

LICENSE AGREEMENT

BY AND BETWEEN

CITY OF ALAMEDA,

a charter city and municipal corporation
AS LICENSOR

and

ALAMEDA EMERGENCY FOOD

a 501(c)(3) non-profit public benefit corporation
AS LICENSEE

INDEX OF EXHIBITS

Exhibit

- A LICENSE AREA
- B NAVY CONVEYANCE by QUITCLAIM DEED; RESTRICTIONS AND COVENANTS
- C ACKNOWLEDGMENT OF RECEIPT
- D RULES AND REGULATIONS

BASIC LICENSE INFORMATION

License Date:	Dated as of _____, 20__ for reference purposes only	
Licensors:	City of Alameda, a charter city and municipal corporation	
Licensors' Address:	City of Alameda Alameda City Hall 2263 Santa Clara Ave Alameda, CA 94501 Tel: (510) 748-4509 Attn: City Manager Notice Copy to: RiverRock Real Estate Group, Inc., as Agent for City of Alameda 950 W. Mall Square, Suite 239 Alameda, CA 94501 Tel: (510) 749-0304	
Licensee:	Alameda Emergency Food dba Alameda Food Bank	
Licensee's Address:	Attn: Rebecca Rivkyn, Board President P.O. Box 2167 Alameda, CA 94501 Email: rebeccaballari@gmail.com	
License Area:	Approximately 10,000 square feet of Lot 101 (Exhibit A attached)	
Length of Term:	Twelve (12) months with 6-month extension if needed to accommodate any delays in the construction schedule	
Estimated Commencement Date:	_____	
Estimated Expiration Date:	_____	
License Fee:	Months	Monthly License Fee
	12	Consideration as described in Section 4.1 herein. \$0.00

<i>Taxes and Utilities:</i>	Licensee shall pay all costs for services and utilities to the License Area, as defined herein. Licensee shall pay all taxes (including possessory interest taxes) levied on or against the License Area or its personal property.
<i>Licensee's Share:</i>	N/A
<i>Security Deposit:</i>	None
<i>Permitted Use:</i>	For the provision of staging containers for the storage of food in support of food bank operations, and as a laydown and staging area associated with Licensee's construction on Licensee's adjacent property and the building located thereon, known as Building 607 as further described in Section 6.1 herein.
<i>Parking:</i>	N/A
<i>Brokers:</i>	None

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is entered into this ____ day of _____, 20__ by and between the **CITY OF ALAMEDA**, a charter city and municipal corporation (hereinafter referred to as "**Licensor**" or "**City**") and Alameda Food Bank, a California 501(c)(3) non-profit public benefit corporation (hereinafter referred to as "**Licensee**"). The Basic License Information, the Exhibits and this License Agreement are and shall be construed as a single instrument and are referred to herein as the "**Agreement**".

1. **GRANT OF LICENSE:** As specified in the Basic License Information and described herein, in consideration for the License Fee and all other charges and payments payable by Licensee, and for the terms and conditions to be performed by Licensee in this Agreement, Licensor hereby grants permission to Licensee to occupy the License Area and engage in any Permitted Uses within the License Area.

2. **LICENSE AREA:**

2.1 **Square Footage.** The License Area that is the subject of this Agreement and which Licensee may use and occupy is specified in the Basic License Information and attached Exhibits. The License Area has the address and contains the square footage specified in the Basic License Information; provided, however, that any statement of square footage set forth in this Agreement is an approximation which Licensor and Licensee agree is reasonable and no economic terms based thereon shall be subject to revisions, whether or not the actual square footage is more or less.

2.2 **No Representations.** Licensee accepts the License Area in "AS-IS" condition "WITH ALL FAULTS" without any representations or warranties by Licensor, and with no obligation of Licensor to make alterations or improvements to the License Area. Licensee acknowledges that neither Licensor nor any agent of Licensor has made any representation or warranty with respect to the suitability of the License Areas for the conduct of Licensee's business. Licensor shall not be liable for any latent or patent defects in the License Area. If required for the conduct of Licensee's business, Licensee shall be responsible for requesting an inspection and obtaining a Certificate of Occupancy from the City of Alameda.

2.3 **Licensor's Reserved Rights.** Licensor hereby reserves the right, and at any time and from time to time, without the same constituting an actual or constructive eviction, to make alterations, additions, repairs, improvements to or in all or any part of the License Area and to change the arrangement and/or location of entrances or passageways, doors and doorways, corridors, elevators, stairs, toilets, drive isles, landscaping, curb cuts and paved and unpaved portions of the License Area. Without limiting the foregoing, Licensor reserves the right from time to time to install, use, maintain, repair, relocate and replace pipes, ducts, conduits, wires, meters and equipment for services to the License Area which are above the ceiling surfaces, below the floor surfaces, within the walls and in the central core areas of any buildings which are located within the License Area. In connection with any of the foregoing activities, Licensor shall use reasonable efforts to minimize any interference with Licensee's use of the License Area and shall not, without the prior written approval of Licensee, (a) materially change the location, size or configuration of the License Area; or (b) do anything which would have a material and

adverse effect on access to the License Area, or ingress and egress to the License Area. No rights to any view or to light or air over any property, whether belonging to Licensor or any other person, are granted to Licensee by this Agreement.

2.4 No Interest in Land Granted. Nothing herein shall be deemed to grant to Licensee any fee interest, leasehold, or other possessory interest in the Property, or any portion thereof, or any exclusive right or special status to negotiate or purchase. This Agreement grants a limited revocable license upon specified terms and no more.

3. TERM:

3.1 Generally. Unless otherwise earlier terminated, the term of this Agreement (the "**Term**") shall commence on _____ ("**Commencement Date**"), and shall terminate on _____ ("**Termination Date**") unless terminated earlier as set forth herein.

3.2 Early Termination. At any time during the Term Licensor or Licensee may terminate this Agreement by the giving of not less than thirty (30) days' prior written notice to the other in accordance with Section 15 herein. Upon such early termination, the rights and obligations of the parties hereunder shall terminate, except for those obligations which, by their terms, survive the expiration or earlier termination of this Agreement.

4. LICENSE FEES:

4.1 Base License Fee. The consideration for use of the License Area during the Term ("**License Fee**") shall be as specified below: Consideration for this License is part of the consideration as further described in Section 18 of that certain Purchase and Sale Agreement And Joint Escrow Instructions dated _____ entered into between Licensor and Licensee. If any amounts are due, Licensee shall pay the License Fee to Licensor without prior notice or demand. The License Fee shall be paid to the Licensor at the offices of RiverRock Real Estate Group, property manager, located at 950 W. Mall Square, Suite 239, Alameda, CA 94501, or such other place as Licensor shall direct. If the Term commences on a day other than the first day of the calendar month or ends on a day other than the last day of the calendar month, the License Fee for any such partial month shall be prorated at the rate of one-thirtieth of the monthly License Fee for each day of the period.

4.2 Expediting Fee. If this Agreement is to be processed in the period that is less than three (3) weeks prior to the date of Commencement Date, Licensee shall pay Licensor One Thousand Dollars and No/100ths (\$1,000.00) ("**Expediting Fee**"). The additional Expediting Fee shall be paid without prior notice or demand along with the License Fee.

4.3 Additional Fees. As used in this Agreement, the term "**Additional Fees**" shall mean all sums of money that are due and payable by Licensee under the terms of this Agreement, other than the base License Fee. The term "Fees," as used herein, shall mean the License Fee and, Additional Fees, repair costs or share of Utilities if applicable and all other amounts payable hereunder from Licensee to Licensor. Unless otherwise specified herein, all Fees shall be due and payable by Licensee on or before the date that is thirty (30) days after billing by Licensor.

