

SETTLEMENT AGREEMENT

Stephens Institute, dba The Academy of Art University, and LLC Parties

THIS SETTLEMENT AGREEMENT (this “**Agreement**”) dated for convenience of reference purposes only as of _____, 2019, is between the **City and County of San Francisco**, a municipal corporation and charter city and county (the “**City**”), including the City Attorney acting on behalf of the People of the State of California and the City, on the one hand, and the STEPHENS INSTITUTE, a California corporation, dba the Academy of Art University (the “**Stephens Institute**”), and the limited liability companies listed on Exhibit A (each an “**LLC Party**” and collectively, the “**LLC Parties**” and, together with the Stephens Institute, jointly and severally as to all obligations in this Agreement other than the Settlement Payment and the Affordable Housing Payment, which are the obligation of the LLC Parties, the “**Academy**”), on the other hand. The City and the Academy are also sometimes referred to individually as a “**Party**” and together as the “**Parties**.” Unless otherwise defined in this Agreement, initially capitalized terms used in this Agreement shall have the meaning given them in Article 1 below.

RECITALS

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

A. On May 6, 2016, the City Attorney of the City and County of San Francisco (the “**City Attorney**”), on behalf of the City and the People of the State of California, commenced litigation in the Superior Court of California County of San Francisco (the “**Court**”) against the Academy in *People v. Stephens Institute, et. al*, San Francisco Superior Court Number CGC-16-551-832 (the “**Lawsuit**”). In the Lawsuit, the People and the City alleged violations of the City’s Administrative Code, Planning Code, Building Code, and the State Unfair Competition Law, Business and Professions Code Section 17200 et seq. (the “**UCL**”).

B. By this Agreement, the Academy agrees to: bring its existing uses into compliance with the Planning Code; relocate existing uses or change uses in buildings in accordance with applicable laws in those limited instances where the Planning Department has determined that legalization is not appropriate; compensate the People and the City for alleged past violations, including providing affordable housing public benefits to the City; and work cooperatively with the City in planning for future growth in a manner that accounts for the urban nature of the Academy’s campus, without adversely impacting the City’s affordable or rent-controlled housing stock, or burdening its transportation system, including, as a part of that plan, building new housing, or converting existing buildings, for its students on property that is zoned for such use as further provided in the Development Agreement.

C. In connection with the Lawsuit, the Parties entered into judicially-supervised settlement discussions. As a result of those settlement discussions, and under the auspices of the Court, the Academy and the City entered into a non-binding Term Sheet for Global Resolution, dated November 15, 2016 (the “**Initial Term Sheet**”), as later supplemented by the Parties again under the Court’s supervision in that certain non-binding Supplement to Term Sheet for Global Resolution, dated July 10, 2019 (the “**Supplement**”) (the Initial Term Sheet and the Supplement

are referred to collectively as the “**Term Sheet**”). The Term Sheet was intended to provide a basis to resolve all of the outstanding issues relating to the Lawsuit with respect to land use matters and to establish appropriate principles and processes for land use compliance by the Academy. The Parties made the Term Sheet public, each time with the Court’s consent, and the Planning Commission held public hearings relating to the matters addressed in the Term Sheet.

D. As a condition to this Agreement, and as contemplated by the Term Sheet, the City and the People and the Academy have entered into a comprehensive consent judgment that they will file with the Court seeking the Court’s approval and entry of judgment (attached as Exhibit B, the “**Consent Judgment**”). The Consent Judgment contains three main parts: (1) this Agreement; (2) a Stipulated Injunction (attached as Exhibit C, the “**Injunction**”), which provides a mechanism for judicial enforcement of the Academy’s obligations under this Agreement and the Development Agreement (defined below); (3) and the Development Agreement, which is attached as Exhibit D to this Agreement. This Agreement is contingent on the Court entering the Consent Judgment. Integral to the global resolution that the Consent Judgment would help achieve are the instruments securing the LLC Parties’ financial obligations under this Agreement and the Development Agreement. The obligations of the LLC Parties to make the **Settlement Payment** as further described in Section 2.2 under this Agreement will be secured by a Guaranty (attached as Exhibit E, the “**Guaranty**”) from the Stephens Family Trust, the Elisa Stephens Revocable Trust, the Scott Alan Stephens Revocable Trust, and Elisa Stephens, Scott Stephens, and Susanne Stephens, individually.

E. Also, as provided by the Supplement, in addition to the Settlement Payment, the LLC Parties will make a payment to the City totaling \$37,600,000 for affordable housing purposes (the “**Affordable Housing Payment**”) in lieu of the LLC Parties providing 160 new and rehabilitated units of affordable housing under a long-term ground lease, as contemplated by the Initial Term Sheet.

F. As a further condition to this Agreement, the Academy and the City have entered or will concurrently with this Agreement enter into a Development Agreement (attached to this Agreement as Exhibit D, the “**Development Agreement**”), which addresses, among other things, the entitlements for the Project (as defined in the Development Agreement), conditions of approval, requirements for withdrawal of the Stephens Institute from certain LLC Properties, mitigation and improvement measures, student enrollment and housing metering requirements, Institutional Master Plan updates, requirements for future approvals, and public benefits, including the Affordable Housing Payment.

AGREEMENT

ACCORDINGLY, to settle and avoid the risks and costs of litigation, in consideration of the mutual covenants and agreements in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree to the following terms and conditions as a complete and final resolution of the Lawsuit:

ARTICLE 1 DEFINITIONS

1.1 Definitions

For purposes of this Agreement, the following terms shall have the meaning set forth below. Any terms not otherwise defined in this Agreement, shall have the meanings given them in the Development Agreement.

(a) “**Academy**” has the meaning set forth in the opening paragraph of this Agreement and includes the Stephens Institute and LLC Parties, jointly and individually.

(b) “**Affordable Housing Payment**” has the meaning set forth in Recital E of this Agreement.

(c) “**Approval Schedule**” has the meaning set forth in Section 2.2 of this Agreement.

(d) “**Approvals**” has the meaning set forth in the Development Agreement as to certain existing uses by the Stephens Institute of Academy Properties.

(e) “**Board of Supervisors**” means the Board of Supervisors of the City and County of San Francisco.

(f) “**CEQA**” means the California Environmental Quality Act, including the state statute and adopted guidelines and Chapter 31 of the San Francisco Administrative Code.

(g) “**Consent Judgment**” has the meaning set forth in Recital D of this Agreement.

(h) “**Claims**” means any and all claims, causes of action, or rights to compensation, including, but not limited to, damages, losses penalties, interest, attorneys’ fees, and costs.

(i) “**Court**” means the Superior Court of the City and County of San Francisco with jurisdiction over the Lawsuit, as defined in Recital A.

(j) “**Default**” has the meaning set forth in Section 3.6 of this Agreement.

(k) “**Development Agreement**” has the meaning set forth in Recital F of this Agreement.

(l) “**Effective Date**” means the effective date of this Agreement as provided in Section 2.1 of this Agreement.

(m) “**Escrow**” means money held in an interest-bearing escrow account with a bank designated by the City as described in Section 2.2.2 of this Agreement and under instructions provided for in this Agreement or the Development Agreement.

(n) “**Guarantors**” means collectively and individually, the Stephens Family Trust, the Elisa Stephens Revocable Trust, the Scott Alan Stephens Revocable Trust, Elisa Stephens, Scott Stephens, and Susanne Stephens, who are parties to the Guaranty. Their obligations are joint and several.

(o) “**Guaranty**” has the meaning set forth in Recital D of this Agreement.

(p) “**Impact Fees and Exactions**” has the meaning set forth in Section 2.2 of this Agreement.

(q) “**Injunction**” has the meaning set forth in Recital D of this Agreement.

(r) “**Lawsuit**” has the meaning set forth in Recital A of this Agreement.

(s) “**LLC Parties**” has the meaning set forth in the opening paragraph of this Agreement. They are comprised of 38 limited liability companies that own the properties that are leased to and used by the Stephens Institute, and they include the 23 limited liability companies that are named in the Lawsuit and 15 other limited liability companies that are not named in the Lawsuit. Their obligations under this Agreement are joint and several.

(t) “**Matured Event of Default**” has the meaning set forth in Section 3.6 of this Agreement.

(u) “**Mayor**” means the Mayor of the City and County of San Francisco.

(v) “**Outside Approval Date**” has the meaning set forth in Section 2.2 of this Agreement.

(w) “**People**” means the City Attorney acting on behalf of the People of the State of California, as described in Recital A.

(x) “**Settlement Payment**” has the meaning set forth in Section 2.2 of this Agreement.

(y) “**Stephens Institute**” has the meaning set forth in the opening paragraph of this Agreement.

(z) “**Third-Party Challenge**” means any administrative, legal or equitable action or proceeding instituted by any party other than the City or the Academy against the City or any City Agency challenging the validity or performance of any provision of the Development Agreement, the Project, the Approvals, the adoption or certification of the FEIR or other actions taken under CEQA, or other approvals under Laws relating to the Project, any action taken by the City or the Academy in furtherance of this Agreement, or any combination relating to the Project or any portion of the Project.

- (aa) “UCL” has the meaning given in Recital A.

ARTICLE 2

GENERAL TERMS; SETTLEMENT PAYMENT

2.1 Effective Date

The effective date of this Agreement (the “**Effective Date**”) shall be the later of the date that this Agreement is executed and delivered by all the Parties and the date upon which all of the following have occurred:

(a) The Stephens Institute has updated its Institutional Master Plan, and the Planning Commission has accepted it, consistent with the provisions of the Development Agreement, which acceptance by the Planning Commission the Parties acknowledged occurred on July 5, 2019;

(b) The City ordinances approving this Agreement, including the Consent Judgment, the Injunction, the Guaranty and the Development Agreement, and any amendments to the Planning Code associated with the approval of the Development Agreement, become final (including the passage of any referendum period) following adoption by the Board of Supervisors and signature by the Mayor;

(c) All of the Parties have fully executed and delivered this Agreement, including the Consent Judgment, the Injunction, and the Development Agreement;

(d) All of the Guarantors have fully executed and delivered the Guaranty and they have also fully executed and delivered, as applicable, this Agreement, including the Consent Judgment, the Injunction, and the Development Agreement; and

(e) The Consent Judgment and the Injunction have been approved and entered by the Superior Court.

2.2 Payments to the City

2.2.1 Settlement Payment

(a). Terms of Payment. The LLC Parties shall pay to the City the total principal amount of \$20,364,030 (with interest as described below) in five equal annual installments (collectively, the “**Settlement Payment**”). Interest will accrue on the unpaid principal amount of the Settlement Payment at a fixed rate of 3% calculated as simple interest, with accrual beginning 30 days after the Effective Date of this Agreement.

The LLC Parties will pay the Settlement Payment to the City in accordance with the following schedule]:

	Payment Date	3% Interest	Principal Amount	Total
1.	30 Days after the Effective Date of this Agreement	-0-	\$4,072,806	\$4,072,806
2.	January 31, 2021	\$488,736	\$4,072,806	\$4,561,542
3.	January 31, 2022	\$366,552	\$4,072,806	\$4,439,358
4.	January 31, 2023	\$244,368	\$4,072,806	\$4,317,174
5.	January 31, 2024	\$122,184	\$4,072,806	\$4,194,990

The LLC Parties shall make the payments to the City by the payment dates set forth above with immediately available funds delivered to the City Attorney, by wire-transfer in accordance with written wire instructions that the LLC Parties request from the City at least 15 days in advance of the Payment Date. The Parties acknowledge and agree that time is of the essence as to the payment of each installment.

The City will not impose any prepayment penalty for any early payment of all or any part of the Settlement Payment. The obligations of the LLC Parties to make the Settlement Payment will be secured by the Guaranty and are joint and several.

