRIL 2021

L5 Floor Plan

SCALE: 1/16"= 1'-0

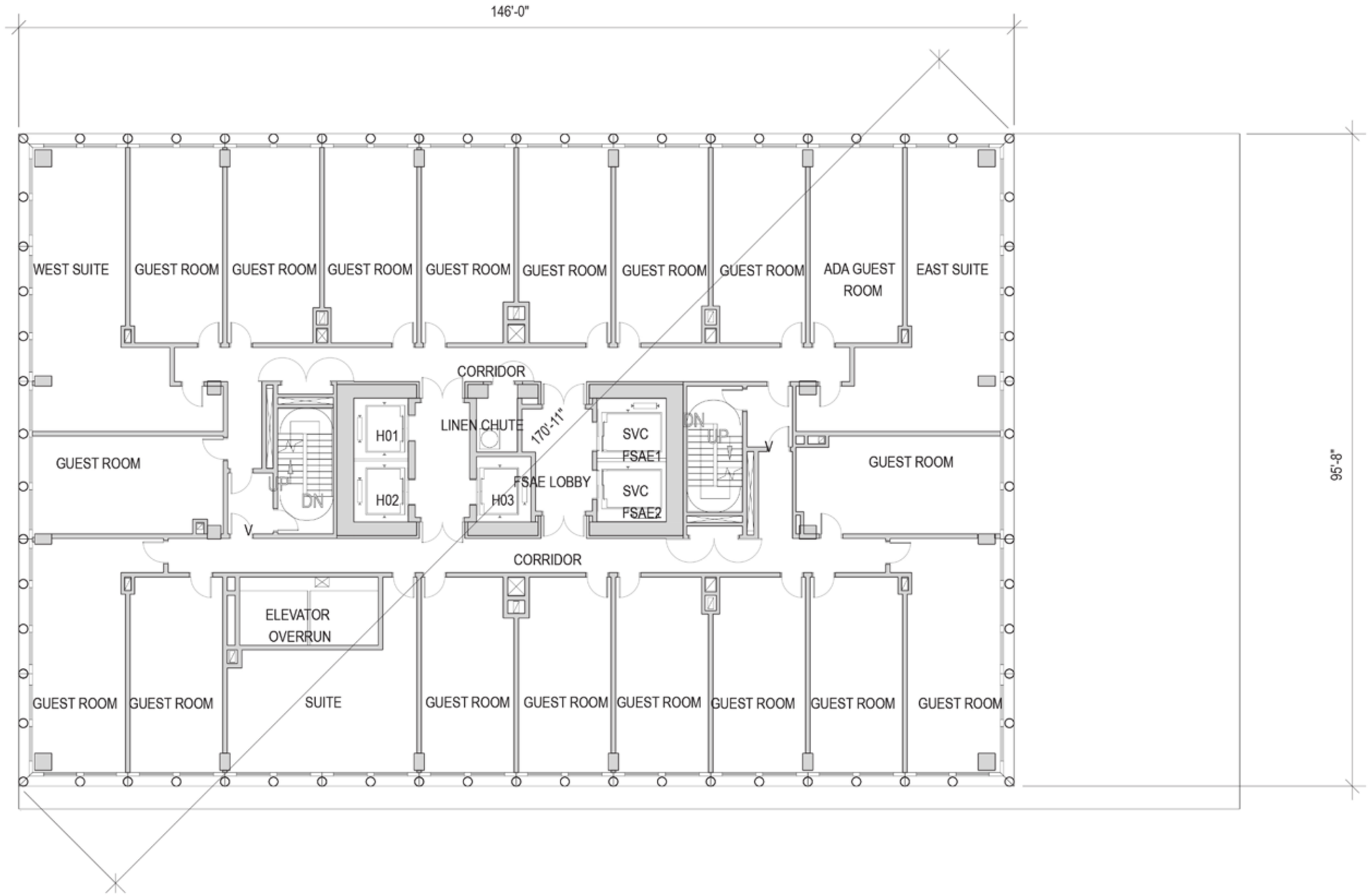
530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



L6 Floor Plan - Typical Office Level

SCALE: 1/16"= 1'-0



PROJECT APPLICATION (PRJ)

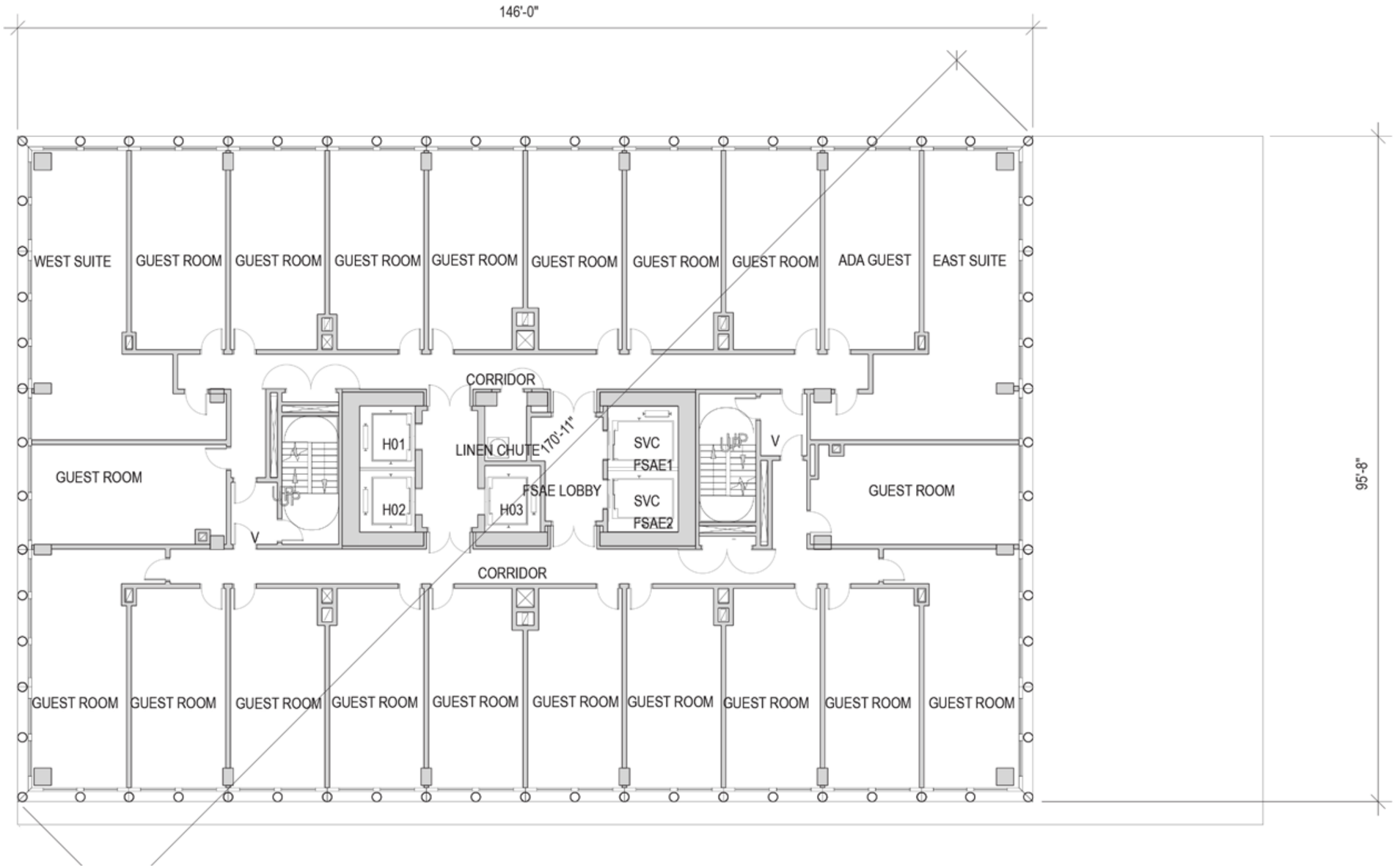
APRIL 2021

L9 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

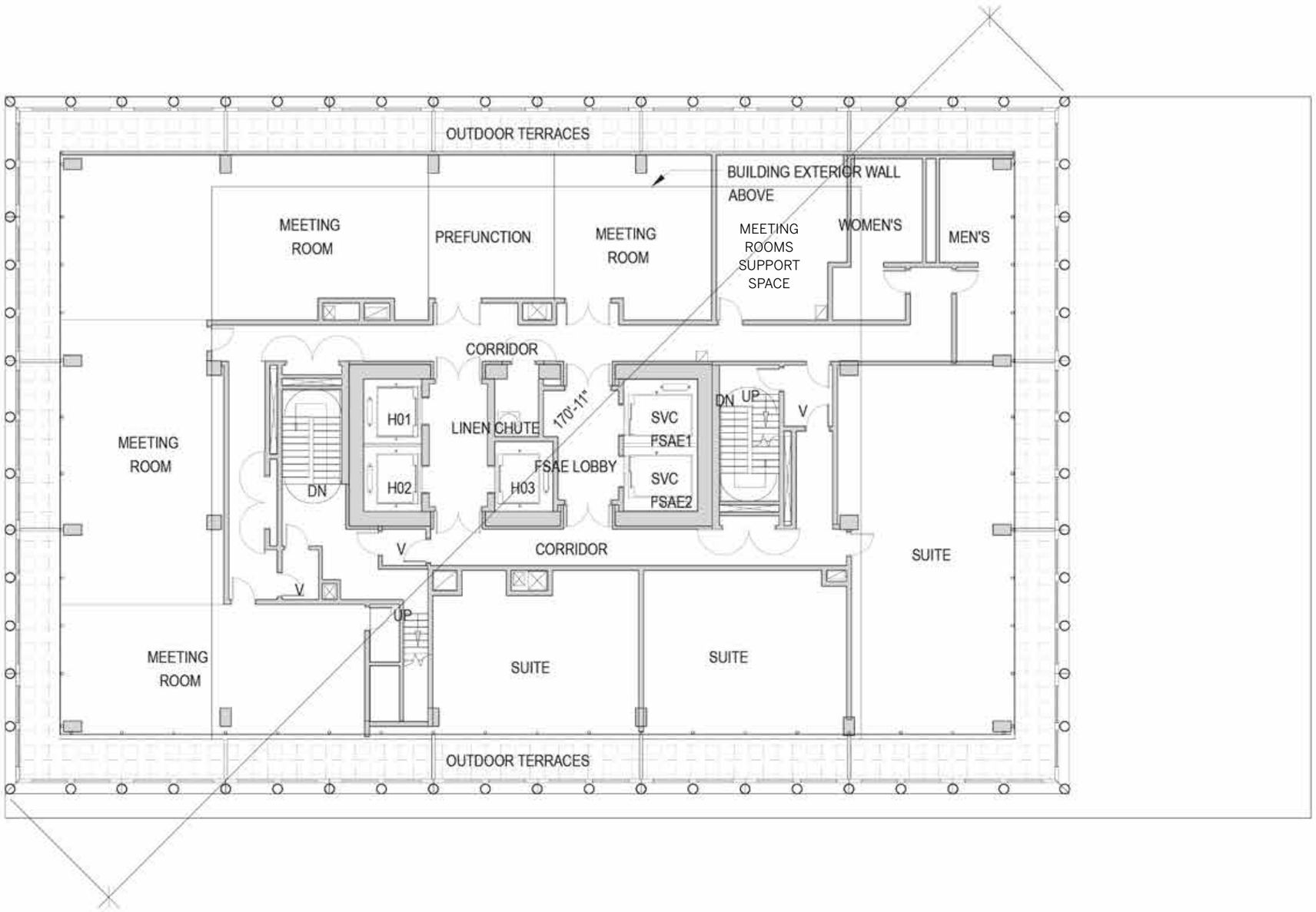
APRIL 2021

L10 Floor Plan - Typical Hotel Level

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

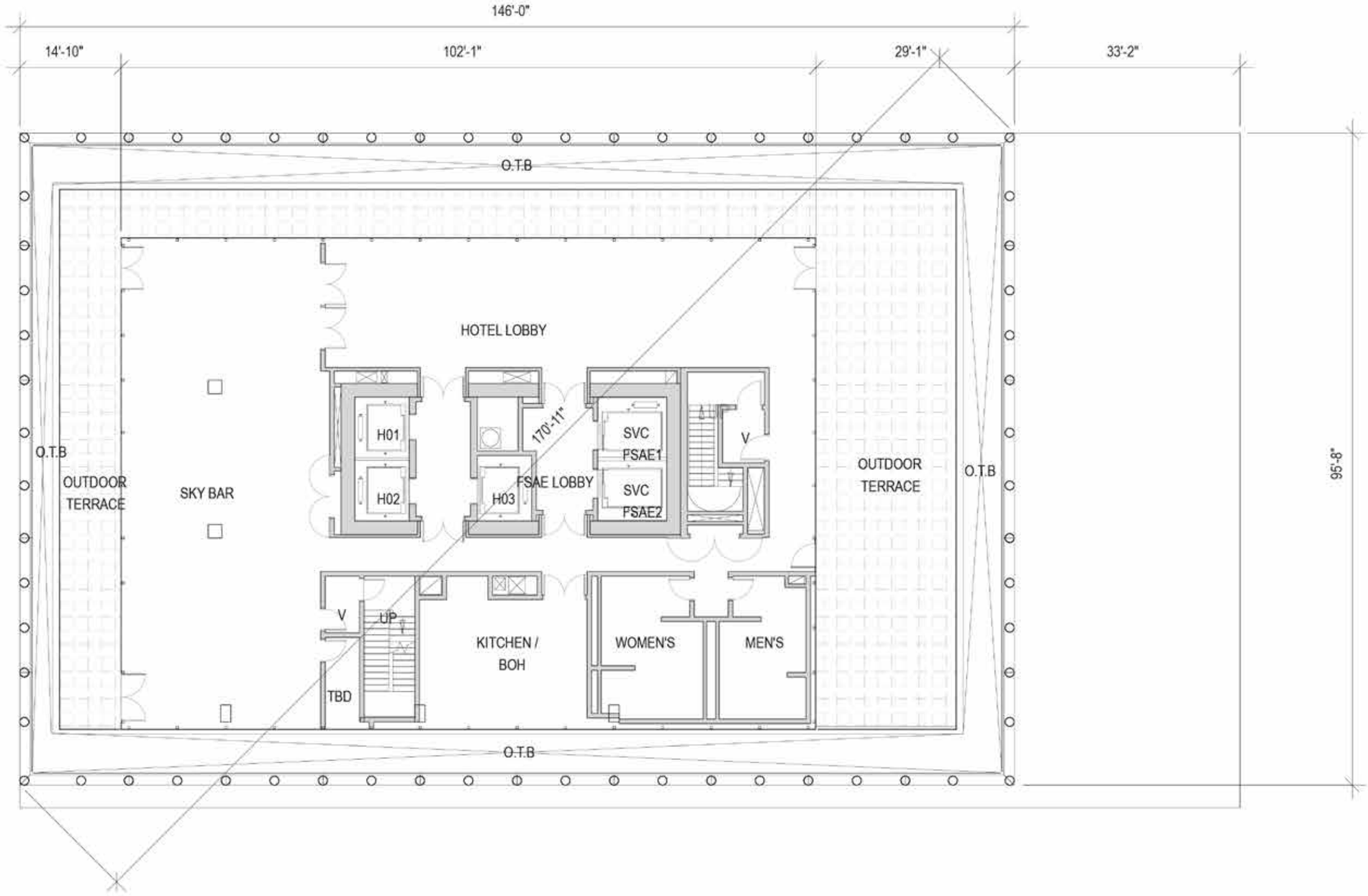
APRIL 2021

L18 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

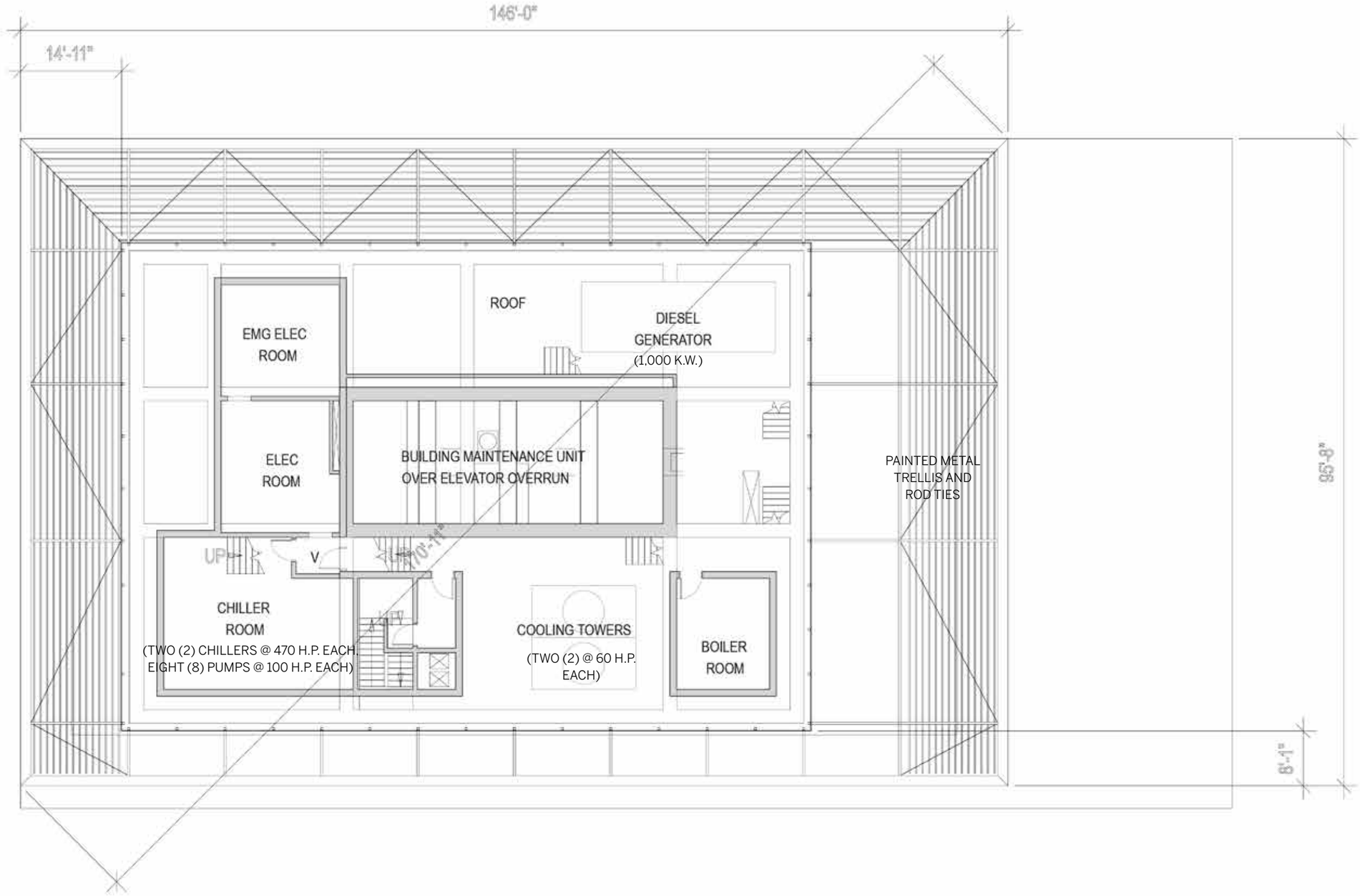
APRIL 2021

L19 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

APRIL 2021

Mechanical Penthouse Plan

SCALE: 1/16"= 1'-0"

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP

PROJECT APPLICATION (PRJ)

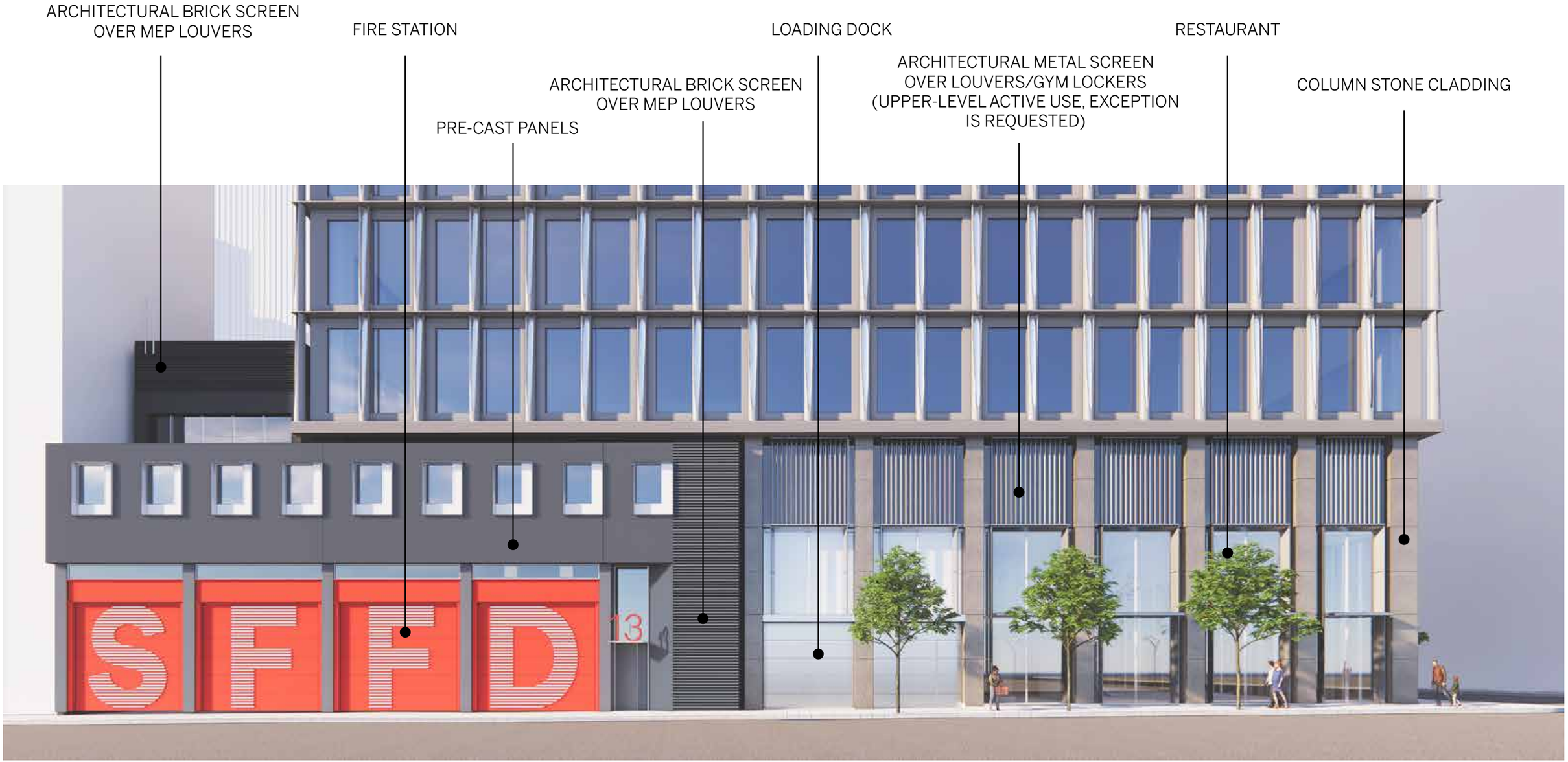
APRIL 2021

Sansome Street Pedestrian Front

SCALE: NTS

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

APRIL 2021

Washington Street Pedestrian Front

SCALE: NTS

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP

PROJECT APPLICATION (PRJ)

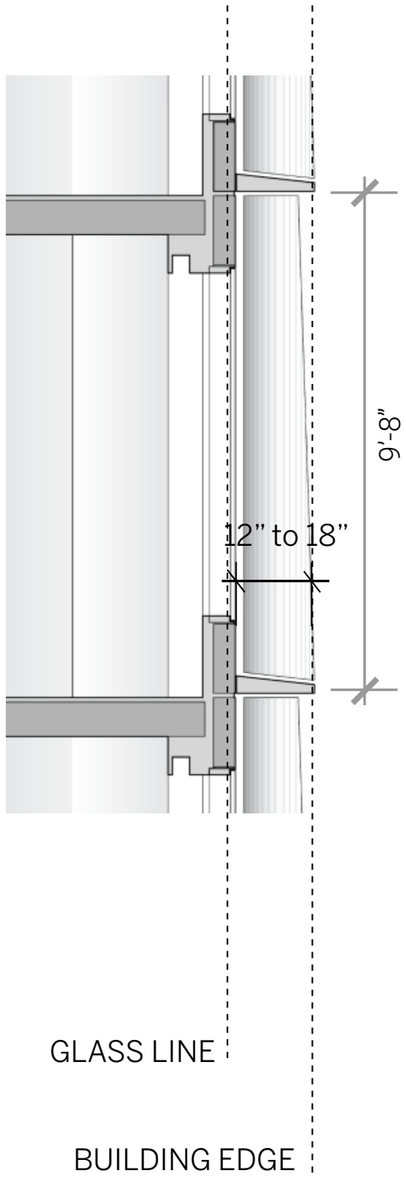
APRIL 2021

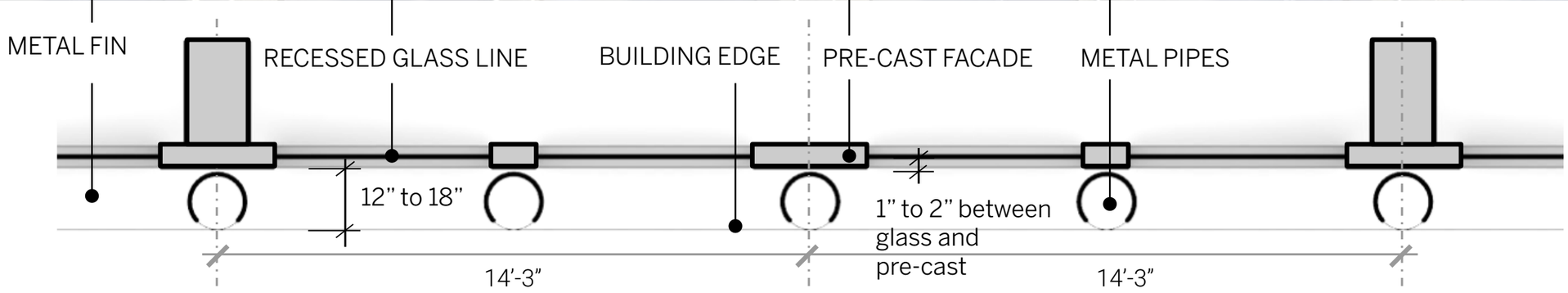
Merchant Street Pedestrian Front

SCALE: NTS

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP

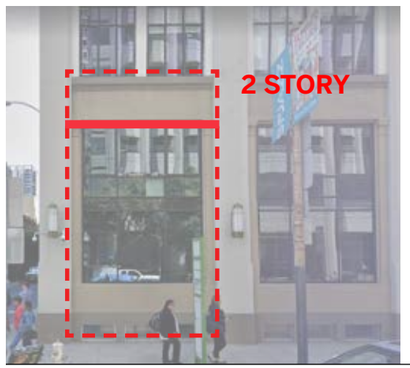




Typical Exterior Wall of Tower - Detail
SCALE: NTS

CONTEXT GROUND EXPRESSION

Context Ground Expression - The context consists primarily of mid-rise to high-rise buildings which have a two story, arcaded or framed base extension within which the first floor is articulated by entries, awnings, signage, and other details. Exceptions to this pattern are primarily more opaque, institutional facades.