4.4 Security Deposit. Concurrently with delivery of the License Fee as, Licensee shall deliver to Licensor a Security Deposit in the amount of Zero and 00/100ths Dollars (\$0.00) to be held by Licensor without liability for interest (unless required by law) as security for the performance of Licensee's obligations. The Security Deposit is not an advance payment of any License Fee or a measure of damages. Licensor may from time to time and without prejudice to any other remedy provided in this Agreement or by law, subject to prior written notice to Licensee use all or a portion of the Security Deposit to the extent necessary to satisfy past due License Fees or to satisfy Licensee's breach under this Agreement or to reimburse or compensate Licensor for any liability, expense, loss or damage which Licensor may suffer or incur by reason thereof. If there are no payments to be made from the Security Deposit as set out in this paragraph, or if there is any balance of the Security Deposit remaining after all payments have been made, the Security Deposit, or such balance thereof remaining, will be refunded to the Licensee after the expiration or earlier termination of this Licensee. In the event of an act of bankruptcy by or insolvency of Licensee the appointment of a receiver for Licensee or general assignment for the benefit of Licensee's creditors during the Term, the Security Deposit shall be deemed immediately assigned to Licensor.

5. TAXES AND OPERATING EXPENSES:

5.1 Taxes.

(a) Personal Property and Possessory Interest Taxes. Licensor shall pay all taxes, assessments, fees, and charges levied or imposed against the License Area or Licensee's personal property or trade fixtures placed by Licensee in or about the License Areas during the Term ("**Personal Property Taxes**"). In addition, if the interest created by this Licensee is subject to property taxation under the laws of the State of California, the party in whom the possessory interest is vested may be subject to the payment of the taxes levied on such interest. This notice is included in this Agreement pursuant to the requirements of California Revenue and Taxation Code section 107.6(a).

(b) Payment. Licensee shall pay the Personal Property Taxes and possessory interest taxes in accordance with the instructions of the taxing entity. Licensee shall pay the Personal Property Taxes, if any, originally imposed upon Licensor, upon Licensor's election, either (a) annually within thirty (30) days after the date Licensor provides Licensee with a statement setting forth in reasonable detail such Taxes, or (b) monthly in advance based on estimates provided by Licensor based upon the previous year's tax bill. All Personal Property Taxes originally imposed upon Licensor and payable by Licensee with respect to the License Area shall be prorated on a per diem basis for any partial tax year included in the Term. Licensee's obligation to pay Taxes during the last year of the Term shall survive the expiration or termination of this Agreement.

5.2 Operating Expenses. All costs of management, operation, maintenance, insuring and repair of the (i) structural elements of any buildings within the License Area (including the roof); (ii) asphalt or related hardscape components of the License Area; and (iii) Licensor's property insurance, if any, are "**Operating Expenses**". During the Term, Licensor shall not assess Licensee any such Operating Expenses, unless the same were incurred as a result of the actions or inactions of Licensee, Licensee's invitees or anyone in the employ of

Licensee, in which event such costs may be charged to Licensee as Additional License Fees.

6. USE; COMPLIANCE WITH LAWS:

6.1 Use of License Area. Licensee, its agents, employees, contractors, subcontractors, suppliers and materialmen may temporarily use the License Area for the purpose of staging storage containers to store food associated with the operation of the food bank, and of construction equipment and vehicles and a laydown area for placing and storing construction tools, materials and equipment all as needed for Licensee to complete Licensee's construction of Building 607 located adjacent to this License Area as shown in **Exhibit A**. Upon completion of the construction, Licensee shall remove all items placed in License Area, including, without limitation, personal property, tools, materials and equipment from the License Area and shall restore to substantially the same condition in which it existed immediately prior to Licensee's use. (the "**Permitted Use**") and for no other purposes without the express written consent of Licensor. Licensee acknowledges that neither Licensor nor any agent of Licensor, has made any representation or warranty with respect to the suitability or fitness of the License Area for the conduct of Licensee's business. Licensee's use of the License Area shall be subject to the following provisions: (a) during construction, reasonable vehicular and pedestrian access, including fire and other emergency access to the property, will be maintained at all times; (b) the License Area will be protected, maintained and kept in a safe, clean, orderly condition, free of trash and loose debris during construction; (c) erect temporary fencing around the License Area for securing the License Area and to ensure that the visual identity and character of the surrounding property and area is not impacted by the construction activities by Licensee; (d) ensure use of License Area by Licensee's agents, employees, and contractors is consistent with the terms and conditions of this License Agreement.

6.2 Compliance with Laws. Licensee shall comply with all laws, ordinances, rules, regulations and codes, of all municipal, county, state and federal authorities, including the Americans With Disabilities Act, as amended (42 U.S.C. section 1201 et seq. [the "ADA"]) pertaining to Licensee's use and occupancy of the License Area and the conduct of its business. Licensee shall not commit, or suffer to be committed, any waste upon the License Area, or any public or private nuisance, or other act or thing that disturbs the quiet enjoyment of any other tenants or occupants at the NAS Alameda (as defined in Section 6.3 below) or surrounding neighborhoods, nor shall Licensee store any materials in the License Area which are visible from areas adjacent to the License Area, unless otherwise specifically set forth in this lease. Licensee shall not permit any objectionable odor to escape or be emitted from the License Area and shall ensure that the License Area remains free from infestation from rodents or insects. Licensee shall not do or permit anything to be done on or about the License Area or bring or keep anything into the License Area which will in any way increase the rate of, invalidate, or prevent the procuring of any insurance, protecting against loss or damage to the License Area or any of its contents by fire or other casualty or against liability for damage to property or injury to person in or about the License Area.

6.3 Restrictions. The License Area is located on property known as the former Naval Air Station Alameda ("**NAS Alameda**"), which was conveyed to the City by the United States of America, acting by and through the Department of the Navy by quitclaim deed dated June 4, 2013, recorded June 6, 2013 as Series No. 2013-199810 of Official Records in the

Office of the County Recorder, Alameda County, California ("**Quitclaim Deed**"). Said Quitclaim Deed conveyed the License Area subject to certain covenants, conditions, restrictions, easements, and encumbrances as set forth therein. The License Area is further encumbered by those certain restrictions set forth in the Declaration of Restrictions (Former NAS Alameda) dated June 4, 2013 and recorded June 6, 2013 as Series No. 2013-199782 in the Office of the County Recorder of Alameda County ("**Declaration of Restrictions**"). Use of the License Area is further subject to the Covenant to Restrict Use of Property, Environmental Restrictions recorded June 6, 2013 as Series No. 2013-199838 of Official Records of the County of Alameda ("**CRUP**"). Copies of the Quitclaim Deed, Declaration of Restrictions and CRUP, all referenced as **Exhibit B**, have been delivered to Licensee and, concurrently with the execution of this Agreement, Licensee shall sign and return to Licensors the Acknowledgment of Receipt, attached hereto as **Exhibit C** and by this reference incorporated herein. Use of the License Area is further restricted by the National Environmental Protection Act Record of Decision ("**ROD**") for the disposal and reuse of the former NAS Alameda, and all conditions contained therein. A copy of the ROD is available for review at Licensors' office during normal business hours. The covenants, conditions, restrictions, easements, rights-of-way, reservations, rights, agreements, and encumbrances set forth in the Quitclaim Deed, Declaration of Restrictions, CRUP and the ROD, as they effect the License Area, are collectively referred to herein as the "**Restrictions**". Any use of the License Area shall comply with the Restrictions and a failure to so comply shall constitute a Default under this Agreement.