(b). City's Internal Allocation of Settlement Payment. As further provided below, the City will allocate the Settlement Payment for the following four uses: (1) payment of civil penalties for alleged past violations of the San Francisco Administrative Code, San Francisco Planning Code, and UCL; (2) reimbursement of City enforcement costs; (3) payment of the development impact fees and exactions, student monitoring fees, Class 1 bicycle parking fees and the Fair Share Fees, as provided in the Development Agreement (collectively "**Impact Fees and Exactions**") paid to come into compliance with the San Francisco Planning Code; and (4) payment into the City's Small Sites Program to assist low-moderate income tenants as further described in the Development Agreement.

More specifically, the City will allocate \$1 million of the Settlement Payment to Planning Code civil penalties and \$6 million of the Settlement Payment to UCL civil penalties. The City may use these sums for any lawful purposes, including land use planning enforcement for the Planning Code civil penalties and consumer protection for the UCL civil penalties. These civil penalties and the rest of the Settlement Payment are in addition to any and all administrative penalties that the Academy has paid to the Planning Department through and including September 30, 2016.

The City will also allocate a portion of the Settlement Payment up to \$1.3 million to reimburse the City for all administrative costs incurred by the Planning Department, all accrued City Attorney's Office fees, and other City costs associated with permitting, enforcement and environmental review of the Project accrued up to the date of execution of the Initial Term Sheet, for staff time, consultant fees and time and materials billed. On October 24, 2016 the Planning Department provided the Academy with an invoice that included \$261,788 for enforcement time and materials through September 30, 2016 and on November 10, 2016 and January 13, 2017 the

Planning Department provided the Academy with an invoice for an additional \$195,552 for enforcement time and materials through September 30, 2016; the Academy has paid those amounts and that total payment of \$457,340 will be credited against the Settlement Payment. The amount of any other such invoices shall also be credited against the Settlement Payment. In addition to reimbursement of those administrative costs, the Academy must pay separately, and without any credit against the Settlement Payment, all required City processing fees (including time and materials) when due (at the time of permit application or issuance, as applicable,), and at the rates then in effect, including, but not limited to, Planning and Building Department fees associated with the Approvals for the Project, as well as all costs owing to the City to process the Development Agreement under Section 56.20 of the San Francisco Administrative Code.

The City will allocate first from the Settlement Payment an estimated \$3,821,105 to satisfy Impact Fees associated with the Project contemplated by the Development Agreement. That estimated amount of the Impact Fees will be updated by the City based on the date that each of them becomes due under the Development Agreement, including updates due to any cost of living adjustments provided under City Codes. The Settlement Payment will be applied to satisfy the Impact Fees until those are paid in full. The Parties anticipate that the first installment will exceed the final amount of the Impact Fees then due, after applying the credit for the enforcement costs that the Planning Department incurred and that the Academy paid through the date of the Initial Term Sheet as described above. But if there are any unpaid Impact Fees remaining after applying the entire first installment, then the LLC Parties will pay those remaining Impact Fees directly to the City when due and such payment will be credited against the second installment of the Settlement Payment.

Further as to the Impact Fees, the City alleges that the Project is deficient by certain Class 1 bicycle parking spaces and Class 2 bicycle parking spaces as further provided in the Development Agreement. As the Project is reviewed by City agencies other than the Planning Department during building permit review, it is possible that some of these proposed spaces may not be approvable, for example, based on Building and/or Fire codes. As further provided in the Impact Fees and Exactions Schedule under the Development Agreement, and as part of the Approvals, the City's Planning Commission is granting an exception for the deficiency of Class 1 bicycle parking from what would be required by Code. In lieu of providing the deficiency in Class 1 bicycle spaces, the LLC Parties will pay the City an amount equal to \$519/space. The Parties have included in the amount of the estimated Impact Fees identified above the in-lieu fee for 150 such spaces, totaling \$77,850. The final in-lieu Class 1 bicycle parking fee will be credited against the Settlement Payment to be paid under this Agreement, up to \$77,850. If the deficiency in Class 1 bicycle parking spaces, as finally determined by the City after consultation with the Academy, exceeds 150 spaces, then the LLC Parties will pay the additional in lieu fee at the same rate of \$519/space and such additional sum will not be credited against the Settlement Payment. If the deficiency in Class 1 bicycle parking spaces, as finally determined by the City after consultation with the Academy, falls below 150 spaces, then \$519/space shall be allocated to City's Small Sites Program to assist low-moderate income tenants, but no adjustment will be made to the principal amount of the Settlement Payment.

Once all the Impact Fees are paid, then the \$6 million of the Settlement Payment allocated for UCL civil penalties will be distributed to the City Attorney on behalf of the People and the City in equal installments of \$1.5 million from the second, third, fourth and fifth installments. Similarly, the Planning Department's shall receive its \$1 million for civil enforcement in equal installments of \$250,000 from the second, third, fourth and fifth installments of the Settlement Payment. The Planning Department will receive reimbursement of its \$1.3 million in administrative costs incurred through the Initial Term Sheet (less a credit for amounts the Academy has already paid) from any remaining balance in the first installment and if any amount remains unreimbursed after that, from the second installment.

After making the allocations to pay penalties for alleged past violations of the Administrative Code, Planning Code, and UCL, reimbursing City enforcement costs and paying Impact Fees as provided above, the City will allocate all remaining portions of the Settlement Payment, including all interest paid, to the City's Small Sites Program to assist low-moderate income tenants. Excluding interest, this amount is estimated to exceed \$8,400,000.

(c) Escrow. If before the date on which the initial installment of the Settlement Payment is due (i) a Third-Party Challenge is filed and such litigation is not finally resolved before the date the initial installment of the Settlement Payment is due, (ii) a referendum petition is filed protesting the passage of the ordinance approving the Development Agreement or (iii) the relevant statutes of limitations to file a lawsuit under CEQA challenging such approvals, to file a writ of mandate challenging the Development Agreement, or to submit a petition protesting the adoption of the ordinance approving the Development Agreement under the referendum provisions of the City's Charter, have not expired, then the LLC Parties will, on or before such due date, deposit the initial installment of the Settlement Payment into Escrow. Such deposit shall be held and released on the same terms and conditions as provided in Section 2.2.2 for the Affordable Housing Payment, provided, however, the Impact Fees will be paid to the City for any permits for any portion of the Project that the City grants under the Development Agreement.

Also, if the LLC Parties wish to accelerate the City's processing of the permit to change the use of 2550 Van Ness Avenue (known as the DaVinci) to student housing consistent with the Development Agreement and its attached Schedule of Performance, then the LLC Parties may deposit the first installment of the Settlement Payment into Escrow before the ordinance approving the Development Agreement has become effective. But under these circumstances the portion of such installment attributable to Impact Fees for the permit for 2550 Van Ness Avenue shall be immediately available to the City to satisfy such Impact Fees and shall be deducted from the portion of the principal amount of the first installment deposited into Escrow. The principal, including any interest or other gains, ultimately will be payable out of Escrow to (1) the City once there is a final court judgment dismissing any such Third-Party Challenge or upholding the validity of the Development Agreement or other City Approvals, the ordinance approving the Development Agreement becomes effective (including, without limitation, any failure of a referendum petition to qualify for the ballot or the adoption by the voters of an ordinance approving the Development Agreement following a qualifying referendum petition), in which event the City may expend those sums for purposes provided under this Agreement; or (2) the LLC Parties in the event there is a final court judgment that upholds the Third-Party Challenge

and invalidates the Development Agreement or other City Approvals, or the ordinance approving the Development Agreement does not become effective (including, without limitation, any repeal of the ordinance approving the Development Agreement by the Board of Supervisors or failure of the voters to approve an ordinance approving the Development Agreement following submittal of a referendum petition that qualifies for the ballot).

Finally, If the conditions involving a third-party legal challenge to the Development Agreement or the City Approvals allowing the LLC Parties to pay the first installment of the Settlement Payment still exist when any later installment of the Settlement Payment becomes due under this Agreement, then the LLC Parties may pay that installment into Escrow and those additional funds will be maintained and ultimately disbursed to the City or the LLC Parties in the same manner as the initial installment of the Settlement Payment; provided, however, the LLC Parties must pay to the City any Impact Fees when due for the Approvals.

Before the Effective Date, the Parties will submit mutually agreeable escrow instructions consistent with this Agreement and the Development Agreement to a bank selected by the City from among the banks that the City then regularly does business with.

2.2.2 Affordable Housing Payment

The LLC Parties will make an Affordable Housing Payment to the City totaling \$37,600,000, constituting one of the key public benefits associated with the Development Agreement and reflecting a critical part of the resolution of the Lawsuit under this Agreement providing for the Academy to come into compliance with the San Francisco Planning Code for the Project consistent with the Approvals and as further provided in the Development Agreement. The Affordable Housing Payment consists of two components. First, instead of providing 81 units of affordable housing on 1055 Pine Street and making those units available through a long-term ground lease as further provided in Section 4B of the Initial Term Sheet, the LLC Parties will pay the City, in all cash or other immediately available funds, \$19,035,000. Second, instead of using 1069 Pine Street on an interim basis for affordable housing, developing 79 units of new affordable housing on that site and making those units available through a long term ground lease as further provided in Section 4C of the Initial Term Sheet, the LLC Parties will pay the City, in all cash or other immediately available funds, \$18,565,000.

The Affordable Housing Payment is due from the LLC Parties six months after the Board of Supervisors adopts and the Mayor signs the ordinance approving the Development Agreement. The Parties agree that time is of the essence as to the payment of the Affordable Housing Payment. Further, the Affordable Housing Payment is subject to possible increase in such payment if the approval of the global resolution contemplated by this Agreement is delayed under the circumstances specifically described below.

If (i) the City ordinance approving the Development Agreement is not adopted by the Board of Supervisors and signed by the Mayor on or before February 28, 2020 (the “**Outside Approval Date**”) for reasons that are the responsibility of the Academy and (ii) the Affordable Housing Payment is made after August 31, 2020, then the Affordable Housing Payment will increase from \$37,600,000 to \$40,800,000. More particularly, the 1055 Pine Street Payment will

increase to \$20,145,000, and the 1069 Pine Street Payment will increase to \$20,655,000. The Outside Approval Date will be extended for any period due to any delay that is not the Academy's responsibility and under those circumstances the amount of the Affordable Housing Payment will remain \$37,600,000.

As provided in the Development Agreement, the City will use this payment solely for affordable housing purposes with a first priority for uses related to the creation or preservation of single room occupancy ("SRO") units in those Board of Supervisors' districts in which the City determined that the Academy unlawfully converted SRO buildings to student housing, including District 3. This cash payment is in lieu of the LLC Parties providing, at no cost to the City, 160 new and rehabilitated units of affordable housing at 1055 Pine Street and 1069 Pine Street located on Nob Hill near Chinatown, under the Initial Term Sheet. The Stephens Institute, which changed the use of those properties to student housing without City approval, will vacate the two Pine Street properties and the Academy will not continue its existing unpermitted uses as student housing and accessory student uses on those properties nor will it seek authorization of student housing on those properties. Other than the prohibition on using the properties for student housing or other accessory uses for the Stephens Institute's benefit (which is set forth in the Development Agreement and not in a recorded special restriction against the property), the LLC Parties and any future owner of either 1055 Pine Street or 1069 Pine Street may seek authorization from the City for any use through the City's ordinary land use approval process. The LLC Parties that own the Pine Street properties will notify any buyers of the properties of the limitations on use of those properties contained in this Agreement and the Settlement Agreement, and will provide the City with evidence of such notice before the sale closes.