RESTAURANT ENTRY

HOTEL ENTRY

TWO STORY GROUND EXPRESSION

PROJECT APPLICATION (PRJ)

APRIL 2021

Street Level Perspective

SCALE: NTS

PROJECT APPLICATION (PRJ)

APRIL 2021

Street Level Perspective

SCALE: NTS

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP

PROJECT APPLICATION (PRJ)

APRIL 2021

View from Sansome st. at Merchant st. (Looking NE)

SCALE: NTS

530 SANSOME STREET

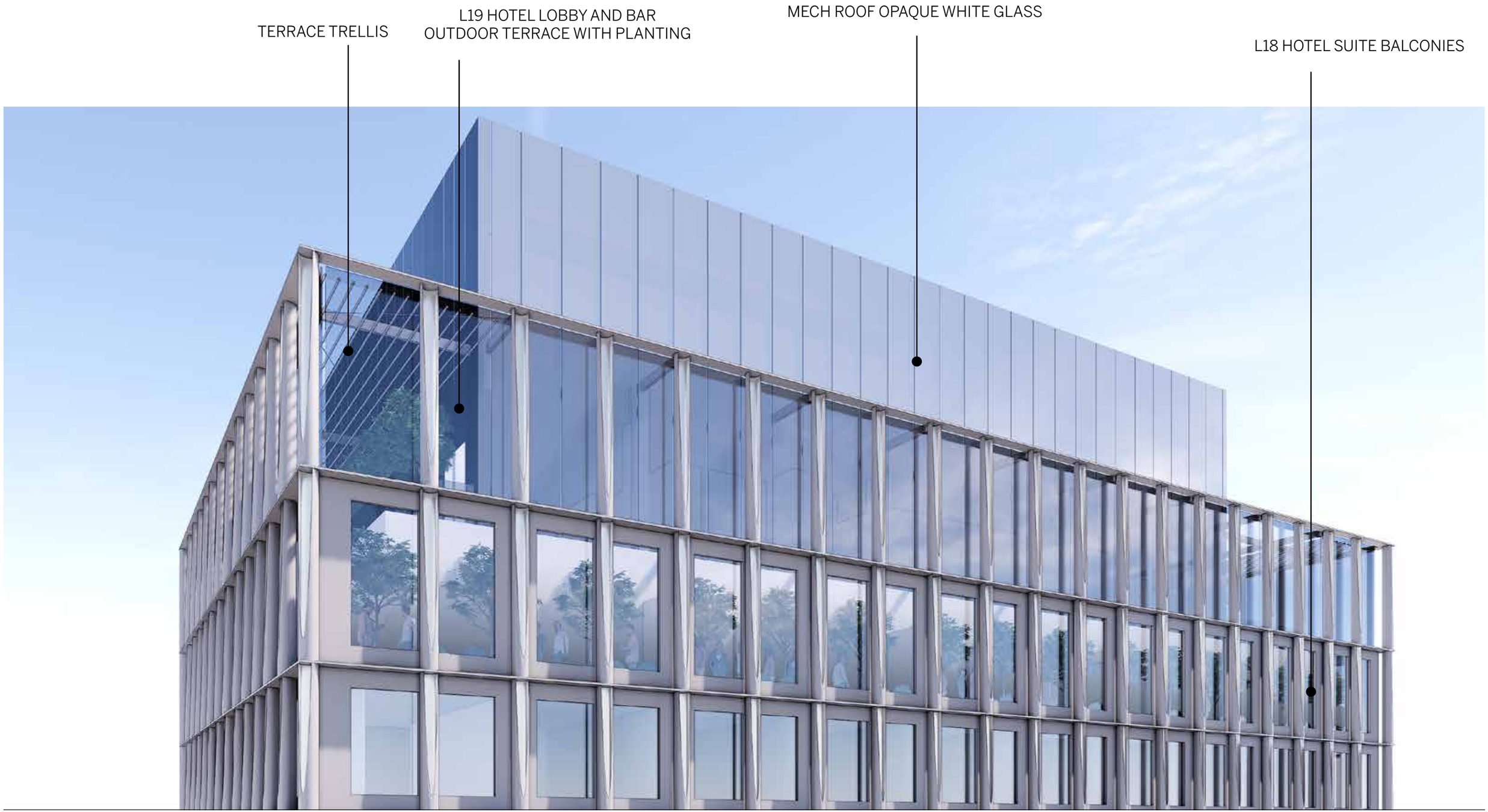
SKIDMORE, OWINGS & MERRILL LLP

PROJECT APPLICATION (PRJ)

APRIL 2021

View from Sansome st. & Washington st. (Looking SE)

SCALE: NTS



PROJECT APPLICATION (PRJ)

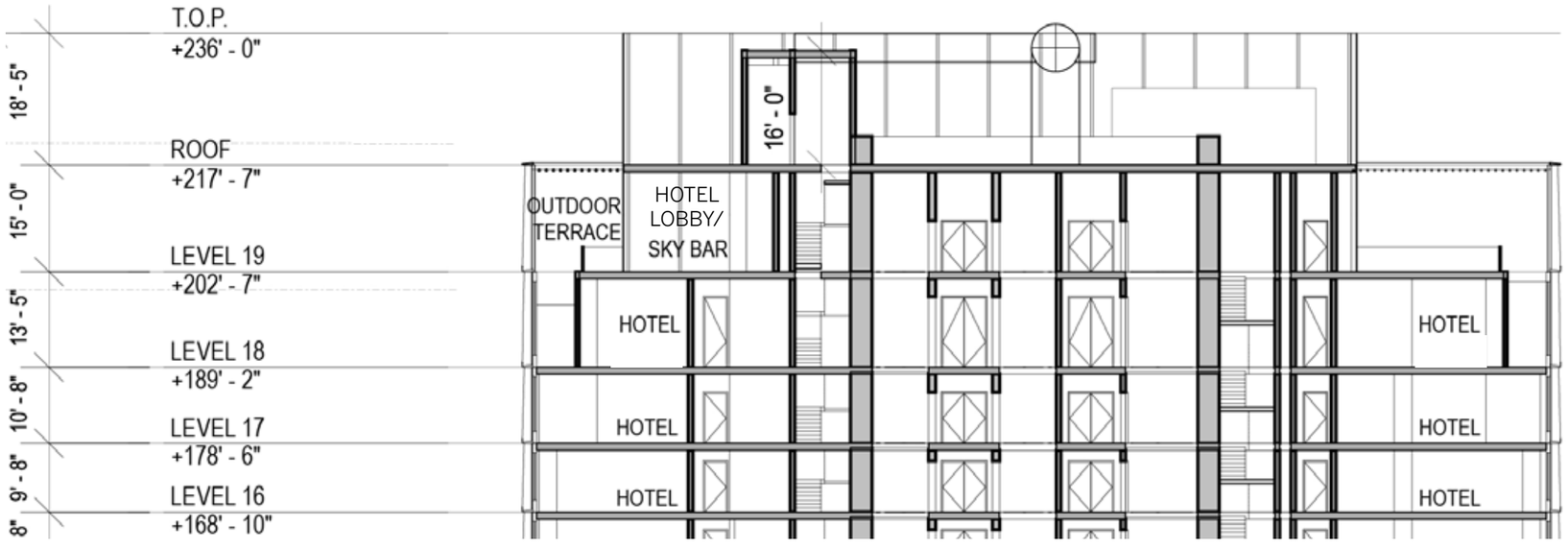
APRIL 2021

Tower Crown Perspective

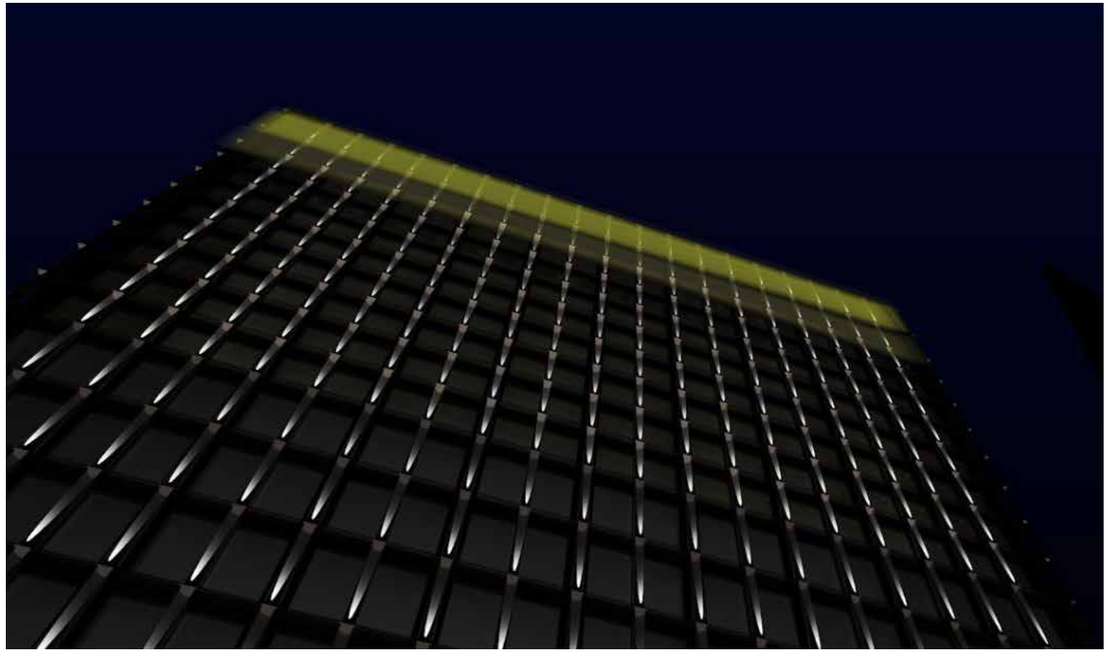
SCALE: NTS

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



Section through building crown



View looking up showing special Crown lighting

Crown Aerial VIew showing Roof Mech. Screen

530 Sansome Street

BIRD-SAFE BUILDING CHECKLIST

Using the key on the prior page, complete this checklist as a guide to help evaluate potential bird-hazards or eligibility for Bird-Safe Building Certification.

		QUESTION		YES	NO
MACRO-SETTING (PAGE 12, 16)	1	**Is the structure located within a major migratory route?** (All of San Francisco is on the Pacific Flyway)		X	
	2	**Is the location proximate to a migratory stopover destination?** (Within 1/4 mile from Golden Gate Park, Lake Merced or the Presidio)			X
	3	**Is the structure location in a fog-prone area?** (Within 1/2 mile from the ocean or bay)		X	
MICRO-SETTING (LOCATION-RELATED HAZARD) (PAGES 13, 16, 28-29)	4	**Is the structure located such that large windows greater than 24 square feet will be opposite of, or will reflect interlocking tree canopies?**			X
	5	**Is the structure inside of, or within a distance of 300 feet from an open space 2 acres or larger dominated by vegetation?** (Requires treatment of glazing, see page 28)			X
	6	**Is the structure located on, or within 300 feet from water, water features, or wetlands?** (Requires treatment of glazing, see page 28)			X
	7	**Does the structure feature an above ground or rooftop vegetated area two acres or greater in size?** (Requires treatment of glazing, see page 29)			X
GLAZING QUANTITY (PAGE 8)	8	**Is the overall quantity of glazing as a percentage of façade:** (Risk increases with amount of glazing)	**Less than 10%?**		X
			More than 50%? (Residential Buildings in R-Districts must treat 95% of unbroken glazed segments 24 square feet or greater in size if within 300 feet of an Urban Bird Refuge.)		X
	9	**Will the glazing be replaced?**	**More than 50% glazing to be replaced on an existing bird hazard (including both feature-related hazards as described in lines 19-22 and location-related hazard as described in lines 4-7)?** (Requires treatment see pages 29 and 31.)		X
GLAZING QUALITY (PAGE 6, 7)	10	**Is the quality of the glass best described as:**	**Transparent** (If so, remove indoor bird-attractions visible from outside the windows.)	X	
	11		**Reflective** (If so, keep visible light reflectance low (between 10-20%) and consider what will reflect in the windows. Note: Some bird-safe glazing such as fritting and UV spectrum glass may have higher reflectivity that is visible to birds.)	X	
	12		**Mirrored or visible light reflectance exceeding 30%.** (Prohibited by Planning Code.)		X
GLAZING TREATMENTS (PAGE 18-21)	13	**Is the building's glass treated with bird-safe treatments such that the "collision zone" contains no more than 10% untreated glazing for identified "location-related hazards" (lines 4-7) and such that 100% of the glazing on "feature-related hazards" (lines 19-22) is treated?**			X
	14	**Is the building's glass treated for required "bird hazards" (as described in line 13) *and* such that no more than 5% of the collision zone (lower 60') glazing is untreated but not for the entire building?**			X
	15	**Is the building glazing treated (as described above in lines 14 and 15) *and* such that no more than 5% of the glazing on the exposed façade is left untreated?**			X
BUILDING FAÇADE GENERAL (PAGE 8, 13)	16	**Is the building façade well-articulated (as opposed to flat in appearance)?**		X	
	17	**Is the building's fenestration broken with mullions or other treatments?**		X	
	18	**Does the building use unbroken glass at lower levels?**		X	
BUILDING FEATURE-RELATED HAZARDS AND BIRD TRAPS (PAGE 8, 30-31)	19	**Does the structure contain a "feature-related" hazard or potential "bird trap" such as:**	**Free standing clear-glass walls, greenhouse or other clear barriers on rooftops or balconies?** (Prohibited unless the glazing is treated with bird-safe applications.)	X	
	20		**Free standing clear-glass landscape feature or bus shelters?** (Prohibited unless the glazing is treated with bird-safe applications.)		X
	21		**Glazed passageways or lobbies with clear sight lines through the building broken only by glazing?**		X
	22		**Transparent building corners?**		X
LIGHTING DESIGN (PAGE 10, 25)	23	**Does the structure, signage or landscaping feature uplighting?** (Prohibited within 300 feet of an Urban Bird Refuge)		X	
	24	**Does the structure minimize light spillage and maximize light shielding?**		X	
	25	**Does the structure use interior "lights-out" motion sensors?**			X
	26	**Is night lighting minimized to levels needed for security?**		X	
	27	**Does the structure use decorative red-colored lighting?**			X
LIGHTING OPERATIONS (PAGE 12, 24-25)	28	**Will the building participate in San Francisco Lights Out during the migration seasons?** (February 15-May 31 and August 15- November 30th) To achieve "sterling" certification the building must participate in year-round best management practices for lighting.			X
OTHER BUILDING ELEMENTS (PAGE 23)	29	**Does the structure feature rooftop antennae or guy wires?**			X
	30	**Does the structure feature horizontal access wind generators or non-solid blades?**			X
CONSENT (PAGE 34)	31	**Does the building owner agree to distribute San Francisco's Bird-Safe Building Standards to future tenants?**		X	

FAN-1 530 SANSOME STREET SCOPING SHADOW FAN

Full year net new shadow fan diagram factoring in the presence of existing shadows

PREVISION DESIGN

Proposed Project

Refined Shadow Fan of Proposed Project

occasional shadow — frequent shadow

SHADOW FAN DIAGRAM
AFFECTED AREAS DURING SECTION 295 TIMES

FULL YEAR

Net New Project Shadow - Streets

Net new project shadow would not affect any portions streets listed in Table 146 with specific set criteria for sunlight access. The effect of net new shadow on the affected portions streets that fall within the C-3 district are detailed below with approximate dates and times of shading provided:

Washington Street (Between Kearny St. and Drumm St.):
Net new shadow would be cast by the project along this section of Washington Street from late summer through late spring annually. Generally speaking, morning shadows during the fall and spring would affect a portion of the Washington Street west of Sansome Street, midday shadows from late summer through late spring would affect the portion between Sansome and Battery Streets, and afternoon shadows during the fall and spring would affect the portion east of Battery Street.

Montgomery Street (Approx. 50' south of Washington St.):
Net new early morning shadow would be cast by the project along this section of Montgomery Street during the fall and spring.

Sansome Street (Approx. 130' south of Washington St.):
Net new morning shadow would be cast by the project along this section of Sansome Street throughout all times of year.

Battery Street (Approx. 200' south of Washington St.):
Net new afternoon shadow would be cast by the project along this section of Battery Street from spring through fall annually.

Merchant Street (Between Sansome St. and Battery Street St.):
Net new mid to late afternoon shadow would be cast by the project along this section of Merchant Street over summer months.

Clay Street (Between Battery St. and Davis Street St.):
Net new late afternoon shadow would be cast by the project along this section of Clay Street over summer months.

Net New Project Shadow – Nearby Open Spaces

The proposed project would generate net new shadow affecting several nearby open spaces, including Transamerica Redwood Park, Maritime Plaza, and Sue Bierman Park. Maritime Plaza and Sue Bierman Park are under jurisdiction of the San Francisco Recreation and Parks Department and therefore are subject to analysis under Section 295 of the planning code. Transamerica Redwood Park is a privately-owned public open space (POPOS), and below is a brief description of the effects of shadow on this open space:

The Transamerica Redwood Park is a mid-block open space located between the Transamerica Building (600 Montgomery) to the west, Washington Street to the North, the 500-block Sansome Street to the east and Clay Street to the south. Public entrances are located on the north and south street frontages along with an east-west pedestrian walkway between buildings connecting to Sansome street. The park is comprised of several dozen mature redwood and other trees along with other landscape plantings, a fountain, numerous fixed benches and points of access to the surrounding buildings.

Ignoring the presence of the existing trees, the project would generate small amounts net new shadow on Redwood Park from approximately early April through early September, with the largest amount of shadow occurring on the summer solstice (June 21st). The new shadow would only be cast in the morning lasting from between a few minutes in the spring and fall up to about 4 hours on the summer solstice. The amount of area affected by such shadow would cover 5% or less of the park area (under 3000 sf) at any given time. The portions of the park that would be affected include the northern quarter of the park along Washington Street and a narrow section in the middle of the space.

Features of the open space that would be considered to be more sensitive to the addition of new shadow would be some areas of fixed seating, some of which are in areas affected by net new project shadow, however while shadow analysis methodology does not take into account the presence of trees, the dense redwood canopy is both a defining feature of this open space and would also serve to capture a substantial amount of the shadow cast by the project, making the change in shading conditions less noticeable by users of this open space and therefore reducing the importance of sunlight in this park.

Level	FL to FL	Elevation	Tower Zone	Proposed Footprint	Proposed Average	Allowable Footprint (1) (2)	Footprint Area Difference	Total Footprint Area Difference	Exception Requested
T.O.P		236' 0"							
Roof		217' 7"							
19	15' 0"	202' 7"	UPPER	9,445		10,468	1,023		
18	13' 5"	189' 2"	UPPER	12,370		10,468	-1,903		
17	10' 8"	178' 6"	UPPER	13,250	12,313	10,468	-2,783	-9,228	(1) (2)
16	9' 8"	168' 10"	UPPER	13,250		10,468	-2,783		
15	9' 8"	159' 2"	UPPER	13,250		10,468	-2,783		
14	9' 8"	149' 6"	LOWER	13,250		15,840	2,590		
13	9' 8"	139' 10"	LOWER	13,250		15,840	2,590		
12	9' 8"	130' 2"	LOWER	13,250		15,840	2,590		
11	9' 8"	120' 6"	LOWER	13,250	13,250	15,840	2,590	18,130	None
10	9' 8"	110' 10"	LOWER	13,250		15,840	2,590		
9	9' 8"	101' 2"	LOWER	13,250		15,840	2,590		
8	12' 5"	88' 9"	LOWER	13,250		15,840	2,590		
7	12' 5"	76' 4"	BASE	13,250		17,733			
6	12' 5"	63' 11"	BASE	13,250		17,733			
5	14' 0"	49' 11"	BASE	13,610		17,733			
4	14' 0"	35' 11"	BASE	15,860	13,733	17,733		-	None
3	12' 5"	23' 6"	BASE	16,130		17,733			
2	12' 0"	11' 6"	BASE	7,850		17,733			
1	11' 6"	0' 0"	BASE	16,180		17,733			
TOTAL				**250,445**		**287,349**	8,903		

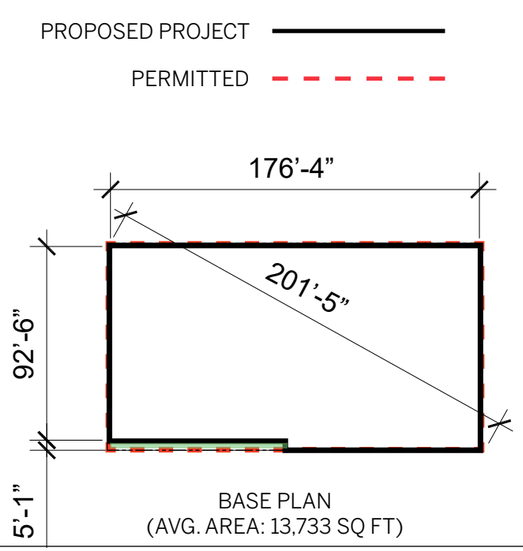
ALLOWABLE UPPER TOWER FOOTPRINT CALCULATION	
Proposed Lower Tower Footprint	13,250
Required 21.5% reduction of lower tower Footprint	2,783
Allowable Upper Tower Footprint (with 21.5% reduction)	10,468

All bulk exceptions are limited to the upper tower, which begins at 160 feet and includes floors 15 through 19. Floors 8-14 are smaller than the allowable area by a total of 18,130 sf (2,590 sf/floor), while floors 15-19 are larger than the allowable area by a total of 9,228 sf (1,845 sf/floor), or appoximately half of the amount not used lower tower. The project mass is shifted as far west as possible to minimize shadows on Maritime Plaza.

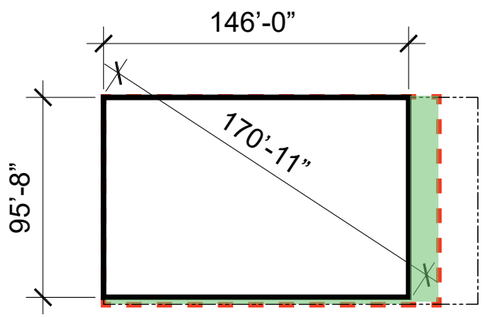
Upper tower limit delineated by red dashed line is a combination of site constraints and two planning code sections:

1.- 270(d)(2)(A) limits length to 130 feet, diagonal to 160 feet, and average floor size to 12,000. proposed upper tower is 146 feet in length, 171 feet in diagonal, with an average area of 12,313 square feet.

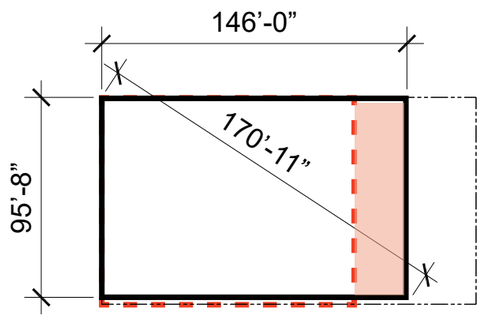
2.- 270(d)(3)(A) requires a reduction of 21.5% from the lower tower footprint, or 10,468 square feet. Proposed average upper tower footprint is 12,313 square feet, or a reduction of 7.1% from the proposed lower tower footprint, but a reduction of 22.3% from the allowable lower tower footprint of 15,840sf.



BASE PLAN
(AVG. AREA: 13,733 SQ FT)



LOWER TOWER PLAN
(AREA: 13,250 SQ FT)

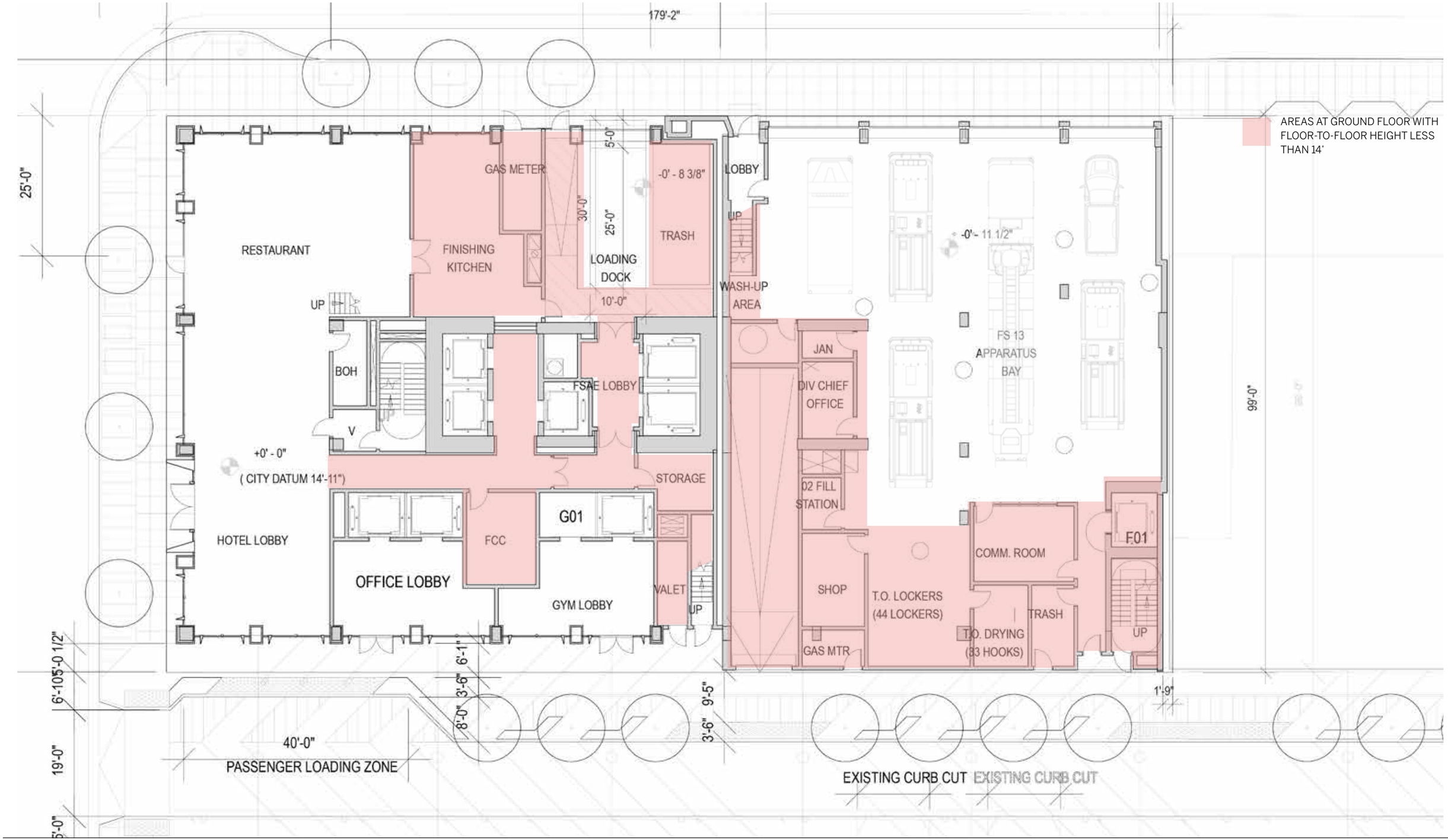


UPPER TOWER PLAN
(AVG. AREA: 12,313 SQ FT)

PROPOSED PROJECT HEIGHT AND BULK

Project Exception - Height and Bulk

SCALE: N.T.S.

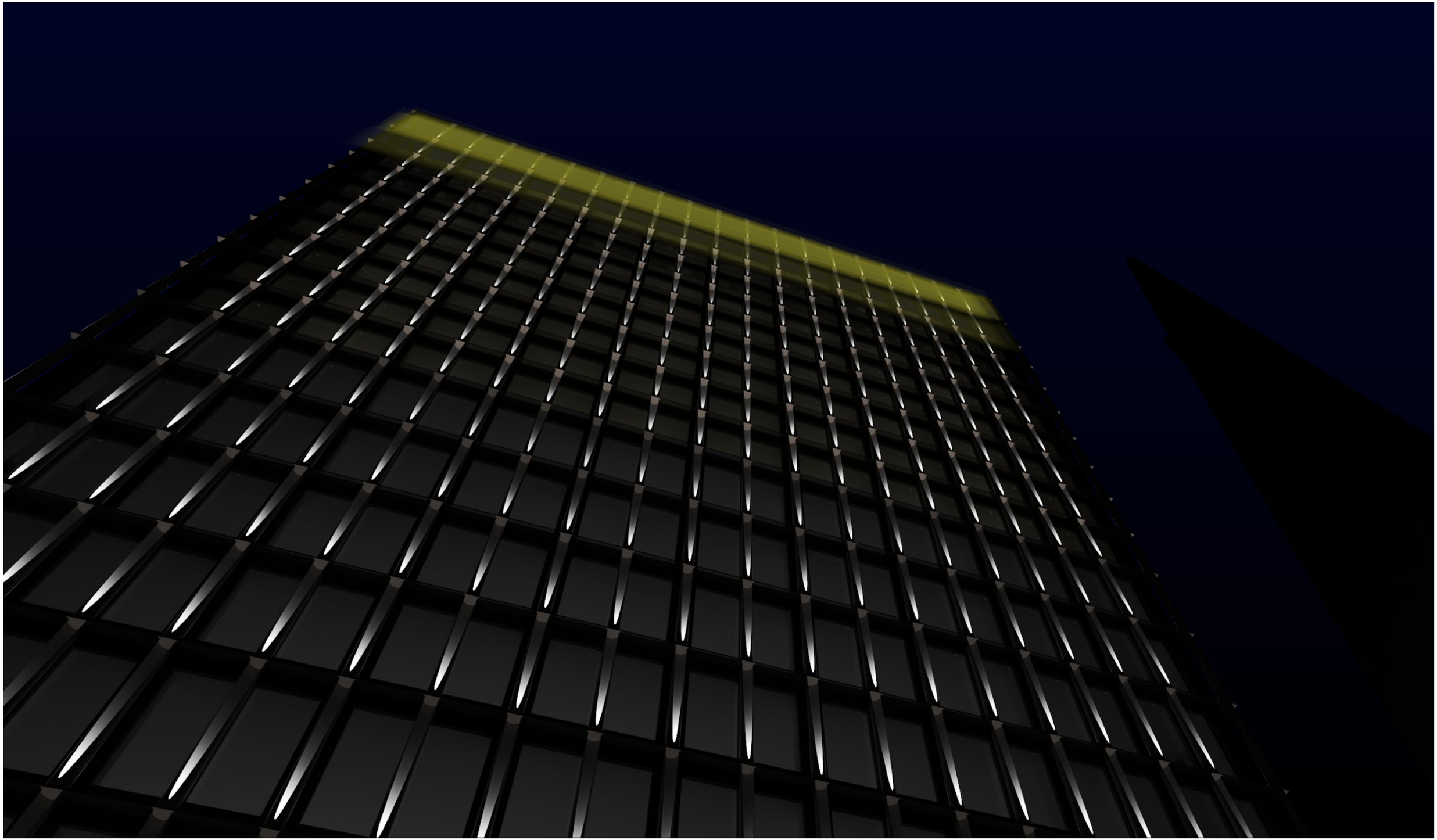


Project Exception - Ground Floor Ceiling Heights

SCALE: 1/16" = 1'-0"