6.4 Limited Use. To schedule use of License Area, at least two (2) business days prior to use of the License Area, Licensee shall contact Licensors' representative, RiverRock Real Estate Group by any means convenient, such as telephone, electronic mail or facsimile, to notify when Licensee will be commencing its use of the License Area.

6.5 Cancellations. Should the scheduled use need to be cancelled Licensee agrees to do so two (2) days prior to the requested day. Licensee shall be billed the License Fee for any cancellations under two (2) days.

6.6 Misuse of License Area. If, at any time during the Term, Licensee should use the License Area for anything other than the Permitted Use or should Licensee or any of its invitees, contractors, employees or agents fail to comply with any of the Restrictions, then Licensors may, at its sole and absolute discretion, terminate this Agreement. Licensors may also station one or more security officers on or about the License Area to monitor for proper use by Licensee.

7. ALTERATIONS:

7.1 Licensors Consent Required. Licensee shall not make any alterations, improvements, or additions (each an "**Alteration**") in or about the License Area or any part thereof without the prior written consent of Licensors, which consent may be granted, withheld or conditioned upon Licensors' sole and absolute discretion. Licensors consents to the temporary placement of the fencing required by this Agreement, traffic cones, trash cans, and portable toilets and sinks, none of which will require any excavation, on the License Area.

7.2 Excavations. In the event Licensee intends to perform any Alterations requiring excavations below the surface of the License Area or construction of a permanent

structure on the License Area, Licensee must determine the actual location of all utilities using standard methods (i.e., potholing, metal fish line, etc.) and submit this information with an application to excavate or application to build a permanent structure to Licensor for approval (which shall also include the approval of other applicable governmental authorities). The application shall include a site plan showing the location of utilities and that construction will not take place above the utility line or within the utility easement, specifically showing that no permanent structure will be constructed in these areas. Licensee shall be responsible for complying with the provisions of the City of Alameda's Marsh Crust Ordinance, and if required, shall obtain a Marsh Crust Permit.

7.3 Liens. Licensee shall pay when due all claims for labor or materials furnished Licensee for use in the License Area. Licensee shall not permit any mechanic liens or any other liens against the License Area for any labor or materials furnished to Licensee in connection with work performed on or about the License Area by or at the direction of Licensee. Licensee shall indemnify, hold harmless and defend Licensor (by counsel reasonably satisfactory to Licensor) from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of Licensee. In the event that Licensee shall not, within ten (10) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a proper bond, Licensor shall have, in addition to all other remedies provided herein or by law, the right, but not the obligation, to cause the same to be released by such means as it may deem proper, including payment of the claim giving rise to such lien. All such sums paid by Licensor and expenses reasonably incurred in connection therewith, including attorneys' fees and costs, shall be payable to Licensor by Licensee on demand.

8. UTILITIES:

8.1 Payments for Utilities and Services. There are no utilities provided to or available at the License Area. If power is needed for Licensee's Permitted Use, Licensee shall be solely responsible for supplying its own generators. Licensee shall also be responsible for providing portable restrooms as there are no restroom facilities within the License Area.

8.2 No Liability of Licensor. Except in the case of Licensor's gross negligence or willful misconduct, in no event shall Licensor be liable or responsible for any loss, damage, expense or liability, including, without limitation, loss of business or any consequential damages, arising from any failure or inadequacy of any service or utility provided to the License Area, whether resulting from any change, failure, interference, disruption or defect in supply or character of the service or utility provided to the License Area, or arising from the partial or total unavailability of the service or utility to the License Area, from any cause whatsoever, or otherwise, nor shall any such failure, inadequacy, change, interference, disruption, defect or unavailability constitute an actual or constructive eviction of Licensee, or entitle Licensee to any abatement or diminution of License Fees or otherwise relieve Licensee from its obligations under this Agreement.

9. MAINTENANCE AND REPAIR OF LICENSE AREA:

9.1 Maintenance and Repair by Licensee.

9.1.1 Licensee Maintenance. Licensee shall, at its sole cost and expense, maintain the License Area in good repair and in a neat and clean condition (ordinary wear and tear, casualty and condemnation excepted) including making all necessary repairs and replacements as a result of any damage caused by Licensee's use of the License Area. Licensee's repair and maintenance obligations include, without limitation, repairs to: (i) floor coverings; (ii) interior partitions; (iii) doors; (iv) interior side of demising walls; (v) roofs; (vi) fire life safety systems, including fire alarms and/or smoke detectors; (vii) heating, ventilation and air conditioning (HVAC) systems exclusively serving the License Area; (viii) kitchens; (viii) plumbing and similar facilities located within, or exclusively serving the License Area; and (viii) telephone and data equipment and cabling.

9.1.2 Licensee Repair. Licensee shall further, at its own costs and expense, repair or restore any damage or injury ordinary wear and tear excepted to all or any part of the non-structural portions of the License Area and utility lines exclusively servicing the License Area caused by Licensee or Licensee's agents, employees, invitees, licensees, visitors or contractors, including but not limited to repairs or replacements necessitated by (i) the construction or installation of improvements to the License Area by or on behalf of Licensee; (ii) Licensee's use of the License Area, and (iii) the moving of any property into or out of the License Area. If Licensee fails to make such repairs or replacement within fifteen (15) days after notice from Licensor, then Licensor may, at its option, upon prior reasonable notice to Licensee (except in an emergency) make the required repairs and replacements and the costs of such repairs or replacement (including Licensor's administrative charge) shall be charged to Licensee as an Additional Fee and shall become due and payable by Licensee with the monthly installment of the Licensee Fee next due hereunder.

9.2 Licensor Maintenance and Repair. Licensor shall maintain in good repair any buildings located in the License Area, including structural elements of exterior walls, roofs, and foundations, and existing fire and life safety system, provided such repairs are not necessitated by the actions or inactions of Licensee, Licensee's invitees or anyone in the employ or control of Licensee. Licensee shall further ensure that the License Area is maintained free of trash and debris outside of deposit bins or other authorized containers. Licensee hereby waives any and all rights under and benefits of California Civil Code sections 1932, 1941, and 1942 or any similar or successor laws now or hereby in effect. Licensee shall immediately give Licensor written notice of the need for repair of the items for which Licensor is responsible. If Licensee or Licensee's invitees or anyone in the employment or control of Licensee causes any damages necessitating such repair, then Licensee shall pay to Licensor the cost thereof, immediately upon demand therefor. Except as otherwise expressly set forth in this Agreement, Licensee waives any right to terminate this License or offset or abate the Licensee Fee or any Additional Fee by reason of any failure of Licensor to make repairs to the License Area.

10. ENVIRONMENTAL PROTECTION PROVISIONS:

10.1 Hazardous Materials. "Hazardous Materials" shall mean any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive, flammable, explosive, radioactive or corrosive, including, without limitation, petroleum, solvents, lead, acids, pesticides, paints, printing ink, PCBs, asbestos, materials commonly known to cause cancer or reproductive problems, and those materials, substances and/or wastes,

including wastes which are or later become regulated by any local governmental authority in the state in which the License Area is located or the United States Government, including, but not limited to, substances defined as "hazardous substances," "hazardous materials," "toxic substances" or "hazardous wastes" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; the Resource Conservation and Recovery Act; all environmental laws and regulations of the state of California; and any other environmental law, regulation or ordinance now existing or hereinafter enacted. **"Hazardous Materials Laws"** shall mean all present and future federal, state and local laws, ordinances and regulations, prudent industry practices, requirements of governmental entities and manufacturer's instructions relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, presence, disposal or transportation of any Hazardous Materials, including without limitation the laws, regulations and ordinances referred to in the preceding sentence.