If before the Outside Approval Date, the LLC Parties believe a delay in approving the Development Agreement under the Approval Schedule attached to the Supplement (the "**Approval Schedule**") is not the Academy's responsibility and thus there should not be an increase in the Affordable Housing Payment, then the Academy must promptly notify the City in writing of its good faith belief of why the Academy is not responsible for the delay (as defined below), and the City may reply to that assertion if the City in good faith disagrees. The Parties will update the Approval Schedule attached to the Supplement from time to time based on their mutual agreement. If the Academy asserts it is not responsible for a delay and the Parties do not agree on changes to the Approval Schedule or which Party is responsible for delays, then, at the election of either Party, the Parties will seek to resolve their differences through discussions before Judge Harold E. Kahn of the Superior Court (or if he is not available such other judge as the may mutually agree), who shall afford the Parties an opportunity to be heard and present evidence and make a final determination on fault if agreement is not reached. For purposes of this Agreement, the Academy being "responsible for the delay" means that the primary cause of the delay is within the reasonable control of the Academy, and will include, without limitation, any delays that could have been avoided by the Academy paying additional commercially reasonable sums to consultants to reasonably accelerate its work.

If before the date on which the Affordable Housing Payment is due (i) a Third Party Challenge is filed and such litigation is not finally resolved before the date the Affordable Housing Payment is due, (ii) a referendum petition is filed protesting the passage of the ordinance approving the Development Agreement or (iii) the relevant statutes of limitations to

file a lawsuit under CEQA challenging such approvals, to file a writ of mandate challenging the Development Agreement, or to submit a petition protesting the adoption of the ordinance approving the Development Agreement under the referendum provisions of the City's Charter, have not expired,, then the LLC Parties will, on or before such due date, deposit the full Affordable Housing Payment, into an escrow account with a bank selected by the City from among the banks that the City regularly does business with ("**Escrow**"). Monies in the Escrow account will be invested and reinvested in an interest-bearing account or certificate of deposit as designated by the City. All interest will accrue and be deposited in the account and any gain or loss will be borne by the account. The principal including any interest or other gains ultimately will be payable out of Escrow to (1) the City once there is a final court judgment dismissing any Third-Party Challenge or upholding the validity of the Development Agreement or other City Approvals or the ordinance approving the Development Agreement becomes effective (including, without limitation, any failure of a referendum petition to qualify for the ballot or the adoption by the voters of an ordinance approving the Development Agreement following a qualifying referendum petition), in which event the City may expend those sums for purposes provided under this Agreement; or (2) the LLC Parties in the event there is a final court judgment that upholds the Third-Party Challenge and invalidates the Development Agreement or other City Approvals or the ordinance approving the Development Agreement does not become effective (including, without limitation, any repeal of the ordinance approving the Development Agreement by the Board of Supervisors or failure of the voters to approve an ordinance approving the Development Agreement following submittal of a referendum petition that qualifies for the ballot..

The LLC Parties will pay all escrow fees. Under the Development Agreement, the Parties will agree on appropriate escrow instructions to the bank, including conditions for release.

2.2.3 IRS Reporting

Currently, the United States Treasury Department and IRS have provided transitional guidance that reporting under 26 U.S. Code Section 6050X (which could apply to this Agreement) is not required and will not be required until a date specified in proposed regulations to be published by the Treasury Department. Reporting will not be required as to any amounts required to be paid or incurred under a binding court order or settlement agreement entered into before the specified date. If Section 6050X reporting becomes required for this Agreement, then the City shall notify the LLC Parties of that fact and the City's proposed characterizations of the reportable payments under this Agreement. The LLC Parties may provide comments and may meet with the City Attorney's Office to discuss the proposed characterizations, consistent with the City's obligations to file a timely report. In all events, the final determination of required reporting will be made by the City.

ARTICLE 3
SETTLEMENT AND RELEASE OF CLAIMS; ENFORCEMENT

3.1 City's Release of Claims against the Academy

In consideration of the promises, conditions and covenants contained in this Agreement, and except for any Claims relating to a breach of any obligation by the Academy under this Agreement, and subject to the following condition precedent:

- a. the Parties file the Consent Judgment (including this Agreement, the Development Agreement and the Injunction), and the Court approves and enters the Consent Judgment (including this Agreement, Development Agreement and Injunction);

and the following obligations enforceable by the Court under its continuing jurisdiction to enforce the Consent Judgment:

- a. the LLC Parties timely make all installments of the Settlement Payment as provided in Section 2.2.1 above; and
- b. the LLC Parties timely make the Affordable Housing Payment as provided in Section 2.2.2 above,

the City, on behalf of itself, its officials (including but not limited to its elective boards, appointive boards, including the Commission, and commissioners), agents, employees, attorneys, consultants, representatives, affiliates, predecessors, successors, constituents, and assigns, and as to the UCL the People and the City, shall and does release, relinquish, abandon and waive all Claims relating to the land use violations and other matters that were alleged or could have been alleged in the Lawsuit against the Stephens Institute and/or LLC Parties, including any Claims for violation of the City's Administrative Code, Planning Code, Building Code or the UCL that could have been asserted based on the conduct by the Academy alleged in the Lawsuit, excluding, without limitation, any Claims relating to payment of taxes.

Notwithstanding the preceding sentence, the People and the City do not release unknown Claims, or relinquish future enforcement discretion, concerning unreleased matters, including, without limitation, enforcement of the Consent Judgment, the Injunction, this Agreement, the Development Agreement, or any of the documents related to these instruments and agreements.

As of the Effective Date and subject to satisfaction of the condition precedent described above, and the LLC Parties' payment of the initial installment of the Settlement Agreement and payment in full of the Affordable Housing Payment, the City's release of the Academy as provided in this Section shall survive any termination of this Agreement except as expressly provided in Section 3.6 below.

3.2 Release of Claims by the Academy against the City

In consideration of the promises, conditions and covenants contained in this Agreement, and except for any Claims relating to a breach of any obligation by the City under this Agreement, the Academy on behalf of itself, its officials (including but not limited to its agents, employees, attorneys, consultants, representatives, affiliates, predecessors, successors, constituents; and assigns), shall and does release, relinquish, abandon and waive all Claims related to any of the land use violations and other matters alleged in the Lawsuit, whether known or unknown, including all enforcement actions and prosecution of the Lawsuit by the City, that it has, had, or might have against the City, including any Claims for violation of City ordinances or State law that could have been asserted based on the conduct by the Academy alleged in the Lawsuit.

As of the Effective Date, the release of the City by the Academy as provided in this Section shall survive any termination of this Agreement except as expressly provided in Section 3.6 below.

Waiver of Civil Code Section 1542

The Academy expressly acknowledges that it may have Claims against the City related to the land use violations and other matters alleged in the Lawsuit, including all enforcement actions and prosecution of the Lawsuit by the City, of which it is currently unaware, and nevertheless agrees that this Agreement is intended to and does extend to any and all Claims it may have against the City, whether known or unknown, that are the subject of the releases described in Section 3.2 above. As a further inducement and consideration in resolution of the disputes, the Academy expressly and specifically waives any rights or benefits available to them under California Civil Code Section 1542, which provides:

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.

Initials: Stephens Institute: _____
LLC Parties: _____

The Academy also acknowledges it may have sustained damages, losses, costs or expenses that are currently unknown or unsuspected, and that such damages, losses, costs or expenses as may have been sustained may give rise to additional damages, losses, costs or expenses in the future. But the Academy acknowledges that the release contained in this Article 3 has been negotiated and agreed upon in light of this situation and expressly waives any and all rights that it may have under California Civil Code Section 1542 or under any state or federal statute or common law principle of similar effect.

3.3 Negotiated Settlement

The discussions that have produced this Agreement have been conducted with the explicit understanding that they are privileged under California Evidence Code Section 1152 and Federal Rule of Evidence 408, and that such discussions shall be without prejudice to the position of either Party and may not be used in any manner in any proceeding or otherwise, except as may be necessary to enforce or interpret this Agreement or as otherwise required by law.

3.4 Voluntary Release

Each Party has carefully read this Agreement, and signs it freely and voluntarily upon the advice of its own attorneys. Each such Party affirms that the only consideration for its execution of this Agreement are the terms stated in the body of this Agreement (including the Consent Judgment, the Injunction, the Guaranty and the Development Agreement); that no other promise or agreement of any kind has been made to it, or with it, by any Person to cause them to execute this Agreement; that it is competent to execute this Agreement; that its agreement to execute this Agreement has not been obtained by any duress or undue influence; and that it fully understands and voluntarily executes this Agreement knowing it constitutes a complete release of Claims as provided in this Article 3.

3.6 Enforcement

(a) Consent Judgment; Injunction. The Court has reserved jurisdiction to enforce certain provisions of this Agreement as further set forth in the Consent Judgment and the Injunction.

(b) Default. Subject to subsection (d) below, any material breach by either Party of any covenant, agreement, provision or representation or warranty contained in this Agreement (a “**Default**”) that remains uncured upon the expiration of any applicable notice and cure periods will constitute an “**Matured Event of Default**,” including failure by the LLC Parties to make any payment of the Settlement Payment or Affordable Housing Payment required under this Agreement within 10 days after the date when due.

(b) Remedies. Without limiting the remedies available under the Consent Judgment, the Injunction, the Development Agreement, the Guaranty and the Approvals in the event of a Default, the remedies available to a Party for a Matured Event of Default shall include specific performance of this Agreement in addition to any other remedy available at law or in equity, including, without limitation, recourse to the Guaranty by the City and termination by the City as provided in subsection (c) below.

(c) Notice of Termination. If there is a Default under this Agreement by the Academy, occurring at any time before the LLC Parties pay the initial installment of the Settlement Payment and full amount of the Affordable Housing Payment, then the City may elect to terminate this Agreement by sending a notice of termination to the Academy, which notice of termination shall state the Default and specify in reasonable detail the alleged material breach

that is the basis of the Default. If the Default is not cured as provided in this Agreement, then this Agreement will be considered terminated effective upon the date set forth in the City's notice of termination, which shall in no event be earlier than 45 days following delivery of the notice. Once the City has received the initial installment of the Settlement Payment and the full amount of the Affordable Housing Payment (whether through direct payment or by payment of funds into Escrow so long as the funds are paid to the City if and when required under the Escrow), the City may not elect to terminate this Agreement even for a Matured Event of Default, and instead shall seek remedies other than termination provided in subsection (b) above; provided, however, if there is a final judgment in a successful legal challenge to the Development Agreement or other City approvals required to implement the settlement contemplated by this Agreement, or if a referendum petition protesting the ordinance approving the Development Agreement results in the Board of Supervisors repealing the ordinance or the voters disapproving the ordinance, then this Agreement, including, without limitation, the releases of the Parties set forth in Article 3 above, will terminate and the funds will be paid out of Escrow to the LLC Parties as provided in in Section 2.2.1 above.

(d) Breach of Other Incorporated Agreements. For the avoidance of doubt, and subject to subsection (c) above, failure of the Academy to comply with the Development Agreement, Injunction, or Consent Judgment shall not, by virtue of that noncompliance alone, be a Default under this Agreement allowing for termination by the City of this Agreement. Nothing in this subsection shall limit the City's remedies under the Development Agreement, Injunction, and Consent Judgment themselves, or any other applicable provision of law.

(e) Cure Period. Except for failure by the LLC Parties to make any payment of the Settlement Payment or Affordable Housing Payment required under this Agreement in accordance with Section 2.2 (which is subject to a 10-day cure period as provided in subsection (b) above), in the event of an alleged Default by either Party, the allegedly defaulting Party shall be given a 45-day period from the date of receipt of the Notice of Default in which to correct or cure the breach.

(f) Time Limits; Waiver; Remedies Cumulative. Failure by a Party to insist upon the strict or timely performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver. No waiver of any condition or failure of performance, including a Default, shall be effective or binding unless made in writing by the waiving Party, and no such waiver shall be implied from any omission to take any action with respect to such failure. No express written waiver shall affect any other condition, action or inaction, or cover any other period of time, other than any condition, action or inaction and/or period of time specified in such express waiver. One or more written waivers under any provision of this Agreement shall not be deemed to be a waiver of any subsequent condition, action or inaction, and the performance of the same or any other term or provision contained in this Agreement. Nothing in this Agreement shall limit or waive any other right or remedy available to the City or the Academy to seek injunctive relief or other expedited judicial and/or administrative relief to prevent irreparable harm.