Project Renderings

SCALE: NTS

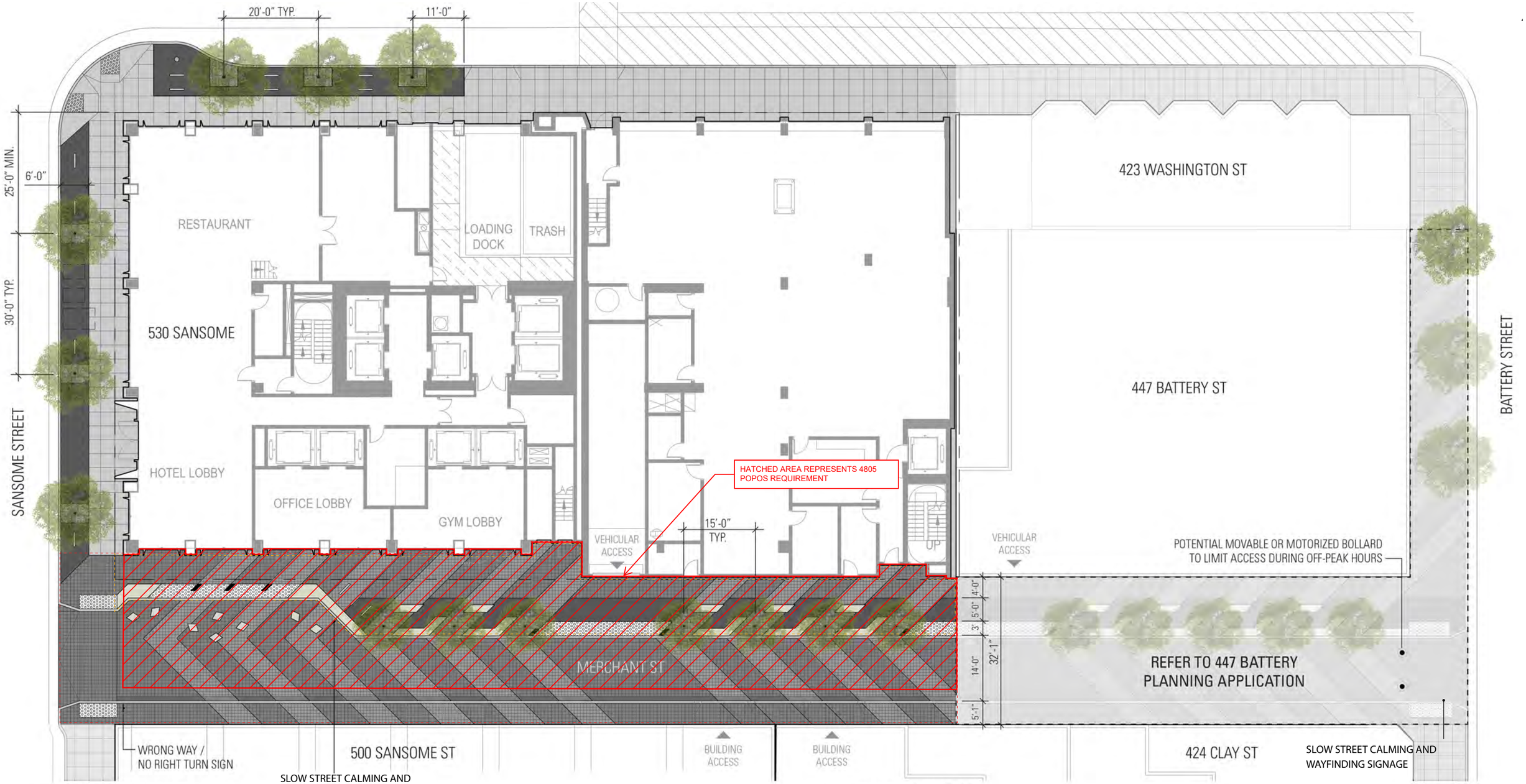


PROJECT APPLICATION (PRJ)

APRIL 2021

Project Renderings

SCALE: NTS



MATERIAL LEGEND

- STONE PAVING
- CONCRETE SIDEWALK
- FEATURE BENCH
- MOVEABLE FURNISHING
- BIKE RACKS (QTY: 13)
- BOLLARDS
- 3' DETECTABLE WARNING STRIPS (TEKWAY OR EQUAL)
- 6" CURB (FLUSH CURB ON NORTH SIDE)
- CONCRETE GUTTER
- PRIMARY PEDESTRIAN-ONLY FLEXIBLE OPEN SPACE (2,409 SF)
- EXTENT OF PEDESTRIAN FAVORED PUBLIC REALM IMPROVEMENTS CONTRIBUTING TO POPOS REQUIREMENT (6,476 SF)

PLANTING LEGEND

TREES ON MERCHANT STREET
(Small to medium fastigiate)
Alt 1. Ginkgo bilotba var. 'Princeton Sentry'
Alt 2. Magnolia grandiflora 'Little Gem'
Alt 3. Carpinus betulus var. 'Franz Fontaine'
QTY: 7

TREES ON SANSOME ST. & WASHINGTON ST.
(Medium to large)
Alt 1. Platanus x acerifolia
Alt 2. Lophostemon confertus
QTY: 6

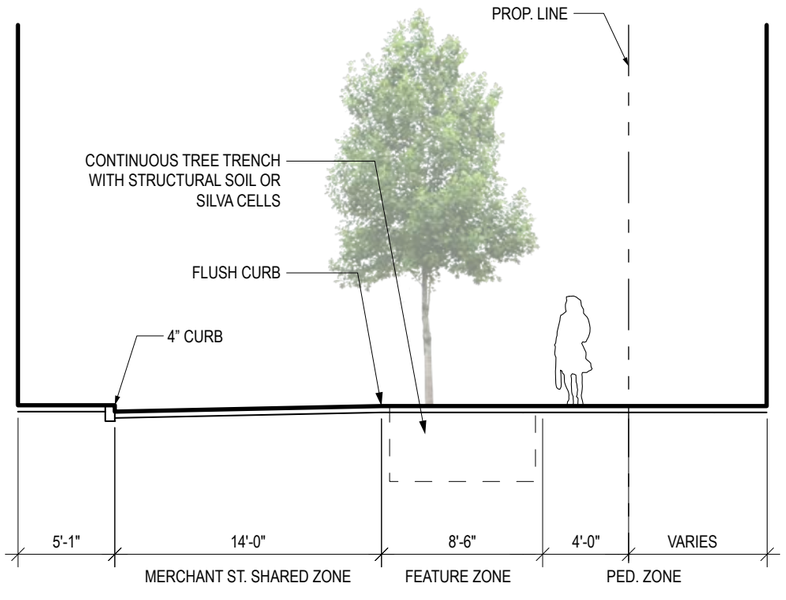
0 5' 10' 20'

PROJECT APPLICATION (PRJ)
APRIL 2021

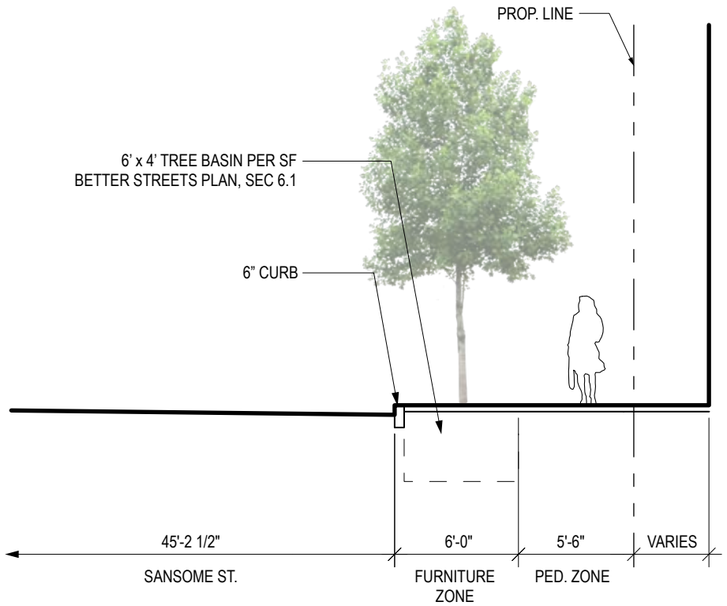
Landscape Street Level Plan

SCALE: 1" = 20'-0"

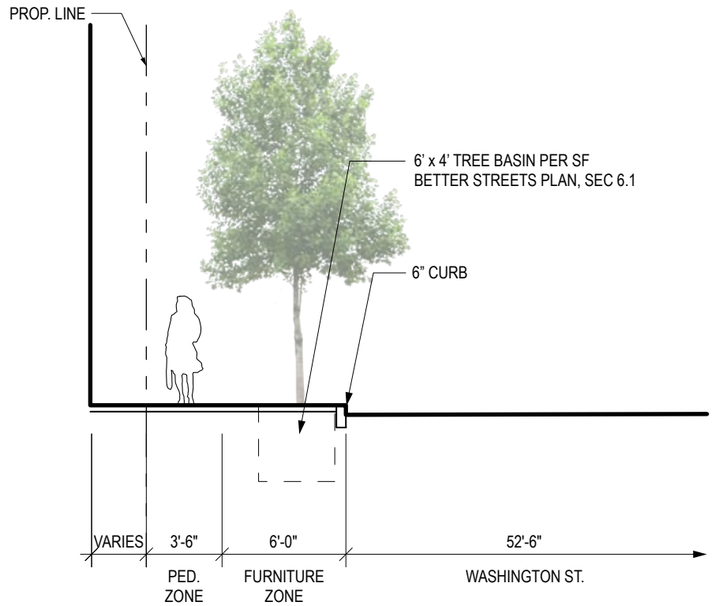
530 SANSOME STREET
SKIDMORE, OWINGS & MERRILL LLP



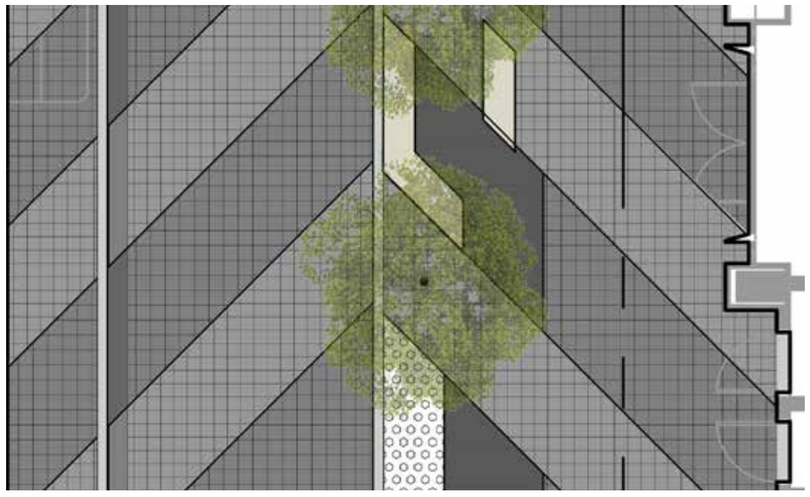
SECTION - MERCHANT STREET



SECTION - SANSOME STREET

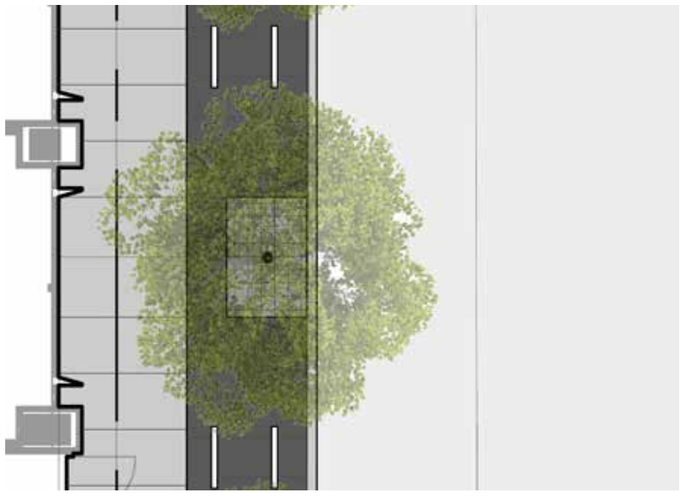


SECTION - WASHINGTON STREET

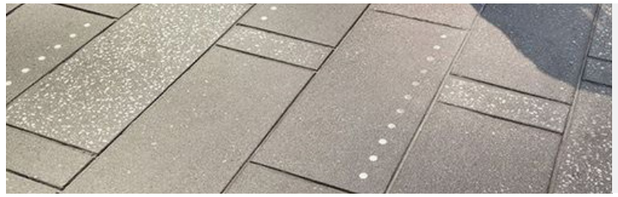


PLAN - MERCHANT STREET

PLAN - SANSOME STREET



PLAN - WASHINGTON STREET



Pedestrian-Only Zone

ADA-compliant unit pavers at pedestrian path

Feature Zone

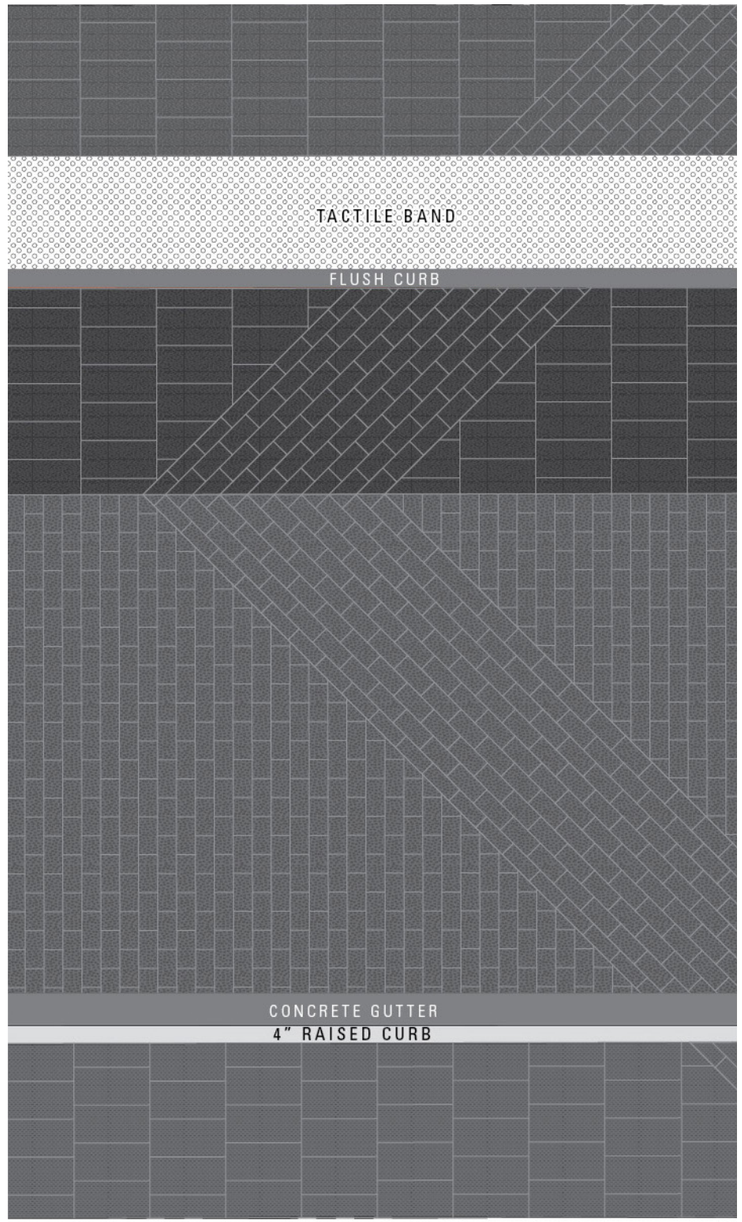
Designated zone for furniture, public art, tree planting, drainage, fire station loading etc.

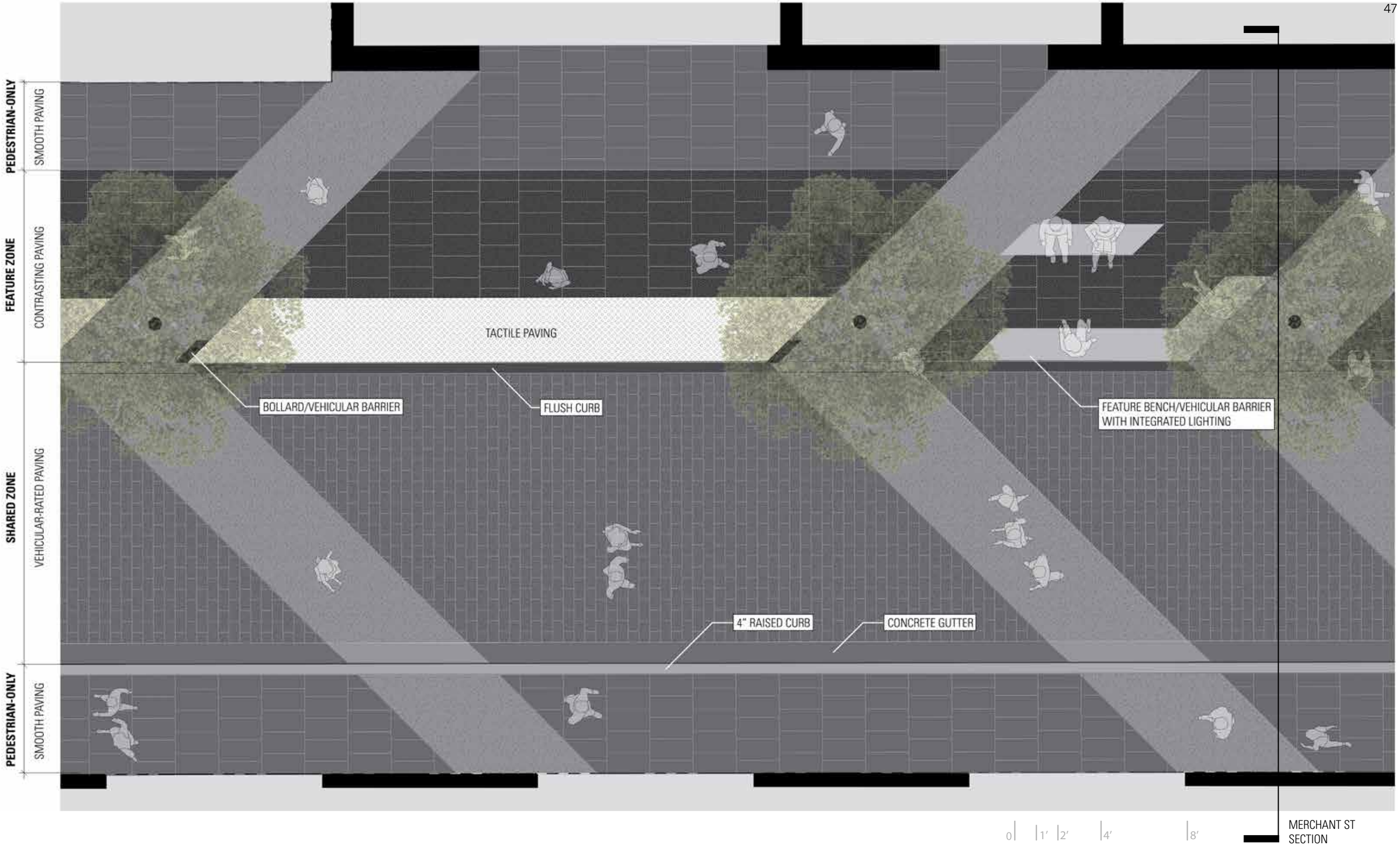
Shared Zone

Vehicular-rated paving with chevron pattern design enhances visual interest on Merchant Street towards Transamerica Pyramid

Tactile Strip

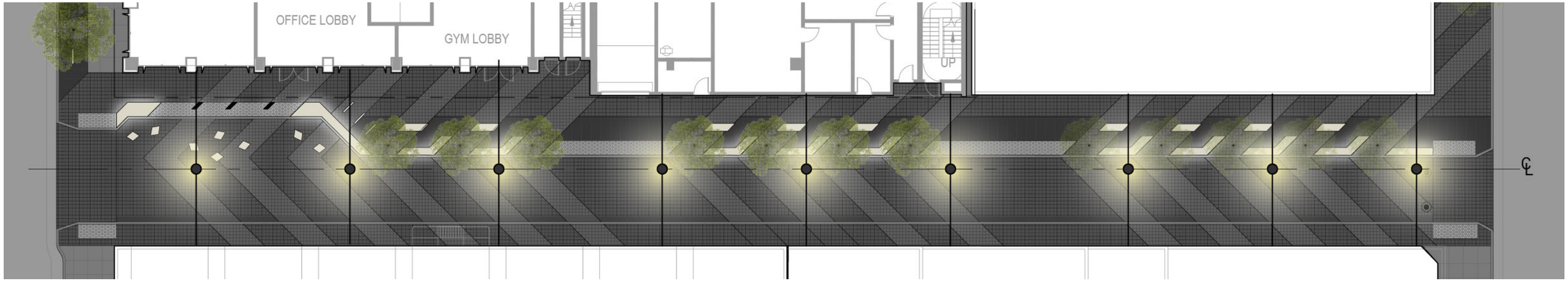
Provides **70% visual contrast** to adjacent paving between pedestrian-only and shared zone

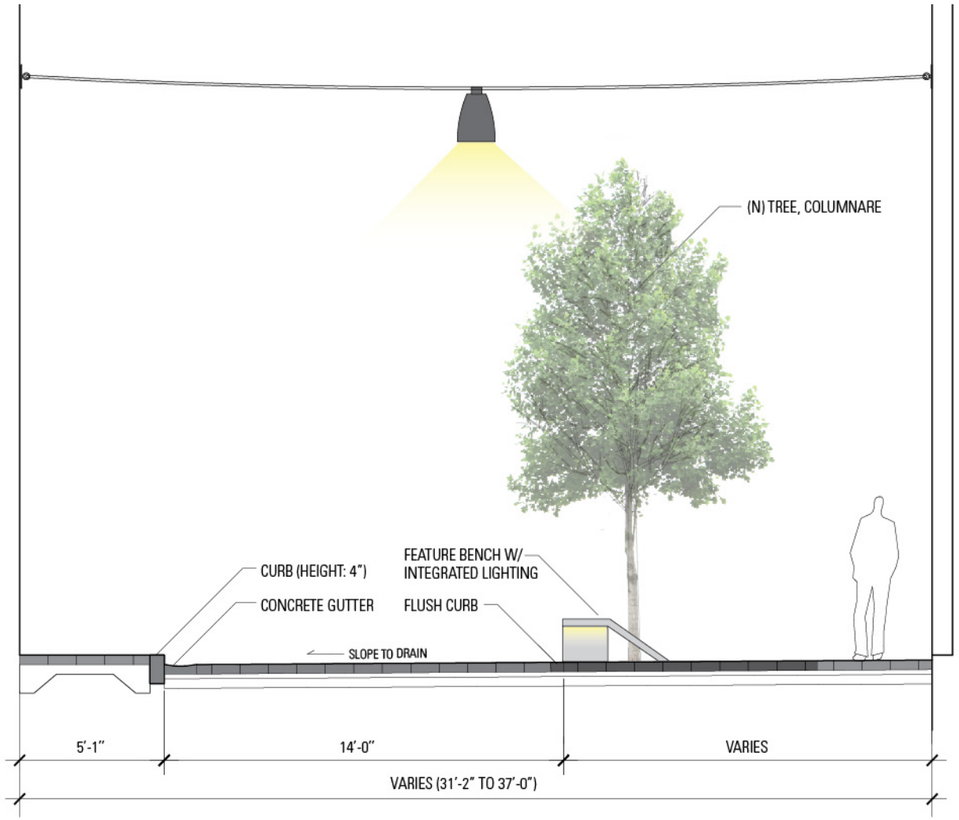




Plan Enlargement

SCALE: 1/4" = 1'-0"





PROJECT APPLICATION (PRJ)

APRIL 2021

Merchant St Lighting

SCALE: 1/4" = 1'-0"

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP


1


2


3


4


5


6


7


8


9

BENEFITS OF EVERGREEN TREES

- They are in leaf, green all year and some have seasonal interest with dominant flowers like the Magnolias

<u>Evergreen Columnar or more Vertical-Vase shaped Forms</u>

Afrocarpus gracilior (Podocarpus)

1 ***Lophostemon confertus*** **(Brisbane Box)**

2 ***Lyonothamnus floribundus*** **(Catalina Ironwood)**

3 ***Magnolia grandiflora*** **var. "Little Gem" / "Edith Bogue" / "St. Mary" (Evergreen Magnolia)**

Magnolia virginiana var. "Jim Wilson" / "Moonglow". (Evergreen Magnolia)

Melaleuca linarifolia (Flax Leaf Paperbark)

BENEFITS OF DECIDUOUS TREES

- Seasonal Interest; new spring growth, seasonal color, bare structural interest in winter
- Tree Refreshes-Renews its Foliage (a good thing in an urban environment where foliage is coated w/ grime, pest residue, etc)
- Sun-Shade, enables more light in dark months when trees are deciduous
- Foliage is typically finer textured, captures and reflects light, and wind movement, more "lively"

<u>Deciduous Columnar or more Vertical-Vase Shaped Forms</u>

Acer platanoides var. "Columnare" / "Crimson Sentry" (Columnar Maple)

4 ***Acer rubrum*** **var. "Walters Columnar" (Columnar Maple)**

Acer x freemanii var. "Armstrong" (Columnar Maple)

5 ***Carpinus betulus*** **var. "Franz Fontaine" (Columnar Hornbeam)**

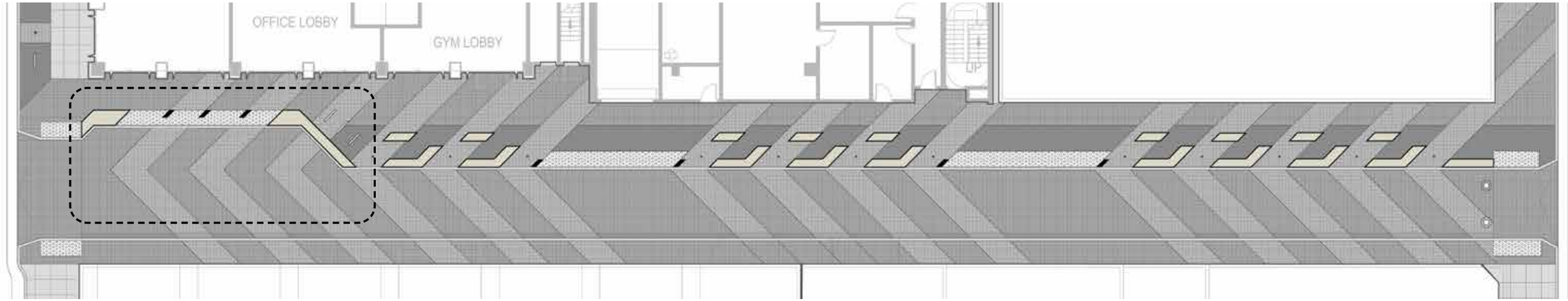
6 ***Ginkgo biloba*** **var. "Princeton Sentry" (Ginkgo)**

7 ***Liriodendron tulipifera*** **var. "Fastigiata" / "Arnold" (Tulip Tree)**

8 ***Quercus robur*** **var. "Fastigiata" (Columnar Oak)**

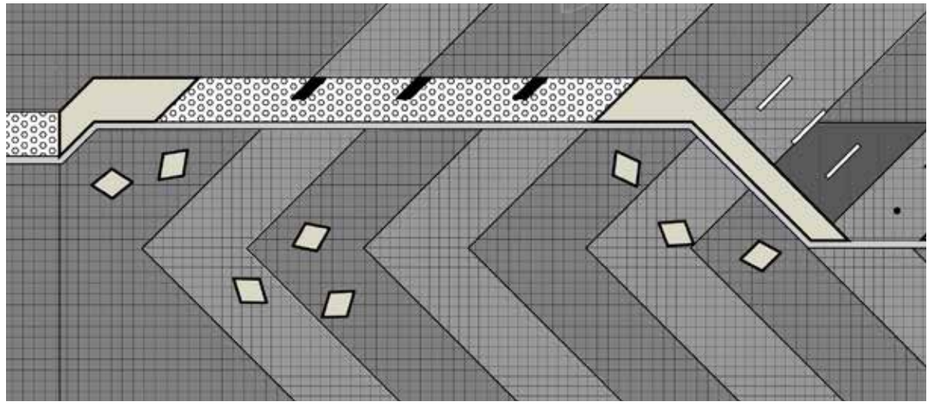
Syphnolobium japonicum var. "Princeton Upright" / "Millstone" (Scholar Tree)

9 ***Tilia cordata*** **var. "Corinthian" (Little-leaf Linden)**

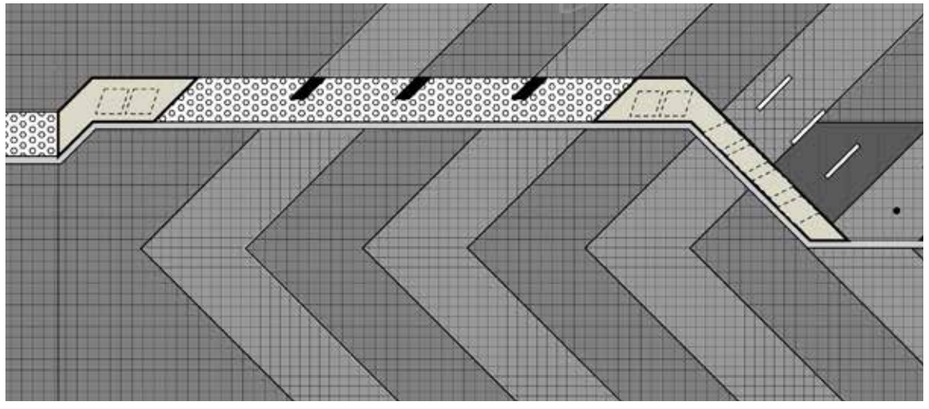


FEATURE BENCH / VEHICULAR BARRIER W/ INTEGRATED LIGHTING

MOVABLE FURNISHING



Expanded furnishing zone when Merchant Street is closed to vehicular traffic



During vehicular drop-off hours (moveable furnishing stores under bench)

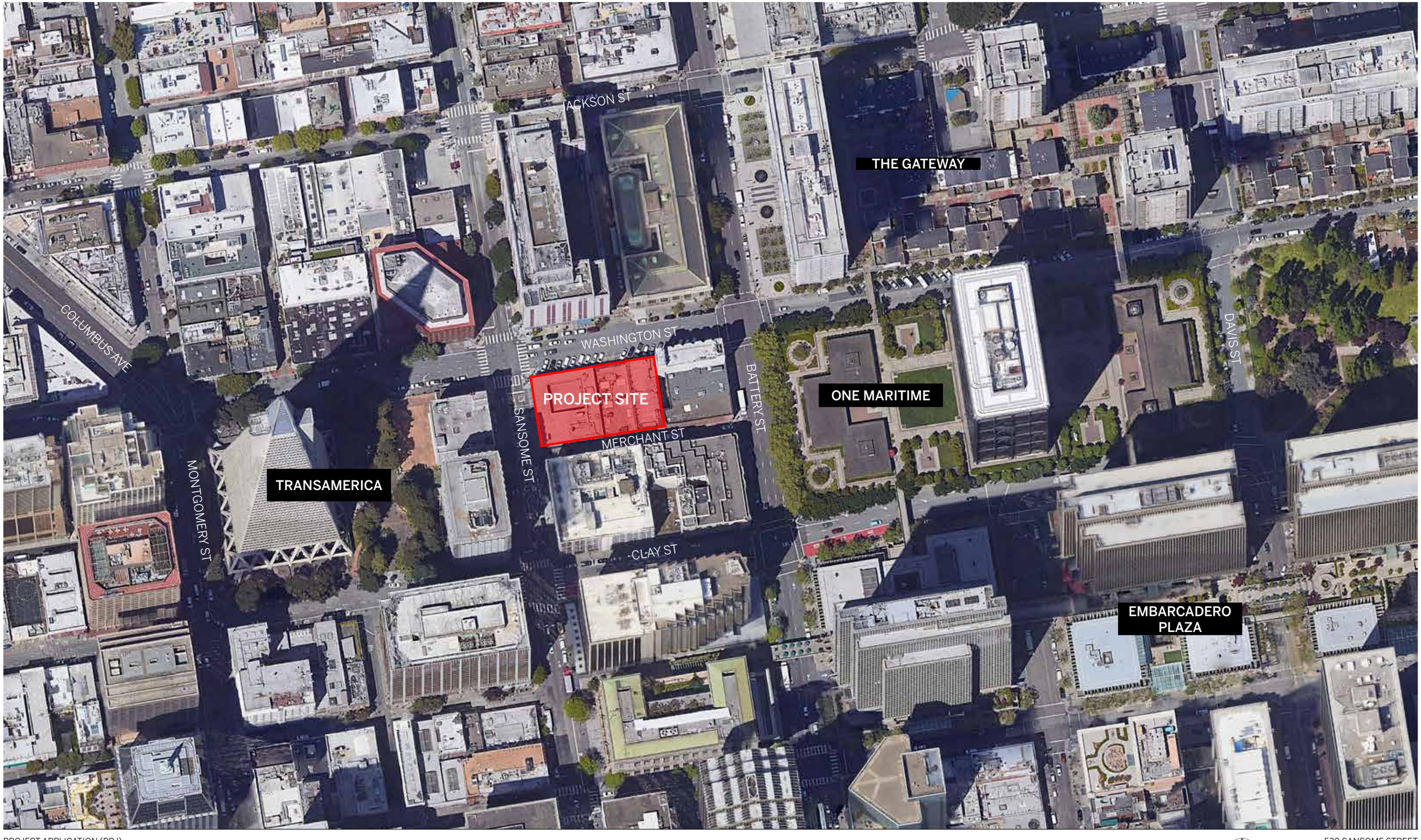

SUBWAY

530 SANSOME STREET

San Francisco, CA

REVISED RESIDENTIAL PROJECT VARIANT
UPDATED APRIL 23rd, 2021

SOM



PROJECT APPLICATION (PRJ)

APRIL 2021

Project Location Plan

SCALE: N.T.S.

