todco

NEIGHBORHOOD BUILDING SINCE 1971

September __, 2019

TODCO, The City, And Central SOMA Developers Agree To Settlement Of Litigation Now Holding Up $6 Billion Of New Office, Luxury Condo, And Affordable Housing Development

Tenants and Owners Development Corp. (TODCO) and its Civic Action subsidiary, the Yerba Buena Neighborhood Consortium (YBNC), have reached agreements with the City and four Central SOMA developers that will add vital Environmental Mitigations and Community Building commitments to the landmark Central SOMA Plan that was approved by the City in late 2018.

In exchange for the YBNC dropping its suit filed in December challenging the Plan's Environmental Impact Report, first, the City is agreeing to:

1. Undertake a comprehensive analysis and community input process to determine the future Public Facilities in SOMA and adjacent Central City Neighborhoods that will be needed for our Neighborhood's rapidly growing population, including public safety and public health facilities, facilities for the homeless, and future new City facilities on the pivotal Hall of Justice site. The analysis will be completed by mid-2021.

2. Undertake a comprehensive seismic safety analysis of the risks represented by the older buildings in SOMA and other parts of the City not already addressed by the City's mandatory structural retrofit programs, especially those located on bad soil conditions like one-half of Central SOMA. The outcome will be proposed additional structural retrofit requirements to protect the life safety of workers in these buildings and residents in these locations when – not if – the next major earthquake strikes SOMA and San Francisco.

And three more important related City commitments are already in process:

3. The SF Municipal Transportation Agency's plans for new two-way 'cycle tracks' on Howard and Folsom Streets in SOMA will be adjusted at key locations to ensure pedestrian safety is not compromised, especially for the elderly and disable residents of TODCO's Yerba Buena Neighborhood.

4. The community-based legislation to establish a new South of Market Neighborhood Planning Advisory Committee to review future City Planning and City agencies' proposals for all of SOMA, which was introduced by District 6 Supervisor Matt Haney in August and is set for approval in October.

5. The community-based legislation to establish a new Good Jobs ordinance for future Central SOMA projects, soon to be introduced by Supervisor Haney.

These City commitments will provide essential environmental mitigations and the job program that should have been part of the Central SOMA Plan. And they will ensure genuine public/community decision-making process from now on for all the key City decisions that will decide the future of our SOMA Communities.

At the same time, TODCO has reached direct agreements with four Central SOMA office developers to incorporate essential Neighborhood-Building retail and community arts spaces in their future mega-projects:
230 Fourth St. San Francisco CA 94103

6. Tishman Speyer has agreed to include 14,000 sq. ft. of Affordable Neighborhood-Serving Retail Space in the two Fifth Street buildings of its 598 Brannan Street project, charging rents no more than 60% of market rates for 30 years.

7. Kilroy Realty Co. has agreed to make best efforts to include another 14,000 sq. ft. of Neighborhood-Serving Retail Space in the two buildings of its Flower Mart project directly across Fifth Street.

8. Boston Properties has also agreed to include about 15,000 sq. ft. of Affordable Community Arts/Culture Space in its 725 Harrison Street project, charging rents no more than 60% of market rates for 30 years.

9. And Strada Investment Partners has also agreed to include about 10,000 sq. ft. of Affordable Community Arts/Culture Space in its 490 Brannan Street project, charging rents no more than 60% of market rates for 30 years.

These developer commitments will ensure that there will be over one acre of new spaces for future Neighborhood and Community Building businesses and cultural organizations that otherwise will inevitably be priced out of SOMA forever due to the gentrifying impact of these mega developments. At today's comparable rents, over the next 30 years they would total about $21,000,000 in rent reductions.

This Settlement also clears the way for two other now-pending big housing projects to now go ahead: Tishman Speyer's twin-tower 900+ unit 598 Fourth Street luxury condos, and the Tenderloin Neighborhood Development Corporation's 200+ unit Fifth and Howard Street "5H" affordable housing project.

At the same time – in legally unrelated but very much real-world connected issues – TODCO and the YBNC are preparing an Initiative Ballot Measure for March of 2020 that will also have crucial impact on the future of SOMA and beyond: The San Francisco Balanced Development Act. It will tighten and expand the City's seminal 1986 "Proposition M" Annual Limit on Office Development by:

10. Capping allowable Central SOMA office development at the 6,000,000 sq ft total amount of the 7 now-pending Central SOMA projects UNTIL 15,000 new housing units have been built in SOMA.

11. Accelerating the construction of those Central SOMA office projects that also include new affordable housing sites, Community facilities, and Affordable Neighborhood spaces such as above.

12. Allowing future office developments that also include ALL the affordable housing needed for their workers (709 affordable units per 1 million sq ft of office space) that is paid for by the office developer without City subsidies to go ahead without delay due to Prop M limits. Two major proposed mixed-use projects in Showplace Square and the Central Waterfront have already declared they will do it!

13. Otherwise, reducing directly the amount of future office development in San Francisco allowed by Prop M in years when the City fails to meet its State-mandated affordable housing development goal of 2042 units per year. And ensuring there is no overall increase in the Prop M limit over the long term.

Add it all up. TODCO is doing the City Building job in SOMA that will ensure our Neighborhood will be genuine community for San Franciscans of all backgrounds and circumstances. We are "South of Market Neighborhood Builders"!

230 Fourth St. San Francisco CA 94103

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and Mutual Release (the "Agreement") is made and entered into by and between petitioner YERBA BUENA NEIGHBORHOOD CONSORTIUM, LLC, a subsidiary of the non-profit California corporation TENANTS AND OWNERS DEVELOPMENT CORPORATION ("Petitioner" or "YBNC"), and respondents the CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO BOARD OF SUPERVISORS, and SAN FRANCISCO PLANNING DEPARTMENT (collectively, "Respondents" or "San Francisco"), and their respective attorneys.

San Francisco and YBNC are sometimes collectively referred to as the "Parties," and each is sometimes individually referred to as a "Party." This Agreement is intended by the Parties to settle and extinguish their obligations, disputes, and differences as set forth below.

RECITALS

A. On or about December 12, 2018, San Francisco approved the Central South of Market Area Plan ("Central SoMa Plan" or "Plan")—a comprehensive land use and development plan for an approximately 230-acre area comprising 17 city blocks that connect the central neighborhoods of the City, including Downtown, Mission Bay, Rincon Hill, and the Mission District. The Central SoMa Plan addresses a wide range of topics that include land use, transportation, infrastructure, parks and open space, recreation facilities, historic preservation, urban form, as well as programs and mechanisms to fund public improvements. Accordingly, the Plan consists of amendments to the City's General Plan, Administrative Code, Planning Code, and Zoning Maps. The Central SoMa Plan also identifies eight large and underutilized "Key Development Sites," for which the Plan contemplates greater development density and significant public benefits.

B. On January 16, 2019, YBNC filed a petition for writ of mandamus challenging and seeking to set aside San Francisco's certification of the environmental impact report ("EIR") for the Central SoMa Plan, as well as all project approvals, and for costs and attorney's fees pursuant to Code of Civil Procedure Section 1021.5 (San Francisco Superior Court, Case No. CPF-19-516493, the "Action").

C. In January 2019, three other petitioners also filed the following separate challenges to the Central SoMa Plan: *Jonathan Berk v. City and County of San Francisco, et al.*, San Francisco County Superior Case No. CPF-19-516491; *Paul Phillips, et al. v. City and County of San Francisco, et al.*, San Francisco County Superior Case No. CPF 19 516497; and *One Vassar LLC v. City and County of San Francisco, et al.*, San Francisco County Superior Case No. CPF-19-516498 (each a "Related Action," and collectively, "Related Actions"). Like the Action, each of the Related Actions sought to set aside the Central SoMa Plan's EIR and project approvals, based on similar allegations of noncompliance with the California Environmental Quality Act (Public Resources Code, § 21000, et seq., "CEQA").

D. Since YBNC commenced the Action, the Parties have engaged in good faith negotiations to address YBNC's concerns and to settle the Action.

E. As a product of the Parties' negotiations, on July 30, 2019, the San Francisco Board of Supervisors introduced an ordinance to establish the South of Market Community Planning Advisory Committee, to advise City officials and agencies on implementation of the Central SoMa Plan and related area plans. (Board of Supervisors File No. 181215.) Likewise, in response to Petitioner's concerns regarding the San Francisco Municipal Transportation Agency's (SFMTA) Folsom-Howard Streetscape Project, on June 20, 2019, the SFMTA Board

directed staff to work closely with stakeholders "to identify specific design solutions that address safety concerns" raised by the Petitioner and to report quarterly to the SFMTA Board on its progress "until such time as the issue is mutually agreed to be resolved." (SFMTA Board Resolution No. 190618-075.) Petitioner has since reached such a resolution with SFMTA staff, as described in the SFMTA letter to Petitioner, dated September 13, 2019, and follow-up email of September 14, 2019.

F. The Parties have now reached agreement on the balance of YBNC's issues and concerns. Accordingly, the Parties and their respective attorneys now desire to finally and fully resolve the Action as set forth in this Agreement.

NOW, THEREFORE, in consideration of the facts recited above, and subject to the covenants, conditions, and promises contained in this Agreement, the Parties and their respective attorneys agree as follows:

AGREEMENT

1. This Agreement shall become effective on the date the Agreement is fully executed by all Parties ("Effective Date").

2. San Francisco's obligations under this Agreement, including those set forth in Paragraph 4, are subject to and expressly conditioned on the prior dismissal with prejudice, by signed court order, of each of the Related Actions.

3. Within ten (10) days of the Effective Date, YBNC shall file and serve a request for dismissal with prejudice of the Action, including all complaints and claims against San Francisco.

4. San Francisco agrees as follows:

a. No later than July 1, 2021, the City shall prepare and publish a report containing an analysis of the community facility needs in the greater South of Market area. In conducting this analysis the City shall engage and solicit input from the public and community groups, including but not limited to established CACs and CBDs, in the area. This effort, based on initial analysis started under the aegis of the "Southeast Framework for Community Facilities" initiated by an interagency working group, will account for the planned and expected cumulative growth in population over the next 25 years. At a minimum, the analysis will include as part of the "greater South of Market" the neighborhoods of the Tenderloin, Mission Bay, Showplace Square, and the "Hub" portion of the Market Octavia Plan area, and will consider any proposed redevelopment of sites in these areas that will create substantial numbers of jobs or housing units, including publicly owned sites. The analysis will identify various possible metrics for service standards and geographic distribution for a variety of publicly owned or managed community facilities common to residential neighborhoods and for which demand will increase as the result of population growth, such as libraries, recreation centers, police stations, fire stations, public schools (K-12), and health clinics. This effort will also include consultation with the City's Department of Homelessness and Supportive Housing (HSH) to coordinate that agency's efforts to adequately plan for and locate facilities serving the homeless in the South of Market, and also consultation with the City's Department of Real Estate (DRE) to coordinate that agency's efforts to adequately plan for and locate future public facilities on City properties in the South of Market.

b. The City shall establish a taskforce to consider and propose legislative solutions to identify and address buildings susceptible to damage from an earthquake. The taskforce will consider vulnerable buildings citywide, including in the Central SoMa Plan Area, that have not yet been addressed by the City's existing seismic retrofitting programs and establish priorities and deadlines for evaluation and retrofit based on relative risk and vulnerability. In establishing priorities and deadlines, the taskforce will consider several factors including the building's age, size, construction type, soil condition, foundation, and occupancy. Similar to the unreinforced masonry building ("UMB") program and Soft-Story Ordinance, the taskforce will comprise a diverse group of stakeholders, community members, and technical experts. One member of the Task Force shall be appointed by Petitioner YBNC. The taskforce's ultimate charge will be to prepare a proposed ordinance, based on the scope described above, setting forth requirements for evaluation and retrofit of applicable buildings. This proposed ordinance may, in the Task Force's sole discretion, focus on a limited subset of high-risk buildings or geographic locations within the City. The taskforce will be established no later than December 31, 2021.

5. As of the Effective Date, San Francisco on the one hand, and YBNC on the other hand, on behalf of themselves and their respective present and future affiliates, related entities, partners, employees, agents, representatives, attorneys, predecessors, successors, and assigns (collectively, "Related Persons"), irrevocably, unconditionally, and fully release, forever discharge and covenant not to sue, each other and each other's respective Related Persons from and on account of any and all claims, demands, causes of action or charges of any nature whatsoever, known or unknown, suspected or unsuspected, including without limitation costs and fees of attorneys and experts, arising directly or indirectly from or related in any way to this Action, the Related Actions, or the final execution of this Agreement ("Release"). The Parties intend that this Release shall extend to claims regarding any permit, approval, or entitlement sought in connection with development proposed for a Key Development Site that is consistent with the planning and zoning controls established by the Central SoMa Plan.

6. The Parties understand their Release extends to claims of every nature and kind, known or unknown, suspected or unsuspected, past, present, or future arising directly or indirectly from or related in any way to this Action, the Related Actions, or the final execution of this Agreement. The Parties expressly waive any and all rights under Section 1542 of the California Civil Code or any analogous state or federal law or regulation. Section 1542 of the Civil Code of the State of California reads as follows:

> **A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

7. Each Party represents and warrants to the other that neither it nor any of its respective agents, representatives or attorneys, nor any other person or entity, in order to induce any of the Parties to enter into this Agreement, have made any promise, assurance, representation, inducement or warranty whatsoever, whether express or implied or statutory, which is not specifically set forth in writing in this Agreement and further acknowledge that this Agreement has not been entered into in reliance upon any promise, assurance, representation, inducement or warranty not expressly set forth in writing in this Agreement.

8. Each party represents and warrants to the other that it has read and understands this Agreement, and that this Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of the other Party. The Parties acknowledge that they have been represented or have had the opportunity to be represented in the negations and preparation of this Agreement by counsel of their own choice and that they are fully aware of the contents of this Agreement and of the legal effect of each and every provision herein.

9. Each Party represents and warrants to the other that the individual executing this Agreement on behalf of that Party has the authority to execute and thereby bind the Party for whom he/she executes this Agreement to the terms of this Agreement, and agrees to indemnify and hold harmless the other Party from any claim that such authority did not exist.

10. The Parties shall each execute any and all other documents and take any and all further steps which may be necessary or appropriate to further implement the terms of this Agreement.

11. This Agreement shall be construed as a whole in accordance with its fair meaning and in accordance with the laws of the State of California. Any litigation arising out of this Agreement shall be commenced in the Superior Court in the City and County of San Francisco.

12. The Parties stipulate and agree that this Agreement and the language used herein is the product of bargained for, arms-length negotiations between the Parties, in consultation with their attorneys. Therefore, each Party irrevocably waives the benefit of any rule of contract construction that disfavors the drafter of the Agreement. The language of this Agreement shall not be construed for or against any particular Party on the basis of which Party prepared the Agreement.

13. Except as otherwise stated in this Agreement, this Agreement represents the sole and entire agreement between the Parties with respect to the subject matters covered herein and supersedes all prior agreements, negotiations, and discussions between the Parties and/or their respective counsel.

14. No aspect of this Agreement, or the settlement which led to this Agreement, is intended to be nor at any time shall be construed, deemed, or treated in any respect as an admission by either party of liability, or wrongful actions, for any purpose.

15. Any amendment or modification to this Agreement must be in writing signed by duly authorized representatives of the Parties and state the intent of the Parties to amend or modify this Agreement.

16. This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, together, shall be deemed to constitute a single document. Facsimile and electronically scanned signatures shall be deemed to constitute original signatures.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) set for the hereinafter.