(g) Attorneys' Fees. Should legal action be brought by either Party against the other for a Default under this Agreement or to enforce any provision in this Agreement, the prevailing

Party in such action shall be entitled to recover its reasonable attorneys' fees and costs. For purposes of this Agreement, "**reasonable attorneys' fees and costs**" means the reasonable fees and expenses of counsel to the Party, which may include printing, duplicating and other expenses, air freight charges, hiring of experts and consultants, and fees billed for law clerks, paralegals, librarians, and others not admitted to the California bar but performing services under the supervision of an attorney as provided by law. The term "**reasonable attorneys' fees and costs**" shall also include, without limitation, all such reasonable fees and expenses incurred with respect to appeals, mediation, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees and costs were incurred. For the purposes of this Agreement, the reasonable fees of attorneys of City Attorney's Office shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the Law for which the City Attorney's Office's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

ARTICLE 4

GENERAL

4.1 Notices

Except as otherwise expressly provided in this Agreement, all notices, demands, approvals, consents and other formal communications between the Parties required or permitted under this Agreement shall be in writing and shall be deemed given and effective upon the date of receipt (i) if given by personal delivery on a business day (or the next business day if delivered personally on a day that is not a business day), (ii) if sent for next-business-day delivery (with all expenses prepaid) by a reliable overnight delivery service, with receipt of delivery, or (iii) if mailed by United States registered or certified mail, first class postage prepaid, to the Party at their respective addresses for notice designated below and may include courtesy copies by email to the addresses designated below. The effective time of a notice shall not be affected by the receipt, before receipt of the original.

In the case of a notice or communication to the City:

Director of Planning
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, California 94102
email: john.rahaim@sfgov.org]

with copies to:

Dennis J. Herrera
City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Attn: Chief Deputy City Attorney (Academy)
email: ronald.flynn@sfcityatty.org
and to:
Attn: Chief Assistant City Attorney (Academy)
email: jesse.smith@sfcityatty.org
Attn: Deputy City Attorney, Land Use Team (Academy)
email: kristen.jensen@sfcityatty.org

And in the case of a notice or communication to the Academy:

The Stephens Institute
79 New Montgomery Street
San Francisco, CA 94105
Attn: Elisa Stephens
email: EStephens@academyart.edu

With a copy to:

David J. Millstein, Esq.
Millstein and Associates
100 The Embarcadero, Penthouse
San Francisco, CA 94105
email: dmillstein@millstein-law.com

James Abrams, Esq.
J. Abrams Law, P.C.
One Maritime Plaza Suite 1900
San Francisco, CA 94111
email: jabrams@jabramslaw.com

Joseph Alioto Veronese, Esq.
700 Montgomery Street
San Francisco, CA 94111-2104
email: joe@aliotolg.com

Every notice given to a Party under the terms of this Agreement, must state (or must be accompanied by a cover letter that states) substantially the following:

- (i) the Section of this Agreement under which the notice is given and the action or response required, if any; and
- (ii) if applicable, the period of time within which the recipient of the notice must respond.

If a request for approval states a period of time for approval that is less than the time period provided for in this Agreement for such approval, the time period stated in this Agreement shall be

the controlling time period. In no event shall a recipient's approval of or consent to the subject matter of a notice be deemed to have been given by its failure to object to such notice if such notice (or the accompanying cover letter) does not comply with the requirements of this Section.

Any mailing or email address may be changed at any time by giving written notice of such change in the manner provided above at least 10 days before the effective date of the change.

4.2 Relationship of Parties: No Joint Venture or Partnership

The subject of this Agreement is the settlement of the Lawsuit, with the City not acting as the agent of the Academy and the Academy is not acting as the agent of the City in any respect. None of the provisions in this Agreement is intended to or shall be construed or deemed to render any Party as a partner in the other Party's business, or joint venturer or member in any joint enterprise.

4.3 Conflict of Interest

No member, official or employee of the City may have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement that affects her or his personal interest or the interests of any corporation, partnership or association in which she or he is interested directly or indirectly.

4.4 Time of Performance

(a) **Expiration.** All performance dates (including cure dates) expire at 5:00 p.m., San Francisco, California time, on the performance or cure date, unless otherwise provided in this Agreement.

(b) **Weekends and Holidays.** A performance date that falls on a Saturday, Sunday or City holiday (or official City furlough day) is deemed extended to the next City working day.

(c) **Days for Performance.** All periods for performance specified in this Agreement in terms of days shall be calendar days, and not business days, unless otherwise expressly provided in this Agreement.

(d) **Time of the Essence.** Time is of the essence for each and every provision of this Agreement, including, without limitation, the due dates for each payment by the LLC Parties.

4.5 Interpretation of Agreement

(a) **Words of Inclusion.** The use of the terms "including," "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters set forth, whether or not language of non-limitation is used with reference to such items or matters. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

(b) **No Presumption Against Drafter.** This Agreement has been negotiated at arm's length and between Persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, experienced and knowledgeable legal counsel has represented each Party. Accordingly, this Agreement shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting any part of this Agreement.

(c) **Costs and Expenses.** The Party on which any obligation is imposed in this Agreement shall be solely responsible for paying all costs and expenses incurred in the performance of such obligation, unless the provision imposing such obligation specifically provides to the contrary.

(d) **Agreement References.** A reference to any provision, term or matter "in this Agreement," shall be deemed to refer to any and all provisions of this Agreement reasonably related in the context of such reference, unless such reference refers solely to a specific numbered or lettered Article, Section or paragraph of this Agreement or any specific subdivision of this Agreement.

(e) **Approvals and Consents.** Unless this Agreement otherwise expressly provides, all approvals, consents or determinations to be made by or on behalf of the City under this Agreement shall be made by the City Attorney, or his or her designee. Approval by a Party to or of any act or request by any other Party shall not be deemed to waive or render unnecessary approval to or of any similar or subsequent acts or requests.

(f) **Recitals.** The Recitals in this Agreement are included for convenience of reference only. In the event of any conflict or inconsistency between the Recitals and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall control. The Recitals in this Agreement are not intended to create or imply covenants under this Agreement.

(g) **Captions.** The captions preceding the articles and Sections of this Agreement have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.

(h) **Exhibits.** Whenever an "Exhibit" is referenced, it means an attachment to this Agreement unless otherwise specifically identified. All such Exhibits are incorporated in this Agreement by reference.

4.6 Successors and Assigns

This Agreement is binding upon and will inure to the benefit of the successors and assigns of the Parties, including under the Development Agreement and related agreements.

4.7 No Third-Party Beneficiaries

This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns under the Development Agreement and related agreements.

4.8 Counterparts

This Agreement may be executed in counterparts and by e-mailed signatures, each of which is deemed to be an original, and all such counterparts shall constitute one and the same instrument.

4.9 Entire Agreement

This Agreement, including the Consent Judgment, Injunction, Guaranty and Development Agreement attached as exhibits, constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all negotiations or previous conditions mentioned in or incidental to this Agreement (including, but not limited to, the Term Sheet). No parol evidence of any prior draft of this Agreement or any other agreement (including, without limitation, the Term Sheet) shall be permitted to contradict or vary the terms of this Agreement.

4.10 Governing Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

4.11 Further Assurances

The Parties agree to execute and acknowledge such other and further documents as may be necessary or reasonably required to effectuate the terms of this Agreement. The City Attorney is authorized to execute on behalf of the City any notices, dismissals, or similar documents and any agreements, memoranda or similar documents that are necessary or proper to achieve the purposes and objectives of this Agreement and that do not materially increase the obligations of the City under this Agreement, if the City Attorney determines that the document is necessary or proper, consistent with the purposes of this Agreement and in the City's best interests. The City Attorney's signature on any such document shall conclusively evidence such a determination.

4.12 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 grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Agreement.

4.13 Amendments; Corrections of Technical Errors

Neither this Agreement nor any of its terms may be terminated, amended or modified except by a written instrument executed by the Parties. Any material amendment of this Agreement shall be subject to approval of the Board of Supervisors and Mayor as provided in the

ordinance approving this Agreement. If by reason of inadvertence, and contrary to the intention of the Parties, errors are made in this Agreement or any of its Exhibits, the Parties by mutual agreement may correct such error by written memorandum executed by them without the necessity of amendment of this Agreement. The City Attorney may execute any such written memorandum on behalf of the City.

4.14 Representations, Warranties and Covenants

(a) **Academy Representation, Warranties and Covenants.** The Academy represents, warrants, and covenants to the City that as of the Effective Date, each of the following statements is accurate and complete:

(i) **Valid Existence; Good Standing.** The Stephens Institute and each of the LLC Parties are duly organized, validly existing and in good standing under the laws of the State of California or the State of Delaware, as the case may be. The Stephens Institute and each of the LLC Parties have all requisite power and authority to own their property and conduct their business as presently conducted.

(ii) **Authority.** The Academy has all requisite power and authority to execute and deliver this Agreement and to carry out and perform all of its duties and obligations under this Agreement.

(iii) **No Limitation on Ability to Perform.** Neither the Stephens Institute's articles of incorporation and bylaws, nor the articles of organization of the LLC Parties, nor any other agreement, court decision or law regarding the Academy prohibits or materially limits or otherwise affects the right or power of the Academy to enter into and perform all of the terms and covenants of this Agreement. The Academy is not a party to or bound by any contract, agreement, indenture, trust agreement, note, obligation or other instrument that prohibits or materially limits or otherwise affects the same. Except as expressly stated in this Agreement, no consent, authorization or approval of, or other action by, and no notice to or filing with, any governmental authority, regulatory body or any other Person is required for the due execution, delivery and performance by the Academy of this Agreement or any of the terms and covenants contained in this Agreement (or if required, any such consent, authorization or approval has been obtained, any such action has occurred, and any such notice has been given). There are no pending or threatened suits or proceedings or undischarged judgments affecting the Academy before any court, governmental agency, or arbitrator that might materially adversely affect the enforceability of this Agreement or the ability of the Academy to perform its obligations under this Agreement.

(iv) **Representation re: Agreement.** The Academy has carefully read this Agreement, and signs it freely and voluntarily with the advice of its own attorneys. The Academy affirms that the only consideration for its execution of this Agreement are the terms stated in this Agreement; that no other promise or agreement of any kind has been made by any person or entity to cause them to execute this Agreement, including the exhibits; that it is competent to execute this Agreement or the agreements contemplated this Agreement; that the

Academy's agreement to execute this Agreement has not been obtained by any duress or undue influence; and that the Academy fully understands and voluntarily executes this Agreement.

(v) **Valid Execution.** The execution and delivery of this Agreement (and the agreements contemplated in this Agreement) by the Academy have been duly and validly authorized by all necessary action on the part of the Academy. Upon its execution and delivery by all Parties and on the Effective Date, this Agreement will be a legal, valid, binding and enforceable obligation of the Academy.

(vi) **Financial Matters.** Neither the Stephens Institute nor any LLC Party nor any of the Guarantors has filed a petition for relief under any chapter of the U.S. Bankruptcy Code and has no present intention to petition for relief under any chapter of the U.S. Bankruptcy Code and to the Academy's knowledge, no involuntary petition naming the Academy or any LLC Party or any of the Guarantors as debtor has been filed under any chapter of the U.S. Bankruptcy Code.

(b) **City Representations, Warranties, and Covenants.** The City represents, warrants, and covenants to the other Parties that as of the Effective Date, each of the following statements is accurate and complete:

(i) **Authority.** The City has all requisite power and authority to execute and deliver this Agreement and to carry out and perform all of its duties and obligations under this Agreement.

(ii) **Valid Execution.** The execution and delivery of this Agreement (and the agreements contemplated in this Agreement) by the City have been duly and validly authorized by all necessary action on the part of the City. Upon its execution and delivery by all Parties and as of the Effective Date, this Agreement will be a legal, valid, binding and enforceable obligation of the City.