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP


SFFD
1


425
2


1
2
PROJECT SITE
3
4


SFFD
4


3

	EXISTING USES:	EXISTING USES TO BE RETAINED:	NET NEW CONSTRUCTION AND/OR ADDITION:	PROJECT TOTALS:
PROJECT FEATURES				
Dwelling Units	0 units	0 units	256 units	256 units
Hotel Rooms	0 rooms	0 rooms	0 rooms	0 rooms
Number of Buildings	3 buildings	0 buildings	2 buildings	2 buildings
Height of Building(s)			218' - 0' - Residential Tower 52' - 10 1/2" - Fire Station	218' - 0' - Residential Tower 52' - 10 1/2" - Fire Station
Number of Stories	2-3 stories	-	21 stories - Residential Tower 5 stories - Fire Station	21 stories - Residential Tower 5 stories - Fire Station
Parking Spaces*	21 spaces	21 spaces	61 spaces	82 spaces
Loading Spaces**	-	-	1 Freight loading + 2 service vehicles	1 Freight loading + 2 service vehicles
Class 1 Bike Parking Spaces	-	-	143 spaces	143 spaces
	-	-		
Class 2 Bike Parking Spaces	-	-	21*** spaces	21*** spaces
	-	-		
Car Share Parking Spaces	-	-	2****** spaces	2****** spaces
GROSS SQUARE FOOTAGE (GSF)				
Accessory Parking	8,850	8,850	21,545	30,395
Residential	0	0	257,200	257,200
Retail/Commercial	0	0	0	0
Office	20,718	0	0	0
Industrial/PDR	0	0	0	0
Medical	0	0	0	0
Visitor (Hotel)	0	0	0	0
Public Facility (Fire Station)	18,626	18,626	2,194	20,820
Non - Accessory SFFD Parking	0	0	7,665	7,665
Below Grade BOH/MEP/Other	0	0	14,385	14,385
Above Grade Loading and BOH	0	0	650	650
Common Usable Open Space	0	0	6,384	6,384
TOTAL GSF	48,194		310,023	331,465*****

UNIT MIX	No. of Units	%
Total Units	256	100%
Studio/ 1 Bedroom/ Jr 1 Bedroom	191	75%
2 Bedroom	38	15%
3 Bedroom	27	10%

USABLE OPEN SPACE

Total Units	256
Units w/ 36 sq ft private open space	123
Unit w/o private open space	133
Common open space required per unit w/o private open space (sq ft)	48
Total Common open space provided (sq ft)	6,384

* Parking is calculated as .25 spaces for each residential unit
** Loading spaces are calculated per San Francisco Planning Code Art. 1.5, Sec.152.1.
*** Bike parking is calculated per S.F. Planning Code Sec 155.2. Project provides 21 out of the 21 class 2 bike parking code required spaces on site.

**** One Class 1 space for every Dwelling Unit. For buildings containing more than 100 Dwelling Unit, 100 Class 1 spaces plus one Class 1 space for every four Dwelling units over 100.
***** Total GSF does not include Common Usable Space
****** Car Share Parking is calculated per San Francisco Planning Code Sec. 166

					# of Bike Spaces Required	
Use Category	**Requirement Class 1**	**Requirement Class 2**	**# of units / spaces**	**OFA**	**Class 1**	**Class 2**
Residential	One Class 1 space for every Dwelling Unit. For buildings containing more than 100 Dwelling Units, 100 Class 1 spaces plus one Class 1 space for every four Dwelling Units over 100. Dwelling Units that are also considered Student Housing shall provide 50 percent more spaces than would otherwise be required.	One per 20 units. Dwelling Units that are also considered Student Housing shall provide 50 percent more spaces than would otherwise be required.	256	N/A	139	13
Fire Station (Public Facility)	Minimum two spaces or one Class 1 space for every 5,000 square feet of Occupied Floor Area.	Minimum two spaces or one Class 2 space for every 2,500 occupied square feet of publicly-accessible or exhibition area.	N/A	19,700	4	2
SFFD Non-Accessory Parking Garage	None are required. However, if Class 1 spaces that can be rented on an hourly basis are provided, they may count toward the garage's requirement for Class 2 spaces.	One Class 2 space for every 20 car spaces, except in no case less than six Class 2 spaces.	18 Spaces	N/A	0	6
			Total Required Spaces:		**143**	**21**

Bike Parking Calculation Table

Level	FL to FL	Elevation	Program Type - GSF								Unit Count								TOTAL GSF	Exclusions to GFA							Program Type - GFA						Program Type - OFA					
			Fire Station	Fire Station Parking	Loading	Parking	BOH/MEP	Resi Gross (1)	Resi Amenity	Resi Rent (1)	Resi Eff/Fl.	Stud.	JR. 1 BD	1BR	2BR	3BR	Total Units	Balcony	Open Space		MEP (2)	Interior Open Space (6)	Loading (3)	Utility Storage (2)	Below Grade Parking (4)	Bicycle Storage (5)	Total Exempt	Fire Station	Fire Station Parking	Parking (Resi)	BOH (Resi)	Resi	TOTAL GFA	Fire Station	Fire Station Parking	Parking (Resi)	BOH (Resi)	Resi	TOTAL OFA
T.O.P		236' 0"						-	-	-	-	-	-	-	-	-	-	-	-																			
Roof		218' 0"						-	-	-	-	-	-	-	-	-	-	-	-																			
21	12' 6"	205' 6"						7,550	3,600	1,950	*26%*	0	0	1	0	1	2	2	6,384	7,550	300	3,650					3,950					3,600	3,600					3,455	3,425
20	10' 8"	194' 10"						10,300	0	7,950	*77%*	0	0	4	0	4	8	8	-	10,300	300						300					10,000	10,000					9,650	9,650
19	10' 8"	184' 2"						13,000	0	10,400	*80%*	2	3	3	3	2	13	7	-	13,000	300						300					12,700	12,700					12,380	12,380
18	9' 8"	174' 6"						13,000	0	10,400	*80%*	2	3	3	3	2	13	7	-	13,000	300						300					12,700	12,700					12,380	12,380
17	9' 8"	164' 10"						13,000	0	10,400	*80%*	2	3	3	3	2	13	7	-	13,000	300						300					12,700	12,700					12,380	12,380
16	9' 8"	155' 2"						13,000	0	10,400	*80%*	2	3	3	3	2	13	7	-	13,000	300						300					12,700	12,700					12,380	12,380
15	9' 8"	145' 6"						13,000	0	10,400	*80%*	2	3	3	3	2	13	7	-	13,000	300						300					12,700	12,700					12,380	12,380
14	9' 8"	135' 10"						13,000	0	10,400	*80%*	2	3	3	3	2	13	7	-	13,000	300						300					12,700	12,700					12,380	12,380
13	10' 8"	125' 2"						13,000	0	10,400	*80%*	4	3	5	2	1	15	7	-	13,000	300						300					12,700	12,700					12,380	12,380
12	9' 8"	115' 6"						13,000	0	10,400	*80%*	4	3	5	2	1	15	7	-	13,000	300						300					12,700	12,700					12,380	12,380
11	9' 8"	105' 10"						13,000	0	10,400	*80%*	4	3	5	2	1	15	7	-	13,000	300						300					12,700	12,700					12,380	12,380
10	9' 8"	96' 2"						13,000	0	10,400	*80%*	4	3	5	2	1	15	7	-	13,000	300						300					12,700	12,700					12,380	12,380
9	9' 8"	86' 6"						13,000	0	10,400	*80%*	4	3	5	2	1	15	7	-	13,000	300						300					12,700	12,700					12,380	12,380
8	9' 8"	76' 10"						13,000	0	10,400	*80%*	4	3	5	2	1	15	7	-	13,000	300						300					12,700	12,700					12,380	12,380
7	9' 8"	67' 2"						13,000	0	10,400	*80%*	4	3	5	2	1	15	7	-	13,000	300						300					12,700	12,700					12,380	12,380
6	9' 8"	57' 6"						13,000	0	10,400	*80%*	4	3	5	2	1	15	10	-	13,000	300						300					12,700	12,700					12,380	12,380
5	9' 8"	47' 10"						13,000	0	10,400	*80%*	4	3	5	2	1	15	6	-	13,000	300						300					12,700	12,700					12,380	12,380
4	9' 8"	38' 2"	2,250					13,000	0	10,400	*80%*	4	3	5	2	1	15	6	-	15,250	300						300	2,250				12,700	14,950	1,970				12,380	14,350
3	9' 8"	28' 6"	7,750					8,850	0	6,710	*76%*	0	0	9	0	0	9	-	-	16,600	100						100	7,750				8,750	16,500	7,470				7,950	15,420
2	9' 8"	18' 10"	3,300					8,850	0	6,710	*76%*	0	0	9	0	0	9	-	-	12,150	100						100	3,300				8,750	12,050	3,020				8,350	11,370
MEZZ								5,100	1,400	0	0%	-	-	-	-	-	-	-	-	5,100	300			200			500					4,600	4,600					3,900	3,900
1	18' 10"	0.00	6,940		650	725		8,550	4,915	0	0%	-	-	-	-	-	-	-	-	16,865			650	550			1,200	6,940		725		8,000	15,665	6,660		675		7,250	14,585
B1	12' 0"				350	9,575	7,625													17,550	4,205		350		9,575	960	15,090			2,459		2,459			1,359		1,359
B2	10' 0"					15,650	1,900													17,550					15,650		15,650			1,900		1,900			800		800
B3	10'0"		580	7,665		4,445	4,860													17,550	2,810				4,445		7,255	580	7,665	2,050		10,295	580	7,165	1,450		9,195
TOTAL Above Grade			20,240		650	725		257,200	9,915	189,720	70%	52	48	91	38	27	256	123	6,384	278,815	5,900	3,650		750			10,950	20240		725	0	246,900	267,865	19,120		675		238,635	258,400
TOTAL Below Grade			8,245		350	29,670	14,385													52,650								580	7,665	6,409		14,654	580	7,165	3,609		
TOTAL			**28,485**		**1,000**	**30,395**	**14,385**					**20.3%**	**18.8%**	**35.5%**	**14.8%**	**10.5%**				**331,465**	**12,915**	**3,650**		**750**	**29,670**	**960**	**48,945**	**28,485**		**725**	**6,409**	**246,900**	**282,519**	**26,865**		**675**	**3,609**	**238,635**	**269,754**

Resi Stalls	64
FS Stalls	18

TARGET	Count	63	126	39	26	254	123
	%	25.0%	50.0%	15.0%	10.0%	100%	-
D		37	-35	-1	1	2	0

SITE AREA	17,733
FAR	15.9

	GFA	OFA
Residential	254,034	242,889
Public Facility	20,820	19,700
SFFD Parking Garage	7,665	7,165

(1) Does not include outdoor balcony area

(2) Excluded under SF planning Code section 102 Floor Area, Gross definition: b.1, b.3, b.4

(3) Excluded under SF planning Code section 102 Floor Area, Gross definition: a.8.

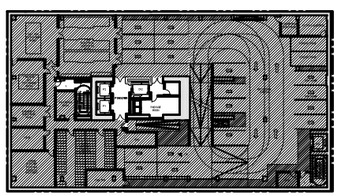
(4) Excludes Basement/Parking Area in excess of 7% of above grade Fire Station GFA

(5) Excluded under SF planning Code section 102 Floor Area, Gross definition: a.8., b.8.

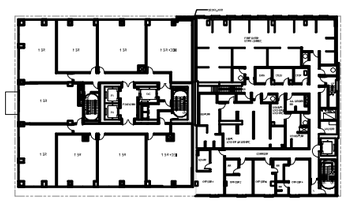
(6) Excluded under SF planning Code section 102 Floor Area, Gross definition: b.15

EXEMPTED AREA
FROM GFA

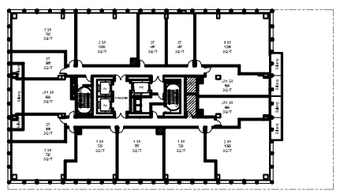
B1



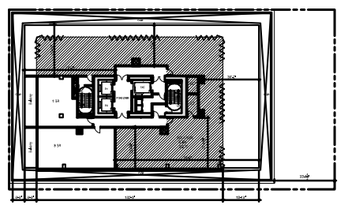
L2-3



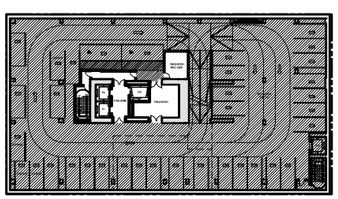
L7-13



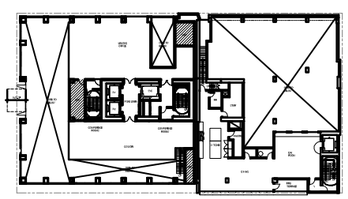
L21



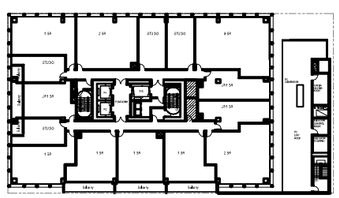
B2



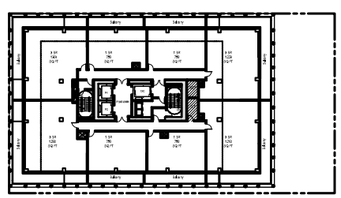
MEZZ



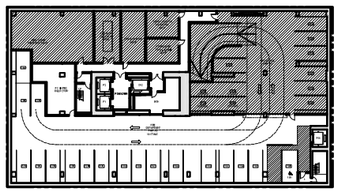
L5-6



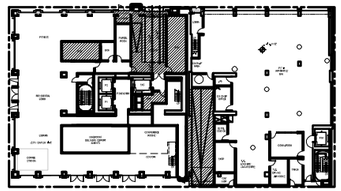
L20



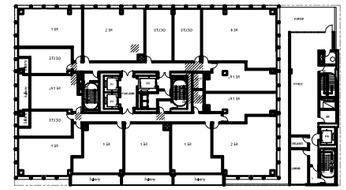
B3



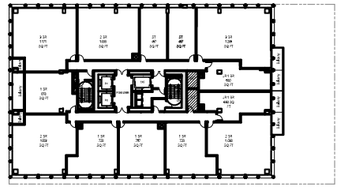
L1



L4



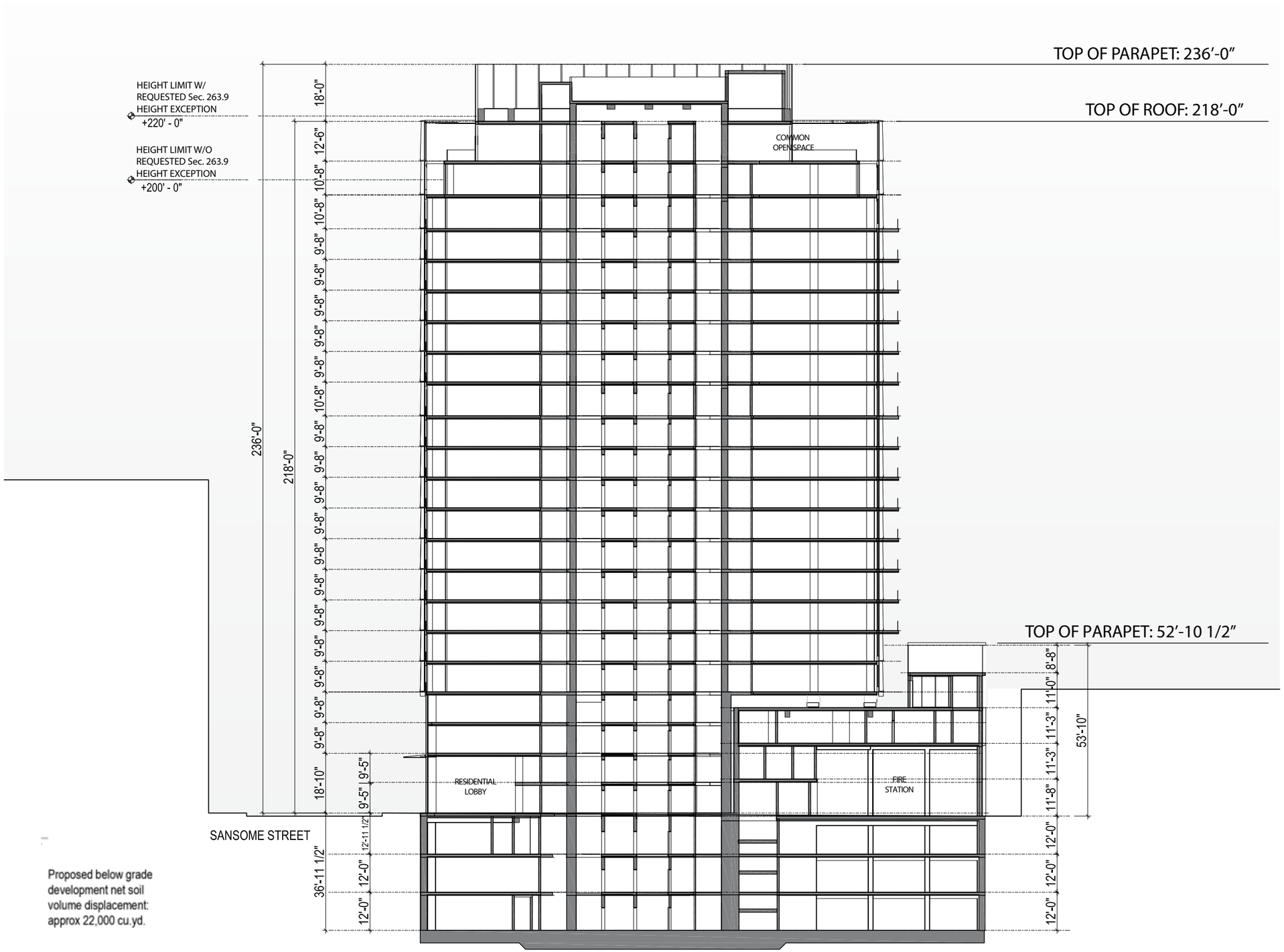
L14-19

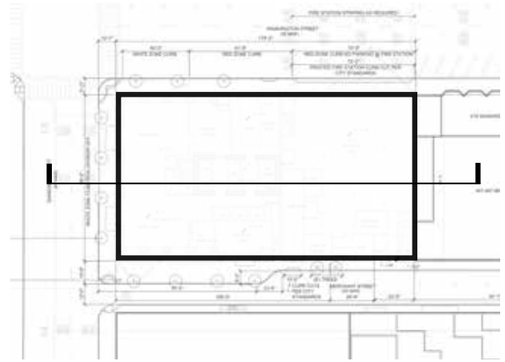


* **MEP:** Exempted under SF planning Code section 102 Floor Area, Gross definition: b.1, b.3, b.4
* **Below Grade Parking:** Exempted under SF planning Code section 102 Floor Area, Gross definition: a.8.
* **Basement/Parking:** Exempted Basement/Parking Area up to 7% of above grade Fire Station GFA
* **Bicycle Storage:** Excluded under SF planning Code section 102 Floor Area, Gross definition: a.8., b.8.
* **Common Open Space:** Excluded under SF planning Code section 102 Floor Area, Gross definition: b.15

Project Area Diagrams

SCALE: N.T.S.





PROJECT APPLICATION (PRJ)

APRIL 2021

East/West Building Section

SCALE: N.T.S.

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP

SEE ENLARGED ELEVATION PERSPECTIVES
FOR PROPOSED MATERIALS

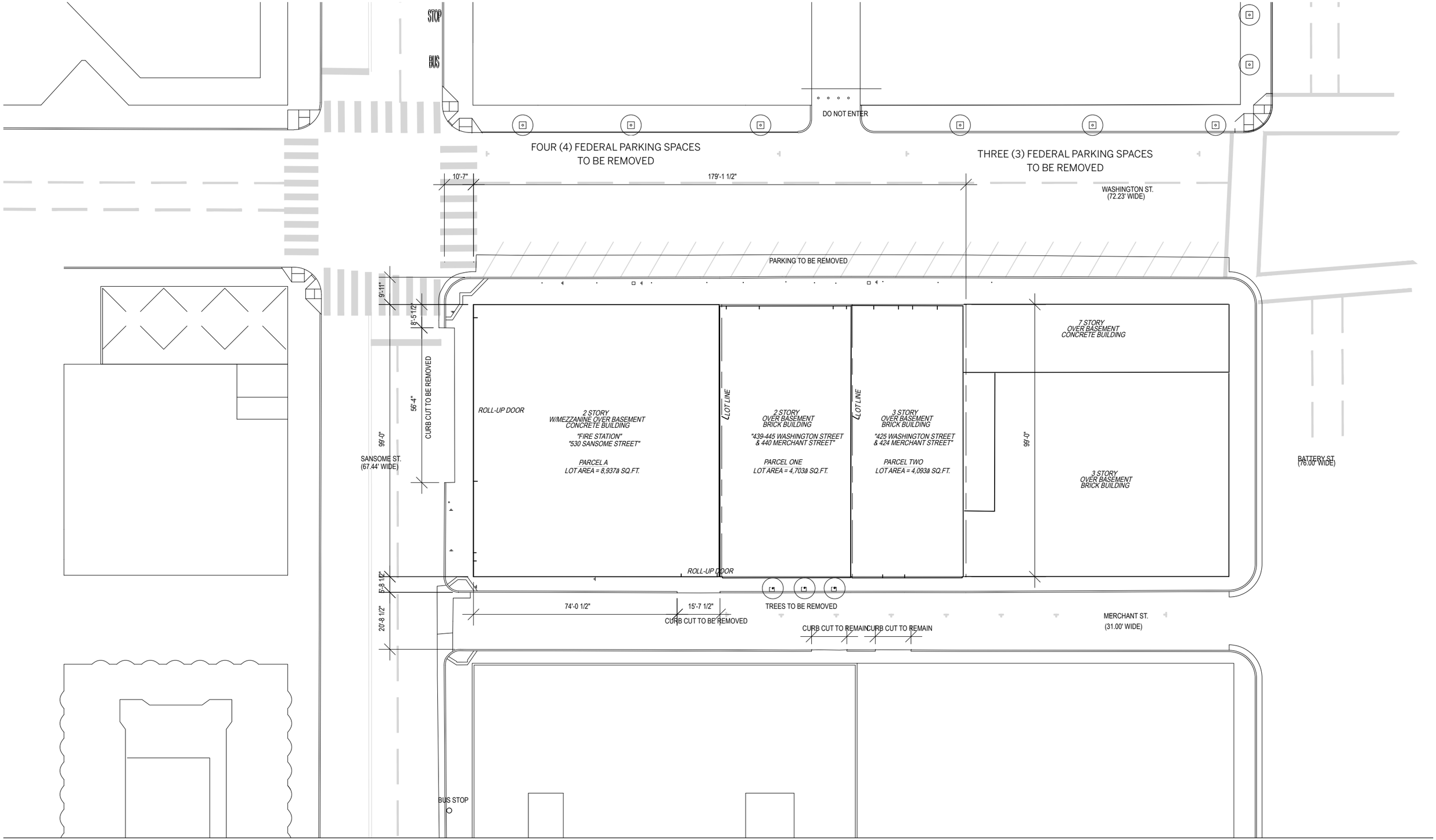
North Elevation
SCALE: NTS

South Elevation
SCALE: NTS

SEE ENLARGED ELEVATION PERSPECTIVES
FOR PROPOSED MATERIALS

East Elevation
SCALE: NTS

West Elevation
SCALE: NTS



PROJECT APPLICATION (PRJ)