For the City and County of San Francisco:

Date: 9-17, 2019

SAN FRANCISCO PLANNING DEPARTMENT

By: JOHN RAHAIM
Director of Planning

Date: 9/17, 2019

OFFICE OF THE CITY ADMINISTRATOR

By: NAOMI M. KELLY
City Administrator

For the Yerba Buena Neighborhood Consortium, LLC

Date: 9/17, 2019

YERBA BUENA NEIGHBORHOOD CONSORTIUM, LLC

By: JOHN ELBERLING
Executive Director

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

Date: SEPT. 17, 2019

By: BRIAN F. CROSSMAN
Deputy City Attorney

BRANDT-HAWLEY LAW GROUP

Date: 17 sept, 2019

By: SUSAN BRANDT-HAWLEY
Counsel for Petitioner Yerba Buena
Neighborhood Consortium, LLC

AGREEMENT

This Agreement ("**Agreement**") is entered into by and among TSCE 2007 Brannan & Bryant Street, LLC, a Delaware limited liability company ("**Developer**"), Tenants and Owners Development Corporation, which is a California non-profit corporation ("**TODCO**"), and Yerba Buena Neighborhood Consortium LLC, a California nonprofit limited liability company ("**YBNC**"), which is a subsidiary of TODCO. Developer, YBNC, and TODCO are each sometimes referred to herein as a "**Party**" and are collectively referred to herein as the "**Parties.**" This Agreement is effective as of the date it is fully executed by all Parties (the "**Effective Date**").

RECITALS

A. In January 2019, four lawsuits were filed challenging the environmental review of the City of San Francisco's Central SoMa Area Plan ("**CSOMA Plan**") under the California Environmental Quality Act ("**CEQA**"):

1. On January 14, 2019, Jonathan Berk ("**Berk**") filed a Petition for Writ of Mandate San Francisco Superior Court, Case No. CPF-19-516491 ("**Berk Action**").

2. On January 15, 2019, YBNC filed a Petition for Writ of Mandamus in San Francisco Superior Court, Case No. CPF-516493 ("**YBNC Action**").

3. On January 16, 2019, Phillips filed a Verified Petition for Writ of Mandate in San Francisco Superior Court, Case No. CPF-516497 ("**Phillips Action**").

4. On January 16, 2019, One Vassar filed a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief in San Francisco County Superior Court, Case No. CPF-19-516498 ("**One Vassar Action**").

The above actions are collectively referred to herein as the "**CSOMA Litigation Actions.**"

B. Developer is a member of the Central SoMa Association ("**CSA**"), a California unincorporated association, which intervened in the Phillips Action, Berk Action, and YBNC Action as a real party in interest. CSA has not intervened in the One Vassar Action.

C. Developer proposes to develop a mixed-use office; retail; production, distribution, and repair ("**PDR**")/ community building space; and institutional project at 598 Bryant Street and 639, 645, and 649-651 Bryant Street in San Francisco, CA (Assessor's Block 3777, Lots 045 & 050-052) within the CSOMA Plan area ("**598 Brannan Project**"). The 598 Brannan Project contains a total of approximately 45,580 square feet of combined PDR and community building space and 11,890 square feet of retail space, split amongst three buildings. "**Building 1**" is a mixed-use office building located at the northeast corner of Brannan and 5th Streets, reaching a height of 160 feet (180 ft. to top of rooftop mechanical screening). "**Building 2**" is a mixed-use office building located at the southeast corner of 5th and Welsh Streets, reaching a height of 185 feet (205 ft. to top of rooftop mechanical screening). "**Building 3**" is a mixed-use office building located mid-block on Bryant Street, reaching a height of 150 feet (170 ft. to top of rooftop mechanical screening).

D. On June 6, 2019, the San Francisco Planning Commission granted Large Project Authorization and Office Allocation entitlements for the 598 Brannan Project pursuant to Motion Nos. 20459 and 20460 (**"Project Entitlements"**).

E. YBNC and TODCO are interested in ensuring that some portion of the PDR and community building space (collectively referred to herein as **"PDR Space"**), and/or retail space (**"Retail Space"**) within the approved 598 Brannan Project is made available at below-market rents to ensure that small, local businesses have an opportunity to lease space within the project. YBNC is also encouraging CSOMA Plan area developers to include neighborhood-serving retail uses that will support the community within the CSOMA Plan area.

F. The Parties have agreed it is in their mutual interests to execute this Agreement on terms established herein, to provide for the mutual benefit of the Parties.

NOW THEREFORE, for and in consideration of the promises, covenants, agreements and releases set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto do hereby convey and agree as follows:

AGREEMENT

1. Recitals. The above recitals are true and correct and incorporated as terms of this Agreement.

2. Consultation with Independent Counsel. Each Party to this Agreement represents and warrants that it has had the opportunity to consult with independent counsel, with respect to the advisability of signing this Agreement. Each Party represents and warrants that it has read and understands this Agreement and is readily familiar with and understands its legal effect(s).

3. Developer Obligations.

   a. Conditional Agreement. Developer's obligations under Sections 3.b and 3.c of this Agreement are conditioned upon (1) dismissal of the YBNC Action with prejudice; (2) Developer having received a first certificate of occupancy for the 598 Brannan Project; (3) YBNC's compliance with all obligations set forth under Section 4 of this Agreement; and (4) Developer's assembly of all of the land necessary to develop the 598 Brannan Project. Nothing in this Agreement shall obligate Developer to construct the Project. If the Conditions set forth in this Section 3(a) are satisfied, then Developer's obligations under Sections 3.b and 3.c of this Agreement are binding. (Notwithstanding the above, other than negotiating this Agreement and the terms and conditions hereof, to the extent that Developer undertakes leasing or marketing activities with regard to the BMR Space prior to satisfaction of such Conditions, obligations of Sections 3.b and 3.c are effective with regard to such activities). The Parties acknowledge that YBNC is not required to waive any rights it may have under the YBNC Action prior to dismissal of that action.

b. Rent Reduction.

i. BMR Space. Developer shall ensure that at least 24,000 gross square feet of the combined PDR Space and Retail Space approved under the Project Entitlements is provided at below-market rent, as described in subsection (ii) below. Seventeen thousand and five hundred (17,500) square feet of the space for which below-market rent is provided shall be located in Building 1 and Building 2 (the "**BMR Space**"). Developer shall determine what the split is between the amount of PDR and retail BMR Space within each of Building 1, Building 2, and Building 3. All floor areas subject to this Agreement shall be measured pursuant to the definition of Gross Floor Area as set forth in Planning Code Section 102.

ii. Amount of Reduction. At the time any lease subject to this Agreement is signed, the monthly rent charged for any portion of the BMR Space is no greater than sixty percent (60%) of the prevailing market rate, as established by reliable market data sources, for Class A Retail or Class A PDR Space, whichever the case may be. Market data will include available recent market comparable lease transactions. The Parties acknowledge that **Exhibit B** to this Agreement demonstrates the rent calculation based on the agreed upon 2019 market rents (triple-net) for the cumulative 17,500 square feet of BMR Space to be located within Building 1 and Building 2.

iii. Term of Reduction. The rent reduction set forth herein shall remain in effect for a period of thirty (30) years from issuance of a Temporary Certificate of Occupancy for the first office building completed within the 598 Brannan Project. At the expiration of the 30-year period, Developer, or its successors or assigns, shall make reasonable efforts to work with the community to maintain similar uses within the Project moving forward.

c. Neighborhood Serving Retail. Developer shall use commercially reasonable efforts in leasing the BMR Space to neighborhood-serving retail business, as those terms are defined in **Exhibit A**. The Parties acknowledge that the San Francisco Planning Code includes a definition of Neighborhood Serving Businesses (see **Exhibit A**), provided that the primary focus shall be for such businesses to serve the residents of the greater South of Market Neighborhood including the Mission Bay and Transbay districts, with the exception of restaurants. The Parties also acknowledge that under the current zoning controls for the 598 Brannan Project site, Formula Retail bars, restaurants, and limited restaurants are prohibited pursuant to Planning Code Section 249.78(c)(4)(A). The Parties further acknowledge that pursuant to Planning Code Section 249.78(c)(5)(D), the 598 Brannan Project is required to provide approximately 47,249 gross square feet of PDR Space, and that a future

Planning Code amendment would be required to allow portions of such PDR Space to be occupied by neighborhood-serving retail uses. Developer supports such an amendment in concept.

d. Inclusivity. The Parties acknowledge that the 598 Brannan Project is subject to many requirements under the CSOMA Plan, as well as other agreements with third party groups. Developer's obligation under this Agreement shall be inclusive of any other requirements the Project is already subject to under the CSOMA Plan, or has made with other third party groups.

4. YBNC and TODCO Obligations.

a. Dismissal of YBNC Action with Prejudice. YBNC shall take all necessary steps to settle and dismiss the YBNC Action with prejudice no later than September 30, 2019, and shall serve Developer with written confirmation of dismissal within three (3) business days after settlement of the YBNC Action.

b. No Further Opposition to Project. Neither YBNC nor TODCO shall, either directly or indirectly or through others, intentionally interfere with or oppose efforts by Developer to secure or maintain the effectiveness of any and all private agreements or local, state, and/or federal regulatory approvals, decrees, consents, permits, and other authorizations necessary to construct the 598 Brannan Project (the "**Land Use Approvals**"). Maintenance of the YBNC Action prior to dismissal does not constitute a violation of this Subsection 4.b.

5. No Admission of Liability. This Agreement is entered into in compromise of disputed claims. Each Party acknowledges that the execution of this Agreement is not and shall not be construed in any way as an admission of wrongdoing or liability on the part of any Party or any other person or business entity. YBNC and TODCO further acknowledge that Developer denies all allegations of wrongdoing alleged in the YBNC Action. The Parties intend, by this Agreement, merely to avoid the expense, delay, uncertainty, and burden of litigation.

6. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors of the Parties. "**Successors and Assigns**" means each Party's respective successors, assignees, buyers, grantees, vendees, or transferees, and their past or present. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. References in this Agreement to a Party refer to all successors and assigns of that Party.

7. Understanding of Agreement. The Parties understand and agree to this Agreement, including the terms and conditions contained herein and in the documents referred to herein, and have relied upon their own judgment, belief, knowledge, understanding, and expertise concerning the legal effect of this Agreement.

8. Voluntary Resolution. The Parties enter into this Agreement knowingly and voluntarily, in the total absence of any fraud, mistake, duress, coercion, or undue influence and after careful thought and reflection upon this Agreement; and accordingly, by signing this document they signify full understanding, agreement, and acceptance.

9. Investigation of Facts. The Parties acknowledge that they have consulted with and received the advice of an attorney admitted to practice law in the State of California, and that they execute this Agreement relying upon the advice of counsel and their own, independent investigation of the facts and analysis of the terms of this Agreement.

10. Nonwaiver. No waiver of a breach of any provision of this Agreement shall constitute a waiver of any preceding or succeeding breach of the same or any other provision hereof.

11. Ambiguities or Uncertainties. This Agreement and any ambiguities or uncertainties herein, shall be equally and fairly interpreted and construed without reference to the identity of the party or parties preparing this document, on the express understanding and agreement that the Parties participated equally in the negotiation and preparation of the Agreement, or have had equal opportunity to do so and to consult with counsel of their choice. Accordingly, the Parties waive the benefit of California Civil Code §1654 and any successor or amended statute, as well as similar law in any other jurisdiction, providing that in cases of uncertainty, language of a contract should be interpreted most strongly against the Party who caused the uncertainty to exist.

12. Attorneys' Fees. (a) In any action or proceeding between or among the Parties hereto at law or in equity with respect to, pertaining to, or arising from the breach, alleged breach, or enforcement of Section 3 of this this Agreement, whether for enforcement, or for damages by reason of any alleged breach, or for a declaration of rights or obligations, or otherwise, and including any arbitration, appeal, contempt proceeding, bankruptcy proceeding, and any action or proceeding to enforce and/or collect any judgment or other relief granted (collectively "**Litigation**"), the unsuccessful party to the Litigation shall pay to the prevailing party, in addition to any other relief that may be granted, all costs and expenses of the Litigation, including without limitation, the prevailing party's actual attorneys' fees and expenses. "**Attorneys' fees and expenses**" includes, without limitation, arbitrators' fees and expenses, paralegals' fees and expenses, attorneys' consultants' fees and expenses, expert witnesses' fees and expenses, and all other expenses incurred by the prevailing party's attorneys in the course of their representation of the prevailing party in anticipation of and/or during the course of the Litigation, whether or not otherwise recoverable as "attorneys' fees" or as "costs" under California or other governing law; and the same may be sought and awarded in accordance with California procedure as pertaining to an award of contractual attorneys' fees. Notwithstanding the forgoing, the attorneys' fees and expenses awarded to either party under this subsection (a) shall be no greater than $20,000.

(b) In any action or proceeding between or among the Parties hereto at law or in equity with respect to, pertaining to, or arising from the breach, alleged breach, or enforcement of any provision of this Agreement other than Section 3 of this Agreement, whether for enforcement, or for damages by reason of any alleged breach, or for a declaration of rights or obligations, or otherwise, and including any arbitration, appeal, contempt proceeding, bankruptcy proceeding, and any action or

proceeding to enforce and/or collect any judgment or other relief granted (collectively "**Litigation**"), the unsuccessful party to the Litigation shall pay to the prevailing party, in addition to any other relief that may be granted, all costs and expenses of the Litigation, including without limitation, the prevailing party's actual attorneys' fees and expenses. "**Attorneys' fees and expenses**" includes, without limitation, arbitrators' fees and expenses, paralegals' fees and expenses, attorneys' consultants' fees and expenses, expert witnesses' fees and expenses, and all other expenses incurred by the prevailing party's attorneys in the course of their representation of the prevailing party in anticipation of and/or during the course of the Litigation, whether or not otherwise recoverable as "attorneys' fees" or as "costs" under California or other governing law; and the same may be sought and awarded in accordance with California procedure as pertaining to an award of contractual attorneys' fees. There shall be no cap on the attorneys' fees and expenses awarded to either party under this subsection (b).

13. California Law; Construction. This Agreement and the documents referred to herein, shall be governed by and construed and interpreted in accordance with, the laws of the State of California. In the language of this document and the documents referred to herein, the singular and plural numbers, and the masculine, feminine and neuter genders, shall each be deemed to include all others, and the word "person" shall be deemed to include corporations and every other entity, as the context may require. The drafting and negotiating of this Agreement have been participated in by each of the Parties, and any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applied to interpretation of this Agreement.

14. Severability. In the event that any provision of this Agreement is held to be void, voidable, or unenforceable, the remaining portions hereof shall remain in full force and effect.

15. Multiple Counterparts; Execution by Facsimile Or PDF. This Agreement may be executed in any number of counterparts, each of which may be deemed an original and all of which together shall constitute a single instrument. Any Party may execute and/or deliver this Agreement by facsimile or PDF.

16. Modification and Amendment. This Agreement may be amended, altered, modified, or otherwise changed in any respect or particular only by a writing duly executed by all Parties hereto or their authorized representatives.

17. Enforceability. The Parties specifically agree that (i) this Agreement is admissible as evidence and subject to disclosure in enforcement proceedings; (ii) this Agreement is binding and enforceable; (iii) all the material terms of this Agreement are set forth herein; and (iv) this Agreement may be enforced in any court of competent jurisdiction.

18. Notices. All notices and payments to be made under this Agreement by the Parties, or any of them, and any other notice a Party desires to give another Party in relation to this Agreement shall be directed as follows:

DEVELOPER

TSCE 2007 Brannan & Bryant Street, LLC
One Bush Street, Suite 500

San Francisco, CA 94104
Attn: Carl Shannon

With a copy to:

Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Attn: Andrew J. Junius

YBNC

John Elberling
Yerba Buena Neighborhood Consortium LLC
230 Fourth Street
San Francisco, CA 94103

With a copy to:

Julian Gross
Law Office of Julian Gross
1438 Webster Street, Suite 303
Oakland, CA 94612

TODCO

John Elberling
TODCO
230 Fourth Street
San Francisco, CA 94103

With a copy to:

Julian Gross
Law Office of Julian Gross
1438 Webster Street, Suite 303
Oakland, CA 94612

19. Agreement to Cooperate. The Parties agree to reasonably cooperate, execute any and all supplementary documents and take additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

20. Scope of Obligation. Notwithstanding anything to the contrary contained in this Agreement, no direct or indirect officer, director, employee, trustee, shareholder, partner, member, principal, parent, subsidiary or other affiliate of either Party, or any officer, direct, employee, trustee, shareholder, partner, member or principal of any such parent, subsidiary or other affiliate will be personally liable for the performance of a Party's Obligations under this Agreement, and their individual assets shall not be subject to any claims of any person relating to such obligations. The foregoing shall govern any direct and indirect obligations of each Party under this Agreement. The provisions of this Section 20 shall survive any termination of this Agreement.