10.2 Reportable Uses Required Consent. Except as permitted in this Section 9, Licensee hereby agrees that Licensee and Licensee's officers, employees, representatives, agents, contractors, subcontractors, successors, assigns, vendors, concessionaires, invitees and any other occupants of the License Area (collectively, **"Licensee's Representatives"**) shall not cause or permit any Hazardous Materials to be used, generated, manufactured, refined, produced, processed, stored or disposed of, on, under or about the License Area or transported to or from the License Area without the express prior written consent of Licensor, which consent may be limited in scope and predicated on strict compliance by Licensee of all applicable Hazardous Materials Laws and such other reasonable rules, regulations and safeguards as may be required by Licensor (or any insurance carrier, environmental consultant or lender of Licensor, or environmental consultant retained by any lender of Licensor) in connection with using, generating, manufacturing, refining, producing, processing, storing or disposing of Hazardous Materials on, under or about the License Area. In connection therewith, Licensee shall, at its own expense, procure, maintain in effect and comply with all conditions of any and all permits, licenses and other governmental and regulatory approvals required for the storage or use of Hazardous Materials by Licensee or any of Licensee's Representatives in the License Area, including without limitation, discharge of (appropriately treated) materials or wastes into or through any sanitary sewer serving the License Area. The foregoing notwithstanding, Licensee may use ordinary and customary materials reasonably required to be used in the course of the Permitted Use, ordinary office supplies (copier, toner, liquid paper, glue, etc.), common household cleaning materials and gasoline and oil in vehicle tanks, so long as such use is in compliance with all Hazardous Materials Laws and does not expose the License Area or neighboring property to any meaningful risk of contamination or damage or expose Licensor to any liability therefor.

10.3 Remediation Obligations. If at any time during the Term, any contamination of the License Area by Hazardous Materials shall occur where such contamination is caused by the act or omission of Licensee or Licensee's Representatives (**"Licensee's Contamination"**), then Licensee, at Licensee's sole cost and expense, shall promptly and diligently remove such Hazardous Materials from the License Area or the groundwater underlying the License Area to the extent required to comply with applicable Hazardous Materials Laws. Licensee shall not take any required remedial action in response to any

Licensee's Contamination in or about the License Area or enter into any settlement agreement, consent, decree or other compromise in respect to any claims relating to any Licensee's Contamination without first obtaining the prior written consent of Licensor, which may be subject to conditions imposed by Licensor as determined in Licensor's sole discretion. Such prior written consent shall not be required to the extent the delay caused by the requirement to obtain consent may increase the damage to the License Area or the risk of harm to human health, safety or security caused by the Licensee's Contamination. Licensor and Licensee shall jointly prepare a remediation plan in compliance with all Hazardous Materials Laws and the provisions of this License. In addition to all other rights and remedies of Licensor hereunder, if Licensee does not promptly and diligently take all steps to prepare and obtain all necessary approvals of a remediation plan for any Licensee's Contamination, and thereafter commence the required remediation of any Hazardous Materials released or discharged in connection with Licensee's Contamination within thirty (30) days after all necessary approvals and consents have been obtained, and thereafter continue to prosecute such remediation to completion in accordance with the approved remediation plan, then Licensor, at its sole discretion, shall have the right, but not the obligation, to cause such remediation to be accomplished, and Licensee shall reimburse Licensor within fifteen (15) business days of Licensor's demand for reimbursement of all amounts reasonably paid by Licensor for such remediation (together with interest on such amounts at the highest lawful rate until paid), when such demand is accompanied by proof of payment by Licensor of the amounts demanded. Licensee shall promptly deliver to Licensor copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the License Area as part of Licensee's remediation of any Licensee's Contamination. The foregoing notwithstanding, "Licensee's Contamination" shall not refer to or include any Hazardous Materials that were not clearly introduced to the License Area by Licensee or Licensee's Representatives. As an example, if lead dust or asbestos is found on the License Area, unless there is clear evidence that Licensee introduced those Hazardous Materials to the License Area, those Hazardous Materials shall not be considered "Licensee's Contamination," and it shall not be Licensee's responsibility to take remedial action relating to such Hazardous Materials. Moreover, Licensee shall not be responsible for any Hazardous Materials that were present in, on, or below the License Area before Licensee occupied the License Area.

10.4 Licensor's Inspection Right. Licensor shall have the right to inspect the License Area for compliance with environmental, safety, and occupational health laws and regulations, regardless of whether Licensor is responsible for enforcing or complying with them. Licensee shall have no claim against Licensor, or any officer, agent, employee, contractor or subcontractor of Licensor by reason of entrance of such Licensor officer, agent, employee, contractor or subcontractor onto the License Area, provided such inspection is undertaken as reasonably as possible so as not to disrupt or interfere with the Permitted Use. Except in the event of an emergency, Licensor shall provide Licensee with reasonable prior notice and an opportunity to have a representative present at any inspection.

10.5 Hazardous Materials Indemnity. In addition to any other provisions of this Agreement, Licensee shall, and does hereby agree, to indemnify and hold harmless Licensor from any costs, expenses, liabilities, fines or penalties resulting from discharges, emissions, spills, storage or disposal resulting from Licensee's Contamination, giving rise to liability, civil or criminal, or any other action by Licensee or its contractors, employees, agents, or assigns

giving rise to responsibility under any Hazardous Materials Laws. Licensee's obligations hereunder shall apply whenever Licensor incurs costs or liabilities for Licensee's Contamination as provided hereunder. This provision shall survive the expiration or termination of this Agreement.

11. INDEMNITY AND WAIVER OF CLAIMS:

11.1 Licensee Indemnification. Licensee shall indemnify, defend and hold Licensor and its trustees, members, principles, beneficiaries, partners, officers, directors, employees, and property managers ("**Licensor Related Parties**") harmless against and from all third party liabilities, obligations, damages, penalties, claims, actions, costs, charges, judgment and expenses (including reasonable attorneys' fees, costs and disbursements) arising from (a) the use of, or any activity done, permitted or suffered in or about the License Area by Licensee (including, but not limited to, injuries suffered by Licensee's agents or employees); (b) any activity done, permitted or suffered by Licensee or Licensee's agents or employees in or about the License Area during Licensee's possession and use of the License Area; (c) any act, neglect, fault, willful misconduct of Licensee or Licensee's agents or employees in or about the License Area during Licensee's possession and use thereof; or (d) from any breach or default in the terms of this Agreement by Licensee or Licensee's agents or employees, except to the extent such claims arise out of or relate to the gross negligence or willful misconduct of Licensor or any Licensor Related Party. If any action or proceeding is brought against Licensor by reason of any such claim, upon notice from Licensor, Licensee shall defend the same at Licensee's expense by Licensor's Office of the City Attorney or, at Licensor's election, other counsel reasonably satisfactory to Licensor. As a material part of the consideration to Licensor, Licensee releases Licensor and Licensor Related Parties from responsibility for, waives its entire claim of recovery for, and assumes all risks of (i) damage to property or injury to person in or about the License Area from any cause whatsoever except to the extent caused by the gross negligence or willful misconduct of Licensor or Licensor Related Parties, or (ii) loss resulting from business interruption or loss of income at the License Area.