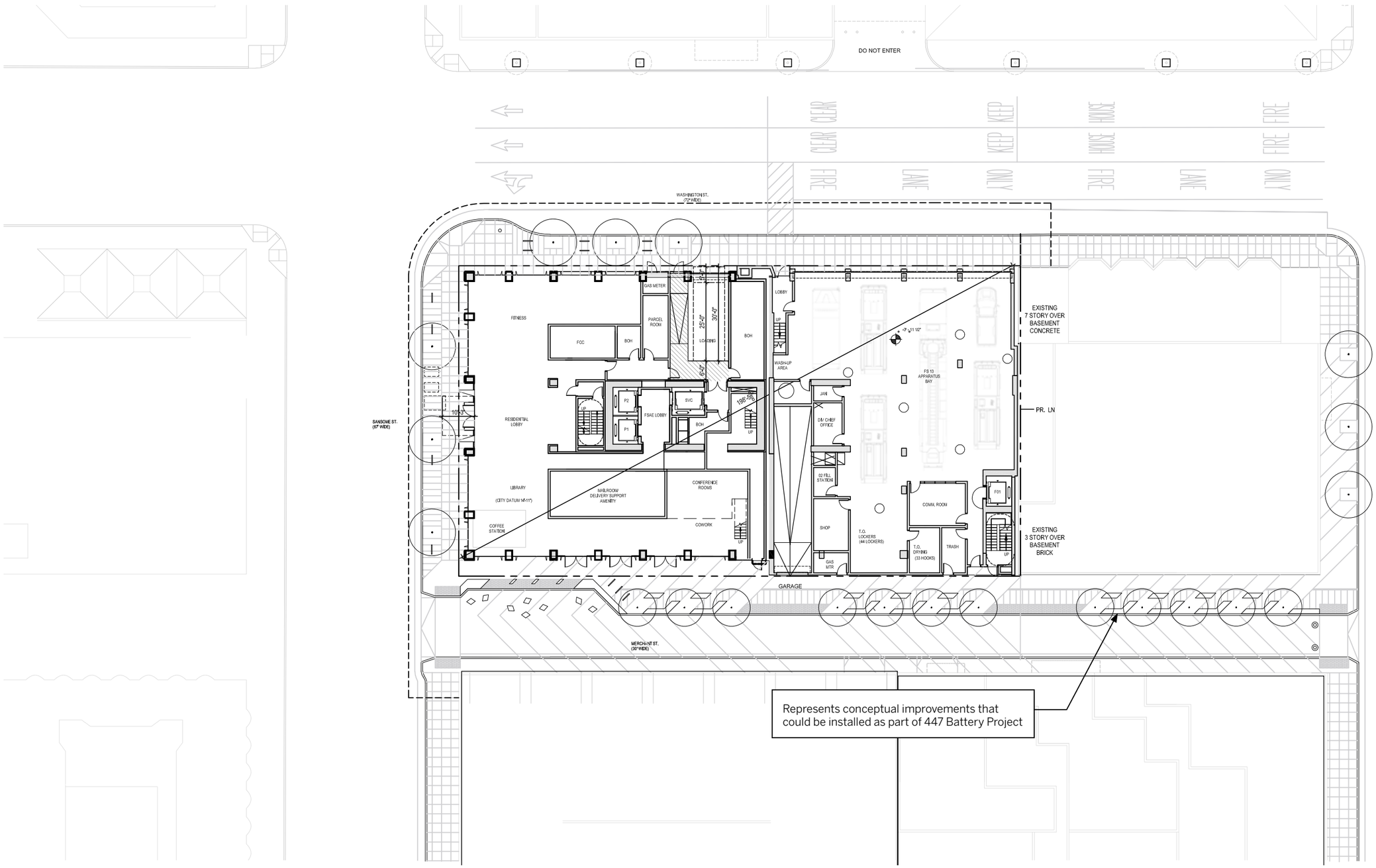
APRIL 2021

Existing Site Plan

SCALE: 1/32"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

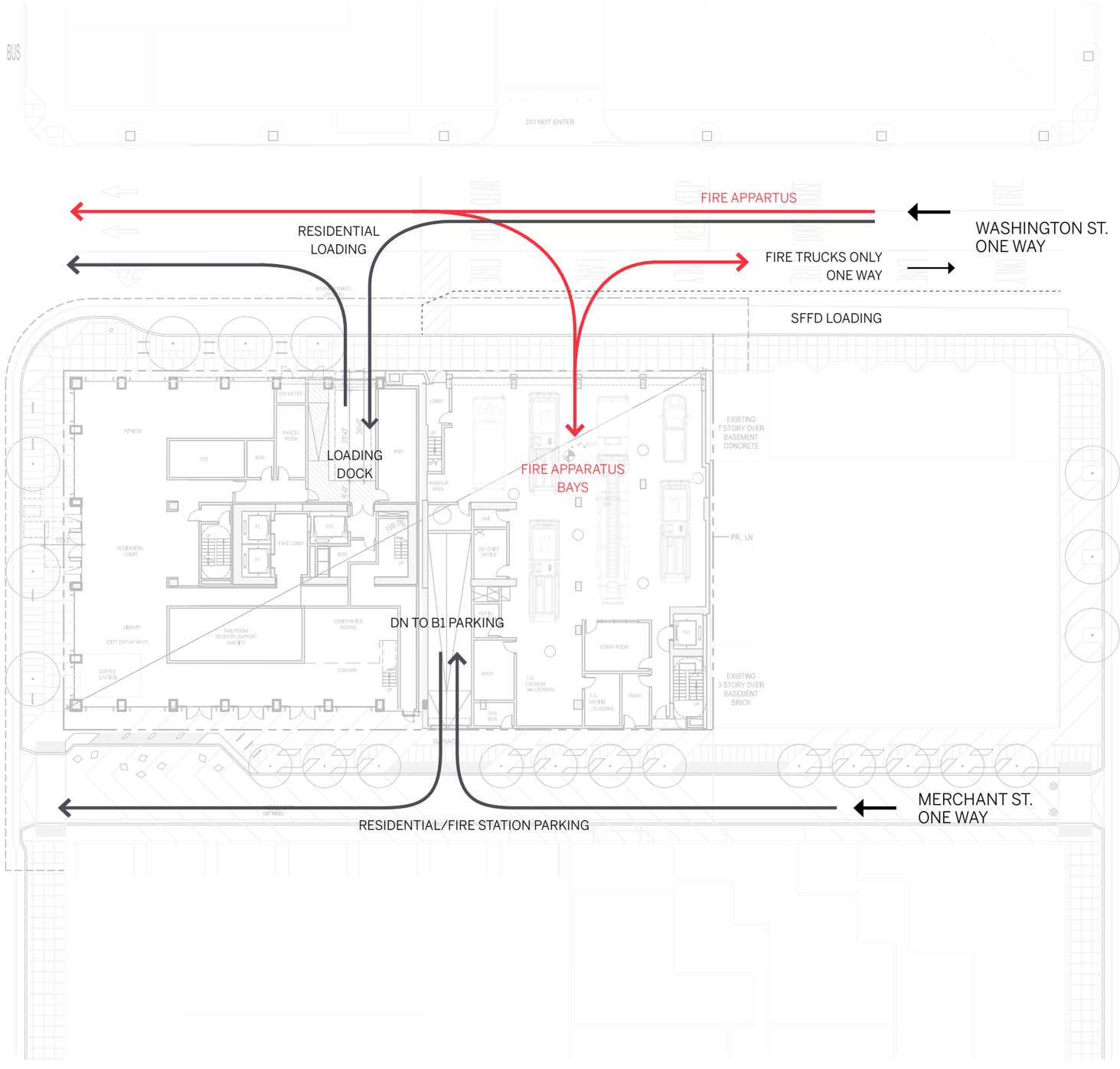
APRIL 2021

Site Plan

SCALE: 1/32" = 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

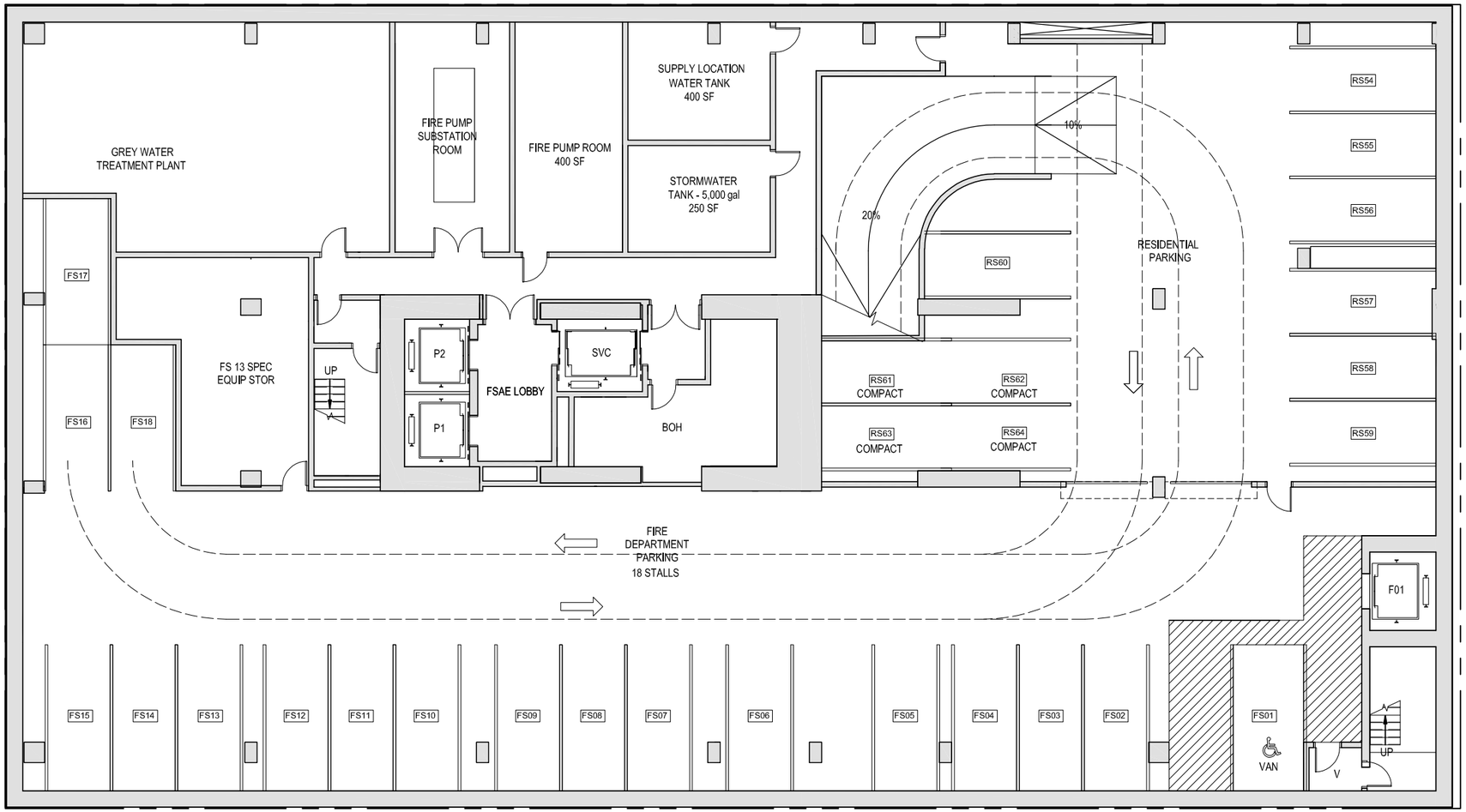
APRIL 2021

Vehicle Circulation Diagram

SCALE: 1/32"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

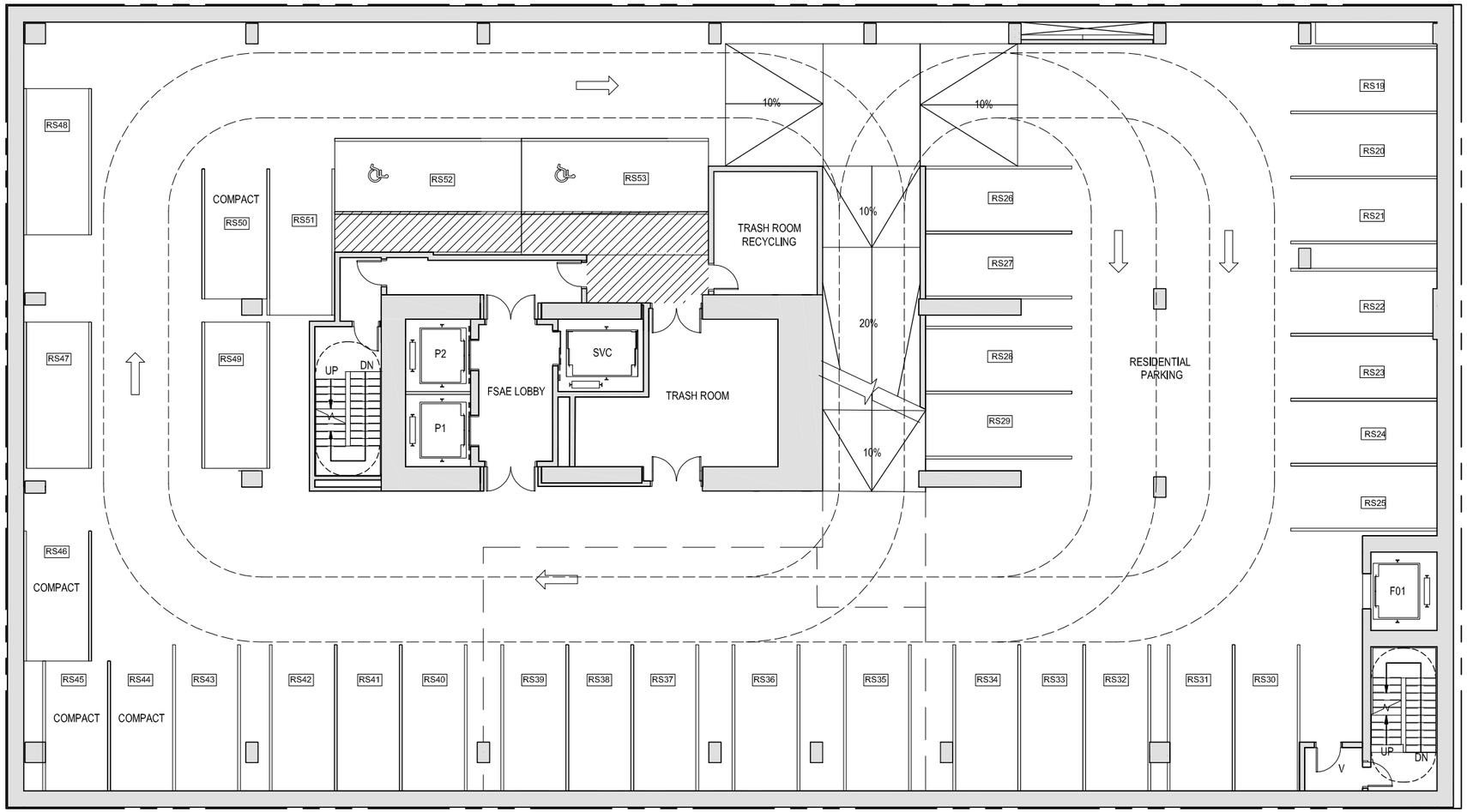
APRIL 2021

B3 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

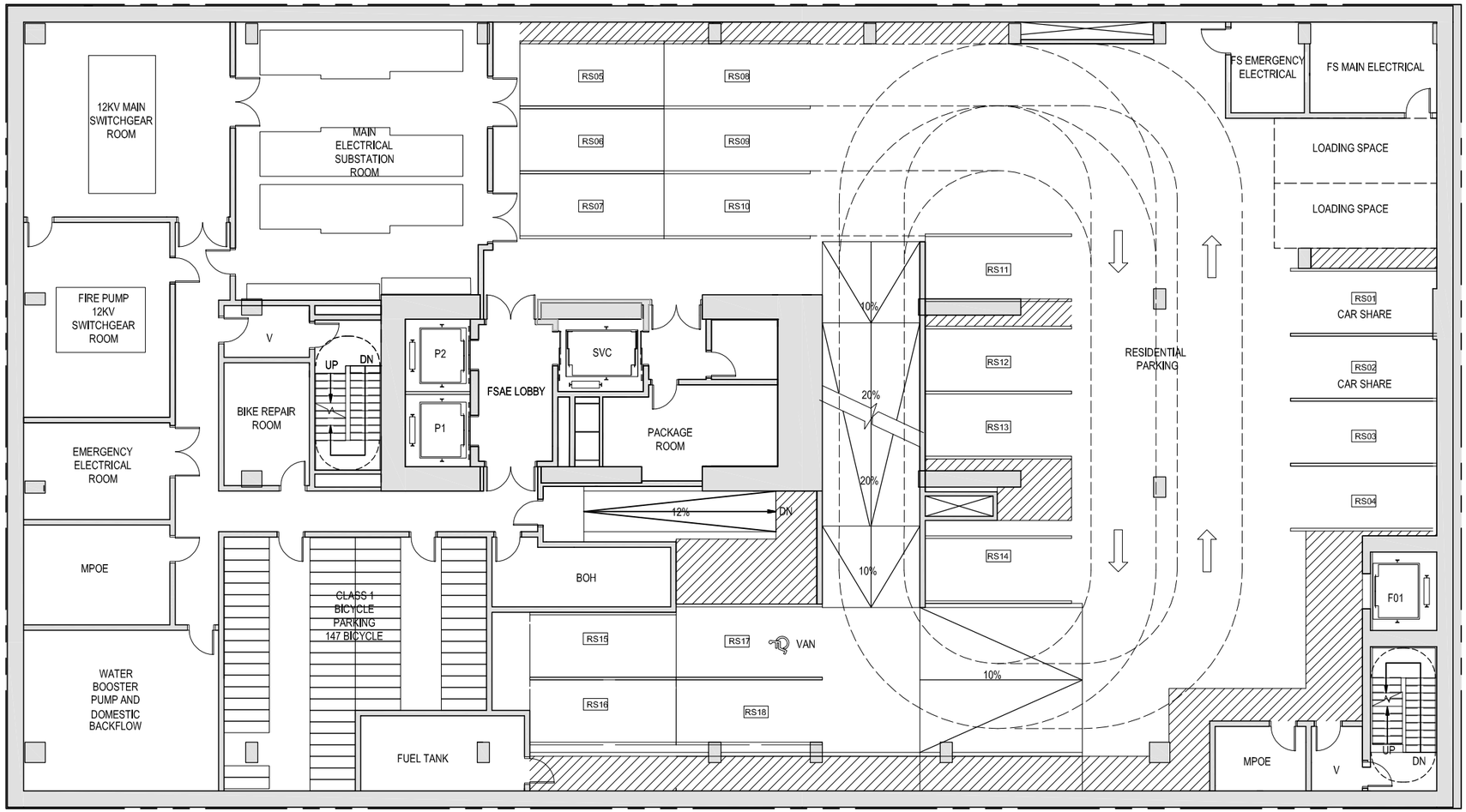
APRIL 2021

B2 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

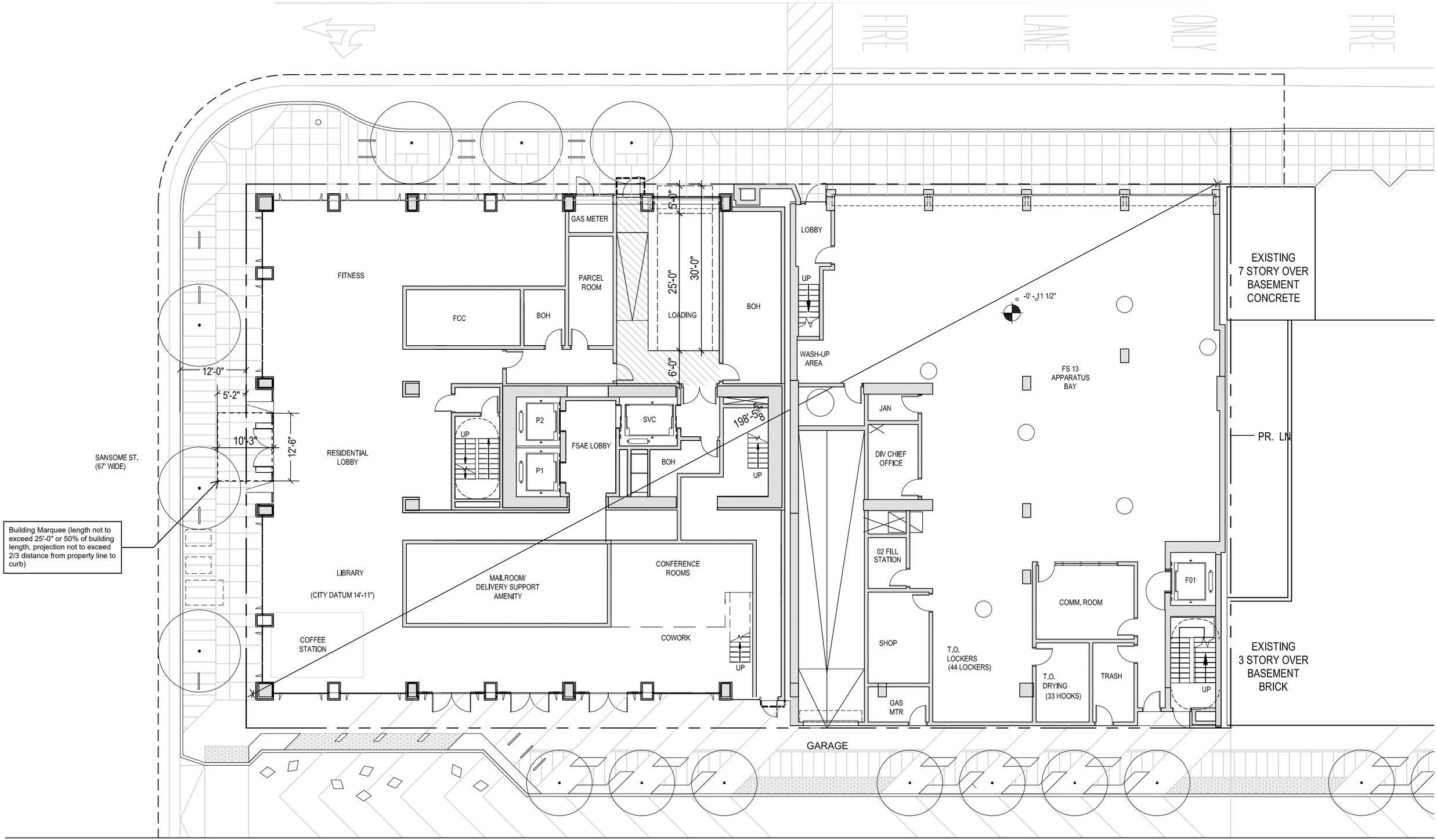
APRIL 2021

B1 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

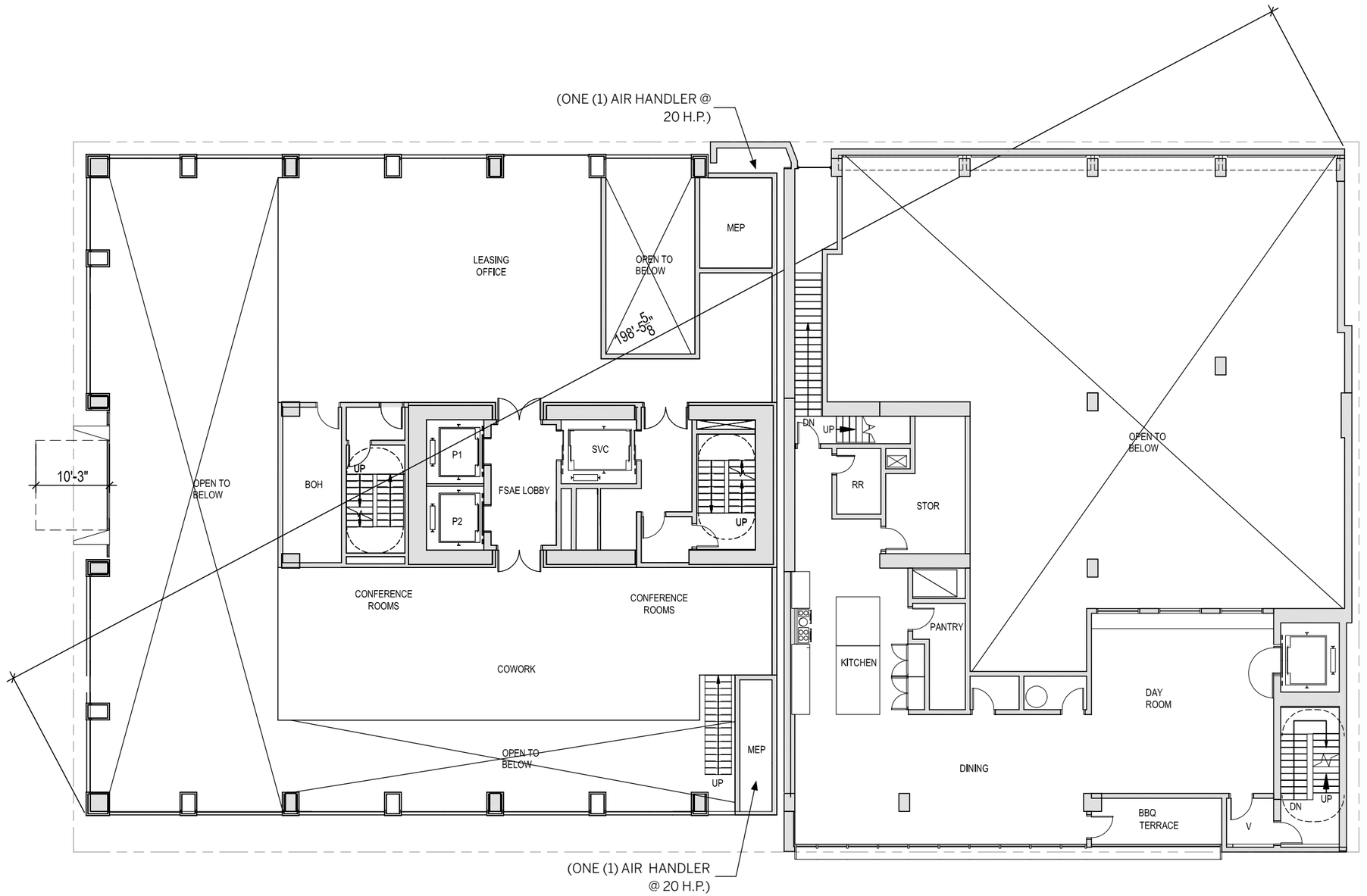
APRIL 2021

L1 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

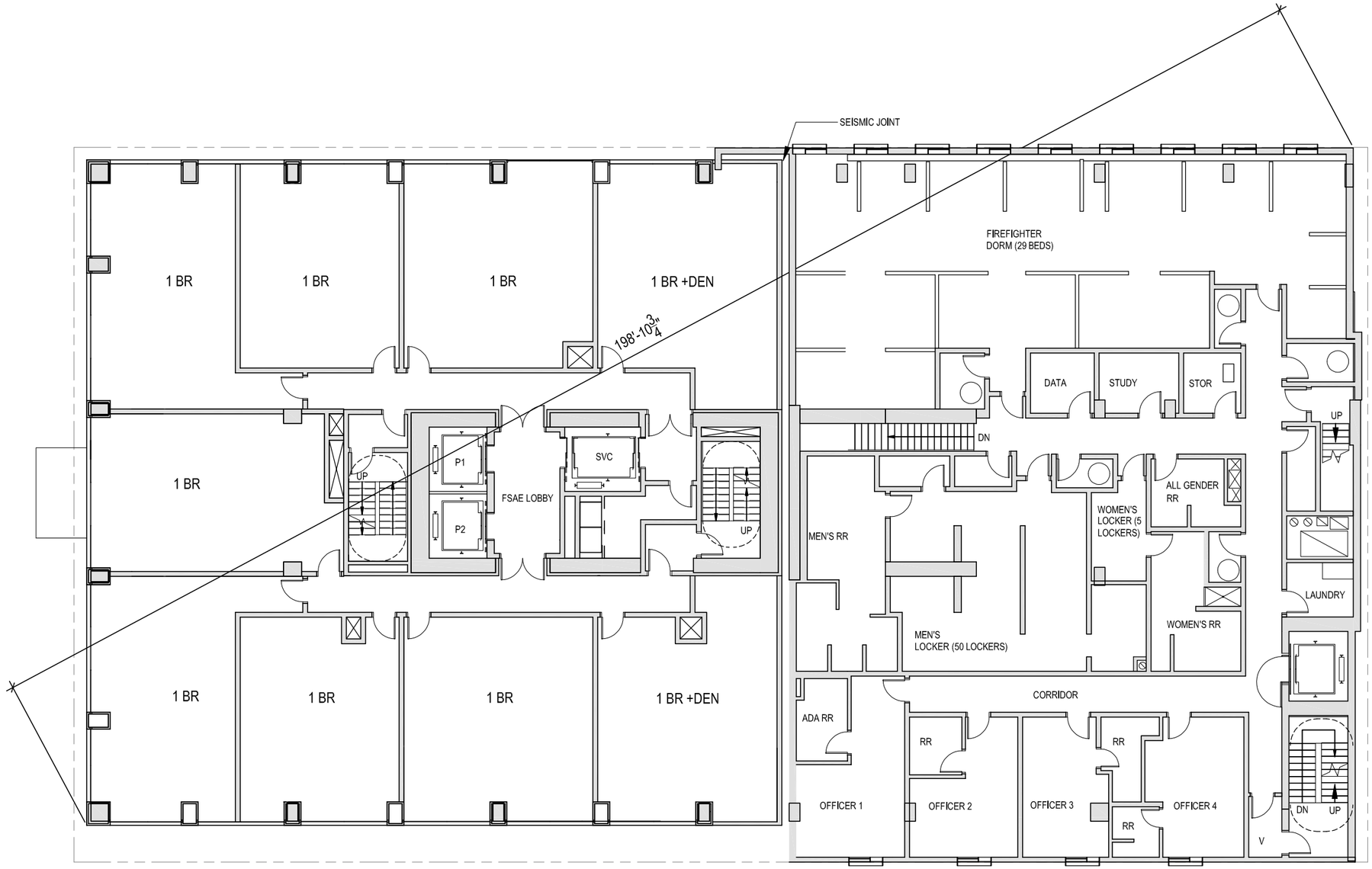
APRIL 2021

L1 Mezzanine Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

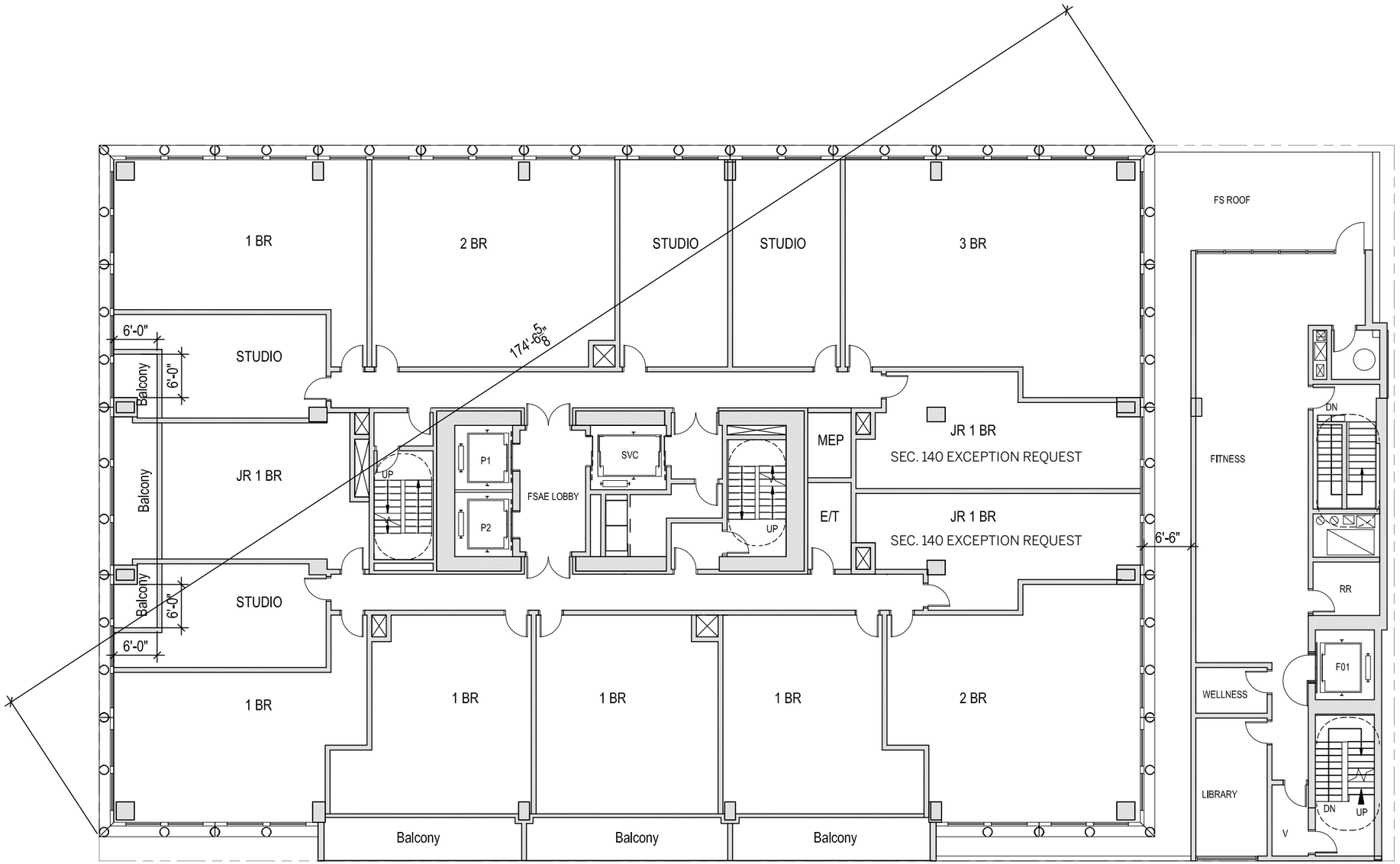
APRIL 2021

L2-3 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

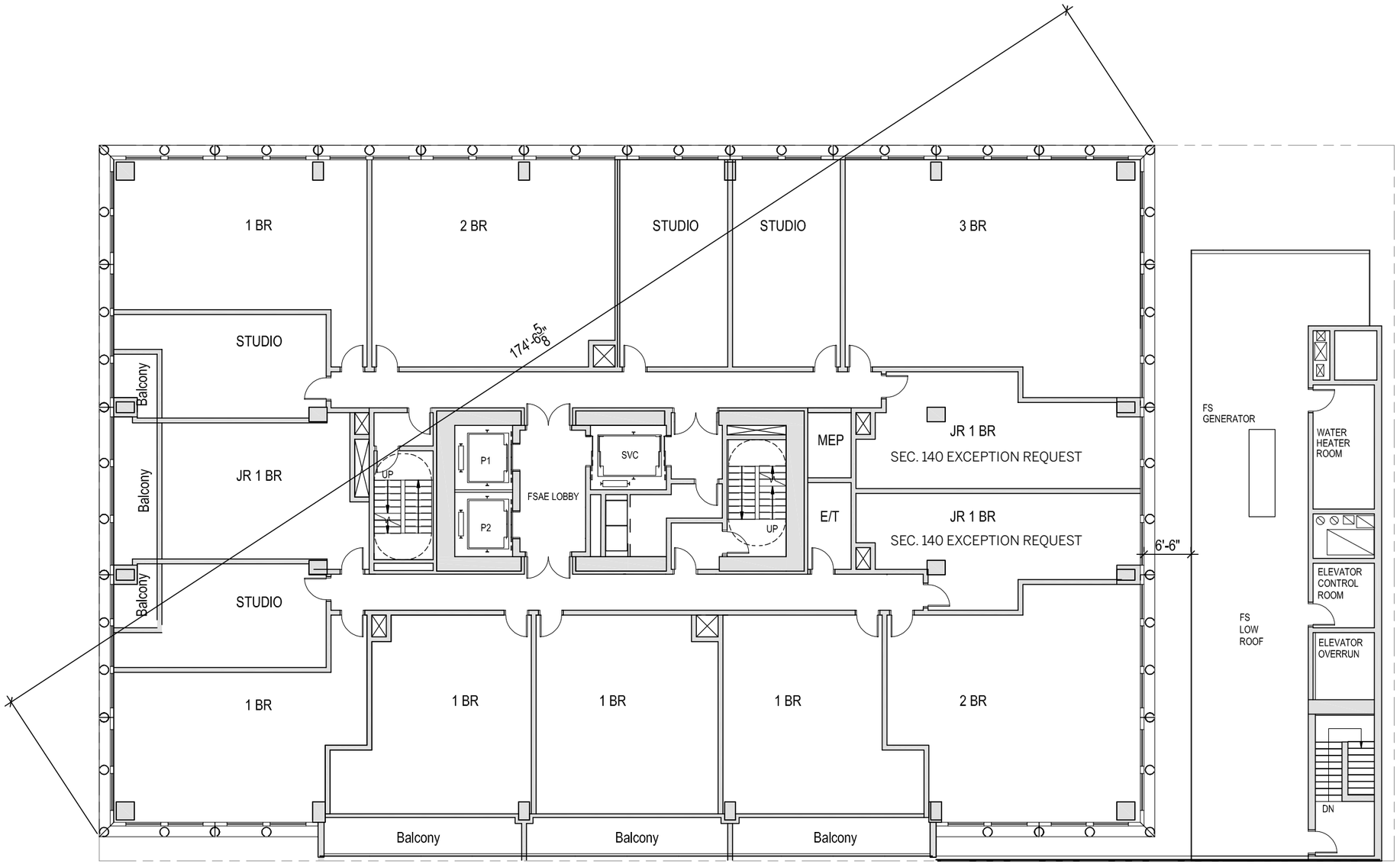
APRIL 2021

L4 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

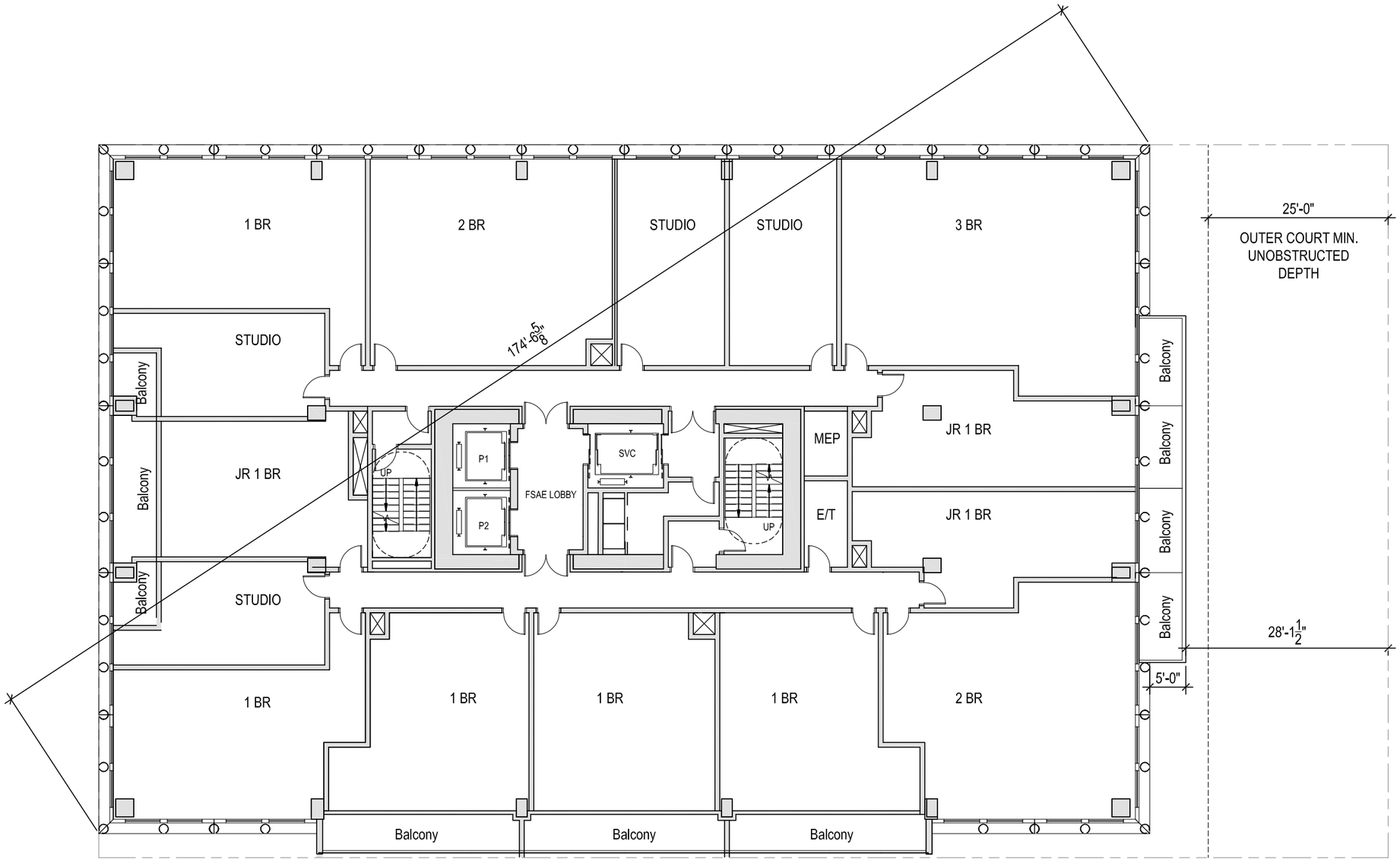
APRIL 2021

L5 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

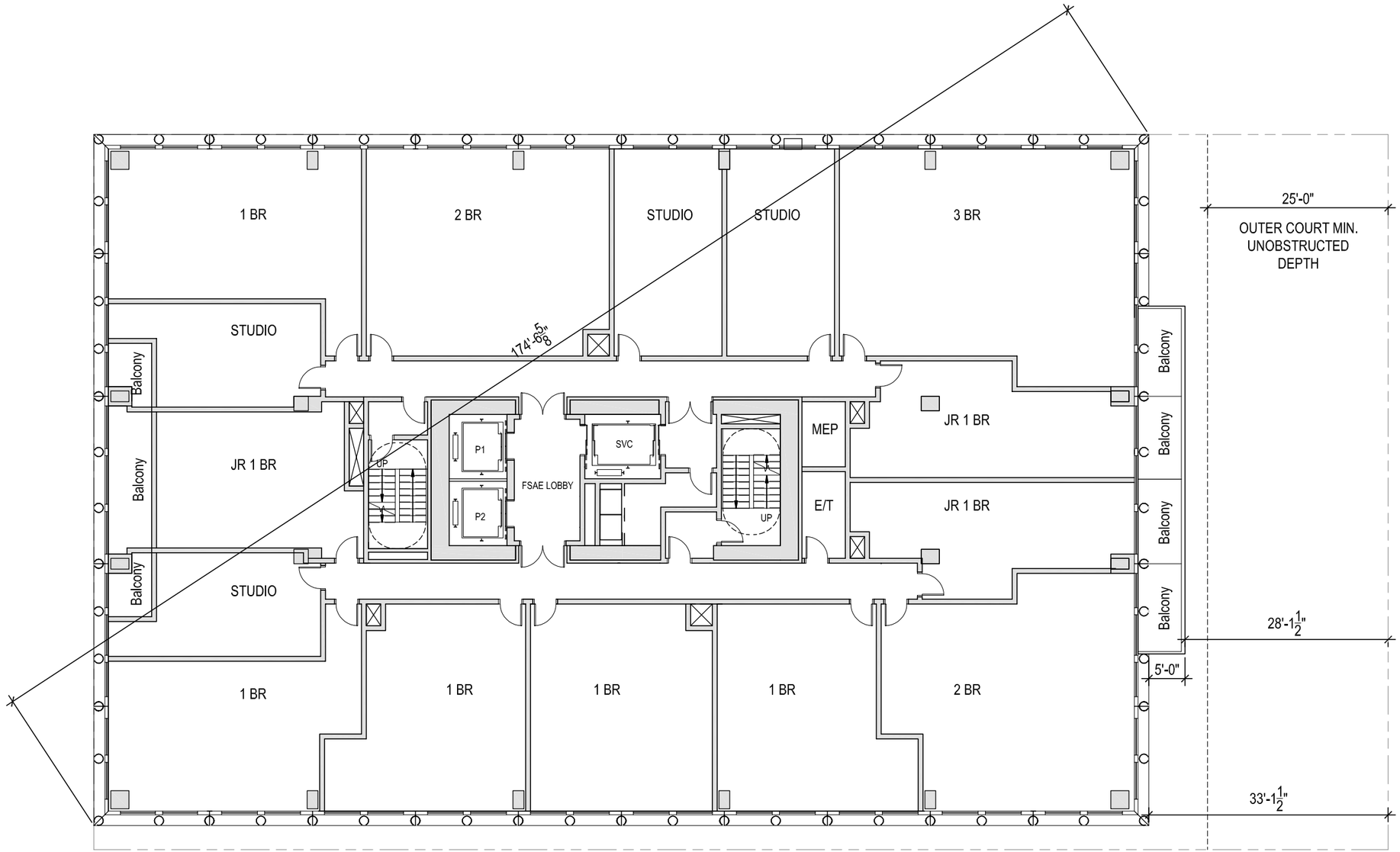
APRIL 2021

L6 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

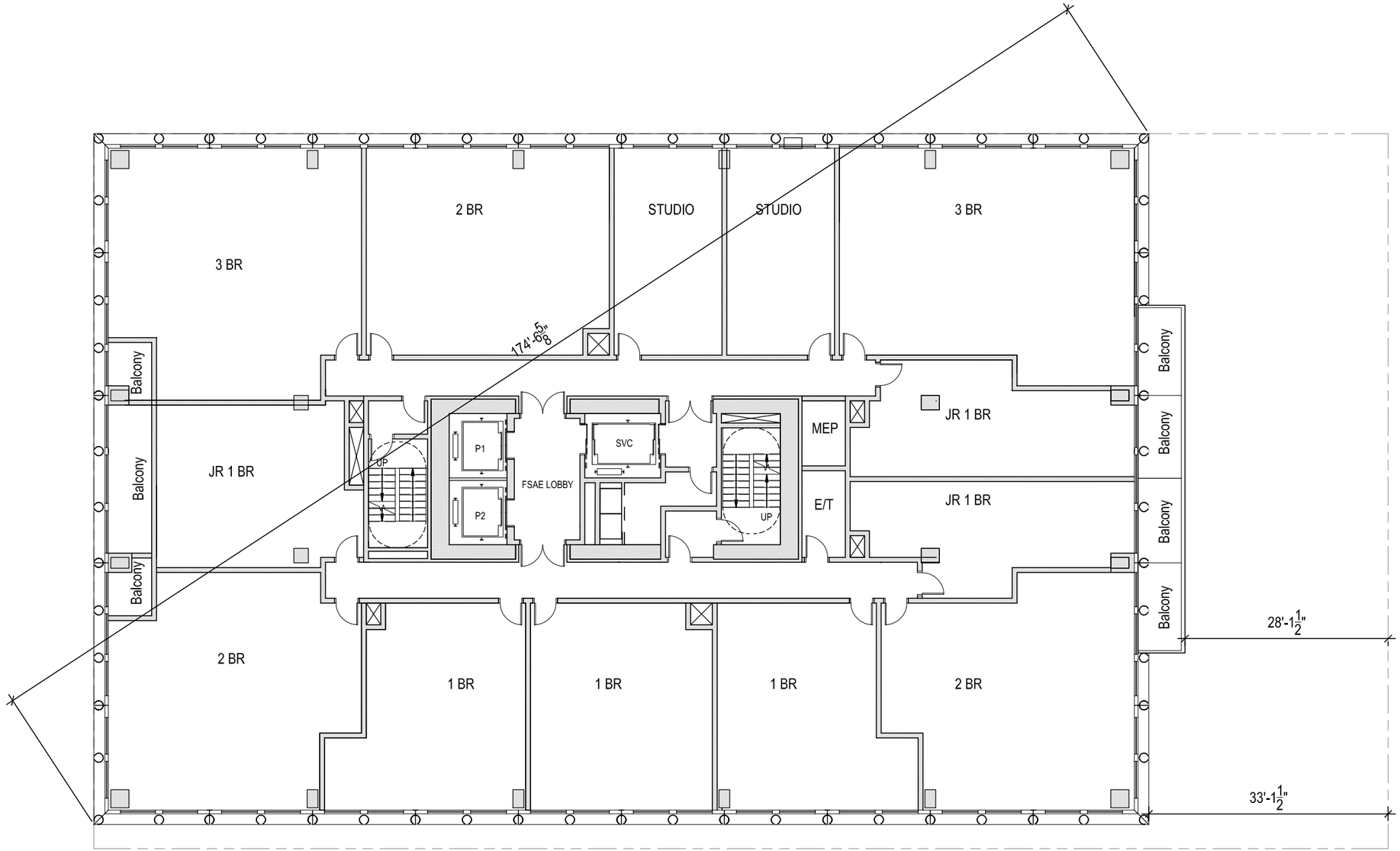
APRIL 2021

L7-13 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

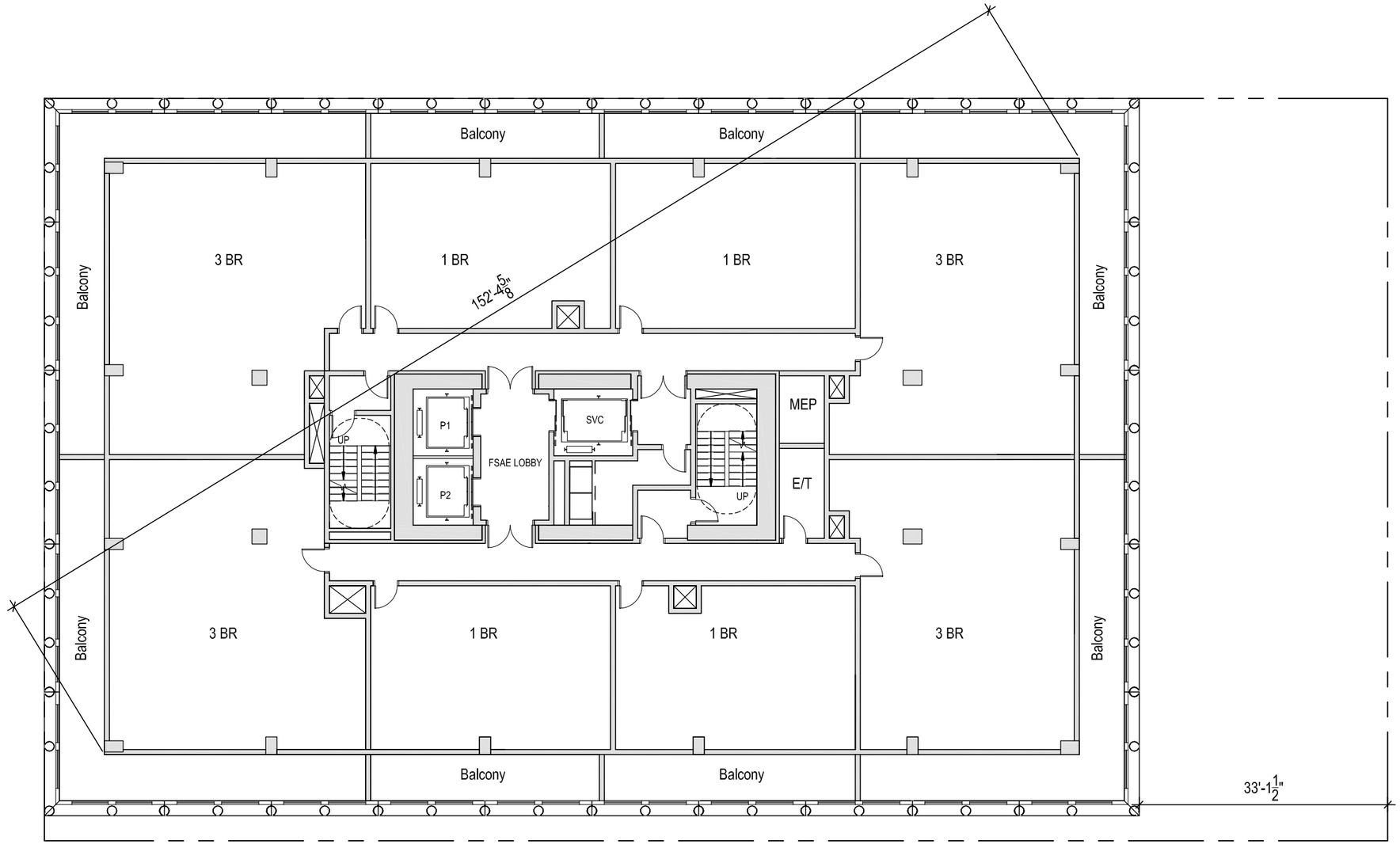
APRIL 2021

L14-19 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



PROJECT APPLICATION (PRJ)

APRIL 2021

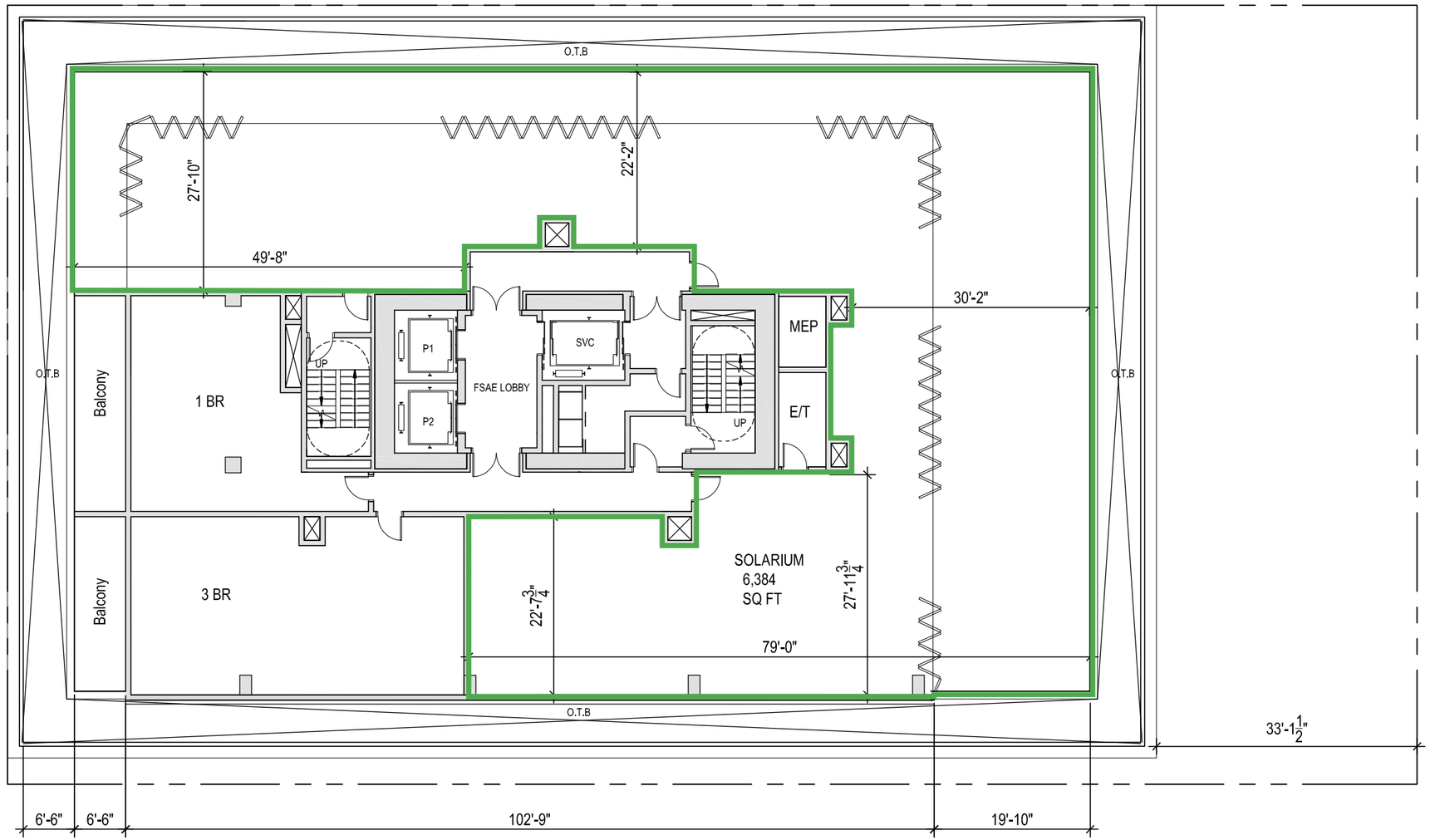
L20 Floor Plan

SCALE: 1/16"= 1'-0

530 SANSOME STREET

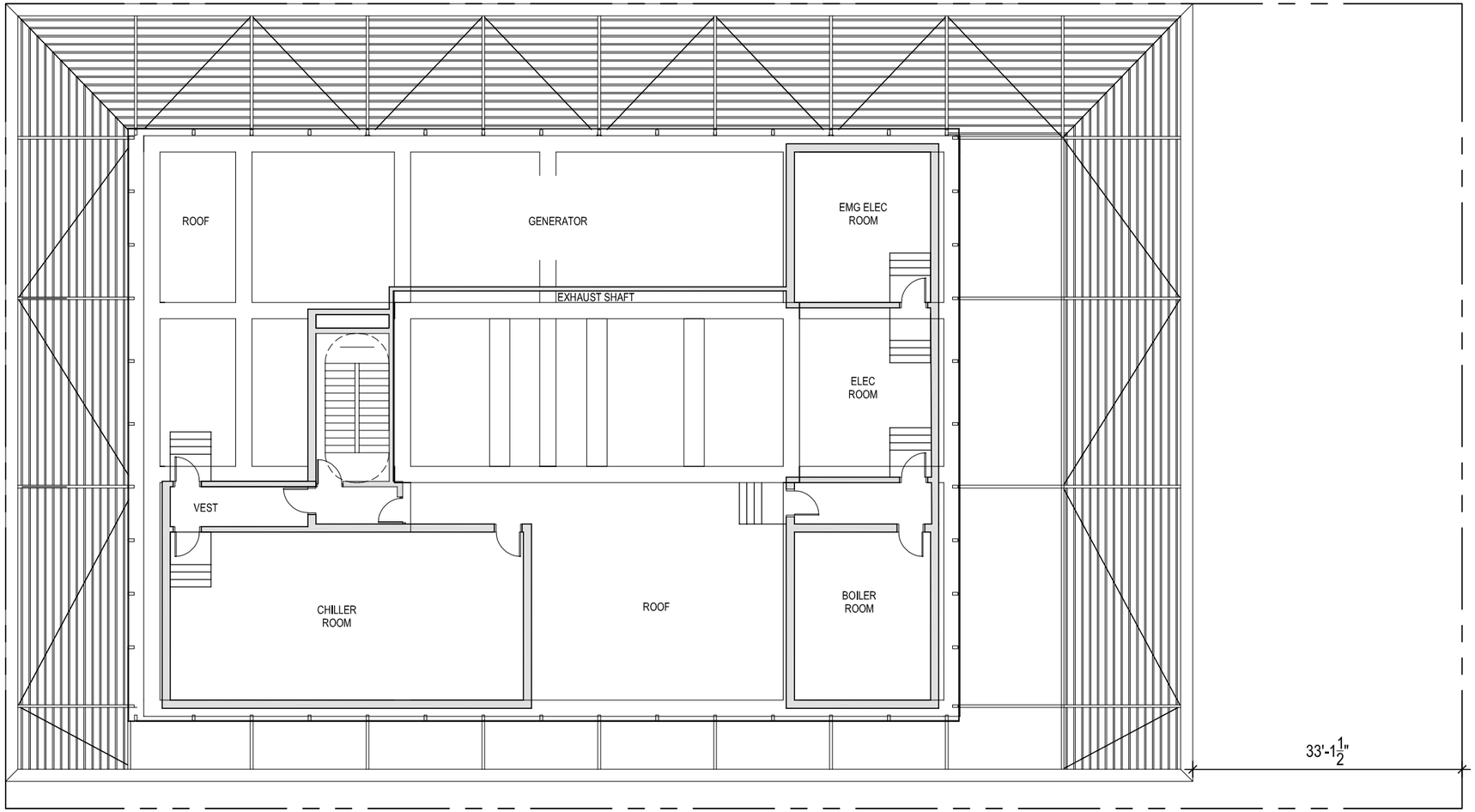
SKIDMORE, OWINGS & MERRILL LLP

EXTENT OF LEVEL 21
COMMON OPEN SPACE
(6,384 SQ FT)



L21 Floor Plan

SCALE: 1/16"= 1'-0



PROJECT APPLICATION (PRJ)

APRIL 2021

Mechanical Penthouse Plan

SCALE: 1/16"= 1'-0"

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP

PROJECT APPLICATION (PRJ)

APRIL 2021

Sansome Street Pedestrian Front

SCALE: NTS

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP

PROJECT APPLICATION (PRJ)

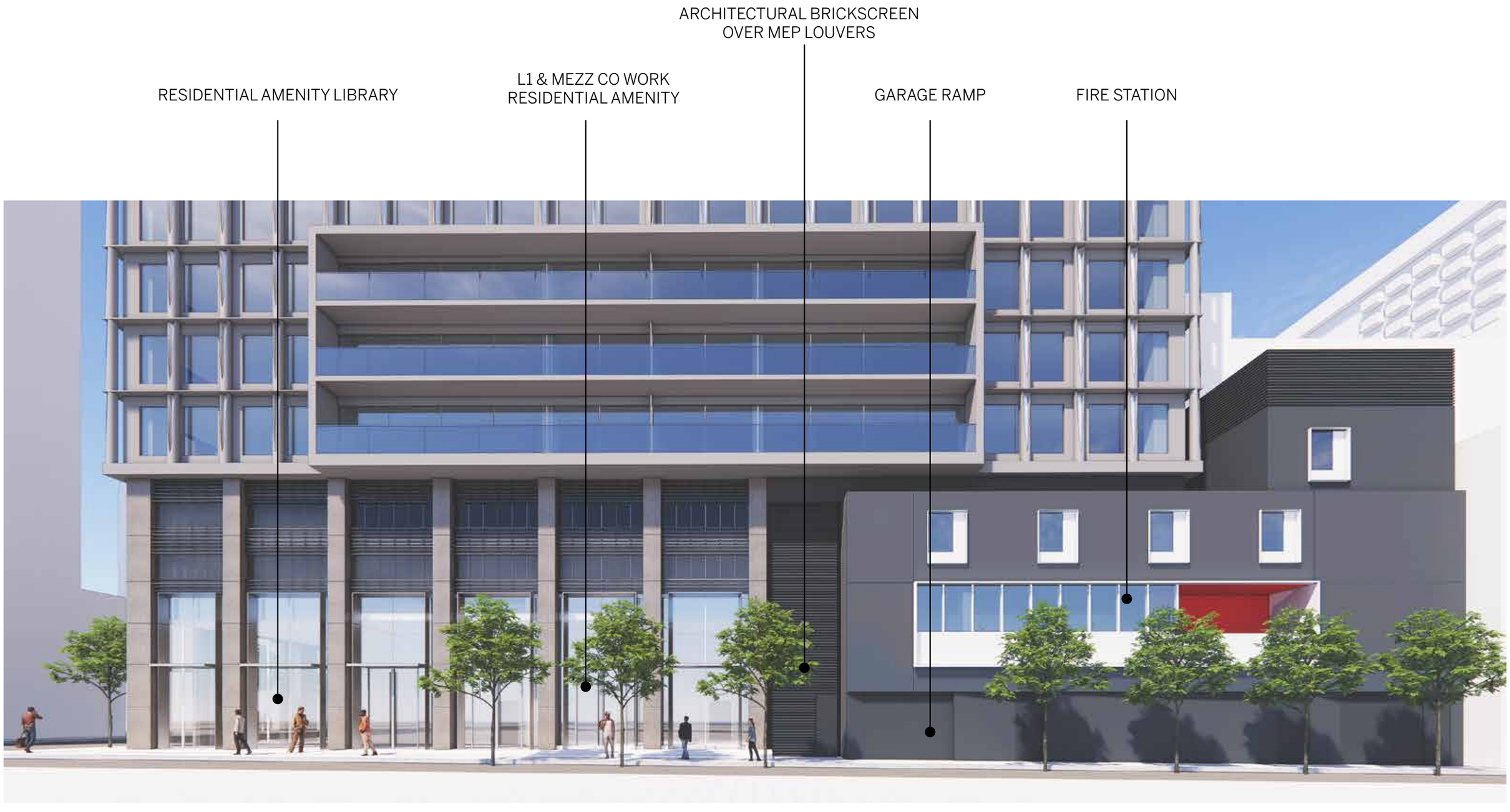