21. Assurance Regarding Preexisting Contracts. Developer, to the best of its actual knowledge, warrants and represents that, as of the Effective Date, it has not executed any contract pertaining to the Project that would preclude Developer's compliance with its obligations under this Agreement.

22. Compliance Information. No more than once each 12 month period beginning upon issuance of the TCO for the Project, TODCO may request from Developer the current rent roll for the spaces subject to this Agreement.

23. Default and Remedies.

a. Default. Failure by any Party to perform or comply with any term or provision of this Agreement, if not cured, shall constitute a default under this Agreement. Any breach or default of any provision of this Agreement by any Party hereto shall not terminate this Agreement or suspend the performance of any obligation or duty created by this Agreement by any Party until and unless it is determined by an arbitrator, pursuant to the provision of this Section, that such breach shall terminate the Agreement or entitle the non-defaulting Party to terminate the Agreement or to suspend performance.

b. Right to Cure. If any Party believes that another Party is in default of this Agreement, it shall provide written notice to the allegedly defaulting Party of the alleged default; offer to meet and confer in a good-faith effort to resolve the issue; and, except where a delay may cause irreparable injury, provide sixty calendar days to cure the alleged default, commencing at the time of the notice. Any notice given pursuant to this provision shall specify the nature of the alleged default, and, where appropriate, the manner in which the alleged default may be cured. Should the alleged defaulting party be acting diligently and in good faith to cure, in the event the cure cannot be completed within the sixty day period, the cure period shall be extended by an additional sixty day period.

c. Remedies. In the event that another Party is allegedly in default under this Agreement, then a Party alleging default may elect, in its sole and absolute discretion, to waive the default or to pursue remedies as described in this Section. Such remedies may be pursued only after exhaustion of the cure period described above, except where a default may result in irreparable injury, in which case the non-defaulting Party may immediately pursue the remedies

described herein. Any disputes under this Agreement shall be resolved by binding arbitration in San Francisco in accordance with the commercial arbitration rules of the Judicial Arbitration and Mediation Services (JAMS) then in effect, or any other rules mutually agreed to by the parties. The arbitrator is permitted to award remedies of specific performance and injunctive relief. Money damages, except for attorney's fees as set forth in Section 12, shall not be an available remedy for violations of this Agreement. Any award or order made in any such arbitration may be entered as a judgment in a court of competent jurisdiction.

24. Assignment or Transfer of Interests. In the event that Developer assigns or transfers all or any portion of the Project site that is subject to this Agreement, Project Entitlements, or Land Use Approvals, in each case to a third party that is not controlled by an affiliate of Developer, or through a sale grants a third party that is not controlled by an affiliate of Developer controlling rights to development of the Project, then Developer shall include in the documents effecting such assignment, transfer, or grant all applicable requirements of this Agreement so as to obligate the assignee, transferee, or grantee to satisfy all terms of this Agreement that have not been satisfied as of such assignment, transfer, or sale date, with such obligation enforceable by YBNC and TODCO. Developer shall provide to YBNC and TODCO a copy of the portions of the documents evidencing such obligation within ten (10) business days after the assignment, transfer, or grant. YBNC and TODCO shall comply with all reasonable confidentiality provisions requested by Developer or the assignee, transferee, or grantee, with regard to such documents.

25. Recordation. To ensure that certain successors of Developers are informed that obligations exist under this Agreement, Developers shall arrange for the recordation of a Memorandum of Agreement ("**MOA**") attached as **Exhibit C** with the San Francisco County Recorder. The Parties acknowledge that it is not possible to record the MOA as of the Effective Date. The Developer shall record the MOA within 90 days of taking title to the first parcel that is part of the 598 Brannan Project development site, or prior to any transfer of title of that parcel, whichever is first. Thereafter, the Developer shall record the MOA on the consolidated development parcel pursuant to the Subdivision Map Act necessary to construct the 598 Brannan Project within 90 days of recording the subdivision map for the consolidated parcel, or prior to any further transfer of title of the consolidated parcel, whichever is first. Upon the expiration of the 30 year period set forth in Section 3(b)(iii), TODCO and YBNC shall cooperate with Developer (or the then record owner of the 598 Brannan Project) to record the necessary documentation to remove the MOA from the development parcel title.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth herein.

[Signature Page Follows]

TSCE 2007 Brannan and Bryant Street, L.L.C.

By: _____

Name: Paul A. Galiano

Its: Senior Managing Director

Date: September 16, 2019

YBNC

By: _____

Name: JOHN ELBERLING

Its: MANAGER

Date: 9/17/19

TODCO

By: _____

Name: JOHN ELBERLING

Its: PRESIDENT

Date: 9/17/19

Exhibit A:

San Francisco Planning Code Section 102, "Neighborhood-Serving Business" definition.

Neighborhood-Serving Business. A neighborhood-serving business cannot be defined by the type of use, but rather by the characteristics of its customers, types of merchandise or service, its size, trade area, and the number of similar establishments in other neighborhoods. The primary clientele of a "neighborhood-serving business," by definition, is comprised of customers who live and/or work nearby.

While a neighborhood-serving business may derive revenue from customers outside the immediately surrounding neighborhood, it is not dependent on out-of-neighborhood clientele.

A neighborhood-serving use provides goods and/or services which are needed by residents and workers in the immediate neighborhood to satisfy basic personal and household needs on a frequent and recurring basis, and which if not available require trips outside of the neighborhood.

A use may be more or less neighborhood-serving depending upon its trade area. Uses that, due to the nature of their products and service, tend to be more neighborhood-serving are those which sell convenience items such as groceries, personal toiletries, magazines, and personal services such as cleaners, laundromats, and film processing. Uses that tend to be less neighborhood-oriented are those which sell more specialized, more expensive, less frequently purchased comparison goods such as automobiles and furniture.

For many uses (such as stores selling apparel, household goods, and variety merchandise), whether a business is neighborhood-serving depends on the size of the establishment: the larger the use, the larger the trade area, hence the less neighborhood-oriented.

Whether a business is neighborhood-serving or not also depends in part on the number and availability of other similar establishments in other neighborhoods: the more widespread the use, the more likely that it is neighborhood-oriented.

Exhibit B:

TODCO 2019 Discounted Rent Exhibit

EXHIBIT B

Large Format Space	
Square Footage:	12,500
2019 Market Rent (NNN):	$35.00
Small Format Space	
Square Footage:	5,000
2019 Market Rent (NNN):	$50.00

Discount to Market Rent:	40%
Hypothetical 2019 OpEx:	$20.00

2019 Discounted Rent Calculation:

		Discounted NNN Rent		Projected Operating Expenses		Projected All-In Discounted Rent	
	Square Footage	Gross $ Rent	$ / PSF Rent	Gross $ Amount	$ / PSF	Gross $ Amount	$ / PSF
Large Format Space	12,500	$262,500	$21.00	$250,000	$20.00	$512,500	$41.00
Small Format Space	5,000	$150,000	$30.00	$100,000	$20.00	$250,000	$50.00
Blended	17,500	$412,500	$23.57	$350,000	$20.00	$762,500	$43.57

EXHIBIT C

Form of Memorandum Recording Agreement

AGREEMENT

This Agreement ("**Agreement**") is entered into by and among BXP Harrison, LLC, a Delaware limited liability company ("**Developer**"), Tenants and Owners Development Corporation, which is a California non-profit corporation ("**TODCO**"), and Yerba Buena Neighborhood Consortium LLC, a California limited liability company ("**YBNC**"), which is a subsidiary of TODCO. Developer, YBNC, and TODCO are each sometimes referred to herein as a "**Party**" and are collectively referred to herein as the "**Parties**." This Agreement is effective as of the date it is fully executed by all Parties (the "**Effective Date**").

RECITALS

A. In January 2019, four lawsuits were filed challenging the environmental review of the City of San Francisco's Central SoMa Area Plan ("**CSOMA Plan**") under the California Environmental Quality Act ("**CEQA**"):

1. On January 14, 2019, Jonathan Berk ("**Berk**") filed a Petition for Writ of Mandate San Francisco Superior Court, Case No. CPF-19-516491 ("**Berk Action**").

2. On January 15, 2019, YBNC filed a Petition for Writ of Mandamus in San Francisco Superior Court, Case No. CPF-516493 ("**YBNC Action**").

3. On January 16, 2019, Phillips filed a Verified Petition for Writ of Mandate in San Francisco Superior Court, Case No. CPF-516497 ("**Phillips Action**").

4. On January 16, 2019, One Vassar filed a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief in San Francisco County Superior Court, Case No. CPF-19-516498 ("**One Vassar Action**").

The above actions are collectively referred to herein as the "**CSOMA Litigation Actions**."

B. Developer is a member of the Central SoMa Association ("**CSA**"), a California unincorporated association, which intervened in the Phillips Action, Berk Action, and YBNC Action as a real party in interest. CSA has not intervened in the One Vassar Action.

C. Developer proposes to develop a mixed-use office, production, distribution, and repair ("**PDR**") project at 4th & Harrison Street, San Francisco, CA (Assessor's Block 3762, Lots 106, 108, 109, 112, 116, 117) within the CSOMA Plan area ("**Project**"). The Project contains a total of approximately 29,100 gross square feet of PDR. The Project also includes a 15,000 square foot parcel at its northeastern end that will be transferred prior to issuance of the Project's site permit to the City and County of San Francisco for the construction of an affordable housing building (the "Affordable Housing Parcel").

D. The Project is seeking Large Project Authorization and Office Allocation entitlements for the Project pursuant to Case No. 2005.0759ENXOFA ("**Project Entitlements**").

E. YBNC and TODCO are interested in ensuring that some portion of the PDR space in the Project (referred to herein as "**PDR Space**") within the approved Project is made available

at below-market rents to ensure that small, local businesses have an opportunity to lease space within the project.

F. The Parties have agreed it is in their mutual interests to execute this Agreement on terms established herein, to provide for the mutual benefit of the Parties.

NOW THEREFORE, for and in consideration of the promises, covenants, agreements and releases set forth in this agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto do hereby convey and agree as follows:

AGREEMENT

1. Recitals. The above recitals are true and correct and incorporated as terms of this Agreement.

2. Consultation with Independent Counsel. Each Party to this Agreement represents and warrants that it has had the opportunity to consult with independent counsel, with respect to the advisability of signing this Agreement. Each Party represents and warrants that it has read and understands this Agreement and is readily familiar with and understands its legal effect(s).

3. Developer Obligations.

a. Conditional Agreement. Developer obligations under Sections 3.b and 3.c of this Agreement are conditioned upon (1) dismissal of the YBNC Action with prejudice; (2) Developer having received a first certificate of occupancy for the Project; (3) YBNC's compliance with all obligtions set forth under Section 4 of this Agreement; and (4) Developer's assembly of all of the land necessary to develop the Project. Nothing in this Agreement shall obligate Developer to construct the Project. If the Conditions set forth in this Section 3(a) are satisfied, then Developer's obligations under Sections 3.b and 3.c of this Agreement are binding. (Notwithstanding the above, other than negotiating this Agreement and the terms and conditions hereof, to the extent that Developer undertakes leasing or marketing activities with regard to the BMR Space prior to satisfaction of such Conditions, obligations of Sections 3.b and 3.c are effective with regard to such activities). The Parties acknowledge that YBNC is not required to waive any rights it may have under the YBNC Action prior to dismissal of that action.

b. Rent Reduction.

i. BMR Space. Developer shall ensure that approximately 15,000 gross square feet of the combined PDR Space approved under the Project Entitlements is provided at below-market rent, as described in subsection (ii) below (the "**BMR Space**").

ii. Amount of Reduction. At the time any lease subject to this agreement is signed, the monthly rent charged for any portion of the

BMR Space is no greater than sixty percent (60%) of the prevailing market rate, as established by reliable market data sources, for Class A PDR Space. Market data will include available recent market comparable lease transactions. The Parties acknowledge that **Exhibit A** to this Agreement demonstrates the rent calculation based on the agreed upon 2019 market rents (triple-net) for the 15,000 square feet of BMR Space. Developer further agrees to cooperate with a non-profit tenant of BMR Space as applicable in seeking property tax exemption based upon non-profit status and to pass through the tax reduction to tenant, including filing an annual tax exemption form with the City.

iii. Term of Reduction. The rent reduction set forth herein shall remain in effect for a period of thirty (30) years from issuance of a Temporary Certificate of Occupancy for the first office building completed within the Project. At the expiration of the 30-year period, Developer, or its successors or assigns, shall make reasonable efforts to work with the community to maintain similar uses within the Project moving forward.

c. Intentionally omitted.

d. Inclusivity. The Parties acknowledge that the Project is subject to many requirements under the CSOMA Plan, as well as other agreements with third party groups. Developer's obligation under this Agreement shall be inclusive of any other requirements the Project is already subject to under the CSOMA Plan, or has made with other third party groups.

4. YBNC and TODCO Obligations.

a. Dismissal of YBNC Action with Prejudice. YBNC shall take all necessary steps to settle and dismiss the YBNC Action with prejudice no later than September 30, 2019, and shall promptly serve Developer with written confirmation of the dismissal within three (3) days after settlement of the YBNC Action.

b. No Further Opposition to Project. Neither YBNC nor TODCO shall, either directly or indirectly or through others, intentionally interfere with or oppose efforts by Developer to secure or maintain the effectiveness of any and all private agreements or local, state, and/or federal regulatory approvals, decrees, consents, permits, and other authorizations necessary to construct the Project (the "**Land Use Approvals**"). Maintenance of the YBNC Action prior to dismissal does not constitute a violation of this Subsection 4.b.

5. No Admission of Liability. This Agreement is entered into in compromise of disputed claims. Each Party acknowledges that the execution of this Agreement is not and shall not be construed in any way as an admission of wrongdoing or liability on the part of any Party or

any other person or business entity. YBNC and TODCO further acknowledge that Developer denies all allegations of wrongdoing alleged in the YBNC Action. The Parties intend, by this Agreement, merely to avoid the expense, delay, uncertainty, and burden of litigation.

6. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors of the Parties. "Successors and **Assigns**" means each Party's respective successors, assignees, buyers, grantees, vendees, or transferees, and their past or present. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. References in this Agreement to a Party refer to all successors and assigns of that Party.

7. Understanding of Agreement. The Parties understand and agree to this Agreement, including the terms and conditions contained herein and in the documents referred to herein, and have relied upon their own judgment, belief, knowledge, understanding, and expertise concerning the legal effect of this Agreement.

8. Voluntary Resolution. The Parties enter into this Agreement knowingly and voluntarily, in the total absence of any fraud, mistake, duress, coercion, or undue influence and after careful thought and reflection upon this Agreement; and accordingly, by signing this document they signify full understanding, agreement, and acceptance.

9. Investigation of Facts. The Parties acknowledge that they have consulted with and received the advice of an attorney admitted to practice law in the State of California, and that they execute this Agreement relying upon the advice of counsel and their own, independent investigation of the facts and analysis of the terms of this Agreement.

10. Nonwaiver. No waiver of a breach of any provision of this Agreement shall constitute a waiver of any preceding or succeeding breach of the same or any other provision hereof.

11. Ambiguities or Uncertainties. This Agreement and any ambiguities or uncertainties herein, shall be equally and fairly interpreted and construed without reference to the identity of the party or parties preparing this document, on the express understanding and agreement that the Parties participated equally in the negotiation and preparation of the Agreement, or have had equal opportunity to do so and to consult with counsel of their choice. Accordingly, the Parties waive the benefit of California Civil Code §1654 and any successor or amended statute, as well as similar law in any other jurisdiction, providing that in cases of uncertainty, language of a contract should be interpreted most strongly against the Party who caused the uncertainty to exist.