11.2 Waiver of Claims. Except in the event of Licensor's or Licensor Related Parties' own gross negligence or willful misconduct Licensor shall not be liable to Licensee and Licensee waives all claims against Licensor and Licensor Related Parties for any injury or damage to any person or property occurring or incurred in connection with or in any way relating to the License Area from any cause. Without limiting the foregoing, neither Licensor nor any Licensor Related Party shall be liable for and there shall be no abatement of Fees for (a) any damage to Licensee's property stored with or entrusted to any Licensor Related Party, (b) loss of or damage to any property by theft or any other wrongful or illegal act, or (c) any injury or damage to person or property resulting from fire, explosion, water or rain that may blow onto the License Area from the streets or other surfaces or from any other place or resulting from dampness or any other cause whatsoever, or from the acts or omissions of other tenants, occupants or other visitors to the License Area or from any other cause whatsoever, (d) any diminution or shutting off of light, air or view by any structure that may be erected on lands adjacent to the License Area or (e) any latent or other defects in the License Area. Licensee agrees that in no case shall Licensor or any Licensor Related Party or Licensee be responsible or liable to the other on any theory for any injury to such parties' business, loss of profits, loss of income or any other form of consequential, punitive or incidental damage, except as otherwise

provided in Section 11.

11.3 Survival/No Impairment. The obligations of Licensee under this Section 11 shall survive any termination of this Agreement. The foregoing indemnity obligations shall not relieve any insurance carrier of its obligations under any policies required to be carried by either party pursuant to this Agreement, to the extent that such policies cover the peril or currents that results in the claims that are subject to the foregoing indemnity.

12. INSURANCE:

12.1 Licensee's Insurance. On or before the commencement of the Term of this Agreement, Licensee shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with Licensee's operation and use of the License Area. The cost of such insurance shall be borne by Licensee. Licensee shall maintain the following types of insurance with limits no less than the following as set forth below.

12.1.1 Commercial General Liability Coverage.

\$ Commercial general liability coverage in the following minimum limits:

Bodily Injury:	\$1,000,000 each occurrence \$2,000,000 aggregate – all other
Property Damage:	\$1,000,000 each occurrence \$2,000,000 aggregate

If submitted, combined single limit policy with per occurrence limits in the amounts of \$2,000,000 and aggregate limits in the amounts of \$4,000,000 will be considered equivalent to the required minimum limits shown above. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

12.1.2 Automobile Liability Coverage.

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

Bodily injury:	\$1,000,000 each occurrence
Property Damage:	\$1,000,000 each occurrence

or

Combined Single Limit:	\$2,000,000 each occurrence
------------------------	-----------------------------

Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

12.1.3 Property Insurance Coverage.

Licensee shall maintain in full force and effect on all of its personal property, furniture, furnishings, vehicles, fixtures and equipment, either owned by Licensee or its agents, vendors, or clients, which may from time to time be located in, on or upon the License Area in an amount not less than their full replacement value from time to time during the Term, providing protection against all perils, included within the standard form of "all-risk" (i.e., "Special Cause or Loss") fire and casualty insurance policy.

12.1.4 Workers Compensation Coverage.

Statutory coverage as required by the State of California.

12.2 Additional Insureds. The City, its City Council, boards, commissions, officials, employees, agents, and volunteers shall be named as additional insured(s) under all insurance coverages, except workers' compensation and professional liability insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy. Additional Insured coverage under Licensee's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance. Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured(s).

12.3 Notice of Cancellation. Licensee's third party insurance policies shall be endorsed to require the insurer to provide the Licensor with at least thirty (30) days' written Notice of Cancellation; provided, however, that if Licensee's insurers are unwilling to issue such an endorsement, then Licensee agrees as follows: if Licensee is notified by any insurer of the insurance coverage required under this Section 12 that the insurer is cancelling any required policy, Licensee shall immediately provide Licensor with written notice of having received such notice from its insurer and shall take all reasonable action to either preserve the existing policy/policies or replace the cancelled insurance with other policy/policies of insurance meeting the requirements of this Section 12 before the effective date of the cancellation.

12.4 Subrogation Waiver. Licensee hereby agrees to waive rights of subrogation that any insurer of Licensee may acquire from Licensee by virtue of the payment of any loss. Licensee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether Licensor has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Licensor for all work performed by Licensee, its employees, agents and subcontractors.

12.5 Failure to Secure. If Licensee at any time during the term hereof should fail to secure or maintain the foregoing insurance, Licensor shall be permitted to obtain such insurance in Licensee's name or as an agent of Licensee and shall be compensated by Licensee

for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

12.6 Sufficiency of Insurance. The insurance limits required by Licensor are not represented as being sufficient to protect Licensee. Licensee is advised to consult Licensee's insurance broker to determine adequate coverage for Licensee. The coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of the coverage carried by or available to Licensee; whichever is greater.

12.7 Insurer Acceptability. Licensee's insurers must be domiciled in the United States of America. They must meet a minimum A.M. Best & Co. rating of A: VII and a Standard and Poor's Rating (if rated) of at least BBB. In the event that a proposed insurance company is not rated by A.M. Best & Co. or Standard and Poor's, said insurance carrier must be domiciled in the State of California and approved by Licensor.

12.8 Certificate of Insurance. On or before Licensee takes possession of the License Area, Licensee shall furnish to Licensor new certificate(s) of insurance reflecting that the insurance required by this Section for the License Area is in force, accompanied by an endorsement(s) showing the required additional insured reasonably satisfactory to Licensor.

13. PROHIBITION AGAINST TRANSFERS: Licensee shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. Licensee shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager or their designee may consent or reject such request in their sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against Licensor under this Agreement may be assigned by Licensee to a bank, trust company or other financial institution without prior written consent. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock, membership interest, partnership interest, or the equivalent, which shall result in changing the control of Licensee, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of Licensee.

14. SURRENDER: Upon the expiration or earlier termination of this Agreement, Licensee shall surrender the License Area clean, free of debris and, in substantially the same condition as at the commencement of the Term, reasonable wear and tear excepted, and clear of all liens and encumbrances created by any action or inaction of Licensee. Licensor shall not be responsible for the value, preservation or safekeeping of Licensee's property that is not removed by Licensee from the License Area. Licensee shall pay Licensor, upon demand, the expenses and storage charges incurred for any such property. If Licensee fails to remove Licensee's property from the License Area upon the expiration or earlier termination of this Agreement, Licensor may deem all or any part of Licensee's property to be abandoned and, at Licensor's option, title to Licensee's property shall vest in Licensor or Licensor may dispose of Licensee's property in any manner Licensor deems appropriate.

15. NONDISCRIMINATION: Consistent with Licensor's policy that harassment and

discrimination are unacceptable conduct, Licensee agrees that harassment or discrimination directed toward a City employee, or contractor, or employees, or Licensee's employee or contractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Licensee agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

16. PERMITS AND LICENSES: Licensee, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits (including any Special Event Permits, as required), certificates and licenses, including a City business license that may be required in connection with its use or occupation of the License Area.

17. SUBMISSION OF NOTICES: All notices, demands, requests, consents, or approvals (collectively, "Notice") which may or are required to be given by any party to this Agreement to any other party shall be addressed, as relevant, using the contact information set forth in the Basic License Information. Such Notices shall be in writing and shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service. Each Notice shall be deemed to have been received on the earlier to occur of: actual delivery or the date on which delivery is refused; or three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

18. CONDITION OF LICENSE AREA: The License Area is delivered to Licensee by Licensor "as is, where is," and, as such, Licensor makes no warranty as to such facilities and property either as to their usability generally or as to their fitness for any particular purpose. No promises of Licensor to alter, remodel, repair or improve the License Area and no representation respecting the condition of the License Area have been made by Licensor to Licensee, except as expressly stated in this Agreement. Licensor shall have no obligation to repair or maintain License Area other than as set forth in Section 18 herein.