APRIL 2021

Washington Street Pedestrian Front

SCALE: NTS

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP



Merchant Street Pedestrian Front
SCALE: NTS

PROJECT APPLICATION (PRJ)

APRIL 2021

View from Sansome st. & Washington st. (Looking SE)

SCALE: NTS

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP

Level	FL to FL	Elevation	Tower Zone	Proposed Footprint	Proposed Average	Allowable Footprint (1) (2)	Footprint Area Difference	Total Footprint Area Difference	Exception Requested
T.O.P		236' 0"							
Roof		218' 0"							
21	12' 6"	205' 6"	UPPER	7,550		10,270	2,720		
20	10' 8"	194' 10"	UPPER	10,300		10,270	-30		
19	10' 8"	184' 2"	UPPER	13,000		10,270	-2,730		
18	9' 8"	174' 6"	UPPER	13,000	11,642	10,270	-2,730	-8,230	(1) (2)
17	9' 8"	164' 10"	UPPER	13,000		10,270	-2,730		
16	9' 8"	155' 2"	UPPER	13,000		10,270	-2,730		
15	9' 8"	145' 6"	LOWER	13,000		15,840	2,840		
14	9' 8"	135' 10"	LOWER	13,000		15,840	2,840		
13	10' 8"	125' 2"	LOWER	13,000		15,840	2,840		
12	9' 8"	115' 6"	LOWER	13,000	13,000	15,840	2,840	19,880	None
11	9' 8"	105' 10"	LOWER	13,000		15,840	2,840		
10	9' 8"	96' 2"	LOWER	13,000		15,840	2,840		
9	9' 8"	86' 6"	LOWER	13,000		15,840	2,840		
8	9' 8"	76' 10"	BASE	13,000		17,733	-		
7	9' 8"	67' 2"	BASE	13,000		17,733	-		
6	9' 8"	57' 6"	BASE	13,000		17,733			
5	9' 8"	47' 10"	BASE	13,000		17,733			
4	9' 8"	38' 2"	BASE	15,250	13,107	17,733		-	None
3	9' 8"	28' 6"	BASE	16,600		17,733			
2	9' 8"	18' 10"	BASE	12,150		17,733			
MEZZ			BASE	5,100		17,733			
1	18' 10"	0.00	BASE	16,865		17,733			
TOTAL				**247,965**		**301,287**	**11,690**		

ALLOWABLE UPPER TOWER FOOTPRINT CALCULATION	
Proposed Lower Tower Footprint	13,000
Required 21.5% reduction of lower tower Footprint	2,730
Allowable Upper Tower Footprint (with 21.5% reductio	10,270

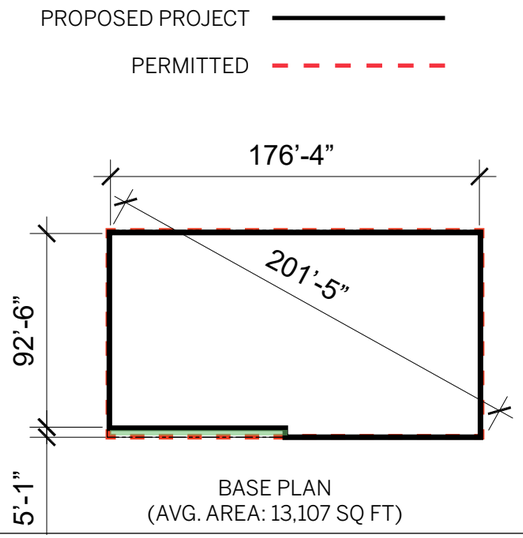
All bulk exceptions are limited to the upper tower, which begins at 160 feet and includes floors 16 through 21. Floors 9-15 are smaller than the allowable area by a total of 19,880 sf (2,840 sf/floor), while floors 16-21 are larger than the allowable area by a total of 8,230 sf (1,371 sf/floor), or appoximately one half of the amount not used in the lower tower. The project mass is shifted as far west as possible to minimize shadows on Maritime Plaza.