12. Attorneys' Fees.

a. In any action or proceeding between or among the Parties hereto at law or in equity with respect to, pertaining to, or arising from the breach, alleged breach, or enforcement of Section 3 of this this Agreement, whether for enforcement,

or for damages by reason of any alleged breach, or for a declaration of rights or obligations, or otherwise, and including any arbitration, appeal, contempt proceeding, bankruptcy proceeding, and any action or proceeding to enforce and/or collect any judgment or other relief granted (collectively "**Litigation**"), the unsuccessful party to the Litigation shall pay to the prevailing party, in addition to any other relief that may be granted, all costs and expenses of the Litigation, including without limitation, the prevailing party's actual attorneys' fees and expenses. "**Attorneys' fees and expenses**" includes, without limitation, arbitrators' fees and expenses, paralegals' fees and expenses, attorneys' consultants' fees and expenses, expert witnesses' fees and expenses, and all other expenses incurred by the prevailing party's attorneys in the course of their representation of the prevailing party in anticipation of and/or during the course of the Litigation, whether or not otherwise recoverable as "attorneys' fees" or as "costs" under California or other governing law; and the same may be sought and awarded in accordance with California procedure as pertaining to an award of contractual attorneys' fees. Notwithstanding the forgoing, the attorneys' fees and expenses awarded to either party under this subsection (a) shall be no greater than $20,000.

b. In any action or proceeding between or among the Parties hereto at law or in equity with respect to, pertaining to, or arising from the breach, alleged breach, or enforcement of any provision of this Agreement other than Section 3 of this Agreement, whether for enforcement, or for damages by reason of any alleged breach, or for a declaration of rights or obligations, or otherwise, and including any arbitration, appeal, contempt proceeding, bankruptcy proceeding, and any action or proceeding to enforce and/or collect any judgment or other relief granted (collectively "**Litigation**"), the unsuccessful party to the Litigation shall pay to the prevailing party, in addition to any other relief that may be granted, all costs and expenses of the Litigation, including without limitation, the prevailing party's actual attorneys' fees and expenses. "**Attorneys' fees and expenses**" includes, without limitation, arbitrators' fees and expenses, paralegals' fees and expenses, attorneys' consultants' fees and expenses, expert witnesses' fees and expenses, and all other expenses incurred by the prevailing party's attorneys in the course of their representation of the prevailing party in anticipation of and/or during the course of the Litigation, whether or not otherwise recoverable as "attorneys' fees" or as "costs" under California or other governing law; and the same may be sought and awarded in accordance with California procedure as pertaining to an award of contractual attorneys' fees. There shall be no cap on the attorneys' fees and expenses awarded to either party under this subsection (b).

13. California Law; Construction. This Agreement and the documents referred to herein, shall be governed by and construed and interpreted in accordance with, the laws of the State of California. In the language of this document and the documents referred to herein, the singular and plural numbers, and the masculine, feminine and neuter genders, shall each be deemed to include all others, and the word "person" shall be deemed to include corporations and every other entity, as the context may require. The drafting and negotiating of this Agreement have been

participated in by each of the Parties, and any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applied to interpretation of this Agreement.

14. Severability. In the event that any provision of this Agreement is held to be void, voidable, or unenforceable, the remaining portions hereof shall remain in full force and effect.

15. Multiple Counterparts; Execution by Facsimile Or PDF. This Agreement may be executed in any number of counterparts, each of which may be deemed an original and all of which together shall constitute a single instrument. Any Party may execute and/or deliver this Agreement by facsimile or PDF.

16. Modification and Amendment. This Agreement may be amended, altered, modified, or otherwise changed in any respect or particular only by a writing duly executed by all Parties hereto or their authorized representatives.

17. Enforceability. The Parties specifically agree that (i) this Agreement is admissible as evidence and subject to disclosure in enforcement proceedings; (ii) this Agreement is binding and enforceable; (iii) all the material terms of this Agreement are set forth herein; and (iv) this Agreement may be enforced in any court of competent jurisdiction.

18. Notices. All notices and payments to be made under this Agreement by the Parties, or any of them, and any other notice a Party desires to give another Party in relation to this Agreement shall be directed as follows:

DEVELOPER

BXP Harrison, LLC
Four Embarcadero Center
San Francisco, CA 94111
Attn: Aaron Fenton

With a copy to:

Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Attn: James A. Reuben

YBNC

John Elberling
Yerba Buena Neighborhood Consortium LLC
230 Fourth Street
San Francisco, CA 94103

With a copy to:

Julian Gross
Law Office of Julian Gross
1438 Webster Street, Suite 303
Oakland, CA 94612

TODCO

John Elberling
TODCO
230 Fourth Street
San Francisco, CA 94103

With a copy to:

Julian Gross
Law Office of Julian Gross
1438 Webster Street, Suite 303
Oakland, CA 94612

19. Agreement to Cooperate. The Parties agree to reasonably cooperate, execute any and all supplementary documents and take additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

20. Scope of Obligation. Notwithstanding anything to the contrary contained in this Agreement, no direct or indirect officer, director, employee, trustee, shareholder, partner, member, principal, parent, subsidiary or other affiliate of either Party, or any officer, direct, employee, trustee, shareholder, partner, member or principal of any such parent, subsidiary or other affiliate will be personally liable for the performance of a Party's Obligations under this Agreement, and their individual assets shall not be subject to any claims of any person relating to such obligations. The foregoing shall govern any direct and indirect obligations of each Party under this Agreement. The provisions of this Section 20 shall survive any termination of this Agreement.

21. Assurance Regarding Preexisting Contracts. Developer, to the best of its actual knowledge, warrants and represents that, as of the Effective Date, it has not executed any contract pertaining to the Project that would preclude Developer's compliance with its obligations under this Agreement.

22. Compliance Information. No more than once each 12 month period beginning upon issuance of the TCO for the Project, TODCO may request from Developer the current rent roll for the spaces subject to this Agreement.

23. Default and Remedies.

a. Default. Failure by any Party to perform or comply with any term or provision of this Agreement, if not cured, shall constitute a default under this Agreement. Any breach or default of any provision of this Agreement by any Party hereto shall not terminate this Agreement or suspend the performance of any obligation or duty created by this Agreement by any Party until and unless it is determined by an arbitrator, pursuant to the provision of this Section, that such breach shall terminate the Agreement or entitle the non-defaulting Party to terminate the Agreement or to suspend performance.

b. Right to Cure. If any Party believes that another Party is in default of this Agreement, it shall provide written notice to the allegedly defaulting Party of the alleged default; offer to meet and confer in a good-faith effort to resolve the issue; and, except where a delay may cause irreparable injury, provide sixty calendar days to cure the alleged default, commencing at the time of the notice. Any notice given pursuant to this provision shall specify the nature of the alleged default, and, where appropriate, the manner in which the alleged default may be cured. Should the alleged defaulting party be acting diligently and in good faith to cure, in the event the cure cannot be completed within the sixty day period, the cure period shall be extended by an additional sixty day period.

c. Remedies. In the event that another Party is allegedly in default under this Agreement, then a Party alleging default may elect, in its sole and absolute discretion, to waive the default or to pursue remedies as described in this Section. Such remedies may be pursued only after exhaustion of the cure period described above, except where a default may result in irreparable injury, in which case the non-defaulting Party may immediately pursue the remedies described herein. Any disputes under this Agreement shall be resolved by binding arbitration in San Francisco in accordance with the commercial arbitration rules of the Judicial Arbitration and Mediation Services (JAMS) then in effect, or any other rules mutually agreed to by the parties. The arbitrator is permitted to award remedies of specific performance and injunctive relief. Money damages, except for attorney's fees as set forth in Section 12, shall not be an available remedy for violations of this Agreement. Any award or order made in any such arbitration may be entered as a judgment in a court of competent jurisdiction.

24. Assignment or Transfer of Interests. In the event that Developer assigns or transfers all or any fee title interest to the Project site that is subject to this Agreement in each case to a third party that is not controlled by an affiliate of Developer, or through a sale grants a third party that is not controlled by an affiliate of Developer controlling rights to development of the Project, then Developer shall include in the documents effecting such assignment, transfer, or grant all applicable requirements of this Agreement so as to obligate the assignee, transferee, or grantee to satisfy all terms of this Agreement that have not been satisfied as of such assignment, transfer, or sale date, with such obligation enforceable by YBNC and TODCO. Developer shall provide to

YBNC and TODCO a copy of the portions of the documents evidencing such obligation within ten (10) business days after the assignment, transfer, or grant. YBNC and TODCO shall comply with all reasonable confidentiality provisions requested by Developer or the assignee, transferee, or grantee, with regard to such documents.

25. Recordation. To ensure that certain successors of Developers are informed that obligations exist under this Agreement, Developers shall arrange for the recordation of a Memorandum of Agreement ("**MOA**") attached as **Exhibit B** with the San Francisco County Recorder. The Parties acknowledge that it is not possible to record the MOA as of the Effective Date. The Developer shall record the MOA within 90 days of taking title to the Project development site, or prior to the Developer's transfer of title to the Property to another entity, whichever is first. Upon transfer of the Affordable Housing Parcel to the City and County of San Francisco, TODCO and YBNC shall cooperate with the Developer to record the necessary documentation to remove the MOA from the Affordable Housing Parcel only. Upon the expiration of the 30 year period set forth in Section 3(b)(iii), TODCO and YBNC shall cooperate with Developer (or the then record owner of the Project) to record the necessary documentation to remove the MOA from the development parcel title.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth herein.

[Signature Page Follows]

DEVELOPER

By: _____

Name: Bob Pester

Its: Executive Vice President

Date: 9-16-2019

YBNC

By: _____

Name: _____

Its: _____

Date: _____

TODCO

By: _____

Name: _____

Its: _____

Date: _____

DEVELOPER

By:_____

Name:_____

Its:_____

Date: _____

YBNC

By:_____

Name: JOHN ELBERLING

Its: MANAGER

Date: 9/24/19

TODCO

By:_____

Name: JOHN ELBERLING

Its: PRESIDENT

Date: 9/24/19

Exhibit A:

TODCO 2019 Discounted Rent Exhibit

EXHIBIT A

Discounted PDR Rent Calculation	
725 Harrison PDR Square Footage	15,000
2019 Avg Market Rent (Full Service $/SF)*	$68.21
Hypothetical 2019 OpEx ($/SF)	$20.00
Adjusted 2019 Market rent (NNN $/SF)	$48.21
Discount to Market Rent	40%
2019 Discounted PDR Rent (NNN $/SF)**	$28.93
Projected Discounted PDR Rent (NNN Annual Rent)	$433,877

2019 PDR Rent Comparables for Deals over 10,000 SF

Transaction Date	Tenant	Address	Building Zoning	SF	Term (Mos)	Start Rent	FS Equiv	Inc.	Free Rent	TI's
3/1/2019	Molekule	1301 Folsom St	NCT	38,042	84	$66.00 IG	$ 70.00	3%	0	Turn-key
2/28/2019	Postmates	721 Brannan St	SALI	13,004	60	$62.00 IG	$ 66.00	3%	2	Turn-key
1/25/2019	Juul	1155 Bryant St	PDR-1-G	30,000	60	$65.00 IG	$ 69.00	3%	0	As-Is
1/5/2019	Origin	75 14th St	PDR 1-G	10,175	60	$58.00 IG	$ 62.00	3%	0	As-Is
						Average	*$ 68.21*			
				91,221						

**Rents identified in this Exhibit A are for illustrative purposes only and represent 2019 rents. Actual discounted rent calculation to be performed at time of lease negoations based on then-current rents*

***Discounted PDR Rent payable by Tenant is in addition to 100% of Tenant's pro-rata share of operating expenses and property taxes. Tenant is not responsible for its share of property taxes only to the extent Tenant obtains a property tax exemption from the City and County of San Francisco.*

Exhibit B:

Form of Memorandum Recording Agreement

AGREEMENT

This Agreement ("**Agreement**") is entered into by and among 490 Brannan Street LLC, a Delaware limited liability company ("**Developer**"), Tenants and Owners Development Corporation, which is a California non-profit corporation ("**TODCO**"), and Yerba Buena Neighborhood Consortium LLC, a California nonprofit limited liability company ("**YBNC**"), which is a subsidiary of TODCO. Developer, YBNC, and TODCO are each sometimes referred to herein as a "**Party**" and are collectively referred to herein as the "**Parties.**" This Agreement is effective as of the date it is fully executed by all Parties (the "**Effective Date**").

RECITALS

A. In January 2019, four lawsuits were filed challenging the environmental review of the City of San Francisco's Central SoMa Area Plan ("**CSOMA Plan**") under the California Environmental Quality Act ("**CEQA**"):

1. On January 14, 2019, Jonathan Berk ("**Berk**") filed a Petition for Writ of Mandate San Francisco Superior Court, Case No. CPF-19-516491 ("**Berk Action**").

2. On January 15, 2019, YBNC filed a Petition for Writ of Mandamus in San Francisco Superior Court, Case No. CPF-516493 ("**YBNC Action**").

3. On January 16, 2019, Phillips filed a Verified Petition for Writ of Mandate in San Francisco Superior Court, Case No. CPF-516497 ("**Phillips Action**").

4. On January 16, 2019, One Vassar filed a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief in San Francisco County Superior Court, Case No. CPF-19-516498 ("**One Vassar Action**").

The above actions are collectively referred to herein as the "**CSOMA Litigation Actions.**"

B. Developer is a member of the Central SoMa Association ("**CSA**"), a California unincorporated association, which intervened in the Phillips Action, Berk Action, and YBNC Action as a real party in interest. CSA has not intervened in the One Vassar Action.

C. Developer proposes to develop a mixed-use office; laboratory; and production, distribution, and repair/artist space ("**PDR**") project at 490 Brannan Street in San Francisco, CA (Assessor's Block 3776, Lot 025; "**Property**") within the CSOMA Plan area ("**490 Brannan Project**").

D. On May 28, 2019, the San Francisco Planning Department issued a Preliminary Project Authorization letter for the 490 Brannan Project, the Developer intends to soon file entitlement applications for the Project and expect Planning Commission authorization for the Project sometime in 2020 ("**Project Entitlements**").

E. YBNC and TODCO are interested in ensuring that some portion of the PDR space within the approved 490 Brannan Project (the "**PDR Space**") is made available at below-market rents to ensure that small, local businesses have an opportunity to lease space within the project.

YBNC is also encouraging CSOMA Plan area developers to include neighborhood-serving retail uses that will support the community within the CSOMA Plan area.

F. The Parties have agreed it is in their mutual interests to execute this Agreement on terms established herein, to provide for the mutual benefit of the Parties.

NOW THEREFORE, for and in consideration of the promises, covenants, agreements and releases set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto do hereby convey and agree as follows:

AGREEMENT

1. Recitals. The above recitals are true and correct and incorporated as terms of this Agreement.

2. Consultation with Independent Counsel. Each Party to this Agreement represents and warrants that it has had the opportunity to consult with independent counsel, with respect to the advisability of signing this Agreement. Each Party represents and warrants that it has read and understands this Agreement and is readily familiar with and understands its legal effect(s).