19. HOLDING OVER: If Licensee does not surrender possession at the end of the Term or sooner termination of this Agreement, Licensee shall indemnify and hold Licensor harmless from and against any and all losses or liability resulting from delay in Licensee so surrendering the License Area including, without limitations, any loss or liability resulting from any claim against Licensor made by any succeeding tenant or prospective tenant founded on or resulting from such delay. In addition to the foregoing, Licensee shall reimburse Licensor its reasonable attorneys' fees and costs incurred in enforcing Licensee's obligations under this Article, which include but are not limited to, any attorneys' fees and costs incurred in an unlawful detainer, ejectment or other legal proceeding to compel Licensee to relinquish the possession of the License Area.

20. SAFETY: Licensee will be solely and completely responsible for conditions of all vehicles operated by Licensee in the License Area, including the safety of all persons and property during such operation. This requirement will apply continuously and not be limited to normal working hours. In addition, Licensee will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any

equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. Licensee's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein. Licensee will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in the License Area.

21. DEFAULT:

21.1 Events of Default. The occurrence of any of the following shall constitute a "Default" by Licensee:

(i) Licensee fails to make any payment of Fees when due, if payment in full is not received by Licensor within five (5) days after written notice that it is past due.

(ii) Licensee violates the restrictions on Transfer set forth in Section 12 herein.

(iii) Licensee ceases doing business as a going concern, (provided, however, that Licensee may be open and operating for business with the general public on the days and during the times as the needs of Licensee's business dictates, in Licensee's sole discretion); makes an assignment for the benefit of creditors; is adjudicated an insolvent; files a petition (or files an answer admitting the material allegations of a petition) seeking relief under any state or federal bankruptcy or other statute, law or regulation affecting creditors' rights; all or substantially all of Licensee's assets are subject to judicial seizure or attachment and are not released within sixty (60) days; or Licensee consents to or acquiesces in the appointment of a trustee, receiver or liquidator for Licensee or for all or any substantial part of Licensee's assets.

(iv) Licensee fails to perform or comply with any provision of this Agreement other than those described in (i) through (iii) above, and does not fully cure such failure within five (5) business days after notice to Licensee or, if such failure cannot be cured within such five (5) business-day period, Licensee fails within such five (5) business-day period to commence, and thereafter diligently proceed with, all actions necessary to cure such failure as soon as reasonably possible but in all events within sixty (60) days of such notice.

21.2 Remedies. Upon Default by Licensee, Licensor shall, without further notice or demand of any kind to Licensee or to any other person, in addition to any other remedy Licensor may have under this Agreement and at law or in equity, have the ability to immediately terminate the Agreement and Licensee's right to use the License Area. Upon notice of any such termination, Licensee shall vacate and discontinue its use of the License Area and Licensor may take any and all actions to enforce Licensee's obligations.

21.3 Licensor's Right to Perform Licensee's Obligations. If Licensee is in Default of any of its non-monetary obligations under this Agreement, in addition to the other rights and remedies of Licensor provided herein, then Licensor may at Licensor's option, but

without any obligation to do so and without further notice to Licensee, perform any such term, provision, covenant or condition or make any such payment and, except in the case of its gross negligence or willful misconduct, Licenser by reason of doing so shall not be liable or responsible for any loss or damage thereby sustained by Licensee. If Licenser performs any of Licensee's obligations hereunder in accordance with this Section 17.3, the reasonable costs and expense incurred or the payments so made shall be immediately be owed by Licensee to Licenser, and Licensee shall promptly pay to Licenser upon demand, as Additional Fees, the full amount thereof with interest thereon from the day of payment by Licenser calculated based on the lower of 1) ten percent (10%) per annum or 2) the highest rate permitted by applicable law.

21.4 Severability. This Section 21 shall be enforceable to the maximum extent such enforcement is not prohibited by applicable law, and the unenforceability of any portion thereof shall not thereby render unenforceable any other portion.

22. WAIVER OF RELOCATION ASSISTANCE: Except in the event of a taking of the License Area by or under the threat of eminent domain, Licensee acknowledges that upon the expiration or earlier termination of the Term it will not be a displaced person or business and therefore waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code sections 7260 et seq. or under any similar state or federal law, statute or ordinance now or hereinafter in effect.

23. MISCELLANEOUS:

23.1 Entire Agreement. This Agreement, including all exhibits hereto, constitutes all of the covenants, conditions and agreements between and among the parties and shall supersede all prior correspondents, agreements and understandings, both verbal and written.

23.2 Integrated Contract. The recitals and exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both the Licensee and Licenser.

23.3 Signatory. By signing this Agreement, each signatory warrants and represents that they executed this Agreement in their authorized capacity and that by their signature on this Agreement, they or the entity upon behalf of which they acted, executed this Agreement.

23.4 Controlling Agreement. In the event of a conflict between the terms and conditions of this Agreement (as amended, supplemented, restated or otherwise modified from time to time) and any other terms and conditions wherever contained, including, without limitation, terms and conditions included within exhibits, the terms and conditions of this Agreement shall control and be primary.

23.5 Severability. If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such

provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement. Without limiting the foregoing, if any applicable federal or state law prevents or precludes compliance with any material term of this Agreement, the parties shall promptly modify, amend, or suspend this Agreement, or any portions of this Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the parties to this Agreement before such conflict with federal or state law.

23.6 Incorporation of Exhibits and Recitals. The exhibits and recitals to this Agreement are incorporated into this Agreement by this reference.

23.7 Broker's Commissions. Licensor and Licensee each represents and warrants to the other that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker except for Cushman & Wakefield ("**Licensor's Broker**") in the negotiating or making of this Agreement. Licensor shall be responsible for any commissions and other compensation which may be due to Licensor's Broker in connection with this Agreement. Each party agrees to indemnify and hold harmless the other from any claim or claims, and costs and expenses, including attorneys' fees, incurred by the indemnified party in conjunction with any such claim or claims of any other broker or brokers to a commission in connection with this Agreement as a result of the actions of the indemnifying party.

23.8 No Recovery of Litigation Fees and Costs. In the event of any litigation, including administrative proceedings, relating to this Agreement, including but not limited to any action or suit by any party, assignee or beneficiary against any other party, beneficiary or assignee, to enforce, interpret or seek relief from any provision or obligation arising out of this Agreement, the parties and litigants shall bear their own attorney's fees and costs. No party or litigant shall be entitled to recover any attorneys' fees or costs from any other party or litigant, regardless of which party or litigant might prevail.

23.9 Access by Licensor. In addition to access authorized by other sections of this Agreement, Licensor shall be allowed access to the License Area at all reasonable times throughout the term of this Agreement, for any reasonable purpose upon prior written notice to Licensee. Licensor will normally give Licensee a minimum of twenty-four (24) hours prior notice of an intention to enter the License Area, unless the entry is reasonably required on an emergency basis for safety, environmental, operations or security purposes. Licensee shall ensure that a telephone roster is maintained at all times for on-call persons representing Licensee who will be available on short notice, 24 hours a day, 365 days per year, and have authority to use all keys necessary to gain access to the License Area to facilitate entry in time of emergency. Licensee shall ensure that Licensor has a current roster of such on-call personnel and their phone numbers. Licensee shall not change any existing locks, or attach any additional locks or similar devices to any door or window, without providing to Licensor one set of keys therefor. All keys must be returned to Licensor at the expiration or termination of this Agreement. Licensee shall have no claim against Licensor for exercise of its rights of access hereunder.

23.10 Asbestos Notification for Commercial Property Constructed Before 1979. Licensee acknowledges that Licensor has advised Licensee that, because of its age, the License Area may contain asbestos-containing materials ("ACMs"). If Licensee undertakes any alterations of the License Area as may be authorized by Licensor, Licensee shall undertake the alterations in a manner that avoids disturbing ACMs present in the License Area. If ACMs are likely to be disturbed in the course of such work, Licensee shall encapsulate or remove the ACMs in accordance with an approved asbestos-removal plan and otherwise in accordance with all applicable Hazardous Materials Laws, including giving all notices required by California Health & Safety Code sections 25915-25919.7.