Upper tower limit delineated by red dashed line is a combination of site constraints and two planning code sections:

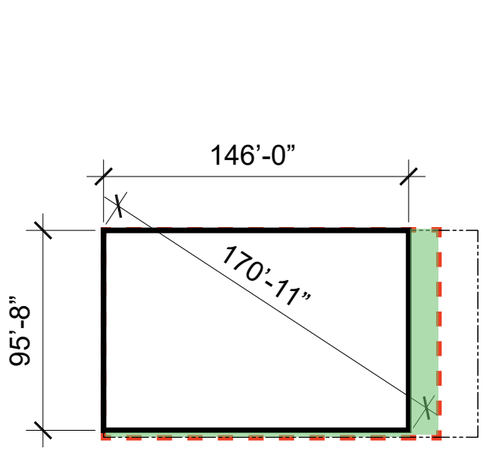
1.- 270(d)(2)(A) limits length to 130 feet, diagonal to 160 feet, and average floor size to 12,000. proposed upper tower is 146 feet in length, 171 feet in diagonal, with an average area of 11,642 square feet.

2.- 270(d)(3)(B) requires a reduction of 21.5% from the lower tower footprint, or 10,270 square feet. Proposed average upper tower footprint is 11,642 square feet, or a reduction of 10.4% from the proposed lower tower footprint, but a reduction of 26.5% from the allowable lower tower footprint of 15,840sf.

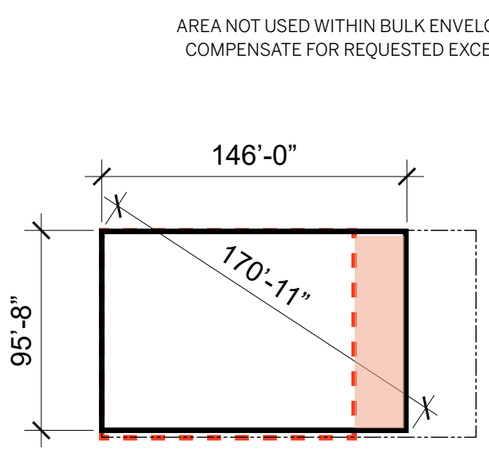
The Residential variant project requires a Section 309 exception from the Section 134 rear yard requirement starting at Level 2 of the proposed building (the first level containing dwelling units).



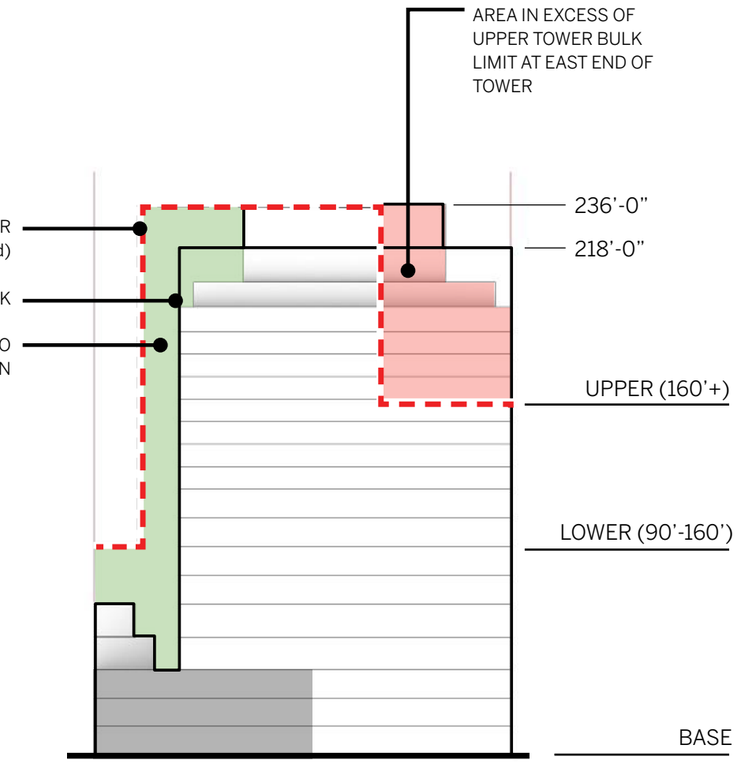
BASE PLAN
(AVG. AREA: 13,107 SQ FT)



LOWER TOWER PLAN
(AREA: 13,000 SQ FT)



UPPER TOWER PLAN
(AVG. AREA: 11,642 SQ FT)



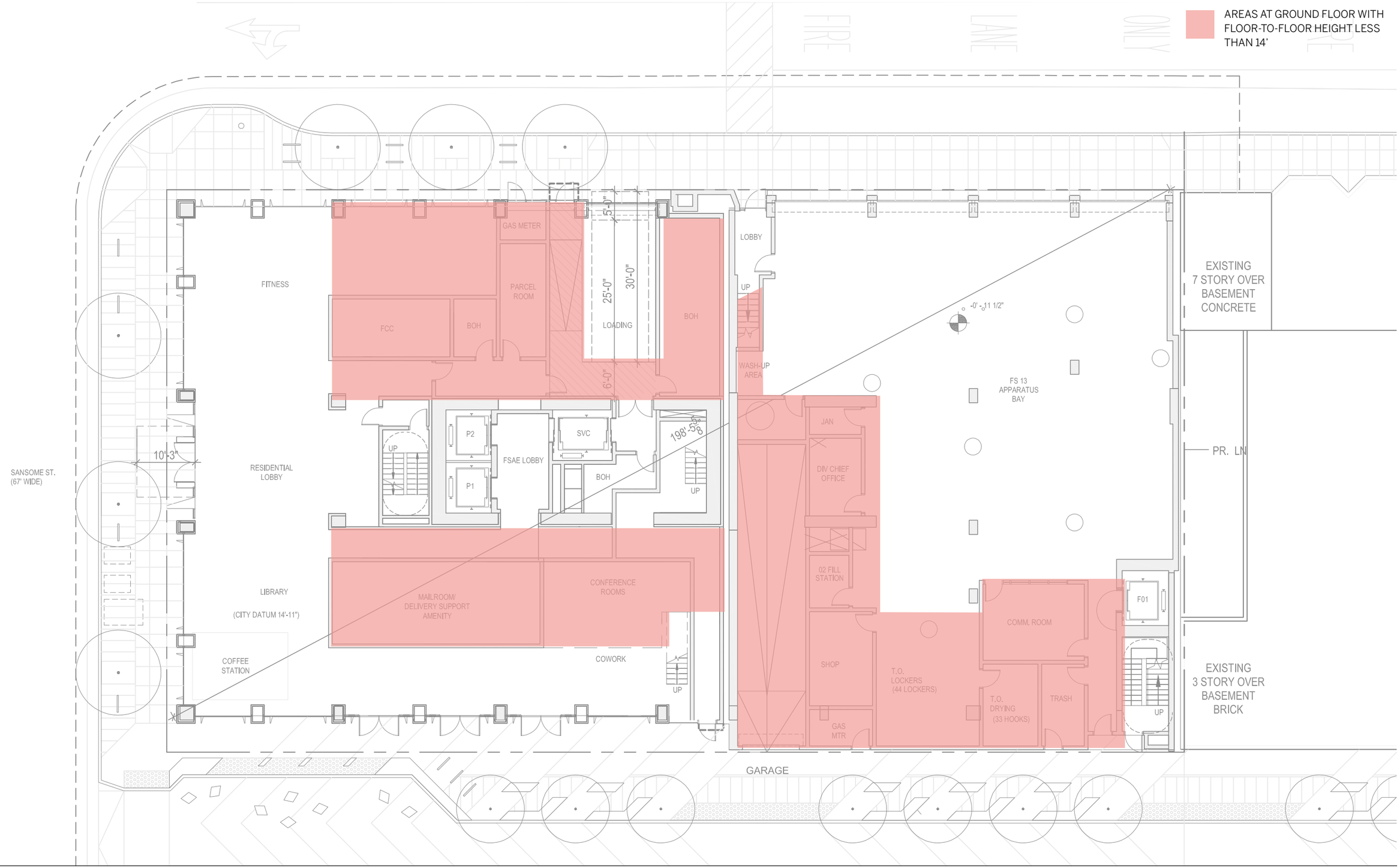
PROPOSED PROJECT HEIGHT AND BULK

PROPOSED PROJECT

PERMITTED

Project Exception - Height and Bulk

SCALE: N.T.S.



PROJECT APPLICATION (PRJ)

APRIL 2021

Project Exception - Ground Floor Ceiling Heights

SCALE: 1/16" = 1'-0"

530 SANSOME STREET

SKIDMORE, OWINGS & MERRILL LLP

EXHIBIT C:

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

EXHIBIT C

San Francisco Planning

MITIGATION MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
MITIGATION MEASURES AGREED TO BY PROJECT SPONSOR				
CULTURAL RESOURCES/HISTORIC ARCHITECTURAL				
Mitigation Measure M-CR-1: Interpretation and Relocation Plan				
Interpretation for* Untitled *Sculpture. The project sponsor shall facilitate the development of an interpretive program focused on the history and design of the *Untitled* sculpture. The interpretive program shall be developed and implemented by a qualified professional with demonstrated experience in displaying information and graphics to the public, such as a museum or exhibit curator. The primary goal of the program is to educate the public about the sculpture, the work of artist Henri Marie-Rose, and the historical association of the sculpture with the Embarcadero Center and Fire Station 13. This program shall be initially outlined in a proposal for an Historic Resources Public Interpretive Plan (HRPIP) subject to review and approval by planning department preservation staff. The HRPIP shall lay out the various components of the interpretive program that shall be developed in consultation with an architectural historian who meets the Secretary of the Interior's Professional Qualification Standards, and approved by planning department staff prior to issuance of a site permit or demolition permit.	Project sponsor in consultation with an architectural historian who meets the Secretary of the Interior's Professional Qualification Standards.	Prior to issuance of the architectural addendum to the site permit or demolition permit for the HRPIP	Planning Department Preservation Staff	Considered complete upon approval of the HRPIP
The interpretative program shall include the installation of a permanent on-site interpretive display. All interpretative material shall be publicly available. For physical interpretation the plan shall include the proposed format and accessible location of the interpretive content, as well as high-quality graphics and written narratives. The interpretative plan may also explore contributing to digital platforms that are publicly accessible, such as the History Pin website or phone applications. Interpretive material could include elements such as virtual museums and content, such as oral history, brochures, and websites. The interpretative program should also coordinate with other interpretative programs currently proposed or installed in the vicinity or for	Project sponsor	Prior to issuance of a temporary certificate of occupancy for the detailed content, media and other characteristics of such interpretive program	Planning Department Preservation Staff	Considered complete upon approval of the detailed content, media and other characteristics of the interpretive program

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
similar resources in the city, such as the San Francisco Fire Department Museum. The HRPIP shall be approved by planning department preservation staff prior to issuance of the architectural addendum to the site permit. The detailed content, media and other characteristics of such interpretive program shall be approved by planning department preservation staff prior to issuance of a temporary certificate of occupancy.				
Relocation Plan for* Untitled *Sculpture. Prior to issuance of the architectural addendum to the site permit, the project sponsor shall provide a relocation plan to be reviewed and approved by the planning department to ensure that the sculpture will be removed from the building, transported, and stored during construction in a manner that will protect the historical resource. The relocation plan shall identify the storage location for the sculpture and storage and monitoring protocols. The sculpture shall be relocated to the exterior of the new fire station portion of the project, either along its north (Washington Street) or south (Merchant Street) façades; or, if approved by planning department preservation staff, to another prominent publicly accessible location on the project site. The relocation plan shall also include an initial reinstallation plan and maintenance plan for the sculpture and schedule for reviewing and finalizing those plans in consultation with planning department preservation staff prior to issuance of temporary certificate of occupancy.	Project sponsor	Prior to issuance of the architectural addendum to the site permit and prior to issuance of temporary certificate of occupancy	Planning Department Preservation Staff	Considered complete upon approval of Relocation Plan by Planning Department Preservation Staff
Mitigation Measure M-CR-3: Archeological Testing				
Based on a reasonable presumption that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources and on human remains and associated or unassociated funerary objects. The project sponsor shall retain the services of an archeological consultant from the rotational qualified archeological consultants list maintained by the planning department's archeologist who specializes in geoarchaeology and maritime resources. After the first project approval action or as directed by the Environmental Review Officer, the project sponsor shall contact the department archeologist to obtain the names and contact information for the next three archeological consultants on the qualified archeological consultants list.	Project sponsor's qualified archeological consultant and construction contractor	Prior to issuance of construction permits and throughout the construction period	Environmental Review Officer	Considered complete after completion of Archeological Testing Program, archeological monitoring program or Final Archeological Resources Report as provided herein

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
The archeological consultant shall undertake an archeological testing program as specified herein. In addition, the consultant shall be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure. The archeological consultant's work shall be conducted in accordance with this measure at the direction of the Environmental Review Officer. All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the Environmental Review Officer for review and comment and shall be considered draft reports subject to revision until final approval by the Environmental Review Officer. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the Environmental Review Officer, the suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means for reducing potential effects on a significant archeological resource, as defined in CEQA Guidelines sections 15064.5 (a) and (c) to a less-than-significant level.				
Consultation with Descendant Communities. On discovery of an archeological site associated with descendant Native Americans, the Overseas Chinese, or other potentially interested descendant group an appropriate representative of the descendant group and the Environmental Review Officer shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and to offer recommendations to the Environmental Review Officer regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the final archeological resources report shall be provided to the representative of the descendant group.	The archeological consultant, project sponsor, and project contractor at the direction of the Environmental Review Officer	During soils disturbing activities	Consultation with Environmental Review Officer on identified descendant group	Contacted descendant group provides recommendations and is given a copy of the Final Archeological Resources Report
Archeological Testing Program. The archeological consultant shall prepare and submit to the Environmental Review Officer for review and approval an archeological testing plan. The archeological testing program shall be conducted in accordance with the approved archeological testing plan. Testing shall include monitoring of basement demolition, trenching from the base of basement to 20 feet for historical resources and coring to Old Bay Clay to test for submerged resources.	Project sponsor's qualified archeological consultant and construction contractor	Prior to issuance of construction permits and throughout the construction period	Environmental Review Officer	Considered complete after approval of Archeological Testing Program

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
The archeological testing plan shall identify the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the archeological testing program will be to determine to the extent possible the presence or absence of archeological resources and to identify and to evaluate whether any archeological resource encountered on the site constitutes an historical resource under CEQA.				
At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the Environmental Review Officer. If based on the archeological testing program the archeological consultant finds that significant archeological resources may be present, the Environmental Review Officer in consultation with the archeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include preservation in place, additional archeological testing, archeological monitoring, and/or an archeological data recovery program. No archeological data recovery shall be undertaken without the prior approval of the Environmental Review Officer or the planning department archeologist. If the Environmental Review Officer determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, the Environmental Review Officer, in consultation with the project sponsor shall determine whether preservation of the resource in place is feasible. If so, the proposed project shall be redesigned so as to avoid any adverse effect on the significant archeological resource. If preservation in place is not feasible, a data recovery program shall be implemented, unless the Environmental Review Officer determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.	Project sponsor/ archeological consultant at the direction of the Environmental Review Officer	After completion of the Archeological Testing Program	Archeological consultant shall submit report of the findings of the archeological testing plan to the Environmental Review Officer	Archeological Testing Result report or memorandum on file with Environmental Planning, with email or other written documentation of concurrence on need to archeological data recovery
Archeological Monitoring Program. If the Environmental Review Officer in consultation with the archeological consultant determines that an archeological monitoring program shall be implemented the archeological monitoring program shall include, at a minimum, the following provisions: • The archeological consultant, project sponsor, and Environmental Review Officer shall meet and consult on the scope of the archeological	Project sponsor and archeological consultant at the direction of the Environmental Review Officer	Prior to issuance of demolition permits and throughout the construction period	Consultation with Environmental Review Officer on scope of the archeological	After consultation with and approval by Environmental Review Officer of the archeological

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
monitoring program reasonably prior to any project-related soils disturbing activities commencing. The Environmental Review Officer in consultation with the archeological consultant shall determine what project activities shall be archeologically monitored. In most cases, any soils- disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archeological resources and to their depositional context;			monitoring program	monitoring program
• The archeological consultant shall undertake a worker training program for soil-disturbing workers that will include an overview of expected resource(s), how to identify the evidence of the expected resource(s), and the appropriate protocol in the event of apparent discovery of an archeological resource;				
• The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the Environmental Review Officer until the Environmental Review Officer has, in consultation with project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;				
• The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis;				
• If an intact archeological deposit is encountered, irrespective of whether an archeologist is present, all soils-disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. The archeological consultant shall immediately notify the Environmental Review Officer of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, and present the findings of this assessment to the Environmental Review Officer.				
Whether or not significant archeological resources are encountered, the archeological consultant shall submit a written report of the findings of the monitoring program to the Environmental Review Officer.				

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
Archeological Data Recovery Program. The archeological data recovery program shall be conducted in accord with an archeological data recovery plan. The archeological consultant, project sponsor, and Environmental Review Officer shall meet and consult on the scope of the archeological data recovery plan prior to preparation of a draft archeological data recovery plan. The archeological consultant shall submit a draft archeological data recovery plan to the Environmental Review Officer. The archeological data recovery plan shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the archeological data recovery plan will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical. The scope of the archeological data recovery plan shall include the following elements: • Field Methods and Procedures. Descriptions of proposed field strategies, procedures, and operations. • Cataloguing and Laboratory Analysis. Description of selected cataloguing system and artifact analysis procedures. • Discard and Deaccession Policy. Description of and rationale for field and post-field discard and deaccession policies. • Interpretive Program. Consideration of an on-site/off-site public interpretive program during the course of the archeological data recovery program. • Security Measures. Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities. • Final Report. Description of proposed report format and distribution of results. • Curation. Description of the procedures and recommendations for the curation of any recovered data having potential research value,	Project sponsor and archeological consultant at the direction of the Environmental Review Officer	In the event that an archeological site is uncovered during the construction period	Environmental Review Officer	Considered complete upon approval of Final Archeological Data Recovery Program Report

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities.				
Human Remains Associated or Unassociated Funerary Objects. The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and federal laws. This shall include immediate notification of the Office of the Chief Medical Examiner of the City and County of San Francisco and, in the event of the medical examiner's determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission, which will appoint a most likely descendant. The most likely descendant will complete his or her inspection of the remains and make recommendations or preferences for treatment within 48 hours of being granted access to the site (Public Resources Code section 5097.98). The Environmental Review Officer also shall be notified immediately upon the discovery of human remains. The project sponsor and Environmental Review Officer shall make all reasonable efforts to develop a Burial Agreement ("Agreement") with the most likely descendant, as expeditiously as possible, for the treatment and disposition, with appropriate dignity, of human remains and associated or unassociated funerary objects (as detailed in CEQA Guidelines section 15064.5(d)). The Agreement shall take into consideration the appropriate excavation, removal, recordation, scientific analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. If the most likely descendant agrees to scientific analyses of the remains and/or associated or unassociated funerary objects, the archeological consultant shall retain possession of the remains and associated or unassociated funerary objects until completion of any such analyses, after which the remains and associated or unassociated funerary objects shall be reinterred or curated as specified in the Agreement. Nothing in existing State regulations or in this mitigation measure compels the project sponsor and the Environmental Review Officer to accept treatment recommendations of the most likely descendant. However, if the Environmental Review Officer, project sponsor and most likely descendant are unable to reach an Agreement on scientific treatment of the remains and associated or unassociated funerary objects, the Environmental Review Officer, with cooperation of the project sponsor, shall ensure that the remains	Project sponsor/ archeological consultant in consultation with the City, San Francisco Medical Examiner, California State Native American Heritage Commission, and most likely descendant	In the event that human remains are uncovered during the construction period	Environmental Review Officer	Considered complete after approval of Final Archeological Resources Report and disposition of human remains has occurred as specified in Agreement

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
and/or mortuary materials are stored securely and respectfully until they can be reinterred on the property, with appropriate dignity, in a location not subject to further or future subsurface disturbance. Treatment of historic-period human remains and of associated or unassociated funerary objects discovered during any soil-disturbing activity, additionally, shall follow protocols laid out in the project's archeological treatment documents, and in any related agreement established between the project sponsor, medical examiner and the Environmental Review Officer.				
Final Archeological Resources Report. The archeological consultant shall submit a final archeological resources report to the Environmental Review Officer that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. The final archeological resources report shall include a curation and deaccession plan for all recovered cultural materials. The final archeological resources report shall also include an Interpretation Plan for public interpretation of all significant archeological features. Copies of the final archeological resources report shall be sent to the Environmental Review Officer for review and approval. Once approved by the Environmental Review Officer, the consultant shall also prepare a public distribution version of the final archeological resources report. Copies of the final archeological resources report shall be distributed as follows: California Archeological Site Survey Northwest Information Center shall receive one (1) copy and the Environmental Review Officer shall receive a copy of the transmittal of the final archeological resources report to the Northwest Information Center. The Environmental Planning Division of the planning department shall receive one bound and one unlocked, searchable PDF copy on CD of the final archeological resources report along with copies of any formal site recordation forms (California Department of Parks and Recreation 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of public interest in or the high interpretive value of the resource, the Environmental Review Officer may require a different or additional final report content, format, and distribution than that presented above.	Project sponsor's qualified archeological consultant	At completion of archeological investigations	Environmental Review Officer	Considered complete after Final Archeological Resources Report is approved

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
TRIBAL CULTURAL RESOURCES				
Mitigation Measure M-TCR-1: Tribal Cultural Resources Archeological Resource Preservation Plan and/or Interpretive Program In the event of the discovery of an archeological resource of Native American origin, the Environmental Review Officer, the project sponsor, and the tribal representative, shall consult to determine whether preservation in place would be feasible and effective. If it is determined that preservation-in-place of the tribal cultural resource would be both feasible and effective, then the archeological consultant shall prepare an archeological resource preservation plan, which shall be implemented by the project sponsor during construction. If the ERO in consultation with the project sponsor and the tribal representative determines that preservation–in–place of the TCR is not a sufficient or feasible option, then archeological data recovery shall be implemented as required by the ERO in consultation with the tribal representative. In addition, the project sponsor shall prepare an interpretive program of the TCR in consultation with affiliated Native American tribal representatives. The plan shall identify proposed locations for installations or displays, the proposed content and materials of those displays or installation, the producers or artists of the displays or installation, and a long-term maintenance program. The interpretive program may include artist installations, preferably by local Native American artists' oral histories with local Native Americans, cultural displays and interpretation, and educational panels or other informational displays. Upon approval by the ERO and the tribal representative, and prior to project occupancy, the interpretive program shall be implemented by the project sponsor.	Project sponsor, archeological consultant, and Environmental Review Officer, in consultation with the affiliated Native American tribal representatives	If a significant archeological resource is uncovered during construction of the project	Environmental Review Officer	Considered complete upon project redesign, completion of archeological resource preservation plan, or interpretive program of the tribal cultural resource, if required
NOISE				
Mitigation Measure M-NO-3, Protection of Adjacent Buildings/Structures and Vibration Monitoring During Construction Prior to issuance of any demolition or building permit, the project sponsor shall submit a project-specific Pre-construction Survey and Vibration Management and Monitoring Plan to the Environmental Review Officer (ERO) or the ERO's designee for approval. The plan shall identify all feasible means to avoid damage to potentially affected buildings, which are 423 Washington Street and 447 Battery Street. Should demolition on the building at 447 Battery Street occur, this measure is no longer applicable to that structure;				

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
however, to the extent a new structure exists or is under construction at 447 Battery Street, the Pre-construction Survey and Vibration Management and Monitoring Plan shall meet the requirements of this mitigation measure for non-historic buildings to avoid damage to such new structure. The project sponsor shall ensure that the following requirements of the Pre-Construction Survey and Vibration Management and Monitoring Plan are included in contract specifications, as necessary.				
• ***Pre-construction Survey.*** Prior to the start of any ground-disturbing activity, the project sponsor shall engage a consultant to undertake a pre-construction survey of the potentially affected historic building at 447 Battery Street and the non-historic building 423 Washington Street. The project sponsor shall engage a structural engineer or other professional with similar qualifications to undertake a pre-construction survey of both buildings, provided that if the historic building at 447 Battery Street has not been demolished, then the project sponsor shall engage a historic architect or qualified historic preservation professional to undertake (in coordination with the structural engineer) the pre-construction survey of 447 Batter Street. If the historic building at 447 Batter Street has not been demolished, the pre-construction survey shall include descriptions and photograph of 447 Battery Street, including all facades, roofs, and details of the character-defining features that could be damaged during construction, and shall document existing damage such as cracks and loose or damaged features (as allowed by the property owner). The report shall also include pre-construction drawings that record the pre-construction condition of the buildings and identify cracks and other features to be monitored during construction. If the historic building at 447 Battery Street has not been demolished, the historic architect or qualified historic preservation professional shall be the lead author of the pre-construction survey for 447 Battery Street. These reports shall be submitted to the ERO and planning department preservation staff for review and approval prior to the start of vibration-generating construction activity.	Project sponsor, structural engineer, historic architect or qualified historic preservation professional	Prior to issuance of demolition or building permit	Project sponsor, structural engineer, historic architect or qualified historic preservation professional to submit a Pre-construction Survey to the Environmental Review Officer and Planning Department Preservation Staff	Considered complete upon approval of the Pre-construction Survey by the Environmental Review Officer and Planning Department Preservation Staff
• ***Vibration Management and Monitoring Plan.*** The project sponsor shall undertake a monitoring plan to avoid or reduce project-related construction vibration damage to the adjacent buildings and/or structures at 447 Battery Street and 423 Washington Street to ensure that any such	Project sponsor/ contractor(s)	Prior to issuance of any demolition or building permits	Project sponsor to submit a Vibration Management and Monitoring Plan to	Considered complete upon approval of the Vibration