(iii) **Defaults.** The execution, delivery and performance of this Agreement do not and will not violate or result in a violation of, contravene or conflict with, or constitute a default under (A) any agreement, document or instrument to which the City is a party or (B) any applicable law, statute, ordinance or regulation.

4.15 Cooperation and Non-Interference

In connection with this Agreement, the Parties shall reasonably cooperate with one another to achieve the objectives and purposes of this Agreement. In so doing, the Parties shall each refrain from doing anything that would render its performance under this Agreement impossible and each must do everything that this Agreement contemplates that the Party shall do to accomplish the objectives and purposes of this Agreement. In all situations arising out of this Agreement, the Parties must each attempt to avoid and minimize the damages resulting from the conduct of the other and must take all reasonably necessary measures to achieve the provisions of this Agreement.

4.16 Conflicts of Interest

The Academy acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts that would constitute a violation of such provisions, and agrees that if the Academy becomes aware of any such fact during negotiations for the Agreement then the Academy must immediately notify the City.

4.17 Notification of Limitations on Contributions

By executing this Agreement, the Academy acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of the Academy's board of directors; the Academy's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in the Academy; any sub-contractor listed in the bid or contract; and any committee that is sponsored or controlled by the Academy. The Academy certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

4.18 Joint and Several Liability.

Where more than one person or entity executes this Agreement on behalf of the Academy or any one or more of the persons or entities constituting the Academy, the obligations of those persons and entities under this Agreement and any signatory shall be joint and several (except as otherwise expressly provided in the opening paragraph of this Agreement). The City, in its sole and absolute discretion, may (a) bring suit against the Academy, or any one or more of the persons or entities constituting the Academy, including the Stephens Institute and any LLC Party, or any of the Guarantors, all jointly and severally, or against any one or more of them; (b) compromise or settle with any one or more of the persons or entities constituting the Academy, including the Stephens Institute and any LLC Party, and any of the Guarantors for such consideration as the City may deem proper; (c) release one or more of the persons or entities constituting the Stephens Institute, or any LLC Party or any of the Guarantors, from liability; and/or (d) otherwise deal with the Academy, the Guarantors, or any one or more of them, in any manner, except that only the LLC Parties and the Guarantors shall be responsible

for the Settlement Payment and the LLC Parties shall be responsible for the Affordable Housing Payment and the City may not pursue the Stephens Institute for those payments.

4.19 Exhibits

The attached exhibits are made a part of this Agreement:

Exhibit A:	The LLC Parties
Exhibit B:	Consent Judgment
Exhibit C:	Stipulated Injunction
Exhibit D:	Development Agreement
Exhibit E:	Guaranty

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on this the
date first written above.

CITY:

Approved as to form:

CITY AND COUNTY OF SAN
FRANCISCO,
a municipal corporation

DENNIS J. HERRERA, City Attorney

By: _____

John Rahaim
Director of Planning

By: _____

Deputy City Attorney

RECOMMENDED:

By: _____

Daniel Adams,
Acting Director, Mayor's Office of
Housing and Community Development

Approved on _____, 20____
Board of Supervisors Ordinance No. _____

ACADEMY OF ART UNIVERSITY:

STEPHENS INSTITUTE,
a California corporation

By: _____

Dr. Elisa Stephens
President

2300 STOCKTON STREET, LLC,
a Delaware limited liability company

By: _____

Dr. Elisa Stephens
Manager

1916 OCTAVIA STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1153 BUSH STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

2209 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1835 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1080 BUSH STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1069 PINE STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1055 PINE STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

60 FEDERAL STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

491 POST STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

701 CHESTNUT STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

860 SUTTER STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

S/F 466 TOWNSD, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

620 RSSE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

2151 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

2211 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

825 SUTTER STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

601 BRANNAN STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1727 LOMBARD II, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

2225 JERROLD AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

460 TOWNSEND STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

950 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

2801 LEAVENWORTH-CANNERY, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

79 NEW MONTGOMERY STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

635 POLK STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

625 SUTTER STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

740 TAYLOR STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1946 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1142 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

575 HARRISON, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1900 JACKSON STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

736 JONES STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

560 POWELL STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

655 SUTTER STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

680/688 SUTTER STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

2550 VNPOOL, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

700 MONTGOMERY STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

150 HAYES STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

EXHIBIT A TO SETTLEMENT AGREEMENT

THE LLC Parties

1. 601 Brannan Street, LLC, a Delaware limited liability company
2. 60 Federal Street, LLC, a Delaware limited liability company
3. 2801 Leavenworth-Cannery, LLC, a Delaware limited liability company
4. 79 New Montgomery Street, LLC, a Delaware limited liability company
5. 625 Polk Street, LLC, a Delaware limited liability company
6. 491 Post Street, LLC, a Delaware limited liability company
7. 625 Sutter Street, LLC, a Delaware limited liability company
8. 740 Taylor Street, LLC, a Delaware limited liability company
9. S/F 466 Townsd, LLC, a Delaware limited liability company
10. 1835 Van Ness Avenue LLC, a Delaware limited liability company
11. 2151 Van Ness Avenue, LLC, a Delaware limited liability company
12. 1946 Van Ness Avenue, LLC, a Delaware limited liability company
13. 1142 Van Ness Avenue, LLC, a Delaware limited liability company
14. 1080 Bush Street, LLC, a Delaware limited liability company
15. 1153 Bush Street, LLC, a Delaware limited liability company
16. 575 Harrison, LLC, a Delaware limited liability company
17. 1900 Jackson Street, LLC, a Delaware limited liability company
18. 736 Jones Street, LLC, a Delaware limited liability company
19. 1727 Lombard II, LLC, a Delaware limited liability company
20. 1916 Octavia Street, LLC, a Delaware limited liability company
21. 560 Powell Street, LLC, a Delaware limited liability company
22. 620 RSSE, LLC, a Delaware limited liability company
23. 655 Sutter Street, LLC, a Delaware limited liability company
24. 680/688 Sutter Street, LLC, a Delaware limited liability company
25. 825 Sutter Street, LLC, a Delaware limited liability company
26. 860 Sutter Street, LLC, a Delaware limited liability company
27. 2209 Van Ness Avenue, LLC, a Delaware limited liability company
28. 2211 Van Ness Avenue, LLC, a Delaware limited liability company
29. 2550 VNPool, LLC, a Delaware limited liability company
30. 2225 Jerrold Avenue, LLC, a Delaware limited liability company
31. 950 Van Ness Avenue, LLC, a Delaware limited liability company
32. 150 Hayes LLC, a Delaware limited liability company
33. 700 Montgomery Street, LLC, a Delaware limited liability company
34. 1069 Pine Street, LLC, a Delaware limited liability company
35. 701 Chestnut Street, LLC, a Delaware limited liability company
36. 2300 Stockton Street, LLC, a Delaware limited liability company
37. 460 Townsend, LLC, a Delaware limited liability company
38. 1055 Pine Street, LLC, a Delaware limited liability company

EXHIBIT B TO SETTLEMENT AGREEMENT

CONSENT JUDGMENT

(ATTACHED)

DENNIS J. HERRERA, State Bar #139669
City Attorney
RONALD P. FLYNN, State Bar #184186
Chief Deputy City Attorney
YVONNE R. MERÉ, State Bar #173594
Chief of Complex and Affirmative Litigation
THOMAS S. LAKRITZ, State Bar #161234
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Attorneys for Plaintiffs
PEOPLE OF THE STATE OF CALIFORNIA and
CITY AND COUNTY OF SAN FRANCISCO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

PEOPLE OF THE STATE OF CALIFORNIA,
ex rel. DENNIS J. HERRERA, City Attorney
for the City and County of San Francisco, and
CITY AND COUNTY OF SAN
FRANCISCO, a municipal corporation,

Plaintiffs,

vs.

STEPHENS INSTITUTE, d/b/a ACADEMY
OF ART UNIVERSITY, a California
corporation; 2300 STOCKTON STREET,
LLC, a Delaware limited liability company;
1916 OCTAVIA STREET, LLC, a Delaware
limited liability company; 1153 BUSH
STREET, LLC, a Delaware limited liability
company; 2209 VAN NESS AVENUE, LLC, a
Delaware limited liability company; 1835
VAN NESS AVENUE, LLC, a Delaware
limited liability company; 1080 BUSH
STREET, LLC, a Delaware limited liability
company; 1069 PINE STREET, LLC, a
Delaware limited liability company; 1055
PINE STREET, LLC, a Delaware limited
liability company; 60 FEDERAL STREET,

Case No. CGC 16-551832

CONSENT JUDGMENT

Hearing Date: Date
Hearing Judge: Hon. _____
Time: Time
Place: Dept. 305

Date Action Filed: May 6, 2016
Trial Date: Not Yet Set

Attached Documents:

Exhibit A: Settlement Agreement
Exhibit B: Stipulated Injunction
Exhibit C: Development Agreement

1 LLC, a Delaware limited liability company;
2 491 POST STREET, LLC, a Delaware limited
3 liability company; 701 CHESTNUT STREET,
4 LLC, a Delaware limited liability company;
5 860 SUTTER STREET, LLC, a Delaware
6 limited liability company; S/F 466 TOWNSD,
7 LLC, a Delaware limited liability company;
8 620 RSSE, LLC, a Delaware limited liability
9 company; 2151 VAN NESS AVENUE, LLC, a
10 Delaware limited liability company; 2211
11 VAN NESS AVENUE, LLC, a Delaware
12 limited liability company; 825 SUTTER
13 STREET, LLC, a Delaware limited liability
14 company; 601 BRANNAN STREET, LLC, a
15 Delaware limited liability company; 1727
16 LOMBARD II, LLC, a Delaware limited
17 liability company; 2225 JERROLD AVENUE,
18 LLC, a Delaware limited liability company;
19 460 TOWNSEND STREET, LLC, a Delaware
20 limited liability company; 950 VAN NESS
21 AVENUE, LLC, a Delaware limited liability
22 company; 2801 LEAVENWORTH-
23 CANNERY, LLC, a Delaware limited liability
24 company; and DOE ONE through DOE
25 FIFTY, inclusive,

26 Defendants.

27 INTRODUCTION

28 This Consent Judgment is entered into between Plaintiffs the PEOPLE OF THE STATE OF
CALIFORNIA, and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation,
(collectively "Plaintiffs" or the "City"), represented by their attorney, DENNIS J. HERRERA, City
Attorney, appearing through THOMAS S. LAKRITZ and RONALD P. FLYNN, Deputy City
Attorneys, and Defendants STEPHENS INSTITUTE, d/b/a ACADEMY OF ART UNIVERSITY, a
California corporation; 2300 STOCKTON STREET, LLC, a Delaware limited liability company; 1916
OCTAVIA STREET, LLC, a Delaware limited liability company; 1153 BUSH STREET, LLC, a
Delaware limited liability company; 2209 VAN NESS AVENUE, LLC, a Delaware limited liability
company; 1835 VAN NESS AVENUE, LLC, a Delaware limited liability company; 1080 BUSH
STREET, LLC, a Delaware limited liability company; 1069 PINE STREET, LLC, a Delaware limited
liability company; 1055 PINE STREET, LLC, a Delaware limited liability company; 60 FEDERAL

1 STREET, LLC, a Delaware limited liability company; 491 POST STREET, LLC, a Delaware limited
2 liability company; 701 CHESTNUT STREET, LLC, a Delaware limited liability company; 860
3 SUTTER STREET, LLC, a Delaware limited liability company; S/F 466 TOWNSEND, LLC, a Delaware
4 limited liability company; 620 RSSE, LLC, a Delaware limited liability company; 2151 VAN NESS
5 AVENUE, LLC, a Delaware limited liability company; 2211 VAN NESS AVENUE, LLC, a
6 Delaware limited liability company; 825 SUTTER STREET, LLC, a Delaware limited liability
7 company; 601 BRANNAN STREET, LLC, a Delaware limited liability company; 1727 LOMBARD
8 II, LLC, a Delaware limited liability company; 2225 JERROLD AVENUE, LLC, a Delaware limited
9 liability company; 460 TOWNSEND STREET, LLC, a Delaware limited liability company; 950 VAN
10 NESS AVENUE, LLC, a Delaware limited liability company; 2801 LEAVENWORTH-CANNERY,
11 LLC (collectively "Defendants"), represented by David J. Millstein, Esq. and Gerald S. Richelson,
12 Esq.. Plaintiffs and Defendants may be referred to below collectively as the "Parties" and individually
13 as a "Party."