23.11 Lead Warning Statement. Licensee acknowledges that Licensor has advised Licensee that buildings built before 1978 may contain lead-based paints ("LBP"). Lead from paint, paint chips and dust can pose health hazards if not managed properly. Licensee may at its sole cost and expense, have a state certified LBP Inspector complete a LBP inspection and abatement and provide an abatement certification to Licensor. Licensor has no specific knowledge of the presence of lead-based paint in the License Area.

23.12 OFAC Certification. Licensee represents, warrants and covenants that: (a) Licensee and its principals are not acting, and will not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "**Specially Designated and Blocked Person**" or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and (b) Licensee acknowledges that the breach of this representation, warranty and covenant by Licensee shall be an immediate Default under the Lease.

23.13 Certified Access Specialist Disclosure. In accordance with California Civil Code section 1938, Licensor hereby discloses that the License Area has not undergone inspection by a Certified Access Specialist for purposes of determining whether the property has or does not meet all applicable construction related accessibility standards pursuant to Civil Code section 55.53.

23.14 Rules and Regulations. Licensee shall faithfully observe and comply with the non-discriminatory rules and regulations attached hereto as **Exhibit D** and incorporated herein by this reference, as the same may be modified from time to time by Licensor. Any additions or modifications to those rules shall be binding upon Licensee upon Licensor's delivery of a copy to Licensee.

23.15 Compliance with All Applicable Laws. During the term of this Agreement, Licensee shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which affect the Licensee's use or occupation of the License Area, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Licensee shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by the City.

23.16 Further Assurances. All parties agree to fully cooperate and execute any

and all supplementary documents and take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

23.17 Time. Time is of essence of every provision herein contained in this Agreement.

23.18 Captions. All captions and headings in this Agreement are for the purpose of reference and convenience and shall not limit or expand the provisions of this Agreement.

23.19 Governing Law. This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

23.20 Waiver. A waiver by Licensor of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

23.21 Authority. If Licensee is a corporation, partnership, trust, association or other entity, Licensee and each person executing this Agreement on behalf of Licensee does hereby covenant and warrant that (a) Licensee is duly incorporated or otherwise established or formed and validly existing under the laws of its state of incorporation, establishment or formation, (b) Licensee has and is duly qualified to do business in California, (c) Licensee has full corporate, partnership, trust, association or other power and authority to enter into this Agreement and to perform all Licensee's obligations hereunder, and (d) each person (and all of the persons if more than one signs) signing this Agreement on behalf of Licensee is duly and validly authorized to do so. Upon execution hereof and at Licensor's request, Licensee shall provide Licensor with written evidence substantiating the authority of the person(s) executing this Agreement on behalf of Licensee to bind Licensee to this Agreement.

23.22 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Licenser and Licensee have respectively signed and sealed this Agreement as of the day and year first above written.

LICENSEE:

Alameda Emergency Food dba Alameda
Food Bank
a 501(c)(3) non-profit public benefit
corporation

By



Name: Rebecca Rivkyn

Title: Board President

By

Name:

Title:

LICENSOR:

CITY OF ALAMEDA, a charter city and
municipal corporation

By:

Jennifer Ott
City Manager

Approved as to form:

By:

DocuSigned by:

Len Aslanian

765D25E39B18464...

Len Aslanian
Assistant City Attorney

Recommended for approval:

By:

DocuSigned by:

Abigail Thorne-Lyman

2E1D71136B954F6...

Abigail Thorne-Lyman
Base Reuse & Economic Development
Director

EXHIBIT A

License Area

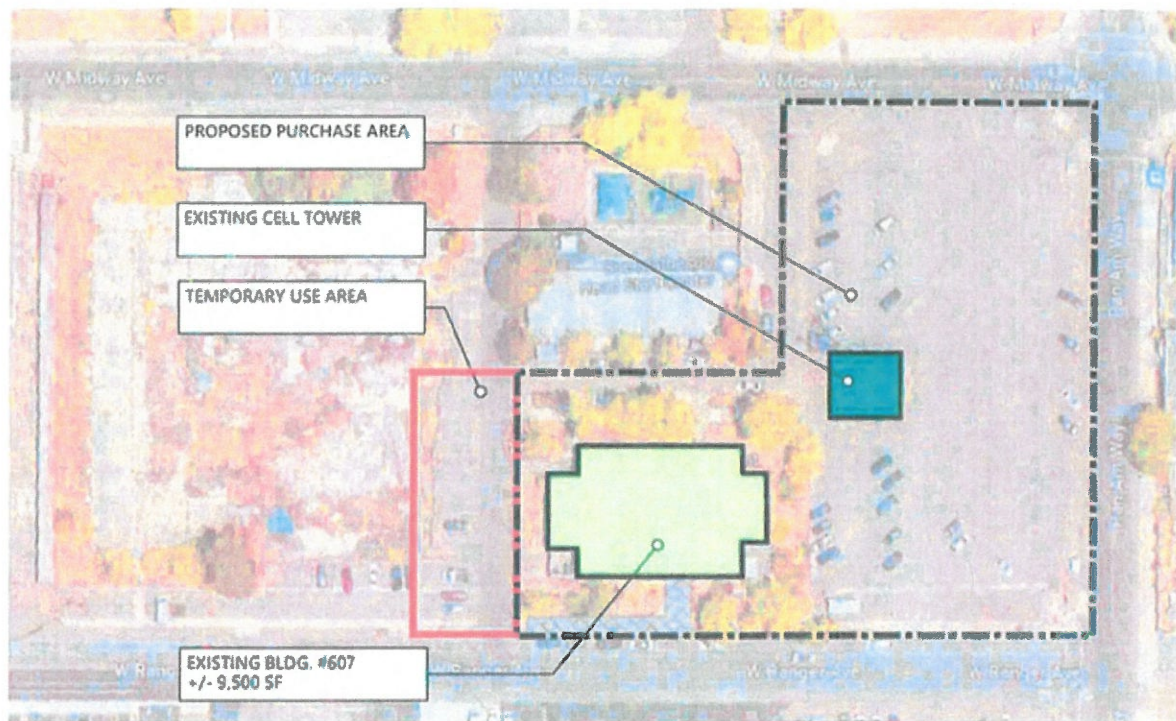


EXHIBIT B

Navy Conveyances by Quitclaim Deed; Restrictions And Covenants

(Copies provided with

Purchase and Sale Agreement between City and Alameda Food Bank)

EXHIBIT C

Acknowledgement of Receipt

Pursuant to that certain License Agreement entered into by and between City of Alameda, a charter city and municipal corporation ("Licensor") and Alameda Emergency Food, a California 510c(3) public benefit corporation ("Licensee") dated as of _____, 2024 ("License") Licensee hereby acknowledges that Licensor has provided it with copies of the following documents:

- Quitclaim Deed from the United States of America, acting by and through the Department of the Navy to the City of Alameda, dated June 4, 2013, recorded June 6, 2013 as Series No. 2013-199810 of Official Records in the Office of the County Recorder, Alameda County, California ("Quitclaim Deed");
- Declaration of Restrictions (Former NAS Alameda) dated June 4, 2013, recorded June 6, 2013 as Series No. 2013-199782 in the Office of the County Recorder of Alameda County ("Declaration of Restrictions");
- Covenant to Restrict use of Property, Environmental Restrictions, recorded June 6, 2013 as Series No. 2013-199838 of Official Records of the County of Alameda ("CRUP").