3. Developer Obligations.

a. Conditional Agreement. Developer's obligations under Section 3.b of this Agreement are conditioned upon (1) dismissal of the YBNC Action with prejudice; (2) Developer having received a first certificate of occupancy for the 490 Brannan Project; (3) YBNC's compliance with all obligations set forth under Section 4 of this Agreement; and (4) the Developer's taking fee title interest to the Property pursuant to its option agreement. Nothing in this Agreement shall obligate Developer to construct the Project. If the Conditions set forth in this Section 3(a) are satisfied, then Developer's obligations under Section 3.b of this Agreement are binding. (Notwithstanding the above, other than negotiating this Agreement and the terms and conditions hereof, to the extent that Developer undertakes leasing or marketing activities with regard to the BMR Space prior to satisfaction of such Conditions, obligations of Section 3.b are effective with regard to such activities). The Parties acknowledge that YBNC is not required to waive any rights it may have under the YBNC Action prior to dismissal of that action.

b. Rent Reduction.

i. BMR Space. Developer shall ensure that at least 10,000 gross square feet of the PDR Space that is ultimately approved under the Project Entitlements is provided at below-market rent, as described in subsection (ii) below (the "**BMR Space**"). All floor areas subject to this Agreement shall be measured pursuant to the definition of Gross Floor Area as set forth in Planning Code Section 102.

ii. Amount of Reduction. At the time any lease subject to this Agreement is signed, the monthly rent charged for any portion of the BMR Space is no greater than sixty percent (60%) of the prevailing market rate, as established by reliable market data sources, for Class A PDR Space. Market data will include available recent market comparable lease transactions. The Parties acknowledge that **Exhibit A** to this Agreement demonstrates the rent calculation based on the agreed upon 2019 market rents (triple-net) for the cumulative 10,000 square feet of BMR Space. Developer further agrees to cooperate with a non-profit tenant of BMR Space as applicable in seeking property tax exemption based upon non-profit status and to pass through the tax reduction to tenant, including filing an annual tax exemption form with the City.

iii. Term of Reduction. The rent reduction set forth herein shall remain in effect for a period of thirty (30) years from issuance of a Temporary Certificate of Occupancy for the 490 Brannan Project. At the expiration of the 30-year period, Developer, or its successors or assigns, shall make reasonable efforts to work with the community to maintain similar uses within the Project moving forward.

c. Inclusivity. The Parties acknowledge that the 490 Brannan Project is subject to many requirements under the CSOMA Plan, as well as other agreements with third party groups. Developer's obligation under this Agreement shall be inclusive of any other requirements the Project is already subject to under the CSOMA Plan, or has made with other third party groups.

4. YBNC and TODCO Obligations.

a. Dismissal of YBNC Action with Prejudice. YBNC shall take all necessary steps to settle and dismiss the YBNC Action with prejudice no later than September 30, 2019, and shall serve Developer with written confirmation of dismissal within three (3) business days after settlement of the YBNC Action.

b. No Further Opposition to Project. Neither YBNC nor TODCO shall, either directly or indirectly or through others, intentionally interfere with or oppose efforts by Developer to secure or maintain the effectiveness of the Project Entitlements and any and all private agreements or local, state, and/or federal regulatory approvals, decrees, consents, permits, and other authorizations necessary to construct the 490 Brannan Project (the "**Land Use Approvals**"). Maintenance of the YBNC Action prior to dismissal does not constitute a violation of this Subsection 4.b.

5. No Admission of Liability. This Agreement is entered into in compromise of disputed claims. Each Party acknowledges that the execution of this Agreement is not and shall not be construed in any way as an admission of wrongdoing or liability on the part of any Party or

any other person or business entity. YBNC and TODCO further acknowledge that Developer denies all allegations of wrongdoing alleged in the YBNC Action. The Parties intend, by this Agreement, merely to avoid the expense, delay, uncertainty, and burden of litigation.

6. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors of the Parties. "**Successors and Assigns**" means each Party's respective successors, assignees, buyers, grantees, vendees, or transferees, and their past or present. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the Parties or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement. References in this Agreement to a Party refer to all successors and assigns of that Party.

7. Understanding of Agreement. The Parties understand and agree to this Agreement, including the terms and conditions contained herein and in the documents referred to herein, and have relied upon their own judgment, belief, knowledge, understanding, and expertise concerning the legal effect of this Agreement.

8. Voluntary Resolution. The Parties enter into this Agreement knowingly and voluntarily, in the total absence of any fraud, mistake, duress, coercion, or undue influence and after careful thought and reflection upon this Agreement; and accordingly, by signing this document they signify full understanding, agreement, and acceptance.

9. Investigation of Facts. The Parties acknowledge that they have consulted with and received the advice of an attorney admitted to practice law in the State of California, and that they execute this Agreement relying upon the advice of counsel and their own, independent investigation of the facts and analysis of the terms of this Agreement.

10. Nonwaiver. No waiver of a breach of any provision of this Agreement shall constitute a waiver of any preceding or succeeding breach of the same or any other provision hereof.

11. Ambiguities or Uncertainties. This Agreement and any ambiguities or uncertainties herein, shall be equally and fairly interpreted and construed without reference to the identity of the party or parties preparing this document, on the express understanding and agreement that the Parties participated equally in the negotiation and preparation of the Agreement, or have had equal opportunity to do so and to consult with counsel of their choice. Accordingly, the Parties waive the benefit of California Civil Code §1654 and any successor or amended statute, as well as similar law in any other jurisdiction, providing that in cases of uncertainty, language of a contract should be interpreted most strongly against the Party who caused the uncertainty to exist.

12. Attorneys' Fees. (a) In any action or proceeding between or among the Parties hereto at law or in equity with respect to, pertaining to, or arising from the breach, alleged breach, or enforcement of Section 3 of this this Agreement, whether for enforcement, or for damages by reason of any alleged breach, or for a declaration of rights or obligations, or otherwise, and including any arbitration, appeal, contempt proceeding, bankruptcy proceeding, and any action or

proceeding to enforce and/or collect any judgment or other relief granted (collectively "**Litigation**"), the unsuccessful party to the Litigation shall pay to the prevailing party, in addition to any other relief that may be granted, all costs and expenses of the Litigation, including without limitation, the prevailing party's actual attorneys' fees and expenses. "**Attorneys' fees and expenses**" includes, without limitation, arbitrators' fees and expenses, paralegals' fees and expenses, attorneys' consultants' fees and expenses, expert witnesses' fees and expenses, and all other expenses incurred by the prevailing party's attorneys in the course of their representation of the prevailing party in anticipation of and/or during the course of the Litigation, whether or not otherwise recoverable as "attorneys' fees" or as "costs" under California or other governing law; and the same may be sought and awarded in accordance with California procedure as pertaining to an award of contractual attorneys' fees. Notwithstanding the forgoing, the attorneys' fees and expenses awarded to either party under this subsection (a) shall be no greater than $20,000.

(b) In any action or proceeding between or among the Parties hereto at law or in equity with respect to, pertaining to, or arising from the breach, alleged breach, or enforcement of any provision of this Agreement other than Section 3 of this Agreement, whether for enforcement, or for damages by reason of any alleged breach, or for a declaration of rights or obligations, or otherwise, and including any arbitration, appeal, contempt proceeding, bankruptcy proceeding, and any action or proceeding to enforce and/or collect any judgment or other relief granted (collectively "**Litigation**"), the unsuccessful party to the Litigation shall pay to the prevailing party, in addition to any other relief that may be granted, all costs and expenses of the Litigation, including without limitation, the prevailing party's actual attorneys' fees and expenses. "**Attorneys' fees and expenses**" includes, without limitation, arbitrators' fees and expenses, paralegals' fees and expenses, attorneys' consultants' fees and expenses, expert witnesses' fees and expenses, and all other expenses incurred by the prevailing party's attorneys in the course of their representation of the prevailing party in anticipation of and/or during the course of the Litigation, whether or not otherwise recoverable as "attorneys' fees" or as "costs" under California or other governing law; and the same may be sought and awarded in accordance with California procedure as pertaining to an award of contractual attorneys' fees. There shall be no cap on the attorneys' fees and expenses awarded to either party under this subsection (b).

13. California Law; Construction. This Agreement and the documents referred to herein, shall be governed by and construed and interpreted in accordance with, the laws of the State of California. In the language of this document and the documents referred to herein, the singular and plural numbers, and the masculine, feminine and neuter genders, shall each be deemed to include all others, and the word "person" shall be deemed to include corporations and every other entity, as the context may require. The drafting and negotiating of this Agreement have been participated in by each of the Parties, and any rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not be applied to interpretation of this Agreement.

14. Severability. In the event that any provision of this Agreement is held to be void, voidable, or unenforceable, the remaining portions hereof shall remain in full force and effect.

15. Multiple Counterparts; Execution by Facsimile Or PDF. This Agreement may be executed in any number of counterparts, each of which may be deemed an original and all of which

together shall constitute a single instrument. Any Party may execute and/or deliver this Agreement by facsimile or PDF.

16. Modification and Amendment. This Agreement may be amended, altered, modified, or otherwise changed in any respect or particular only by a writing duly executed by all Parties hereto or their authorized representatives.

17. Enforceability. The Parties specifically agree that (i) this Agreement is admissible as evidence and subject to disclosure in enforcement proceedings; (ii) this Agreement is binding and enforceable; (iii) all the material terms of this Agreement are set forth herein; and (iv) this Agreement may be enforced in any court of competent jurisdiction.

18. Notices. All notices and payments to be made under this Agreement by the Parties, or any of them, and any other notice a Party desires to give another Party in relation to this Agreement shall be directed as follows:

DEVELOPER

490 Brannan Street, LLC
101 Mission St., Ste. 420
San Francisco CA 94105
Attn: Jesse Blout

With a copy to:

Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Attn: John Kevlin

YBNC

John Elberling
Yerba Buena Neighborhood Consortium LLC
230 Fourth Street
San Francisco, CA 94103

With a copy to:

Julian Gross
Law Office of Julian Gross
1438 Webster Street, Suite 303
Oakland, CA 94612

TODCO

John Elberling
TODCO
230 Fourth Street
San Francisco, CA 94103

With a copy to:

Julian Gross
Law Office of Julian Gross
1438 Webster Street, Suite 303
Oakland, CA 94612

19. Agreement to Cooperate. The Parties agree to reasonably cooperate, execute any and all supplementary documents and take additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

20. Scope of Obligation. Notwithstanding anything to the contrary contained in this Agreement, no direct or indirect officer, director, employee, trustee, shareholder, partner, member, principal, parent, subsidiary or other affiliate of either Party, or any officer, direct, employee, trustee, shareholder, partner, member or principal of any such parent, subsidiary or other affiliate will be personally liable for the performance of a Party's Obligations under this Agreement, and their individual assets shall not be subject to any claims of any person relating to such obligations. The foregoing shall govern any direct and indirect obligations of each Party under this Agreement. The provisions of this Section 20 shall survive any termination of this Agreement.

21. Assurance Regarding Preexisting Contracts. Developer, to the best of its actual knowledge, warrants and represents that, as of the Effective Date, it has not executed any contract pertaining to the Project that would preclude Developer's compliance with its obligations under this Agreement.

22. Compliance Information. No more than once each 12 month period beginning upon issuance of the TCO for the Project, TODCO may request from Developer the current rent roll for the spaces subject to this Agreement.

23. Default and Remedies.

a. Default. Failure by any Party to perform or comply with any term or provision of this Agreement, if not cured, shall constitute a default under this Agreement. Any breach or default of any provision of this Agreement by any Party hereto shall not terminate this Agreement or suspend the performance of any obligation or duty created by this Agreement by any Party until and unless it is determined by an arbitrator, pursuant to the provision of this Section, that such breach shall terminate the Agreement or entitle the non-defaulting Party to terminate the Agreement or to suspend performance.

b. Right to Cure. If any Party believes that another Party is in default of this Agreement, it shall provide written notice to the allegedly defaulting Party of the alleged default; offer to meet and confer in a good-faith effort to resolve the issue; and, except where a delay may cause irreparable injury, provide sixty calendar days to cure the alleged default, commencing at the time of the notice. Any notice given pursuant to this provision shall specify the nature of the alleged default, and, where appropriate, the manner in which the alleged default may be cured. Should the alleged defaulting party be acting diligently and in good faith to cure, in the event the cure cannot be completed within the sixty day period, the cure period shall be extended by an additional sixty day period.

c. Remedies. In the event that another Party is allegedly in default under this Agreement, then a Party alleging default may elect, in its sole and absolute discretion, to waive the default or to pursue remedies as described in this Section. Such remedies may be pursued only after exhaustion of the cure period described above, except where a default may result in irreparable injury, in which case the non-defaulting Party may immediately pursue the remedies described herein. Any disputes under this Agreement shall be resolved by binding arbitration in San Francisco in accordance with the commercial arbitration rules of the Judicial Arbitration and Mediation Services (JAMS) then in effect, or any other rules mutually agreed to by the parties. The arbitrator is permitted to award remedies of specific performance and injunctive relief. Money damages, except for attorney's fees as set forth in Section 12, shall not be an available remedy for violations of this Agreement. Any award or order made in any such arbitration may be entered as a judgment in a court of competent jurisdiction.

24. Assignment or Transfer of Interests. In the event that Developer assigns or transfers all or any portion of the Project site that is subject to this Agreement, Project Entitlements, or Land Use Approvals, in each case to a third party that is not controlled by an affiliate of Developer, or through a sale grants a third party that is not controlled by an affiliate of Developer controlling rights to development of the Project, then Developer shall include in the documents effecting such assignment, transfer, or grant all applicable requirements of this Agreement so as to obligate the assignee, transferee, or grantee to satisfy all terms of this Agreement that have not been satisfied as of such assignment, transfer, or sale date, with such obligation enforceable by YBNC and TODCO. Developer shall provide to YBNC and TODCO a copy of the portions of the documents evidencing such obligation within ten (10) business days after the assignment, transfer, or grant. YBNC and TODCO shall comply with all reasonable confidentiality provisions requested by Developer or the assignee, transferee, or grantee, with regard to such documents.

25. Recordation. To ensure that certain successors of Developer are informed that obligations exist under this Agreement, Developer shall arrange for the recordation of a Memorandum of Agreement ("**MOA**") attached as **Exhibit B** with the San Francisco County Recorder. The Parties acknowledge that it is not possible to record the MOA as of the Effective Date. The Developer shall record the MOA within 90 days of taking title to the Property, or prior to any transfer of title of the Property, whichever is first. Upon the expiration of the 30 year period

set forth in Section 3(b)(iii), TODCO and YBNC shall cooperate with Developer (or the then record owner of the 490 Brannan Project) to record the necessary documentation to remove the MOA from the development parcel title.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth herein.

[Signature Page Follows]

DEVELOPER

By: _____

Name: Jesse Blout

Its: Member

Date: 9/25/19

YBNC

By: _____

Name: _____

Its: _____

Date: _____

TODCO

By: _____

Name: _____

Its: _____

Date: _____

DEVELOPER

By:_____

Name:_____

Its:_____

Date: _____

YBNC

By:_____

Name: JOHN ELBERLING

Its: MANAGER

Date: 9/24/19

TODCO

By:_____

Name: JOHN ELBERLING

Its: PRESIDENT

Date: 9/24/19

Exhibit A:

TODCO 2019 Discounted Rent Exhibit

EXHIBIT A

Discounted PDR Rent Calculation	
490 Brannan PDR Square Footage	10,000
2019 Avg Market Rent (Full Service $/SF)*	$68.21
Hypothetical 2019 OpEx ($/SF)	$20.00
Adjusted 2019 Market rent (NNN $/SF)	$48.21
Discount to Market Rent	40%
2019 Discounted PDR Rent (NNN $/SF)**	$28.93
Projected Discounted PDR Rent (NNN Annual Rent)	$289,251

2019 PDR Rent Comparables for Deals over 10,000 SF

Transaction Date	Tenant	Address	Building Zoning	SF	Term (Mos)	Start Rent	FS Equiv	Inc.	Free Rent	TI's
3/1/2019	Molekule	1301 Folsom St	NCT	38,042	84	$66.00 IG	$ 70.00	3%	0	Turn-key
2/28/2019	Postmates	721 Brannan St	SALI	13,004	60	$62.00 IG	$ 66.00	3%	2	Turn-key
1/25/2019	Juul	1155 Bryant St	PDR-1-G	30,000	60	$65.00 IG	$ 69.00	3%	0	As-Is
1/5/2019	Origin	75 14th St	PDR 1-G	10,175	60	$58.00 IG	$ 62.00	3%	0	As-Is
						Average	***$ 68.21***			
				91,221						

**Rents identified in this Exhibit A are for illustrative purposes only and represent 2019 rents. Actual discounted rent calculation to be performed at time of lease negoations based on then-current rents*

***Discounted PDR Rent payable by Tenant is in addition to 100% of Tenant's pro-rata share of operating expenses and property taxes. Tenant is not responsible for its share of property taxes only to the extent Tenant obtains a property tax exemption from the City and County of San Francisco.*

EXHIBIT B

Form of Memorandum Recording Agreement

CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

ANDREW SHEN
Deputy City Attorney

Direct Dial: (415) 554-554-4780
Email: andrew.shen@sfcityatty.org

September 26, 2019

TO ALL INTERESTED PARTIES:

Attached is the City Attorney's title and summary for a proposed measure entitled, "LIMITS ON OFFICE DEVELOPMENT." In preparing this title and summary, the City Attorney makes no representation regarding the merits or legality of the proposed legislation. Nor does the City Attorney verify or confirm any factual or legal assertion made in the proposal. The title and summary is presented as a "true and impartial statement of the purpose of the proposed measure." Elections Code § 9203.