14 The Parties have reached a settlement. The complete terms of that settlement are memorialized
15 in three separate documents: a Settlement Agreement, attached hereto as Exhibit A; a Stipulated
16 Injunction, attached hereto as Exhibit B; and a Development Agreement, attached hereto as Exhibit C.
17 The Parties stipulate that Exhibits A-C, and all of the terms and obligations arising therefrom, are
18 incorporated by reference as part of this Consent Judgment (hereinafter "Judgment").

19 The Parties further stipulate that this Judgment shall provide a comprehensive framework to
20 adjudicate and enforce any and all obligations arising out of Exhibits A-C, consistent with the terms of
21 Exhibit A and its attachments (Settlement Agreement). The Parties stipulate that the San Francisco
22 Superior Court shall retain jurisdiction to ensure that the Parties comply with all terms and obligations
23 contained in this Judgment and agree that any and all obligations arising out of this Judgment and its
24 incorporated Exhibits A-C, shall rest with the Defendants, jointly and severally.

25 In the event Defendants fail to timely and fully comply with the terms of this Judgment,
26 Plaintiffs may seek to enforce any and all terms of the Judgment and its incorporated Exhibits A-C by
27 applying *ex parte* to the Superior Court of the County of San Francisco. Plaintiffs must give
28 Defendants' 48-hours notice through its counsel of record in advance of any such application. Notice

1 shall be given by telephone or electronic mail to Defendants' counsel of record, David J. Millstein
2 Esq., at the following telephone number (415) 348-0348 and email: dmillstein@millstein-law.com.
3 Should Defendants' counsel of record change during the pendency of this Judgment, Defendants must
4 inform Plaintiffs of any such change in counsel within five calendar days. The enforcement scheme
5 created by this Judgment, shall be in addition to any other remedies available at law.

6 Plaintiffs shall be entitled to any and all attorneys' fees and costs incurred for enforcing the
7 terms of this Judgment.

8
9 SO STIPULATED:

10
11 Dated: XXX 0, 0000

12 DENNIS J. HERRERA
13 City Attorney
14 RONALD P. FLYNN
15 Chief Deputy City Attorney
16 YVONNE R. MERÉ
17 Chief Attorney
18 THOMAS S. LAKRITZ
19 MATTHEW D. GOLDBERG
20 Deputy City Attorney

21 By: _____
22 DENNIS J HERRERA

23 Attorneys for Plaintiffs
24 PEOPLE OF THE STATE OF CALIFORNIA and
25 CITY AND COUNTY OF SAN FRANCISCO

26 DATED: XXX 0, 0000

27 MILLSTEIN & ASSOCIATES

28 By: _____
David J. Millstein, Esq.
Attorney for DEFENDANTS:

STEPHENS INSTITUTE, d/b/a ACADEMY OF ART UNIVERSITY, a California
corporation; 2300 STOCKTON STREET, LLC, a Delaware limited liability company;
1916 OCTAVIA STREET, LLC, a Delaware limited liability company; 1153 BUSH
STREET, LLC, a Delaware limited liability company; 2209 VAN NESS AVENUE, LLC, a Delaware
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limited liability company; 1080 BUSH STREET, LLC, a Delaware limited liability

1 company; 1069 PINE STREET, LLC, a Delaware limited liability company; 1055 PINE STREET,
2 LLC, a Delaware limited liability company; 60 FEDERAL STREET, LLC, a Delaware limited
3 liability company; 491 POST STREET, LLC, a Delaware limited liability company; 701 CHESTNUT
4 STREET LLC , a Delaware limited liability company; 860 SUTTER STREET, LLC, a Delaware limited
5 liability company; S/F 466 TOWNSD, LLC, a Delaware limited liability company; 620 RSSE, LLC, a
6 Delaware limited liability company; 2151 VAN NESS AVENUE, LLC, a Delaware limited liability
7 company; 2211 VAN NESS AVENUE, LLC, a Delaware limited liability company; 825 SUTTER
8 STREET, LLC, a Delaware limited liability company; 601 BRANNAN STREET, LLC, a Delaware
9 limited liability company; 1727 LOMBARD II, LLC, a Delaware limited liability company; 2225
10 JERROLD AVENUE, LLC, a Delaware limited liability company; 460 TOWNSEND STREET, LLC, a
11 Delaware limited liability company; 950 VAN NESS AVENUE, LLC, a Delaware limited liability;
12 2801 LEAVENWORTH-CANNERY, LLC, a Delaware limited liability company.
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25
26
27
28

SO ORDERED:

DATED:

[court]

EXHIBIT C TO SETTLEMENT AGREEMENT

STIPULATED INJUNCTION

(ATTACHED)

DENNIS J. HERRERA, State Bar #139669
City Attorney
RONALD P. FLYNN, State Bar #184186
Chief Deputy City Attorney
YVONNE R. MERÉ, State Bar #173594
Chief of Complex and Affirmative Litigation
THOMAS S. LAKRITZ, State Bar #161234
MATTHEW D. GOLDBERG, State Bar #240776
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1390 Market Street, Sixth Floor
San Francisco, California 94102-5408
Telephone: (415) 554-3963
Facsimile: (415) 437-4644
E-Mail: tom.lakritz@sfgov.org

Attorneys for Plaintiffs
PEOPLE OF THE STATE OF CALIFORNIA and
CITY AND COUNTY OF SAN FRANCISCO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

PEOPLE OF THE STATE OF CALIFORNIA,
ex rel. DENNIS J. HERRERA, City Attorney
for the City and County of San Francisco, and
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FRANCISCO, a municipal corporation,

Plaintiffs,

vs.

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OF ART UNIVERSITY, a California
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STREET, LLC, a Delaware limited liability
company; 2209 VAN NESS AVENUE, LLC, a
Delaware limited liability company; 1835
VAN NESS AVENUE, LLC, a Delaware
limited liability company; 1080 BUSH
STREET, LLC, a Delaware limited liability
company; 1069 PINE STREET, LLC, a
Delaware limited liability company; 1055
PINE STREET, LLC, a Delaware limited
liability company; 60 FEDERAL STREET,

Case No. CGC 16-551832

**[PROPOSED] STIPULATED PERMANENT
INJUNCTION**

Hearing Date:	Date
Hearing Judge:	Hon. _____
Time:	Time
Place:	Dept.

Date Action Filed:	May 6, 2016
Trial Date:	Not Yet Set

Attached Documents: Doc Names

1 LLC, a Delaware limited liability company;
2 491 POST STREET, LLC, a Delaware limited
3 liability company; 701 CHESTNUT STREET,
4 LLC, a Delaware limited liability company;
5 860 SUTTER STREET, LLC, a Delaware
6 limited liability company; S/F 466 TOWNSD,
7 LLC, a Delaware limited liability company;
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18 LLC, a Delaware limited liability company;
19 460 TOWNSEND STREET, LLC, a Delaware
20 limited liability company; 950 VAN NESS
21 AVENUE, LLC, a Delaware limited liability
22 company; 2801 LEAVENWORTH-
23 CANNERY, LLC, a Delaware limited liability
24 company; and DOE ONE through DOE
25 FIFTY, inclusive,

26 Defendants.

27 INTRODUCTION

28 On _____, 2020, this Stipulated Permanent Injunction ("INJUNCTION") was presented
before the above-captioned Court, the Honorable _____, presiding. The PEOPLE OF THE
STATE OF CALIFORNIA, ex rel. DENNIS J. HERRERA, City Attorney for the City and County of
San Francisco ("PEOPLE"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal
corporation, ("CITY"), (collectively, "PLAINTIFFS"), were represented by their attorney, DENNIS J.
HERRERA, City Attorney, appearing through Deputy City Attorney THOMAS S. LAKRITZ.
STEPHENS INSTITUTE, d/b/a ACADEMY OF ART UNIVERSITY, a California corporation
("AAU"); 2300 STOCKTON STREET, LLC, a Delaware limited liability company; 1916 OCTAVIA
STREET, LLC, a Delaware limited liability company; 1153 BUSH STREET, LLC, a Delaware
limited liability company; 2209 VAN NESS AVENUE, LLC, a Delaware limited liability company;

1835 VAN NESS AVENUE, LLC, a Delaware limited liability company; 1080 BUSH STREET, LLC,
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II, LLC, a Delaware limited liability company; 2225 JERROLD AVENUE, LLC, a Delaware limited
liability company; 460 TOWNSEND STREET, LLC, a Delaware limited liability company; 950 VAN
NESS AVENUE, LLC, a Delaware limited liability; 2801 LEAVENWORTH-CANNERY, LLC, a
Delaware limited liability company (collectively “LLCs”), (collectively, “DEFENDANTS”), were
represented by their attorney, DAVID J. MILLSTEIN ESQ..

PLAINTIFFS and DEFENDANTS (collectively, the “PARTIES”) consent to entry of this
INJUNCTION as an Order by this Court without a noticed motion, hearing, or trial.

The PARTIES having stipulated to the provisions set forth herein, the Court having reviewed
the provisions, the PARTIES having agreed to the issuance of this Order, and good cause appearing
therefore,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

GENERAL PROVISIONS

PLAINTIFFS brought this action pursuant to various provisions of state and local law,
including California Business and Professions Code sections 17200-17210 (“Unfair Competition
Law”), California Civil Code sections 3479, 3480, 3491, and 3494, California Code of Civil Procedure
section 731, and San Francisco Planning Code sections 176 and 176.1.

I. JURISDICTION

This Court has jurisdiction over the subject matter and each of the PARTIES in this action. The Court issues this INJUNCTION pursuant to its authority under California Business and Professions Code section 17203, Civil Code sections 3491, 3494, and Code of Civil Procedure section 731. The Court expressly retains jurisdiction to interpret and enforce this INJUNCTION. The Court may hear and decide issues regarding the scope and effect of the injunctive provisions. Any party to this INJUNCTION or entity bound by this INJUNCTION may apply to the Court at any time, after making a reasonable effort to meet and confer with the other PARTIES, for further orders and directions as may be necessary or appropriate for the construction, application, carrying out or enforcement of the injunctive provisions. The Court may modify any of the injunctive provisions and take such further action as may be necessary or appropriate to enforce the injunctive provisions, and to punish any violations. The PARTIES agree that the obligations arising out of this INJUNCTION shall rest with all DEFENDANTS jointly and severally, except as otherwise specifically provided below.

II. AUTHORITY

PLAINTIFFS have authority under California and San Francisco law to bring and maintain this action to protect the People of the State of California and the residents of the City and County of San Francisco.

III. APPLICATION

In this action, PLAINTIFFS allege that DEFENDANTS employed a business model that blatantly disregarded the San Francisco Planning Code by changing the use of over 22 buildings in San Francisco in violation of the Planning Code. DEFENDANTS acquired buildings that are zoned and permitted for use as apartments and other residential purposes, only to convert them unlawfully to student dorms, depriving San Francisco of critical housing stock, especially affordable housing. These business practices violated state and local laws, including the Unfair Competition Law, California Civil Code sections 3479 and 3480, and the San Francisco Planning Code.

DEFENDANTS dispute PLAINTIFFS' claims, allegations, theories of liability, and deny the violations PLAINTIFFS allege.