Pursuant to Section 6 of the License, Licensee acknowledges receipt of the above-referenced documents and agrees that its use of the License Area (as defined in the License) shall comply with the restrictions set forth in said documents and failure to do so shall constitute a default under the License.

By:

Its:

Date:

Rubén R. R. R.
Board President
2/20/24

EXHIBIT D

Rules and Regulations

Licensee shall faithfully observe and comply with the following Rules and Regulations. Licensor shall not be responsible to Licensee for the non-performance of any of said Rules and Regulations by or otherwise with respect to the acts or omissions of any other Licensees or occupants of the License Area. In the event of any conflicts between the Rules and Regulations and other provisions of this License, the latter shall control.

1. Licensor shall have the right to control and operate the public portions of the License Area and the public facilities, as well as facilities furnished for the common use of the Licensees, in such manner as it deems best for the benefit of the Licensees generally.

2. No advertisements, pictures or signs of any sort shall be displayed on or outside the License Area without the prior written consent of Licensor. This prohibition shall include any portable signs or vehicles placed within the parking lot, common areas or on streets adjacent thereto for the purpose of advertising or display. Licensor shall have the right to remove any such unapproved item without notice and at Licensee's expense.

3. Storage of forklift propane tanks, whether interior or exterior, shall be in secured and protected storage and enclosure approved by the local fire department and, if exterior, shall be located in areas specifically designated by Licensor. Licensee shall protect electrical panels and building mechanical equipment from damage from forklift trucks.

4. Machinery, equipment and apparatus belonging to Licensee which causes noise or vibration that may be transmitted to the structure of any buildings in the License Area to such a degree as to be objectionable to Licensor or other Licensees or to cause harm to such buildings, shall be placed and maintained by Licensee, at Licensee's expense, on vibration eliminators or other devices sufficient to eliminate the transmission of such noise and vibration. Licensee shall cease using any such machinery which causes objectionable noise and vibration which cannot be sufficiently mitigated.

5. All goods, including materials used to store goods, delivered to the License Area shall be immediately moved into the License Area and shall not be left in parking or exterior loading areas overnight.

6. Tractor trailers which must be unhooked or parked with dolly wheels beyond the concrete loading areas must use steel plates or wood blocks of sufficient size to prevent damage to the asphalt paving surfaces. No parking or storage of such trailers will be permitted in the auto parking areas adjacent to the License Area or on streets adjacent thereto.

7. Licensee is responsible for the safe storage and removal of all pallets. Pallets shall be stored behind screen enclosures at locations approved by Licensor.

8. Licensee shall not store or permit the storage or placement of merchandise in or around the common areas surrounding the License Area. No displays or sales of merchandise shall be allowed in the parking lots or other common areas.

9. Licensee is responsible for the storage and removal of all trash and refuse. All such trash and refuse shall be contained in suitable receptacles stored behind screen enclosures at locations approved by Licensor.

10. The toilet rooms, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substances of any kind whatsoever shall be thrown therein. The expense of the repair of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the Licensee who, or whose employees, agents, visitors or licensees shall have caused the same.

11. Licensee shall cooperate fully with Licensor to ensure the effective operation of the air conditioning systems used by any buildings in the License Area. If Licensee shall so use the License Area that noxious or objectionable fumes, vapors and/or odors are created, then Licensee shall provide proper ventilation equipment for the discharge of such fumes, vapors and odors so that they shall not enter into the air conditioning system or be discharged into other vents or flues of the building or annoy any persons or adjacent property. The design, location and installation of such equipment shall be subject to the Licensor's approval.

12. All window coverings installed by Licensee in the License Area and visible from the exterior require the prior written approval of Licensor.

13. The sashes, sash doors, skylights, windows and doors that reflect or admit light or air into the halls, passageways or other public places in the License Area shall not be covered or obstructed by Licensee.

14. Licensee shall not overload the floor of the License Area.

15. No awnings or other projections over or around the windows or entrances of the License Area shall be installed by any Licensee without the prior written consent of Licensor.

16. Licensee shall not permit any animals, including, but not limited to, household pets (but excluding service animals, which are permitted), to be brought or kept in or about the License Area or any of the common areas.

17. Licensee hereby acknowledges that Licensor shall have no obligation to provide guard service or other security measures for the benefit of the License Area. Licensee hereby assumes all responsibility for the protection of Licensee and its agents, employees, contractors, invitees and guests, and the property thereof, from acts of third parties, including keeping doors locked and other means of entry to the License Area closed.

18. No auction, liquidation, fire sale, going out of business or bankruptcy sale shall be conducted in or about the License Area without the prior written consent of Licensor.

19. No Licensee shall use or permit the use of any portion of the License Area for living quarters, sleeping apartments or lodging rooms.

20. Licensee, Licensee's agents, employees, contractors, licensees, or visitors shall not park any vehicles in driveways, service entrances, or areas posted as no parking.

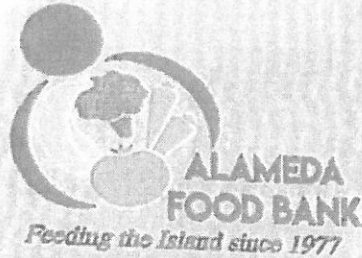
21. If the License Area are or become infested with vermin as a result of the use or any misuse or neglect of the License Area by Licensee, its agents, employees, contractors, visitors or licensees, Licensee shall forthwith, at Licensee's expenses, cause the same to be exterminated from time to time to the satisfaction of Licensor and shall employ such licensed exterminators as shall be approved in writing in advance by Licensor.

22. Licensee shall not use the name of the License Area for any purpose other than as the address of the business to be conducted by Licensee in the License Area, nor shall Licensee use any picture of the License Area in its advertising, stationary or in any other manner without the prior written permission of Licensor. Licensor expressly reserves the right at any time to change said name without in any manner being liable to Licensee therefor.

23. Licensee, its employees and agents shall not loiter in or on the entrances, corridors, sidewalks, lobbies, courts, halls, stairways, elevators, vestibules or any common areas of the License Area for the purpose of smoking tobacco products or for any other purposes, nor in any way obstruct such areas, and shall use them only as a mean of ingress and egress from the License Area.

24. Licensor reserves the right to exclude from the License Area any person who, in the judgment of Licensor, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of these Rules and Regulations.

25. Licensor reserves the right at any time to change or rescind any one or more of these Rules and Regulations, or to make such other and further reasonable Rules and Regulations as in Licensor's judgment may from time to time be necessary for the management, safety, care and cleanliness of the License Area, and for the preservation of good order therein, as well as for the convenience of other occupants and Licensees thereof. Licensor may waive any one or more of these Rules and Regulations for the benefit of any particular Licensee, but no such waiver by Licensor shall be construed as a waiver of such Rules and Regulations in favor of any other Licensee, nor prevent Licensor from thereafter enforcing any such Rules and Regulations against any or all Licensees. Licensee shall be deemed to have read these Rules and Regulations and to have agreed to abide by them as a condition to its use of the License Area.



Board Approval to designate Rebecca Rivkyn, acting in her capacity as Board President, to execute on behalf of Alameda Food Bank the Purchase Agreement for the purchase of Building 607 and the adjacent parking lot comprising 1.7 acres from the City of Alameda.

On Friday, February 16, 2024, the Alameda Food Bank Board of Directors unanimously approved via email that Rebecca Rivkyn, acting in her capacity as Board President, execute the Purchase Agreement and temporary use agreement of the former Building 101 Site dated February 20, 2024.

Linda Crabbe
Secretary, Alameda Food Bank Board of Directors

February 20, 2024
Date