Very truly yours,

DENNIS J. HERRERA
City Attorney

ANDREW SHEN
Deputy City Attorney

LIMITS ON OFFICE DEVELOPMENT

In 1986, San Francisco voters approved Proposition M, placing annual limits on new office space construction. Proposition M generally limits the total amount of new office space to 950,000 square feet each year. Of this amount, 875,000 square feet is available for projects with at least 50,000 square feet of office space ("Large Office Projects"). When a Large Office Project is approved, all of its allocated office space gets deducted against the limit in that year. If any office space goes unallocated, the unallocated amount carries over to the next year.

When it decides whether to approve office space, the City considers certain factors, including:

- the balance between economic growth, housing, transportation, and public services; and
- the suitability of the proposed project's location.

The State requires that cities plan for their housing needs and determines the amount of housing the Bay Area needs at different household income levels. The City's share of its housing needs is its Regional Housing Needs Allocation ("RHNA"). The City has not met its RHNA goals for very-low, low-, and moderate-income households ("Affordable Housing Goals").

In 2018, the City approved the Central SoMa Plan, which rezoned a portion of the South of Market ("SoMa") neighborhood roughly bordered by Second Street, Sixth Street, Townsend Street, and Folsom, Howard and Stevenson Streets. The Central SoMa Plan permits the development of several Large Office Projects.

This measure would tie Proposition M's annual limit on Large Office Projects in San Francisco to the City's affordable housing production. If the City falls short in meeting its Affordable Housing Goals, then the limit would go down by the same percentage as that shortfall.

The measure would also require the City to consider, when allocating office space, whether a Large Office Project includes affordable housing and community facilities beyond what the law requires.

The City's Planning Commission could grant a new exception from the annual limit for a Large Office Project if:

- it includes affordable housing, at a ratio of at least 809 units per 1 million square feet of new office space; and
- the affordable housing is on-site, or located off-site within an economically disadvantaged community.

For Large Office Projects in Central SoMa, the Planning Commission could grant another new exception from the lower annual limit, up to a total of 1.7 million square feet, if:

- the project sponsor submitted a proposal to the Planning Department before September 11, 2019;
- the project includes property to be given to the City for affordable housing, a space for community arts or neighborhood-serving retail at reduced rents, or a public safety facility; and
- until 15,000 new housing units are built in the wider SoMa neighborhood, the project would not cause the total amount of Large Office Projects approved in Central SoMa after January 1, 2019 to exceed a cumulative limit of 6 million square feet.

Any new office space approved using either of these new exceptions would be deducted against the annual limit evenly over a 10-year period, rather than in a single year.

Ordinance Amending the Planning Code of the City and County of San Francisco at an election to be held on March 3, 2020, to modify the Office Development Limitation Program.

NOTE: Unchanged Code text and uncodified text are in plain font. Additions to Codes are in *single-underline italics*. Deletions from Codes are in ~~strikethrough italics~~.

Be it ordained by the People of the City and County of San Francisco.

SECTION 1. Title.

This Initiative shall be known and may be cited as the "San Francisco Balanced Development Act" (referred to hereinafter as the "Initiative").

SECTION 2. Findings and Purposes

(a) In 1986, San Francisco voters adopted Proposition M. Proposition M established Priority Policies for the City's Master Plan and required that certain City decisions be consistent with those Priority Policies. It amended and extended an existing annual limitation on construction of new office space that was adopted by the Board of Supervisors in 1985 concurrently with approval of the Downtown Plan, a nationally recognized comprehensive plan to regulate downtown growth. It also required the City to study and adopt a program to coordinate local programs on job training and placement for people who live in San Francisco. Proposition M was first approved more than 30 years ago, and the real estate market in San Francisco has changed dramatically since then.

(b) San Francisco has among the lowest office space vacancy rates in the nation; office space is in high demand, and the high cost of renting forces out small local businesses and non-profits. Rising rents have left many of these small businesses and nonprofit organizations unable to find office space, pricing many out of the City. By modifying Prop M and creating new office space, we can relieve rent pressures and keep small firms and non-profits in San Francisco.

(c) In early 2011, the City began preparing the Central SoMa Plan to provide goals, objectives, and policies that will guide development of roughly 230 acres of land adjacent to Downtown San Francisco and bounded approximately by Second Street, Townsend Street, Sixth Street, Howard and Folsom Streets. The Central SoMa area has excellent transit access to regional and local transit, being served by CalTrain and numerous local and regional bus lines. Starting in 2020, the area will also be served by the Central Subway running down Fourth Street. The vision of the Central SoMa Plan is for the creation of a sustainable, transit-oriented neighborhood with a mix of housing, commercial, and light industrial uses. This measure will support reducing greenhouse gas emissions and curbing further sprawl by concentrating future office development adjacent to mass transit like the new Central Subway and Caltrain.

(d) New developments in the Central SoMa Plan Area are projected to generate up to $2 billion in direct public benefits to serve the Central SoMa neighborhood over the life of the Plan, along with an additional $1 billion for the City's General Fund. The Central SoMa Plan and Implementation Strategy, approved in Fall 2018, includes a detailed public benefits package that will increase fees and taxes on private developments to fund a comprehensive program of public improvements and construction of affordable housing. New developments will generate these direct public benefits by paying one-time impact fees and ongoing special taxes, constructing or dedicating land for affordable housing, and building public improvements. The $2 billion in direct public benefits represents a 667 percent increase in public benefits over the $300 million that would be generated without the Central SoMa Plan.

(e) In 2014, the voters adopted Proposition K, which established a goal of setting aside at least one-third of newly constructed units in the City as permanently affordable housing. Office projects will contribute to Proposition K's affordable housing goal by participating in the Jobs-Housing Linkage Program, which requires that office developments contribute land or funds for construction of affordable housing. Office developments within the Central SoMa Plan Area are anticipated to generate more than $200 million in affordable housing funds. This is a critical source of funding to ensure that the Central SoMa Plan achieves its goal of setting aside at least 33% of the new and rehabilitated housing within the South of Market Neighborhood as affordable to very low, low, and moderate income households consistent with Proposition K.

(f) Increased land values in SoMa due to new development make it impossible to buy sites for new affordable housing development, result in displacement of community arts organizations from the older buildings, and drive storefront commercial rents up to levels that neighborhood-serving stores cannot afford. This Initiative would create a reserve of 1,700,000 square feet of office space for large office projects that could be constructed within Central SoMa Plan Area earlier than would normally be allowed under Proposition M. To qualify for an allocation from this reserve, an office project would be required to either dedicate land for the construction of permanently affordable housing, include below-market community arts, neighborhood serving retail space, or build a new City public safety facility. Any allocation from the reserve would then be deducted in equal annual increments

over the next ten years from the office allocation allowed under Proposition M. Thus, the total amount of office development allowed on a citywide basis would not actually increase in the long term.

(g) The longtime Filipino and LQBTQ communities comprise a vibrant and integral social and spiritual fabric of the South of Market neighborhood. In recognition of this, the City has established the South of Market Filipino Cultural Heritage District and the South of Market LGBTQ Cultural Heritage District. This Initiative incentivizes provision of affordable spaces for such cultural facilities in Central SoMa.

(h) To ensure that housing production keeps pace with office construction, this Initiative would require the Planning Department to maintain an inventory of the number of residential units that have been approved within the South of Market Neighborhood and would prohibit the City from approving more than 6,000,000 square feet of large office projects within the Central SoMa Plan area until a total of at least 15,000 housing units have been approved and started construction there.

(i) This measure would also create an estimated 13,000 good union construction jobs with benefits. It would also support more than 28,000 permanent jobs with benefits in San Francisco and help more middle income families and residents stay in the City (Office of Economic & Workforce Development, 2017 estimate).

(j) This measure would potentially increase the supply of commercial office space sooner without any long-term increase overall, leading to lower rents and more opportunities for local businesses and organizations to remain in San Francisco during the current economic boom.

(k) Large-scale office developments in the City have attracted and continue to attract employees to the City, and there is a causal connection between such developments and the need for additional housing in the City, particularly housing affordable to households of lower and moderate income. Office developments in the City benefit from the availability of housing close by for their employees. However, housing development in the City has not kept pace with the demand for housing created by these new employees. Due to this shortage in housing, office employers have difficulty in securing a labor force, and employees, unable to find decent and affordable housing, will be forced to commute long distances, having a negative impact on quality of life, limited energy resources, air quality, social equity, and already-overcrowded highways and public transportation. This Initiative would provide significant incentives for additional development of affordable housing in conjunction with future office developments to directly address these crucial issues.

(l) The Bay Area has seen dramatic increases in costs for housing and the affordability gap for low- to moderate-income workers seeking housing. Commute patterns for the region have also changed, with more workers who work outside of San Francisco seeking to live in the City, thus increasing demand for housing here and decreasing housing availability. As the region's job center, San Francisco has historically had the highest ratio of jobs to housing units in the Bay Area. The ratio of jobs to housing has remained relatively unchanged between 1980 and 2019, at about 1.75 jobs per unit of housing.

(m) Objective 1, Policy 7 of the Residence Element of the San Francisco General Plan calls for the provision of additional housing to accommodate the demands of new residents attracted to the City by expanding employment opportunities caused by the growth of large-scale commercial activities in the City.

(n) Many of the employees in new office developments are competing with present residents for scarce, vacant affordable housing units in the City. The Mayor's Office of Housing and Community Development ("MOHCD") continues to see a widening affordability gap for extremely-low, low-, and moderate-income households in both the rental and homeownership markets.

(o) The City has consistently set housing production goals to address the regional and citywide forecasts for population, households, and employment. Although San Francisco has seen increased housing production each successive decade since the 1970s, the City has not been able to close the gap between its housing production goals and actual production.

(p) Demand for affordable housing has continued to rise yet there is a continuing shortage of low- and moderate-income housing in the City. For the years 2015-2022, housing production targets in the City's Housing Element called for 3,849 units per year. Of those, 57%, or 2,178 new units per year, should be affordable to meet growing demand.

(q) As demonstrated in the 2018 Jobs Housing Balance Report, between 2008 and 2018, the City produced only 657 net new affordable housing units per year, which represented 23.5% of housing production during that time period.

(r) The Jobs Housing Nexus Analysis of May 2019 prepared for the City and County of San Francisco by Keyser Marston Associates, Inc. determined that the Affordable Unit Demand Factor for 1,000 square feet of new San Francisco office development is currently 0.80892 affordable housing units. That is equal to 809 housing units affordable to households with household incomes no greater than 120% of Area Median Income per 1,000,000 square feet of new office development.

(s) State law requires each local government in California to adopt a Housing Element as part of its General Plan that shows how the community plans to meet the existing and project housing needs of people at all income levels. The Regional Housing Need Allocation (RHNA) is the State-mandated process to identify the total number of housing units by affordability level that each city must accommodated in its Housing Element. As part of that process the California Department of Housing And Community Development identifies the total housing need for the San Francisco Bay Area for an eight-year period from 2015 to 2023. The Association of Bay Area Governments then determines the distribution of this need to each city.

(t) In 2013, the Association of Bay Area Governments determined that this total eight-year RHNA allocation for Very-Low, Low, and Moderate income affordable housing development for San Francisco is 16,333 new affordable housing units, which is 2,042 new affordable housing units per year. This Initiative would provide new incentives that would significantly support achievement of this goal.

SECTION 3. Planning Code Amendment

Sections 320, 321, and 322 of the San Francisco Municipal Code (Planning Code) are hereby amended to read as follows:

SEC. 320. OFFICE DEVELOPMENT: DEFINITIONS.

When used in Sections 320-325~~, 321, 322 and 323~~, the following terms shall each have the meaning indicated. See also Section 102.

(a) "Additional office space" shall mean the number of square feet of gross floor area of office space created by an office development, reduced, in the case of a modification or conversion, by the number of square feet of gross floor area of preexisting office space which is lost.

(b) "Annual RHNA Affordable Housing Goal" shall mean one-eighth of the eight-year Final Regional Housing Need Allocation for the years 2015-2023 for San Francisco City and County, adopted by the Executive Board of the Association of Bay Area Governments on July 13, 2013, pursuant to California Government Code sec. 65580, for the "Very Low," "Low," and "Moderate" categories combined. The total eight-year Final Regional Housing Need Allocation in these categories combined is 16,333 units, which is 2,042 units per year. If future implementation of California Government Code sec. 65580, or any successor statewide mechanism to establish local affordable housing goals, establishes a higher annual allocation for San Francisco for production of units affordable to households earning up to 120 percent of area median income, then such higher annual allocation shall replace the number of units established pursuant to the first sentence of this Subsection (b). However, in no case shall the Annual RHNA Affordable Housing Goal be less than 2,042 units.

(c) ~~*(b)*~~ "Approval period" shall mean the 12-month period beginning on October 17, 1985 and each subsequent 12-month period.

(d) ~~*(c)*~~ "Approve" shall mean to approve issuance of a project authorization and shall include actions of the Planning Commission, Board of Appeals and Board of Supervisors.

(e) "City of San Francisco Affordable Housing Development Funding" means any capital development funds or subsidies administered or awarded by the City or County of San Francisco or any entity thereof. Such entities include the Office of Community Investment and Infrastructure, any future local redevelopment agency established pursuant to state law, the Port of San Francisco, and all other City or County departments or agencies. Such funds and subsidies include lease or sale of City property at less than market value, state or federal capital development funds administered or awarded by the City, and any other direct or indirect public support for capital development provided to a project. Tax credits, rent subsidies, and the Welfare Property Tax Exemption are excluded from this definition. Fees and exactions that are imposed on the proposed project pursuant to City requirements to fund affordable housing development that are retained or reimbursed for use by the proposed project to build affordable housing as a component of the project are excluded from this definition.

(f) "City's Affordable Housing Demand Ratio" means 809 housing units affordable to households with household incomes no greater than 120% of Area Median Income per 1,000,000 square feet of new office development, as detailed in the Jobs Housing Nexus Analysis of May 2019 prepared for the City and County of San Francisco by Keyser Marston Associates, Inc., which determined that the Affordable Unit Demand Factor for 1,000 square feet of new San Francisco office development is currently 0.80892 affordable housing units. The City shall update the Affordable Unit Demand Factor at least every five years, and the City's Affordable Housing Demand Ratio shall be adjusted according to the updated Factor.

(g) ~~*(d)*~~ "Completion" shall mean the first issuance of a temporary certificate of occupancy or a Certificate of Final Completion and Occupancy as defined in San Francisco Building Code Section 307.

(h) ~~*(e)*~~ "Disapprove" shall mean for an appellate administrative agency or court, on review of an office development, to direct that construction shall not proceed, in whole or in part.

(i) "Large Cap Maximum" shall mean the portion of the maximum set forth in Subsection (a)(1)(A) that is available to buildings of at least 50,000 square feet in gross floor area of office development.

(j) "New Affordable Housing Unit" shall mean a newly constructed unit with permanent affordability requirements that conform to standards established by the State of California as applicable to the City and County of San Francisco for determination of affordability to households with incomes of up to no more than 120 percent of the Area Median Income.

(k) ~~*(f)*~~ "Office space" shall mean space within a structure intended or primarily suitable for occupancy by persons or entities which perform for their own benefit or provide to others services at that location, including but not limited to professional, banking, insurance, management, consulting, technical, sales and design, or the office functions of manufacturing and

warehousing businesses, but shall exclude the following: Retail use; repair; any business characterized by the physical transfer of tangible goods to customers on the premises; wholesale shipping, receiving and storage; any facility, other than physicians' or other individuals' offices and uses accessory thereto, customarily used for furnishing medical services, and design showcases or any other space intended and primarily suitable for display of goods. This definition shall include all uses encompassed within Section 102 of this Code.