1 In an effort to come to a negotiated resolution of all of the claims that have arisen in this
2 action, the PARTIES are executing a consent judgment, which will include the enforcement
3 mechanisms for the development agreement and which incorporates this INJUNCTION and a
4 settlement agreement ("SETTLEMENT AGREEMENT"). By reaching a settlement and agreeing to
5 injunctive terms and payment of civil penalties, DEFENDANTS are not admitting any wrongdoing or
6 making any admission of liability.

6 **IV. PARTIES, ENTITIES, AND PROPERTIES BOUND BY THIS INJUNCTION**

7 **A. Parties and Entities**

8 This Injunction shall be enforceable against all DEFENDANTS and their affiliates, as well as
9 any other entities owned or controlled by the Stephens Family Revocable Trust, the Elisa Stephens
10 Revocable Trust, the Scott Alan Stephens Revocable Trust, Elisa Stephens, Scott A. Stephens, and
11 Susanne Stephens.

12 **B. Existing Properties**

13 The existing properties are those owned by DEFENDANTS as identified in the First Amended
14 Complaint.

15 **C. Properties Acquired for Future Expansion and Operation**

16 The provisions of this INJUNCTION shall apply to any properties used directly or indirectly
17 by the Academy in the future as well as to the existing properties (the properties described in IV b and
18 c are collectively referred to as "PROPERTIES").

19 **V. NECESSITY FOR INJUNCTION**

20 **This Court finds that this INJUNCTION is necessary in the interest of the health, safety, and**
21 **welfare of the citizens of the State of California and the residents of the City and County of San**
22 **Francisco, to abate public nuisances, and to ensure that each DEFENDANT complies with all**
23 **applicable laws in the ownership, operation, use, management and/or maintenance of the**
24 **PROPERTIES.**

25 **INJUNCTIVE TERMS**

26 **I. BREACH AND CURE**

27 **A. Notices of Violation from City Departments**

28 In the event that a department of the CITY issues a notice of violation or other notice
informing DEFENDANTS that the conversion or use of a property covered by this INJUNCTION is in
violation of any provision of the San Francisco Planning Code, Fire Code, Building Code, Public

Works Code, or Section 37 of the Administrative Code, DEFENDANTS shall correct any such violations set forth in the notice of violation within forty-five days, or such shorter period set forth in the notice of violation as reasonably justified by a health or safety emergency, whichever is first. The failure to correct a material violation within the deadline set forth in the notice or forty-five days, whichever is first, shall be a violation of this INJUNCTION.

B. Cure Period

In the event the PLAINTIFFS contend that DEFENDANTS are in breach of any of their obligations under this INJUNCTION or the SETTLEMENT AGREEMENT, then the PLAINTIFFS shall give written notice, as provided in Paragraph VII below, specifying in reasonable detail the alleged breach or lack of compliance. DEFENDANTS shall be given a forty-five-day period from the date of receipt of the required notice in which to correct or cure the breach or lack of compliance. The failure to correct a material violation within forty-five days shall be a violation of this INJUNCTION.

C. Materiality

For the purposes of this Paragraph I material violation shall mean a: (i) violation of a material provision of this INJUNCTION; (ii) pattern of violations of the San Francisco Planning Code, Fire Code, Building Codes (including, Electrical, Plumbing, Mechanical, and Housing Codes), Public Works Code, or Section 37 of the Administrative Code, even if minor; or (iii) violation of health and safety provisions of those Codes. The DEFENDANTS by entering into this INJUNCTION does not agree and specifically disputes that the DEFENDANT's student housing is subject in any way to Section 37 of the San Francisco Administrative Code.

II. UNFAIR AND UNLAWFUL BUSINESS PRACTICES

IT IS HEREBY ORDERED that DEFENDANTS are hereby restrained and enjoined from engaging in the following unlawful and/or unfair conduct:

A. Using, directly or indirectly, any PROPERTIES, or any other real property in San Francisco which DEFENDANTS own, operate, manage, and/or maintain in such a manner as to constitute a public nuisance; or

B. Using, directly or indirectly, any of the PROPERTIES, or any other real property in San Francisco which DEFENDANTS own, operate, manage, and/or maintain in such a manner as to

constitute violations of the of the San Francisco Planning Code, Fire Code, Building Codes (including, Electrical, Plumbing, Mechanical, and Housing Codes), Public Works Code, or Section 37 of the Administrative Code. The DEFENDANTS by entering into this INJUNCTION do not agree and specifically dispute that the Academy's student housing is subject in any way to Section 37 of the San Francisco Administrative Code.

III. FEES, COSTS, AND CIVIL PENALTIES

The PARTIES have come to a monetary resolution of this matter that involves payment provisions that are described in greater detail in the SETTLEMENT AGREEMENT filed concurrently with this INJUNCTION as an exhibit to the Consent Judgment. The provisions for payment of a Settlement Payments and an Affordable Housing Payment defined and set forth in Paragraph 2.2 of the SETTLEMENT AGREEMENT are incorporated by reference into this INJUNCTION. Any failure to make payments set forth in Paragraph 2.2 of the SETTLEMENT AGREEMENT shall be deemed a violation of this INJUNCTION, subjecting the DEFENDANTS to any and all penalties described in this INJUNCTION.

IV. JURISDICTION AND JUDICIAL ENFORCEMENT OF THIS INJUNCTION

A. The Court expressly reserves jurisdiction to take such further action as may be necessary or appropriate to enforce the provisions of this INJUNCTION, and to order all appropriate relief under the law. For the duration of the injunctive period, all disputes arising or hearings required regarding compliance with this Injunction shall be brought to the Honorable _____, Judge of the San Francisco Superior Court, for resolution.

B. Violation of any provision of this INJUNCTION may constitute contempt of court as described in California Code of Civil Procedure section 1218, et seq. In the event that the Court determines after hearing that DEFENDANTS have violated any of the terms of this INJUNCTION, the applicable DEFENDANT shall be liable for civil penalties of no more than \$6,000 for each violation of this INJUNCTION pursuant to Business and Professions Code Sections 17206 and 17207.

C. Should the Court determine after hearing that any DEFENDANT violated any terms of this INJUNCTION, PLAINTIFFS shall have the right to recover all reasonable attorneys' fees and

costs incurred in enforcing said violation as determined by the Court against the responsible
1 DEFENDANT.

2 D. Any fines, penalties, or other monetary relief specified in this INJUNCTION shall be in
3 addition to any other relief or sanctions that the Court may order as a matter of law or equity.

4 E. Any fines, penalties, or other monetary relief specified in this INJUNCTION shall not
5 preclude PLAINTIFFS from obtaining other penalties or relief prescribed by law.

6 **V. EFFECTIVE DATE AND TERM OF INJUNCTION**

7 Unless otherwise stated, DEFENDANTS shall comply with the terms of this INJUNCTION
8 upon entry by the Court.

9 **VI. NO WAIVER OF RIGHT TO ENFORCE**

10 The failure of PLAINTIFFS to enforce any such provision shall not preclude PLAINTIFFS
11 from later enforcing the same or any other provision of this INJUNCTION; nor shall such failure be
12 deemed a waiver of such provision or in any way affect the validity of this INJUNCTION. No oral
13 advice, guidance, suggestion or comments by PLAINTIFFS' employees or officials regarding matters
14 covered in this Injunction shall be construed to relieve DEFENDANTS of their obligations hereunder.

15 **VII. NOTICE**

16 Except as otherwise provided in this INJUNCTION, all notifications, reports and
17 communications to the PARTIES required under this INJUNCTION shall be made in writing and shall
18 be sufficient as hand-delivered, sent by first class mail, or communicated by e-mail to the following
19 persons:

20 For PLAINTIFFS:

21 The Stephens Institute
22 79 New Montgomery Street
23 San Francisco, CA 94105
24 Attn: Elisa Stephens
25 email: EStephens@academyart.edu

26 With a copy to:

27 David J. Millstein, Esq.
28 Millstein and Associates
100 The Embarcadero, Penthouse

For DEFENDANTS:

Director of Planning
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, California 94102
Email: john.rahaim@sfgov.org

Dennis J. Herrera.
City Attorney
City Hall, Room 234

San Francisco, CA 94105
email: dmillstein@millstein-law.com

James Abrams, Esq.
J. Abrams Law, P.C.
One Maritime Plaza Suite 1900
San Francisco, CA 94111
email: jabrams@abramslaw.com

Joseph Alioto Veronese, Esq.
700 Montgomery Street
San Francisco, CA 94111-2104
email: joe@aliotolg.com

1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Chief Deputy City Attorney, Academy of
Art Settlement Agreement
Email: ronald.flynn@sfcityatty.org
and to:
Attn: Chief Assistant City Attorney (Academy)
email: jesse.smith@sfcityatty.org
Attn: Deputy City Attorney, Land Use Team
(Academy)
email: kristen.jensen@sfcityatty.org

VIII. COUNTERPARTS

This INJUNCTION may be executed in separate counterparts and once executed shall constitute one agreement which shall be binding upon all the PARTIES hereto, notwithstanding that the signatures of the PARTIES' designated representatives do not appear on the same page and/or are not original signatures.

Dated: XXX 0, 0000

DENNIS J. HERRERA
City Attorney
RONALD P. FLYNN
Chief Deputy City Attorney
YVONNE R. MERÉ
Chief Attorney
THOMAS S. LAKRITZ
MATTHEW D. GOLDBERG
Deputy City Attorney

By: _____
DENNIS J HERRERA

Attorneys for Plaintiffs
PEOPLE OF THE STATE OF CALIFORNIA and
CITY AND COUNTY OF SAN FRANCISCO

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By:
John Rahaim
Director of Planning

DATED: XXX 0, 0000

MILLSTEIN & ASSOCIATES

By: _____
David J. Millstein, Esq.
Attorney for DEFENDANTS:

STEPHENS INSTITUTE, d/b/a ACADEMY OF ART UNIVERSITY, a California corporation; 2300 STOCKTON STREET, LLC, a Delaware limited liability company; 1916 OCTAVIA STREET, LLC, a Delaware limited liability company; 1153 BUSH STREET, LLC, a Delaware limited liability company; 2209 VAN NESS AVENUE, LLC, a Delaware limited liability company; 1835 VAN NESS AVENUE, LLC, a Delaware limited liability company; 1080 BUSH STREET, LLC, a Delaware limited liability company; 1069 PINE STREET, LLC, a Delaware limited liability company; 1055 PINE STREET, LLC, a Delaware limited liability company; 60 FEDERAL STREET, LLC, a Delaware limited liability company; 491 POST STREET, LLC, a Delaware limited liability company; 701 CHESTNUT STREET LLC, a Delaware limited liability company; 860 SUTTER STREET, LLC, a Delaware limited liability company; S/F 466 TOWNSD, LLC, a Delaware limited liability company; 620 RSSE, LLC, a Delaware limited liability company; 2151 VAN NESS AVENUE, LLC, a Delaware limited liability company; 2211 VAN NESS AVENUE, LLC, a Delaware limited liability company; 825 SUTTER STREET, LLC, a Delaware limited liability company; 601 BRANNAN STREET, LLC, a Delaware limited liability company; 1727 LOMBARD II, LLC, a Delaware limited liability company; 2225

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ACADEMY OF ART UNIVERSITY:

STEPHENS INSTITUTE,
a California corporation

By: _____
Dr. Elisa Stephens
President

2300 STOCKTON STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

1916 OCTAVIA STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

1153 BUSH STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

2209 VAN NESS AVENUE, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

1 1835 VAN NESS AVENUE, LLC,
2 a Delaware limited liability company;

3 By: _____
4 Dr. Elisa Stephens
5 Manager

6 1080 BUSH STREET, LLC,
7 a Delaware limited liability company;

8 By: _____
9 Dr. Elisa Stephens
10 Manager

11 1069 PINE STREET, LLC,
12 a Delaware limited liability company;

13 By: _____
14 Dr. Elisa Stephens
15 Manager

16 1055 PINE STREET, LLC,
17 a Delaware limited liability company;

18 By: _____
19 Dr. Elisa Stephens
20 Manager

21 60 FEDERAL STREET, LLC,
22 a Delaware limited liability company;

23 By: _____
24 Dr. Elisa Stephens
25 Manager

26 491 POST STREET, LLC,
27 a Delaware limited liability company;

28 By: _____
Dr. Elisa Stephens
Manager

701 CHESTNUT STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

860 SUTTER STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

S/F 466 TOWNSD, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

620 RSSE, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

2151 VAN NESS AVENUE, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

2211 VAN NESS AVENUE, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

825 SUTTER STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

601 BRANNAN STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

1727 LOMBARD II, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

2225 JERROLD AVENUE, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

460 TOWNSEND STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

950 VAN NESS AVENUE, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

2801 LEAVENWORTH-CANNERY, LLC,
a Delaware limited liability company;

By: _____

Dr. Elisa Stephens
Manager

PROOF OF SERVICE

I, _____, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

On XXX 0, 0000, I served the following document(s):

NAME OF DOCUMENT

on the following persons at the locations specified:

in the manner indicated below:

☐

BY UNITED STATES MAIL: Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

☐

BY PERSONAL SERVICE: I sealed true and correct copies of the above documents in addressed envelope(s) and caused such envelope(s) to be delivered by hand at the above locations by a professional messenger service. A declaration from the messenger who made the delivery ☐ is attached or ☐ will be filed separately with the court.