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
damage is documented and repaired. Prior to issuance of any demolition or building permit, the project sponsor shall submit the Vibration Management and Monitoring Plan that lays out the monitoring program to the ERO for approval. If the historic building at 447 Battery Street has not been demolished, the Vibration Management and Monitoring Plan shall also be submitted to planning department preservation staff for review and approval. The Vibration Management and Monitoring Plan shall include, at a minimum, the following components, as applicable: – *Maximum Vibration Level.* Based on the anticipated construction and condition of the affected buildings and/or structures, a qualified acoustical/vibration consultant in coordination with a structural engineer (or professional with similar qualifications) and, in the case the historic building at 447 Battery Street has not been demolished, a historic architect or qualified historic preservation professional, shall establish a maximum vibration level that shall not be exceeded based on existing conditions, soil conditions, anticipated construction practices, and in the event the historic building at 447 Battery Street has not been demolished, character-defining features of that building (common standards are a peak particle velocity [PPV] of 0.25 inch per second for historic and some old buildings, a peak particle velocity [PPV] of 0.3 inch per second for older residential structures, and a peak particle velocity [PPV] of 0.5 inch per second for new residential structures and modern industrial/commercial buildings). – *Vibration-Generating Equipment.* The plan shall identify all vibration-generating equipment to be used during construction (including, but not limited to site preparation, clearing, demolition, excavation, shoring, foundation installation, and building construction). – *Alternative Construction Equipment and Techniques.* Should construction vibration levels be observed in excess of the established standard, the contractor(s) shall halt construction and put alternative construction techniques into practice, to the extent feasible (e.g., non-vibratory compaction equipment). Following incorporation of the alternative construction techniques, vibration monitoring shall recommence to ensure that vibration levels at each affected building and/or structure on adjacent properties are not exceeded.		and during construction	the Environmental Review Officer and planning department Planning Department Preservation Staff	Management and Monitoring Plan by the Environmental Review Officer and Planning Department Preservation Staff

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
– *Vibration Monitoring.* The plan shall identify the method and equipment for vibration monitoring. To ensure that construction vibration levels do not exceed the established standard, the acoustical/vibration consultant shall monitor vibration levels at each affected building and/or structure on adjacent properties (as allowed by property owners) and prohibit vibratory construction activities that generate vibration levels in excess of the standard. ○ Should construction vibration levels be observed in excess of the standards established in the plan, the contractor(s) shall halt construction and put alternative construction techniques identified in the plan into practice, to the extent feasible. ○ The historic architect or qualified historic preservation professional (for effects on the historic building at 447 Battery Street if it has not been demolished) and/or structural engineer shall inspect each affected building and/or structure (as allowed by property owners) in the event the construction activities exceed the established standards. ○ If vibration has damaged nearby buildings and/or structures that are not historic, the structural engineer shall immediately notify the ERO and prepare a damage report documenting the features of the building and/or structure that has been damaged. ○ If vibration has damaged the historic building at 447 Battery Street, the historic preservation consultant shall immediately notify the ERO or the ERO's designee and preservation staff and prepare a damage report documenting the features of the building and/or structure that has been damaged. ○ If no damage has occurred to the buildings at 447 Battery Street and Washington Street, then the historic preservation professional (if the historic building at 447 Battery Street has not been demolished) and/or structural engineer shall submit a monthly report to the ERO (and preservation staff, if needed) for review. This report shall identify and summarize the vibration level exceedances and describe the actions taken to reduce vibration. ○ Following incorporation of the alternative construction techniques and/or planning department review of the damage report, vibration				

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
monitoring shall recommence to ensure that vibration levels at 447 Battery Street and 423 Washington Street are not exceeded. – *Periodic Inspections.* The plan shall identify the intervals and parties responsible for periodic inspections. The historic architect or qualified historic preservation professional (if the historic building at 447 Battery Street has not been demolished) and/or structural engineer shall conduct regular periodic inspections of each building and/or structure (as allowed by property owners) during vibration-generating construction activity on the project site. The plan will specify how often inspections and reporting shall occur. – *Repair Damage.* The plan shall also identify provisions to be followed should damage to any building and/or structure occur due to construction-related vibration. The building(s) and/or structure(s) shall be remediated to their pre-construction condition (as allowed by property owners) at the conclusion of vibration-generating activity on the site. Should damage occur at the historic building at 447 Battery Street, the building and/or structure shall be restored to its pre-construction condition in consultation with the historic architect or qualified historic preservation professions and planning department preservation staff.				
– *Vibration Monitoring Results Report.* After construction is complete the project sponsor shall submit a final report from the historic architect or qualified historic preservation professional (if the historic building at 447 Battery Street has not been demolished) and/or structural engineer to the planning department. The report shall include, at a minimum, collected monitoring records, building and/or structure condition summaries, descriptions of all instances of vibration level exceedance, identification of damage incurred due to vibration, and corrective actions taken to restore damaged buildings and structures. The planning department shall review and approve the Vibration Monitoring Results Report.	Project sponsor, structural engineer, and, historic architect or qualified historic preservation professional.	Following end of construction activities	Project sponsor and structural engineer, historic architect, or qualified historic preservation professional to submit a Vibration Monitoring Results Report to planning department	Considered complete after approval of the Vibration Monitoring Results Report by the planning department.

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
AIR QUALITY				
Mitigation Measure M-AQ-4a: Off-Road Construction Equipment Emissions Minimization The project sponsor or the project sponsor's contractor shall comply with the following: ***A. Engine Requirements.*** 1. All off-road equipment greater than 25 horsepower (hp) and operating for more than 20 total hours over the entire duration of construction activities shall have engines that meet or exceed U.S. Environmental Protection Agency (EPA) Tier 4 Interim or Tier 4 Final off-road emission standards. 2. Where access to alternative sources of power are available, portable diesel engines shall be prohibited. 3. Diesel engines, whether for off-road or on-road equipment, shall not be left idling for more than two minutes, at any location, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment (e.g., traffic conditions, safe operating conditions). The project sponsor shall post legible and visible signs in English, Spanish, and Chinese, in designated queuing areas and at the construction site to remind operators of the two-minute idling limit. 4. The project sponsor shall instruct construction workers and equipment operators on the maintenance and tuning of construction equipment and require that such workers and operators properly maintain and tune equipment in accordance with manufacturer specifications. ***B. Waivers.*** 1. The planning department's Environmental Review Officer or designee (ERO) may waive the alternative source of power requirement of Subsection (A)(2) if an alternative source of power is limited or infeasible at the project site. If the ERO grants the waiver, the project sponsor must submit documentation that the equipment used for onsite power generation meets the requirements of Subsection (A)(1). 2. The ERO may waive the equipment requirements of Subsection (A)(1) if the project sponsor demonstrates that use of the alternative	Project sponsor/ contractor(s)	Prior to construction activities requiring the use of off-road equipment	Project sponsor and contractor(s) to submit certification statement to the Environmental Review Officer	Considered complete upon submittal of certification statement

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
equipment would not result in a cancer risk from project construction and operation that exceeds 7 per one million exposed and annual average PM2.5 concentrations that exceed 0.2 µg/m^3.				
C. Construction Emissions Minimization Plan. Before starting on-site construction activities, the project sponsor shall submit a Construction Emissions Minimization Plan (plan) to the ERO for review and approval. The Plan shall state, in reasonable detail, how the project sponsor will meet the requirements of Section A: 1. The plan shall include estimates of the construction timeline by phase, with a description of each piece of off-road equipment required for every construction phase. As reasonably available, the description may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel use and hours of operation. For any VDECS installed, the description may include: technology type, serial number, make, model, manufacturer, air board verification number level, and installation date and hour meter reading on installation date. 2. The project sponsor shall ensure that all applicable requirements of the plan have been incorporated into the contract specifications. The Plan shall include a certification statement that the project sponsor agrees to comply fully with the Plan. 3. The project sponsor shall make the plan available to the public for review onsite during working hours. The project sponsor shall post at the construction site a legible and visible sign summarizing the Plan. The sign shall also state that the public may ask to inspect the Plan for the project at any time during working hours and shall explain how to request to inspect the Plan. The project sponsor shall post at least one copy of the sign in a visible location on each side of the construction site facing a public right-of-way.	Project sponsor/ contractor(s)	Prior to construction activities	Project sponsor and contractor(s) to prepare and submit a Construction Emissions Minimization Plan to the Environmental Review Officer	Considered complete on findings by Environmental Review Officer that Construction Emissions Minimization Plan is complete
D. Monitoring. After start of construction activities, the project sponsor shall submit quarterly reports to the ERO documenting compliance with the plan. After completion of construction activities and prior to receiving a final certificate of occupancy, the project sponsor shall submit to the ERO a final report summarizing construction activities, including the start and	Project sponsor/ contractor(s)	Quarterly	Project sponsor and contractor(s) to submit quarterly reports to the	Considered complete upon findings by the Environmental Review Officer that

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
end dates and duration of each construction phase, and the specific information required in the plan.			Environmental Review Officer	the Plan is being/has been implemented
Mitigation Measure M-AQ-4b: Diesel Backup Generator Specifications				
The project sponsor shall ensure that the proposed diesel backup generators meet or exceed California Air Resources Board Tier 4 off-road emission standards. Additionally, once operational, the diesel backup generators shall be maintained in good working order for the life of the equipment and any future replacement of the diesel backup generators shall be required to be consistent with these emissions specifications. The operator of the facility at which the generators are located shall maintain records of the testing schedule for the diesel backup generators for the life of those diesel backup generators and to provide this information for review to the planning department within three months of requesting such information.	Project sponsor and facility operator(s)	During operation	Facility operator(s) to maintain records of the testing schedule for the life of the diesel backup generators and provide this information for review to the Planning Department within three months of requesting such information	Ongoing
GEOLOGY AND SOILS				
Mitigation Measure M-GE-5a: Worker Environmental Awareness Training during Ground-Disturbing Construction Activities				
Prior to commencing construction, and ongoing throughout ground disturbing activities (e.g., excavation, utility installation, the property owner or their designee (herein referred as property owner) shall ensure that all project construction workers are trained on the contents of the Paleontological Resources Alert Sheet, as provided by the environmental review officer (ERO). The Paleontological Resources Alert Sheet shall be prominently displayed at the construction site, during ground disturbing activities, to provide pre-construction worker environmental awareness training regarding potential paleontological resources.	Project sponsor/ contractor(s)	Prior to and during ground disturbing activities	Project sponsor and contractor(s) to submit a confirmation letter to the Environmental Review Officer each time a training session is held. The letter shall be submitted	Considered complete upon end of ground disturbing activities

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
In addition, the property owner shall inform construction personnel of the immediate stop work procedures and other procedures to be followed if bones or other potential fossils are unearthed at the project site. As new workers that will be involved in ground disturbing activities arrive at the project site, the construction supervisor shall train them. The property owner shall submit in writing (email, letter, memo) the timing of the worker training to the ERO. The letter shall confirm the project's location, the date of training, the location of the informational handout display, and the number of participants. The letter shall be transmitted to the ERO within 5 business days of conducting the training.			within five (5) business days of conducting a training session	
Mitigation Measure M-GE-5b: Discovery of Unanticipated Paleontological Resources during Ground-Disturbing Construction Activities				
In the event of the discovery of an unanticipated paleontological resource during construction, ground disturbing activities shall temporarily be halted within 20 feet of the find until the discovery is examined by a qualified paleontologist as recommended by the Society of Vertebrate Paleontology standards (SVP 2010) and Best Practices in Mitigation Paleontology (Murphey et al. 2019). Work within the sensitive area shall resume only when deemed appropriate by the qualified paleontologist in consultation with the ERO. The qualified paleontologist shall determine: (1) if the discovery is scientifically significant; (2) the necessity for involving other responsible or resource agencies and stakeholders, if required or determined applicable; and (3) methods for resource recovery. If a paleontological resource assessment results in a determination that the resource is not scientifically important, this conclusion shall be documented in a Paleontological Evaluation Letter to demonstrate compliance with applicable statutory requirements (e.g., Federal Antiquities Act of 1906, CEQA Guidelines section 15064.5, California Public Resources Code chapter 17, section 5097.5, Paleontological Resources Preservation Act 2009). The Paleontological Evaluation Letter shall be submitted to the ERO for review within 30 days of the discovery. If the qualified paleontologist determines that a paleontological resource is of scientific importance, and there are no feasible measures to avoid disturbing this paleontological resource, the qualified paleontologist shall prepare a Paleontological Impact Reduction Program (impact reduction program). The impact reduction program shall include measures to fully document and	Project sponsor, qualified paleontologist, and construction contractor	During ground disturbing activities	If necessary, the project sponsor and a qualified paleontologist shall submit a Paleontological Evaluation Letter or Paleontological Impact Reduction Program to the Environmental Review Officer	Considered complete upon end of ground disturbing activities or, if necessary, approval of a Paleontological Evaluation Letter or Paleontological Impact Reduction Program by the Environmental Review Officer

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
recover the resource of scientific importance. The qualified paleontologist shall submit the impact reduction program to the ERO for review and approval. The impact reduction program shall be submitted to the ERO for review within 10 business days of the discovery. Upon approval by the ERO, ground disturbing activities in the project area shall resume and be monitored as determined by the qualified paleontologist for the duration of such activities. The impact reduction program shall include: (1) procedures for construction monitoring at the project site; (2) fossil preparation and identification procedures; (3) curation of paleontological resources of scientific importance into an appropriate repository; and (4) preparation of a Paleontological Resources Report (report or paleontology report) at the conclusion of ground disturbing activities. The report shall include dates of field work, results of monitoring, fossil identifications to the lowest possible taxonomic level, analysis of the fossil collection, a discussion of the scientific significance of the fossil collection, conclusions, locality forms, an itemized list of specimens, and a repository receipt from the curation facility. The property owner shall be responsible for the preparation and implementation of the impact reduction program, in addition to any costs necessary to prepare and identify collected fossils, and for any curation fees charged by the paleontological repository. The paleontology report shall be submitted to the ERO for review within 30 business days from conclusion of ground disturbing activities, or as negotiated following consultation with the ERO.				
Mitigation Measure M-GE-5c: Preconstruction Paleontological Evaluation for Projects located in Class 3 (Moderate) Sensitivity Areas The project site is located in San Francisco in Moderate Sensitivity Area (Class 3), which require ground disturbance activities deeper than 5 feet and would include the removal of more than 2,500 cubic yards of soil. The property owner shall engage a qualified paleontologist to complete a site-specific Preconstruction Paleontological Resources Evaluation (paleontology preconstruction evaluation) prior to commencing soil-disturbing activities occurring on the project site, for projects located in moderate sensitivity zones. Prior to issuance of any demolition or building permit, the property owner shall submit the Preconstruction Paleontological Evaluation to the ERO for approval.	Project sponsor and qualified paleontologist	Prior to issuance of any demolition or building permit	Environmental Review Officer	Considered complete upon Environmental Review Officer approval of the paleontology preconstruction evaluation and findings by the that the evaluation recommendations

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
The purpose of the site-specific preconstruction evaluation is to identify early the potential presence of significant paleontological resources on the project site. At a minimum, the study shall include: 1. Project Description 2. Regulatory Environment – outline applicable federal, state and local regulations 3. Summary of Sensitivity Classification 4. Research Methods, including but not limited to: 4.1. Field studies conducted by the approved paleontologist to check for fossils at the surface and assess the exposed sediments. 4.2. Literature Review to include an examination of geologic maps and a review of relevant geological and paleontological literature to determine the nature of geologic units in the project area. 4.3. Locality Search to include outreach to the University of California Museum of Paleontology in Berkeley. 5. Results: to include a summary of literature review and finding of potential site sensitivity for paleontological resources; and depth of potential resources if known. 6. Recommendations for any additional measures that could be necessary to avoid or reduce any adverse impacts to recorded and/or inadvertently discovered paleontological resources of scientific importance, in addition to paleontology standard requirements for Worker Environmental Awareness Training during Construction (M-GE-4a) and Discovery of Unanticipated Paleontological Resources during Construction (M-GE-4b). Such measures could include: 6.1. Avoidance: If the cost of fossil recovery or other impact reduction options is determined to be too high, or permanent damage to the resource caused by surface disturbance is considered to be unavoidable, given the proposed construction, it may be necessary to "avoid" or "reroute" the portion of the project that intersects the fossil locality in order to prevent adverse impacts on the resource. Avoidance should also be considered if a known fossil locality appears to contain critical scientific information that should be left undisturbed for subsequent scientific evaluation. Avoidance for later				are being/have been implemented

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
scientific research is the typical mitigation recommendation made for scientifically significant extensive paleontological discoveries. 6.2. Fossil Recovery: If isolated small, medium- or large-sized fossils are discovered within a project area during field surveys or construction monitoring, and they are determined to be scientifically significant, they should be recovered. Fossil recovery may involve simply collecting a fully exposed fossil from the ground surface, or may involve a systematic excavation, depending upon the size and complexity of the fossil discovery. Fossil excavations should be designed in such a way as to minimize construction delays while properly collecting the fossil and associated data according to professional paleontological standards. 6.3. Sampling: Scientifically significant microfossils (vertebrate, invertebrate, plant, or trace fossils) may be identified in rock matrix during surveys or monitoring, or, if they are known to occur elsewhere in the same geologic unit or type of deposit in the general area, a determination of their presence or absence may require the use of test sampling of rock matrix for screen-washing in a paleontological laboratory. In some cases, depending upon the geologic unit involved, test sampling may be appropriate even if microfossils are not visible in the field. The fossils found, if any, will then be inspected and evaluated to determine their significance and whether additional steps are necessary to reduce paleontological impacts. Such steps may include collection of additional matrix for screen-washing. The decision to sample may not be made until monitoring is occurring, because it is usually triggered by conditions in the field. 6.4. Monitoring: If scientifically important paleontological resources are known to be present in an area, or if there is a moderate or high likelihood that subsurface fossils are present in geologic units or members thereof within a given project area based on prior field surveys, museum records, or scientific or technical literature, paleontological monitoring of construction excavations would be required. Monitoring involves systematic inspections of graded cut slopes, trench sidewalls, spoils piles, and other types of construction excavations for the presence of fossils, and the fossil recovery and documentation of these fossils before they are destroyed by further				

Adopted Mitigation Measures	Monitoring and Reporting Program[a]			
	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility	Implementation Responsibility
ground disturbing actions. Standard monitoring is typically used in the most paleontologically sensitive geographic areas/geologic units (moderate, high and very high potential); while spot-check monitoring is typically used in geographic areas/geologic units of moderate or unknown paleontological sensitivity (moderate or unknown potential). The goal of monitoring is to identify scientifically significant subsurface fossils as soon as they are unearthed in order to minimize damage to them and remove them and associated contextual data from the area of ground disturbance, thereby resulting in subsurface paleontological clearance. Microfossil sampling, macrofossil recovery, and avoidance of fossils may all occur during any monitoring program.				

NOTES:

[a] Definitions of MMRP Column Headings:

- *Adopted Mitigation Measures:* Full text of the mitigation measure(s) copied verbatim from the final CEQA document.
- *Implementation Responsibility:* Entity who is responsible for implementing the mitigation measure. In most cases this is the project sponsor and/or project's sponsor's contractor/consultant and at times under the direction of the planning department.
- *Mitigation Schedule:* Identifies milestones for when the actions in the mitigation measure need to be implemented.
- *Monitoring/Reporting Responsibility:* Identifies who is responsible for monitoring compliance with the mitigation measure and any reporting responsibilities. In most cases it is the Planning Department who is responsible for monitoring compliance with the mitigation measure. If a department or agency other than the planning department is identified as responsible for monitoring, there should be an expressed agreement between the planning department and that other department/agency. In most cases the project sponsor, their contractor, or consultant are responsible for any reporting requirements.
- *Monitoring Actions/Completion Criteria:* Identifies the milestone at which the mitigation measure is considered complete. This may also identify requirements for verifying compliance.

San Francisco Planning

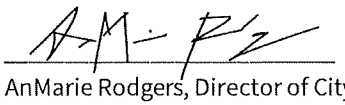
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

GENERAL PLAN REFERRAL

October 22, 2021

Case No.: 2019-017481GPR
Block/Lot No.: 0206 / 013, 014, and 017
Project Sponsor: San Francisco Fire Department
Applicant: Andrico Q. Penick, 415.554.9850
andrico.penick@sfgov.org
25 Van Ness Avenue, Suite 400, San Francisco, CA 94102

Staff Contact: Tam Tran, 628-652-7473
Tam.Tran@sfgov.org

Recommended By: 
AnMarie Rodgers, Director of Citywide Policy, for Rich Hillis, Director of Planning

Recommendation: Finding the project, on balance, is **in conformity** with the General Plan

Project Description

The General Plan Referral request stems from the Real Estate Division request for the Board of Supervisors' ratification of the Conditional Property Exchange Agreement (CPEA) and related transaction documents. This financial transaction would enable the construction of a replacement fire station, which is the subject of this General Plan Referral, along with a mixed-use development project describe below (two separate possible variant projects have been approved by the Planning Commission).

The overall proposed project is for demolition of existing structures and construction of either a residential variant project or a non-residential variant project either of which would be constructed within a 218-foot tower (exclusive of screening, mechanical penthouse, and other rooftop structures). The residential variant project would consist of approximately 256 units; the commercial variant project would consist a fitness retail club, office space, and ground-floor restaurant. The buildings proposed for demolition include the existing San Francisco Fire Department Station 13 and two adjacent commercial buildings. The commercial buildings are currently vacant. The proposed project will construct a replacement for Fire Station 13.

Environmental Review

The project was fully analyzed in the 530 Sansome Street Project Final Mitigated Negative Declaration, published on July 29, 2001 (Planning Case No. 2019-017481ENV).

General Plan Compliance and Basis for Determination

As described below, the proposed construction of a replacement fire station is consistent with the Eight Priority Policies of Planning Code Section 101.1 and is, on balance, in conformity with the Objectives and Policies of the General Plan.

The overall project was approved by the San Francisco Planning Commission on July 29, 2021 by Planning Commission Motion No. 20976. Through this Motion, the Commission found the overall project consistent with the Housing, Commerce and Industry, and Transportation Elements of the General Plan. This letter reaffirms those findings by reference and further provides the below findings specifically addressing the fire station component.

COMMUNITY FACILITIES ELEMENT

OBJECTIVE 5
DEVELOPMENT OF A SYSTEM OF FIREHOUSES WHICH WILL MEET THE OPERATING REQUIREMENTS OF THE FIRE DEPARTMENT IN PROVIDING FIRE PROTECTION SERVICES AND WHICH WILL BE IN HARMONY WITH RELATED PUBLIC SERVICE FACILITIES AND WITH ALL OTHER FEATURES AND FACILITIES OF LAND DEVELOPMENT AND TRANSPORTATION PROVIDED FOR IN OTHER SECTIONS OF THE GENERAL PLAN.

The proposed project would demolish existing Fire Station 13 and replace it with a larger, modern firefighting facility.

Planning Code Section 101 Findings

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The project is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

   The proposed construction of a replacement fire station would not have an effect on existing neighborhood-serving retail uses.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

   The proposed construction of a replacement fire station would not affect existing housing, as it would not

displace or alter any housing units. There is an existing fire station, and the replacement fire station would not affect the cultural and economic diversity of the neighborhood.

3. That the City's supply of affordable housing be preserved and enhanced;

   As it would not displace any housing, the proposed construction of a replacement fire station would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede Muni transit service or overburden our streets or neighborhood parking;
   The proposed construction of a replacement fire station would not have an effect on Muni transit service, streets, or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

   As it would not displace industrial or service-sector uses, the proposed construction of a replacement fire station would not have an effect on the City's industrial and service sectors or employment or ownership opportunities for San Francisco residents.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

   As the proposed construction of a replacement fire station would be built to adhere to structural and seismic safety requirements of the Building Code, it would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

   The proposed construction of a replacement fire station would not have an adverse effect on the City's landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

   The proposed construction of a replacement fire station would not have an adverse effect on parks and open space and their access to sunlight and vistas.

Recommendation: Finding the project, on balance, is in conformity with the General Plan

Attachment

Planning Commission Motion No 20956

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

November 2, 2021

File No. 211087

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On October 26, 2021, the Real Estate Department introduced the following legislation:

File No. 211087
Resolution ratifying the Conditional Property Exchange Agreement and Related Transaction Documents with EQX Jackson SQ Holdco LLC for a transfer of City real property at 530 Sansome Street (Assessor's Parcel Block No. 0206, Lot No. 017), under the jurisdiction of the Fire Department, in exchange for a portion of the real property at 425-439 Washington Street (Assessor's Parcel Block No. 0206, Lot Nos. 013 and 014); authorizing the Director of Property and City staff to proceed with the proposed Fire Station development project, subject to several conditions, as defined herein; adopting findings pursuant to the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

Brent Jalipa

By: Brent Jalipa, Assistant Clerk
Budget and Finance Committee

Attachment

c: Devyani Jain, Environmental Planning
Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

November 2, 2021

File No. 211087

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On October 26, 2021, the Real Estate Department introduced the following legislation:

File No. 211087
Resolution ratifying the Conditional Property Exchange Agreement and Related Transaction Documents with EQX Jackson SQ Holdco LLC for a transfer of City real property at 530 Sansome Street (Assessor's Parcel Block No. 0206, Lot No. 017), under the jurisdiction of the Fire Department, in exchange for a portion of the real property at 425-439 Washington Street (Assessor's Parcel Block No. 0206, Lot Nos. 013 and 014); authorizing the Director of Property and City staff to proceed with the proposed Fire Station development project, subject to several conditions, as defined herein; adopting findings pursuant to the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

Brent Jalipa

By: Brent Jalipa, Assistant Clerk
Budget and Finance Committee

Attachment

c: Devyani Jain, Environmental Planning
Joy Navarrete, Environmental Planning
Don Lewis, Environmental Planning

CEQA clearance under Final Mitigated Negative Declaration for 530 Sansome Street Case no. 2019-017481ENV, adopted July 29, 2021.

Joy Navarrete

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220, San Francisco, CA 94102
Phone: 415.252.3100 . Fax: 415.252.3112
ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #: 211087

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4
(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)
A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of $100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: https://sfethics.org/compliance/city-officers/contract-approval-city-officers

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING (*for amendment only*)
Original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	**EMAIL**
Office of the Clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Andrico Q. Penick	415.554.9850
FULL DEPARTMENT NAME	**DEPARTMENT CONTACT EMAIL**
ADM RED	rachel.gosiengfiao@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR EQX JACKSON SQ HOLDCO LLC	**TELEPHONE NUMBER** 415.677.9000
STREET ADDRESS (including City, State and Zip Code) 44 Montgomery St, Suite 1300, San Francisco CA 94104	**EMAIL**

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	**ORIGINAL BID/RFP NUMBER**	**FILE NUMBER (*If applicable*)** 211087
DESCRIPTION OF AMOUNT OF CONTRACT $32,128,429		
NATURE OF THE CONTRACT *(Please describe)* Contract as amended (including certain implementing documents) to be ratified by Board of Supervisors now that CEQA clearance is finalized.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
☐	**THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM**
☒	**A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES** Board of Supervisors
☐	**THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS**

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	ROSS	STEPHEN M.	Other Principal Officer
2	BLAU	JEFF T.	Other Principal Officer
3	BEAL JR.	BRUCE A.	Other Principal Officer
4	ZUSSMAN	DAVID K.	Other Principal Officer
5	CANORI	GINO	Other Principal Officer
6	O'TOOLE	RICHARD	Other Principal Officer
7	WONG	KENNETH P.	Other Principal Officer
8	CHO	BRYAN	Other Principal Officer
9	VANDERBOOM	NICK	Other Principal Officer
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			

9. AFFILIATES AND SUBCONTRACTORS			
List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.			
#	**LAST NAME/ENTITY/SUBCONTRACTOR**	**FIRST NAME**	**TYPE**
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			
34			
35			
36			
37			
38			

9. AFFILIATES AND SUBCONTRACTORS			
List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.			
#	**LAST NAME/ENTITY/SUBCONTRACTOR**	**FIRST NAME**	**TYPE**
39			
40			
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			
☐	Check this box if you need to include additional names. Please submit a separate form with complete information. Select "Supplemental" for filing type.		

10. VERIFICATION	
I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete. **I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**	
SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK BOS Clerk of the Board	**DATE SIGNED**

City & County of San Francisco
London N. Breed, Mayor

Office of the City Administrator
Carmen Chu, City Administrator

October 15, 2021

Honorable Board of Supervisors
City and County of San Francisco City Hall, Room 224
1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4689

RE: Ratification of Conditional Property Exchange Agreement and related transaction documents – 530 Sansome – Fire Station 13

Dear Board of Supervisors:

On behalf of the San Francisco Fire Department, the Real Estate Division is enclosing for your consideration a resolution ratifying the Conditional Property Exchange Agreement ("CPEA") related transaction documents with EQX JACKSON SQ HOLDCO LLC ("Developer") for a transfer of City real property at 530 Sansome Street ("City Property") in exchange for a portion of the real property at 425-439 Washington Street and authorizing the Director of Property and City staff to proceed with the proposed new Fire Station 13 development project, subject to several conditions and California Environmental Quality Act ("CEQA") findings.

On April 30, 2019, the Board of Supervisors adopted Resolution No. 220-19 approving the CPEA for the planning and potential exchange of the City Property for a new fire station to be completed by Developer. Under the CPEA, Developer intends to build a new four-story, 19,266 gross square foot fire station building (the "New Fire Station") on a future legal parcel of approximately 5,643 square feet at Washington Street mid-block between Sansome and Battery (the "Exchange Parcel"), and a new vertically-integrated mixed-use high-rise at the southeast corner of Sansome and Washington to contain either lower level lobby space, ground floor and rooftop restaurant spaces, a health club of approximately 35,000 square feet, a 200 room hotel and approximately 40,000 square feet of offices, or a proposed residential variant of similar building design, height and bulk, but with approximately 256 residential units instead of the hotel, office, fitness center, and retail/restaurant uses (the "Tower Project").

On June 2, 2020, the Board of Supervisors adopted Resolution No. 242-20 approving an updated CPEA which among other things increased the agreed upon project cost for the New Fire Station, at no additional cost to the City, from $25,000,000 to $32,128,429 and incorporated certain design changes requested by the Fire Department. Upon completion of the proposed New Fire Station and the satisfaction of closing conditions, the City will convey the City Property to Developer and Developer will convey the Exchange Parcel to the City, with the New Fire Station, as described in the CPEA.

The Board, by this resolution, is also being asked to ratify the Architect Contract, Ground Lease, Construction Contract, Construction Management Agreement, Completion Guaranty, Reciprocal Easement Agreement, as well as an amendment of the Conditional Exchange Agreement to extend the time periods for the approval of the above documents.

Should you have any questions or need additional information, do not hesitate to contact me at Andrico.penick@sfgov.org or at 415.554.9860.

Sincerely

Andrico Q. Penick
Director of Property