(l) ~~(g)~~ "Office development" shall mean construction, modification or conversion of any structure or structures or portion of any structure or structures, with the effect of creating additional office space, excepting only:

(1) Development which will result in less than 25,000 square feet of additional office space;

(2) Development either:

(i) Authorized under San Francisco Redevelopment Agency disposition or owner participation agreements which have been approved by Agency resolution prior to the effective date of this Section, or

(ii) Authorized prior to the effective date of this Section by Agency resolution in anticipation of such agreements with particular developers identified in the same or a subsequent agency resolution;

(3) Any development which is governed by prior law under Section 175.1(b) of this Code, unless modified after the effective date specified in Section 175.1(b) to add more than 15,000 square feet of additional office space. Any addition of office space up to 15,000 square feet shall count against the maximum for the approval period, pursuant to Section 321(a)(2)(B);

(4) Any development including conversion of 50,000 square feet or more of manufacturing space to office space where the manufacturing uses previously located in such space are relocated to another site within the City and County of San Francisco and the acquisition or renovation of the new manufacturing site is funded in whole or part by an Urban Development Action Grant approved by the Board of Supervisors;

(5) Any mixed-residential-commercial development which will be assisted by Community Development Block Grant funds approved by the Board of Supervisors in which all of the housing units shall be affordable to low-income households for a minimum of 40 years and for which an environmental review application and site permit application have been filed prior to the effective date of this ordinance which enacted the provisions of this Section;

(6) Any development authorized pursuant to a Planned Unit Development, as provided for by City Planning Code Section 304, providing for a total of 500 or more additional units of housing, provided such development first received a Planned Unit Development authorization prior to November 4, 1986. Such Planned Unit Development may be amended from time to time by the Planning Commission, but in no event shall any such amendment increase the amount of office space allowed for the development beyond the amount approved by the Planning Commission prior to November 4, 1986.

(m) "Produced" shall mean, with regard to an affordable housing unit, that the housing unit is issued a first construction document, as defined in San Francisco Building Code sec. 107A.13.1.

(n) ~~(h)~~ "Project authorization" shall mean the authorization issued by the Planning Department pursuant to Sections 321 and 322 of this Code.

(o) ~~(i)~~ "Replacement office space" shall mean, with respect to a development exempted by Subsection (g)(6) of this Section, that portion of the additional office space which does not represent a net addition to the amount of office space used by the occupant's employees in San Francisco.

(p) ~~(j)~~ "Retail Use" shall mean supply of commodities on the premises including, but not limited to, stores, shops, Restaurants, Bars, eating and drinking businesses, and Retail Sales and Services uses defined in Planning Code Section 102, except for Hotels and Motels.

(q) ~~(k)~~ "Preexisting office space" shall mean office space used primarily and continuously for office use and not accessory to any use other than office use for five years prior to Planning Commission approval of an office development project which office use was fully legal under the terms of San Francisco law.

SEC. 321. OFFICE DEVELOPMENT: ANNUAL LIMIT.

(a) Limit.

(1) *(A)* No office development may be approved during any approval period if the additional office space in that office development, when added to the additional office space in all other office developments previously approved during that approval period, would exceed 950,000 square feet or any lesser amount resulting from the application of Section 321.1. To the extent the total square footage allowed in any approval period is not allocated, the unallocated amount shall be carried over to the next approval period.

(B) For the one-year approval period that commences in October 2020, the Large Cap Maximum shall be permanently reduced by a percentage equal to the percentage by which the total of New Affordable Housing Units Produced in the City during the five calendar years of 2015-2019 is less than the combined total of five years of the Annual RHNA Affordable Housing Goal (i.e., 10,210 units). In no case shall operation of this Subsection (a)(1)(B) act to increase the office development permitted pursuant to Subsection (a)(1)(A).

(C) Thereafter, for the one-year approval period that commences in October 2021 and for all subsequent annual approval periods, the Large Cap Maximum for each single year shall be permanently reduced by a percentage equivalent to the percentage by which New Affordable Housing Units Produced in the City during the single complete calendar year prior to the calendar year in which the approval period commenced is less than the annual RHNA Affordable Housing Goal. In no case shall operation of this Subsection (a)(1)(C) act to increase the office development permitted pursuant to Subsection (a)(1)(A).

(2) The following amounts of additional office space shall count against the maximum set in Subsection (a)(1):

(A) All additional office space in structures for which the first building or site permit is approved for issuance during the approval period and which will be located on land under the jurisdiction of the San Francisco Port Commission or under the jurisdiction of the San Francisco Redevelopment Agency; provided, however, that no account shall be taken of structures which are exempt under Section 320(g)(2);

(B) The amount of added additional office space approved after the effective date of this ordinance in structures which are exempt under Section 320(g)(3);

(C) All additional office space in structures owned or otherwise under the jurisdiction of the State of California, the federal government or any State, federal or regional government agency, which structures are found to be otherwise exempt from this Section 321 or Section 322 by force of other applicable law;

(D) All additional office space in structures exempt under Section 320(g)(4) or 320(g)(6) or the last sentence of Section 175.1(b), or which satisfy the substantive terms of either of said exemptions but for which the first building or site permit is authorized or conditional use or variance approved by the Planning Commission after June 15, 1985 but before the effective date of this ordinance.

The additional office space described in Subsection (a)(2)(A) shall be taken into account with respect to all proposed office developments which are considered after the first site or building permit is approved for issuance for the described project. The additional office space described in Subsections (a)(2)(B) and (a)(2)(D) shall be taken into account with respect to all proposed office developments which are considered during the approval period and after the project or the added additional office space is first authorized or a conditional use or variance approved by the Planning Commission. The additional office space described in Subsection (a)(2)(C) shall be taken into account with respect to all proposed office developments which are considered during the approval period and after commencement of construction of the described structures. Modification, appeal or disapproval of a project described in this Section shall affect the amount of office space counted under this Section in the time and manner set forth for office developments in Section 321(c).

(3) The Planning Department shall maintain and shall make available for reasonable public inspection a list showing:

(A) All office developments and all projects subject to Section 321(a)(2) for which application has been made for a project authorization or building or site permit and, if applicable, the date(s) of approval and of approval for issuance of any building or site permit;

(B) The total amount of additional office space and, if applicable, replacement office space, approved with respect to each listed development;

(C) Approved office developments (i) which are subsequently disapproved on appeal; (ii) the permit for which expires or is cancelled or revoked pursuant to Subsection (d)(1) of this Section; or (iii) the approval of which is revoked pursuant to Subsection (d)(2) of this Section; and

(D) Such other information as the Department may determine is appropriate.

(4) Not less than six months before the last date of the approval period, the Planning Department shall submit to the Board of Supervisors a written report, which report shall contain the Planning Commission's recommendation with respect to whether, based on the effects of the limitation imposed by this Section on economic growth and job opportunities in the City, the availability of housing and transportation services to support additional office development in the City, office vacancy and rental rates, and such other factors as the Commission shall deem relevant, there should continue to be a quantitative limit on additional office space after the approval period, and as to what amount of additional office space should be permitted under any such limit.

(5) Every holder of a site permit issued on or after July 1, 1982 for any office development, as defined in Section 320(g) without regard to Subsections (g)(2) through (g)(5), shall provide to the Planning Commission reports containing data and information with respect to the following:

(A) Number of persons hired for employment either in construction of the development or, to the extent such information is available to the permittee, by users of the completed building;

(B) The age, sex, race and residence, by City, of each such person;

(C) Compensation of such persons, classified in $5,000 increments, commencing with annualized compensation of $10,000;

(D) The means by which each such person most frequently travels to and from the place of employment.

Such reports shall commence on October 1, 1985 and continue quarterly thereafter during the approved period. A report containing information by quarter for the period between July 1, 1982 and the effective date of the ordinance shall be submitted not later than December 31, 1985. The Planning Commission shall have full access to all books, records and documents utilized by any project sponsor in preparation of the written reports referred to above, and shall inspect such books, records and documents from time to time for purposes of authenticating information contained in such reports.

(6) Central SoMa Plan Area. This Subsection (a)(6) shall apply within the boundaries of the Central SoMa Special Use District, as established and described in Planning Code Sec. 249.78.

(A) Additional Limitations on Office Development. No more than a total of 6,000,000 square feet of office space shall be approved in office developments within the Central SoMa Plan Area, after January 1, 2019, until a combined total of at least 15,000 new housing units have been Produced within the South of Market Neighborhood, as delineated in the Neighborhood Boundaries Map contained within the Department of City Planning's May 2011 "San Francisco Neighborhoods Socio-Economic Profiles" report, after January 1, 2019 (the "South of Market Neighborhood"). Space in individual projects that contain less than 50,000 square feet of office space shall neither be subject to, nor contribute to, the footage limit described in this Subsection (a)(6)(A).

(B) Jobs-Housing Balance Monitoring. On or before October 17, 2020, and on an annual basis thereafter, the Planning Department shall publish an inventory of the number of housing units Produced that may be credited under this Subsection.

(C) Central SoMa Incentive Reserve. Notwithstanding the limit specified in Subsection (a)(1), the Planning Commission may approve up to an additional 1,700,000 square feet in total of office space located in the Central SOMA Special Use District. A proposed office development may only be approved pursuant to this Subsection (a)(6)(C) if all of the following criteria are satisfied:

(i) The Preliminary Project Assessment application for the proposed office development was submitted prior to September 11, 2019;

(ii) The proposed office development contains more than 49,999 square of additional office space;

(iii) The amount of office space in the proposed office development exceeds the square footage available pursuant to Subsection (a)(1) in the current approval period;

(iv) Any current or prior phase of the project of which the proposed office development is a part satisfies any of the following criteria:

(a) Includes a parcel on-site or off-site in the South of Market Neighborhood of no less than 10,000 square feet to be deeded to the City for future development of affordable housing;

(b) Includes community arts PDR space or neighborhood-serving retail space of no less than 10,000 square feet that will be affordable to such tenants at no more than 60% of comparable market rent for no less than 30 years.

(c) Includes funding and construction of a new or replacement City public safety facility of no less than 10,000 square feet on-site or off-site in the South of Market Neighborhood.

(v) Approval of the proposed office development would not cause the total amount of additional office development approved in the Central SoMa Plan Area to exceed the 6,000,000 square foot total allowed by Subsection (a)(6)(A).

(7) Office Jobs/Affordable Housing Balance Incentive Reserve. At the election of a project sponsor, the Planning Commission may grant an authorization for a proposed office development notwithstanding the limit specified in Subsection (a)(1) if all of the following criteria are satisfied:

(A) The proposed office development contains more than 49,999 square of additional office space.

(B) The proposed project of which the office development is a component includes development of New Affordable Housing units in an amount no less than 100% of the New Affordable Housing Units required to house the future employees of the proposed project's office development in accordance with the City's Affordable Housing Demand Ratio, and such units are either: (a) on-site, or (b) located off-site within a Community of Concern as designated by the Board of Supervisors and developed pursuant to a requirement included in a development agreement authorized by Government Code Section 65865 or any successor Section for the proposed office development. If the project sponsor elects to satisfy Section 415.5 of the Planning Code by payment of an Affordable Housing Fee to the City, then one-half (50%) of the New Affordable Housing Units credited to satisfaction of that inclusionary housing requirement by payment of the Fee in accordance with Subsection 515.5 (b)(C) shall also be counted toward satisfaction of this Subsection (a)(7)(B). For projects developed in multiple phases as provided in an approved development agreement authorized by Government Code Section 65865 or any successor Section, the total of all New Affordable Housing Units required to be Produced by the development agreement in all phases shall be considered in evaluating a project sponsor's application for an allocation of office space pursuant to this Subsection (7) at any time.

(C) No other City of San Francisco Affordable Housing Development Funding will be used to fund capital development costs of such affordable housing component of the project.

(8) Additional office space in projects approved pursuant to Subsections (a)(6)(C) and (a)(7) shall be deducted from the amount otherwise available pursuant to Subsection (a)(1) in equal annual increments of one-tenth of such approved additional office space per year over a ten year period. The first such deduction shall occur at the outset of the approval period that commences following approval of the proposed project, and the nine subsequent deductions shall occur annually at the outset of each approval period thereafter, until the proposed project's entire allocation of additional office space has been deducted from the ten subsequent approval periods.

(b) Guidelines.

(1) During the approval period, the Planning Commission, and the Board of Supervisors and Board of Appeals on appeal from the Planning Commission shall approve, within the allowable limit, subject to Subsection (b)(2) of this Section, only those office developments which they shall determine in particular promote the public welfare, convenience and necessity, and shall be empowered under this Section to disapprove the remainder. The Planning Department shall issue to office developments so approved, in accord with Sections 320 through 323 of this Code, a project authorization.

(2) The following proposed office developments, subject to all other applicable sections of this Code and other applicable law, shall be approved under this Section in preference to all others:

(A) All proposed developments to the extent approval is required by court order; and, thereafter,

(B) Subject to Subsection (a)(1) of this Section, all proposed office developments which were approved by the Planning Commission during the approval period, but subsequently disapproved by any administrative appellate body or court, if and when said disapproval is later reversed.

(3) In determining which office developments best promote the public welfare, convenience and necessity, the Board of Supervisors, Board of Appeals and Planning Commission shall consider:

(A) Apportionment of office space over the course of the approval period in order to maintain a balance between economic growth, on the one hand, and housing, transportation and public services, on the other;

~~*(B) The contribution of the office development to, and its effects on, the objectives and policies of the General Plan;*~~

~~*(C) The quality of the design of the proposed office development;*~~

(B) ~~*(D)*~~ The suitability of the proposed office development for its location, and any effects of the proposed office development specific to that location;

(C) Whether the proposed project includes development of New Affordable Housing Units such that all of the following criteria are satisfied:

(i) The New Affordable Housing units are on-site or located within a Community of Concern as designated by the Board of Supervisors;

(ii) The New Affordable Housing Units will be developed pursuant to a requirement included in a development agreement authorized by Government Code Section 65865 or any successor section for the proposed office development;

(iii) The number of New Affordable Housing Units is no less than 100% of the New Affordable Housing Units required to house the future employees of the proposed project's office development in accordance with the City's Affordable Housing Demand Ratio.

~~*(E) The anticipated uses of the proposed office development, in light of employment opportunities to be provided, needs of existing businesses, and the available supply of space suitable for such anticipated uses;;*~~

~~*(F) The extent to which the proposed development will be owned or occupied by a single entity;*~~

~~*(G) The use, if any, of TDR by the project sponsor.*~~

~~*Payments, other than those provided for under applicable ordinances, which may be made to a transit or housing fund of the City, shall not be considered.*~~

(D) The extent to which the project incorporates Community Improvements that exceed the requirements of zoning and City ordinances applicable to the project. "Community Improvement(s)" include construction, financing, land dedication, or land exchanges for the creation of any of the following facilities: community-serving facilities, including without limitation, childcare facilities, tot lots, community gardens, parks, indoor and outdoor neighborhood-oriented plazas and open space, neighborhood recreation centers, dog parks, public safety facilities, affordable space for community-serving retail services and food markets, and affordable space for community arts and cultural activities.

(4) Reserve for Smaller Buildings. In each approval period at least 75,000 square feet of office development shall be reserved for buildings between 25,000 and 49,999 square feet in gross floor area of office development. To the extent the total square footage allowed under this Subsection in any approval period is not allocated, the unallocated amount shall be carried over to the next approval period and added only to the Reserve for Smaller Buildings.

(5) With respect to any office development which shall come before the Board of Supervisors for conditional use review, that Board shall consider, in addition to those criteria made applicable by other provisions of law, the criteria specified in Subsection (b)(3). As to any such office development, the decision of the Board of Supervisors with respect to the criteria specified in Subsection (b)(3) shall be a final administrative determination and shall not be reconsidered by the Planning Commission or Board of Appeals.

(6) The Planning Commission shall establish procedures for coordinating review of project authorization applications under Section 322 with review under Section 309 of this Code. The Commission may hold hearings under Sections 309 and 322 in such sequence as it may deem appropriate, but may not issue any project authorization until the requirements of Section 309 have been satisfied.

(c) Appeal and Modification.

(1) If an approved office development is disapproved, or if a previously unapproved office development is approved, by a court or appellate agency, the list described in Subsection (a)(3) of this Section shall be revised accordingly at the time that the period for rehearing before the appellate body in question shall have lapsed. Approval on appeal of any office development, if conditioned on disapproval of another office development which was previously approved, shall not be effective before the time for rehearing with respect to the disapproval shall have lapsed.

(2) The amount of additional office space of any development shall not count against the maximum for the approval period, beginning from the time the office development loses its approved status on the Planning Department list under Subsection (c)(1); provided, however, that if a decision disapproving an office development permits construction of a part of the project, the permitted additional office space only shall continue to count against the maximum, unless and until all building or site permits for the development expire or are cancelled, revoked or withdrawn.

(3) Any modification of an approved office development, including, without limitation, modification by a court or administrative appellate agency, shall be governed by this Subsection, subject, in the case of a court order, to Subsection (b)(2)(A).

(A) Any office development which is modified for any reason after it is first approved so as to increase its amount of additional office space shall lose its approved status on the list described in Subsection (a)(3) at the time such modification is approved, and may be approved as modified only subject to the limits of Subsection (a)(1). Such a modified development shall not be constructed or carried out based on its initial approval. Approval on appeal of such a modified development, if approval would violate the maximum set forth in Subsection (a)(1) of this Section but for disapproval of another previously approved office development, shall not be effective, nor grounds for reliance, until the time for rehearing with respect to the disapproval shall have lapsed.

(B) An approved office development may be modified so as to reduce the amount of additional office space, subject to all authorizations otherwise required by the City. No additional office space shall become available for any other development during the approval period on account of such a modification, unless the modification is required by any appellate administrative agency or a court, in which case additional office space shall become available when the time for rehearing has lapsed.

(d) Unbuilt Projects; Progress Requirement.

(1) The maximum amount of additional office space for the approval period shall be increased by the amount of such space included in office developments which were previously approved during the period but for which during such period an issued site or building permit has been finally cancelled or revoked, or has expired, with the irrevocable effect of preventing construction of the office development.

(2) Construction of an office development shall commence within 18 months of the date the project is first approved, or, in the case of development in the C-3-O(SD) District the development shall commence within three (3) years. Notwithstanding the above provision, office projects larger than 500,000 gross square feet in the C-3-O(SD) District shall commence construction within five (5) years. Failure to begin work within that period, or thereafter to carry the development diligently to completion, shall be grounds to revoke approval of the office development. Neither the Department of Building Inspection nor the Board of Appeals shall grant any extension of time inconsistent with the requirements of this Subsection (d)(2).

(3) The Department of Building Inspection shall notify the Planning Department in writing of its approval for issuance and issuance of a site or building permit for any office development, and for any development under the jurisdiction of the Successor Agency to the Redevelopment Agency of the City and County of San Francisco or the Port Commission subject to Section 321(a)(2), and of the revocation, cancellation, or expiration of any such permit.

(e) Rules and Regulations. The Planning Commission shall have authority to adopt such rules and regulations as it may determine are appropriate to carry out the purposes and provisions of this Section and Sections 320, 322 and 323.

SEC. 322. PROCEDURE FOR ADMINISTRATION OF OFFICE DEVELOPMENT LIMIT.

(a) Project Authorization Required. During the approval period, every site or building permit application for an office development must, before final action on the permit, include a copy of a project authorization for such office development, certified

as accurate by the Planning Department. No such application shall be considered complete and the Department of Building Inspection shall not issue any such site or building permit unless such a certified copy is submitted. No site or building permit shall be issued for an office development except in accordance with the terms of the project authorization for such office development. Any such site or building permit which is inconsistent with the project authorization shall be invalid.

(b) Application for Project Authorization. During the approval period, an applicant for approval of an office development shall file an application for a project authorization with the Planning Department contemporaneously with the filing of an application for environmental evaluation for such development. Such application shall state such information as the Planning Department shall require; provided, however, that an application for a project authorization for each office development for which an environmental evaluation application has been filed prior to the effective date of this Section, shall be deemed to have been filed effective as of the date such environmental evaluation application was filed.

(c) Processing of Applications.

(1) The approval period shall be divided into such review periods as the Planning Commission shall provide by rule. The first review period shall commence on the effective date.

(2) Applications for project authorizations shall be considered by the Planning Commission during a specific review period in accordance with the following procedures:

(A) During a specific review period the Planning Commission shall consider all project authorization applications for which, prior to the first day of such review period, a final Environmental Impact Report has been certified, or a final Negative Declaration has been issued, or other appropriate environmental review has been completed; provided, however, that during the first review period, the Planning Commission shall consider only those office developments for which (i) an environmental evaluation application and a site or building permit application were submitted prior to June 1, 1985, or (ii) a draft environmental impact report or a preliminary negative declaration was published prior to the effective date.

(B) The Planning Commission may hold hearings on all project authorization applications assigned to a specific review period before acting on any such application.

(C) In reviewing project authorization applications, the Planning Commission shall apply the criteria set forth in Section 321, and shall, prior to the end of such a review period, approve, deny, or, with the consent of the applicant, continue to the next subsequent review period each such application based on said criteria.

(D) Notwithstanding any other provisions of this Section or Section 321, the Planning Commission may at any time, after a noticed hearing, deny or take other appropriate action with respect to any application for a project authorization as to which environmental review, in the judgment of the Commission, has not been or will not be completed in sufficient time to allow timely action under applicable law.

(E) Any project authorization application which is denied by the Planning Commission, unless such denial is reversed by the Board of Appeals or Board of Supervisors, shall not be resubmitted for a period of one year after denial.

(d) Appeal of Project Authorization. The Planning Commission's determination to approve or deny the issuance of a project authorization may be appealed to the Board of Appeals within 15 days of the Commission's issuance of a dated written decision pursuant to the procedural provisions of Section 308.2 of this Code, except in those ~~*instances*~~*cases* where *either (i)* a conditional use application was filed~~.~~*, or (ii) the project would proceed under terms of a development agreement authorized by Government Code Section 65865 or any successor section.* In ~~*cases in which a conditional use application was filed such case*~~, the decision of the Planning Commission may be appealed only to the Board of Supervisors pursuant to Section 308.1 of this Code. The decision on the project authorization by the Board of Appeals or Board of Supervisors shall be the final administrative determination as to all matters relating to the approval of the office development that is the subject of the project authorization, except for matters, not considered in connection with the project authorization, which arise in connection with a subsequent building or site permit application for the development in question.

(e) Modification of Project Authorization. The Planning Commission may approve a modified project authorization, after a noticed hearing, during the review period in which the initial project authorization was approved or a subsequent review period. Approval or denial of a modified project authorization shall be subject to appeal in accord with Subsection (d).

(f) No Right to Construct Conveyed. Neither approval nor issuance of a project authorization shall convey any right to proceed with construction of an office development, nor any right to approval or issuance of a site or building permit or any other license, permit, approval or authorization which may be required in connection with said office development.

RE-SUBMITTED AT GENERAL PUBLIC COMMENT OCT. 3RD 2019

Submitted at General Public Comment October 4, 2018 Planning Commission

Received at CPC Hearing 10/3/18

October 4, 2018

President Rich Hillis – RESIGNED
~~**Vice President Myrna Melgar**~~ VICE PRES.
Commissioner Kathrin Moore
~~**Commissioner Joel Koppel**~~
Commissioner Milicent Johnson
Commissioner Dennis Richards
Commissioner Rodney Fong – RESIGNED
COMMISSIONER FUNG

SF Planning Commission
Room 400
City Hall
San Francisco, California

Dear Commissioners:

The Planning Commission has done a fabulous job recently dealing with and cleaning up the illegal Demolitions on Montcalm, Alvarado, States and even Cragmont. These sites, as well as those reported by J.K. Dineen are all on one side of a continuum.

On the other side of this continuum are all the other projects that are listed on the handout I submitted at the joint hearing with BIC in April. It is reprinted on the other side of this letter, with a few updates and corrections. It is a list I have cobbled together based on observation and research. It is not city wide, nor is it comprehensive. *(In late 2015, Staff reviewed a 5-project Noe Valley sample from this list, determining that 40% were Demolitions).*

Based on certain design characteristics such as: *facade removals, vertical expansions, major to full lot excavations, complete interior gutting and a combination of demolition and new construction occurring at the same time*, these projects listed on the other side qualify as **Tantamount to Demolition (aka deFacto Demolition or TTD)** under Section 317.

They all *should* have qualified as Tantamount given that the outcome is the same. They are beyond the original intent of the Section 317 legislation passed in 2007, which was to allow for *"reasonable alterations"* and to limit or prevent Demolitions (as well as unit mergers).

Or at least 40% should have qualified as TTD. They are not *"reasonable alterations"*.

Per Section 317, specifically **Section 317 (b) (2) (D)**, the Planning Commission has the power to improve the efficacy of the policy to allow reasonable alterations and to limit Demolitions by adjusting the Demo Calcs. **This policy is in the Master Plan. Existing housing is more affordable housing.**

The Commission should follow the Zoning Administrator's example regarding RH-1 Demolitions, as he adjusted values three times in the last three years.* The Commission's own example with the Residential Flat Policy is a good guide. The Commission should use the non-legislative tools that are at hand in Planning Code Section 317 (b) (2) (D) **to preserve existing housing and implement policy efficacy by adjusting the Demo Calcs.**

Sincerely,

Georgia Schuttish

Georgia Schuttish

* NOW 4 TIMES IN LAST 5 YEARS.

~~cc: Mr. Rahaim; Mr. Sanchez; Mr. Ionin; Ms. Watty; Ms. Tam; Mr. Winslow; Mr. Starr.~~

2019 NOTE: 317(d)(3) + 317(d)(3)(A) ALLOW FOR ADMINISTRATIVE APPROVAL OF DEMO BY ZA IN RH-1. GS 10/3/2019

ADDRESSES TO CONSIDER AS POTENTIAL DEMOLITIONS SINCE JANUARY 2015 EMAILS

2149 Castro
2430 Castro RH-1
2025 Castro
4055 Cesar Chavez * ^ L
4068 Cesar Chavez L RH 2
4173 Cesar Chavez. L
4326 Cesar Chavez. L
1559 Church RM-1
41 Clipper
33 Day L. RH-2
118 Day
1188 Diamond $ L
1608 Dolores *
1156 Dolores *
1408 Douglass. L
310 Duncan*^
276 Duncan * L
844 Duncan
725 Duncan L
752 Duncan. L
55 Homestead L
235 Jersey * L
290 Jersey ^ * L
481 Jersey L
143 Laidley $ L
537 Laidley L
130 Randall
548 Rhode Island L
1235 Sanchez
1163 Shotwell * ^
1110 York**
1161 York *^ L
171 Valley
3790 21st Street * $ L
4028 25th Street $ L
4186 25th Street * L
3855 26th Street L
709 27th Street
739 27th Street L
450 27th Street
255 28th Street L. RH-2
386 28th Street ^
556 28th Street L RH-1
159 7th Avenue * ^ L
138 8th Avenue * ^
1540 17th Avenue
2829 Baker * L
2321 Bush * ^
150 Vicksburg*^ L
376 San Carlos * ^ L
17 Temple L.

GREEN ADDRESSES SHOULD HAVE BEEN DEMOS ON 2018 INVENTORY
AVERAGE *INCREASE* IN PRICE $3.62 million before and after work

January 2015 Addresses in Emails to Commission

2220 Castro L
1612 Church
1433 Diamond
865 Duncan
90 Jersey $
168 Jersey. L
1375 Noe $
50 Oakwood * L

4218 24th Street
4318 26th Street L
4365 26th Street. L
525 28th Street

New Addresses Since April 2018 Joint BIC/Planning Meeting

1369 Sanchez ^
139 Grand View L
4466 24th Street ** $
4061 Cesar Chavez ** $ L
322 Chattanooga * L
350 Jersey L
245 Euclid

1071 Alabama ^ L (Planning Enforcement Action restored this Pioneer District house)

Key to Symbols

* *Originally pair of flats*
** *Added a second condo unit*
$ Extensive Excavation
^ Did *not* have vertical addition sold as single family (unit merger?)
L Permits issued under LLC ownership
RED Addresses are December 2015 Noe Valley Five Project Sample
40% are Demolitions per Staff

At least 50 are completed projects that were resold average > $3.5 to $5 million plus. Others are on the market either for sale or pending. Others are not complete. At least 3 never appeared on the market. At least 1 had violations corrected with new permits.

SAN FRANCISCO PLANNING DEPARTMENT

Removal of Dwelling Units
Periodic Adjustment to Numerical Criteria

The values associated with the following criteria are subject to administrative updates and shall be adjusted periodically by the Zoning Administrator based on established economic real estate and construction indicators.

CRITERION:	INITIAL VALUE:	BASED UPON:
1. 80th Percentile of San Francisco single-family home values (structure & land)	$2,200,000	2018-2019 City Assessor's Data
2. Replacement Cost per square foot for all occupied, finished spaces	$240.00	DBI Index
3. Replacement Cost per square foot for unfinished space with flat ceiling & >7'-6" of headroom (e.g., basements, garages)	$110.00	DBI Index
4. Replacement Cost per square foot for unfinished space with sloping ceiling & >5'-0" of headroom (e.g., attic space below pitched roof)	$60.00	DBI Index
5. Replacement Cost per square foot for non-occupiable space without legal headroom (e.g., 30" high crawl space below raised floor)	$15.00	DBI Index
6. Replacement Cost per square foot for site work (e.g., walks, driveways, landscaping, retaining walls not part of the building foundation, etc.)	$0.00	(cost excluded)

The following values are subject to non-legislative updates and may be adjusted periodically by the Planning Commission to further the efficacy of Section 317, in order to promote the objectives of the General Plan and Planning Code.

CRITERION:	INITIAL VALUE: (Adopted May 18, 2007)	BASED UPON:
1. Definition B of Demolition re: removal of the front and rear building walls	> 50%	policy efficacy
2. Definition B of Demolition re: removal of all exterior walls,	> 65%	policy efficacy
3. Definition C of Demolition re: removal, replacement, relocation of the defining elements of the existing building envelope and volume (measured in square feet)	> 50%	policy efficacy
4. Definition of (Tantamount to) Merger re: reduction of an existing Residential Unit's floor area (measured in square feet)	> 25%	policy efficacy
5. Definition of (Tantamount to) Conversion re: reduction of an existing Residential Unit's floor area (measured in square feet)	> 25%	policy efficacy

JULY 2019 INITIATED

General Public Comment 9/12/2019 to Commission from G. Schuttish

NUMERICAL CRITERIA VALUES FOR RH-1 from 2009 - September 12, 2019

$2.2 MILLION
July 2019

$1.9 MILLION
December 2017

$1.63 MILLION
November 2015

$1.54 MILLION
April 2009

$1.506 MILLION
March 2014

$1.3 MILLION
August 2013

No Adjustment to Demo Calculations for RH-2 and RH-3 since Code Implementation Document, October 2010

2009 value stated in 4/29/2009 ZA Letter to Amy Brown re: Crown Terrace; 2013 value based on RJ&R memo by D. Silverman found on Internet; All other values published by Planning Department in "Removal of Dwelling Units Periodic Adjustment to Numerical Criteria"

"The Planning ~~Code~~ Commission may reduce the above numerical elements of the criteria in Subsection (b)(2)(B) and (b)(2)(C) by up to 20% of their value ~~phased~~ if it deem that adjustments is necessary to implement the intent of this Section 317 to conserve existing housing and preserve affordable housing.

317(b)(2)(D)

3. Replacing "ANDS" with "ORS"

4.	> 50% and B1	> 65% / or / B2	> 50% and C1	> 50% C2
YEAR 1	40%	52%	40%	40%
YEAR 2	32%	41.69%	32%	32%
YEAR 3	25.6%	33.28%	25.6%	25.6%
YEAR 4	20.48%	26.62%	20.48%	20.48%

4. √ AVERAGE INCREASE @ 3.034 mil

$154,232 million ÷ 51 sites.