☐

BY OVERNIGHT DELIVERY: I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and delivery by overnight courier service. I am readily familiar with the practices of the San Francisco City Attorney's Office for sending overnight deliveries. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be collected by a courier the same day.

☐

BY ELECTRONIC MAIL: Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the person(s) at the electronic service address(es) listed above. Such document(s) were transmitted *via* electronic mail from the electronic address: first.last@sfgov.org ☐ in portable document format ("PDF") Adobe Acrobat or ☐ in Word document format. OR

☐

BY ELECTRONIC MAIL: Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be served electronically through **File & ServeXpress** or **TrueFiling** in portable document format ("PDF") Adobe Acrobat.

☐

BY FACSIMILE: Based on a written agreement of the parties to accept service by fax, I transmitted true and correct copies of the above document(s) via a facsimile machine at telephone number Fax #' to the persons and the fax numbers listed above. The fax transmission was reported as complete and without error. The transmission report was properly issued by the transmitting facsimile machine, and a copy of the transmission report ☐ is attached or ☐ will be filed separately with the court.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed XXX 0, 0000, at San Francisco, California.

EXHIBIT D TO SETTLEMENT AGREEMENT

DEVELOPMENT AGREEMENT

(ATTACHED)

RECORDING REQUESTED BY
CLERK OF THE BOARD OF SUPERVISORS
OF THE CITY AND COUNTY OF SAN FRANCISCO

(Exempt from Recording Fees
Under Government Code
Section 27383)

AND WHEN RECORDED MAIL TO:

Angela Calvillo
Clerk of the Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

DEVELOPMENT AGREEMENT

BY AND AMONG

THE CITY AND COUNTY OF SAN FRANCISCO,

AND

**THE STEPHENS INSTITUTE,
dba ACADEMY OF ART UNIVERSITY**

AND

THE LLC PARTIES

**with respect to various properties in San Francisco,
affordable housing and other public benefits, and future uses**

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- B. Legal Description
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- C. Mitigation Monitoring and Reporting Program
- D. List of Approvals
- E. Schedule of Performance
- F. Form of Certificate of Use for the three Academy Properties that will include Chapter 41 units after Approvals
- G. Form of Notice of Special Restrictions for SRO units in 860 Sutter Street, 1080 Bush Street and 1153 Bush Street

SCHEDULES

- 1. Impact Fee and Exactions Schedule
- 2. Schedule of Withdrawn Building Permits, and Withdrawn Conditional Use Applications

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY AND COUNTY OF SAN FRANCISCO**

AND

**the STEPHENS INSTITUTE,
dba ACADEMY OF ART UNIVERSITY**

AND

THE LLC PARTIES

This DEVELOPMENT AGREEMENT (this “**Agreement**”) dated for reference purposes only as of _____, 2019 (the “**Reference Date**”), is among the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the “**City**”), acting by and through its Planning Commission (the “**Planning Commission**”) and including the City Attorney acting on behalf of the People of the State of California and the City, on the one hand, and the STEPHENS INSTITUTE, a California corporation, dba Academy of Art University (the “**Stephens Institute**”), and the affiliated limited liability companies listed on Exhibit A, which own real property described below (each and “**LLC Party**” and collectively the “**LLC Parties**” and, together with the Stephens Institute, jointly and severally with respect to all obligations other than the Settlement Payment and the Affordable Housing Payment, which are the obligations of the LLC Parties, the “**Academy**”), on the other hand, , and is made under the authority of Section 65864 *et seq.* of the California Government Code and Chapter 56 of the San Francisco Administrative Code (the “**Administrative Code**”). The City and the Academy are also sometimes referred to individually as a “**Party**” and together as the “**Parties**.” Capitalized terms not defined when introduced shall have the meanings given in Article 1.

RECITALS

This Agreement is made with reference to the following facts:

A. On May 6, 2016, the City Attorney of the City and County of San Francisco (the “**City Attorney**”), on behalf of the People of the State of California and the City, commenced litigation against the Stephens Institute and the LLC Parties in *People v. Stephens Institute, et. al*, San Francisco Superior Court Number CGC-16-551-832 (the “**Lawsuit**”). In the Lawsuit, the People and the City alleged violations of the City’s Administrative Code, Planning Code, Building Code and the State Unfair Competition Law, Business and Professions Code Section 17200 *et seq.* (the “**UCL**”).

B. The Academy has expressed its commitment to the City Attorney and the Planning Department, as well as to the San Francisco Superior Court (the “**Court**”) in the settlement discussions referenced below, to: bring the Academy’s existing uses into compliance with the Planning Code; relocate existing Academy uses or change Academy uses in buildings in accordance with applicable Laws in those specific instances where the Planning Department has determined that legalization is not appropriate or the Academy has agreed to withdraw use by the

Stephens Institute; compensate the City for past violations, including providing affordable housing public benefits to the City; and work cooperatively with the City in planning for future Stephens Institute growth in a manner that accounts for the urban nature of the Stephens Institute's campus, without adversely impacting the City's affordable or rent-controlled housing stock, or burdening its transportation system, including, as a part of that plan, building new housing, or converting existing buildings, for its students on property that is zoned for such student housing use, as permitted by this Agreement. The Parties entered into court ordered and judicially supervised settlement discussions.

C. As a result of those settlement discussions, and under the auspices of the Court, the Academy and the City entered into a non-binding Term Sheet for Global Resolution, dated November 15, 2016, (the "**Initial Term Sheet**") as amended by that certain Supplement to Term Sheet for Global Resolution, dated July 10, 2019 (the "**Supplement**") (the Initial Term Sheet and the Supplement are referred to collectively as the "**Term Sheet**"). The Term Sheet was intended to provide a basis to resolve all of the outstanding issues relating to the Lawsuit and other land use matters and to establish appropriate principles and processes for land use compliance by the Academy. The Parties made the Term Sheet public, each time with the consent of the Court.

D. As contemplated by the Term Sheet, the City and the Academy have entered into a comprehensive consent judgment that they will file with the Court seeking the Court's approval and entry of judgment (the "**Consent Judgment**"). The Consent Judgment contains three main parts: (1) a Settlement Agreement dated as of _____ (the "**Settlement Agreement**"), which includes obligations of the LLC Parties to make payments to the City (including the Affordable Housing Public Benefit); (2) a Stipulated Injunction (the "**Injunction**"), which is an exhibit to the Settlement Agreement and provides a mechanism for judicial enforcement of the Academy's obligations under the Settlement Agreement and this Agreement, and (3) this Agreement, which is also an exhibit to the Settlement Agreement and which sets forth the matters generally described in Recital G below. Also critical to the global resolution that the Consent Judgment would achieve is the instrument securing the LLC Parties' financial obligations under the Settlement Agreement and this Agreement, the obligations of the LLC Parties to make the full settlement payments under the Settlement Agreement will be secured by a Guaranty (the "**Guaranty**") from the Stephens Family Revocable Trust, the Elisa Stephens Revocable Trust, the Scott Stephens Revocable Trust, Elisa Stephens, Scott Stephens, and Susanne Stephens.

E. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Section 65864 *et seq.* (the "**Development Agreement Statute**"), which authorizes the City to enter into a development agreement with any Person having a legal or equitable interest in real property regarding the development of such property. Under Government Code Section 65865, the City adopted Chapter 56 of the Administrative Code ("**Chapter 56**") establishing procedures and requirements for entering into a development agreement under the Development Agreement Statute. The Parties are entering into this Agreement in accordance with the Development Agreement Statute and Chapter 56 except as for certain portions of Chapter 56 as provided in the Enacting Ordinance approving this Agreement.

F. As contemplated by the Term Sheet, the Parties propose to withdraw from, and cease any Stephens Institute operation at, nine (9) of the Academy's current properties (the "**Non-Academy Properties**", as more particularly described in Exhibit B-2, attached hereto), and bring the properties owned by the LLC Parties and used by the Stephens Institute or intended for future Stephens Institute use, which consists of thirty-four (34) properties and associated improvements located throughout San Francisco (the "**Academy Properties**", as more particularly described in the attached Exhibit B-1), into compliance with the Planning Code. Compliance of the Academy Properties with the Planning Code requires the City's approval of a variety of permits and authorizations, including (i) approval of a conditional use authorization by the Planning Commission to reflect the approval of the use of thirty-four (34) buildings and to grant certain exceptions to the Planning Code, (ii) the approval of permits to alter, and certificates of appropriateness, by the Historic Preservation Commission, (iii) amendment of the Planning Code to permit uses that are currently not permitted at certain properties, and (iv) a variety of other building alterations and street improvements including without limitation the removal and installation of signage, removal and repair of nonconforming awnings and exterior alterations, the installation Class 1 and Class 2 bike racks, the removal of curb cuts, and the replacement of certain windows (collectively, the "**Project**").

G. In furtherance of the Development Agreement Statute and Chapter 56, and with the Settlement Agreement, the Parties are entering into this Agreement to set forth the (1) content and process for agreed upon entitlements, conditions of approval and mitigation and improvement measures for the Project; (2) process for approval of future uses and expansion of Stephens Institute facilities and/or enrollment; and (3) payment of funds by the LLC Parties to the City as set forth in this Agreement and the Settlement Agreement. The public benefits that the City will receive under this Agreement include: (i) an Affordable Housing Public Benefit, consisting of a cash payment of \$37,600,000 to the City to be used by the City solely for affordable housing purposes, with a first priority for uses related to the creation or preservation of single room occupancy (SRO) units in those Board of Supervisor's districts in which the City alleges the Academy unlawfully converted SRO buildings to student housing including District 3, as the City may determine in its sole discretion, and as further provided in this Agreement; (ii) a cash payment to the City's Small Sites Fund estimated to exceed \$8,400,000 as further provided in the Settlement Agreement; (iii) an agreement by the Stephens Institute to meet all future housing needs for its students through new construction on property that is zoned for such use, or conversion of existing non-residential, non-PDR structures to student housing use, as further provided in this Agreement, and an agreement to not promise new students more housing units than the number of lawful units that are at their disposal, to not temporarily house its students in non-Academy facilities (except as expressly permitted in this Agreement), and to provide housing to increase the percentage of housing it provides to On Campus Students under a "Housing Metering" formula set forth in this Agreement; (iv) payment by the LLC Parties to the City of Planning Code penalties totaling \$1,000,000; and (v) payment by the LLC Parties to the City of Unfair Competition Law penalties totaling \$6,000,000. Also, the LLC Parties will pay Impact Fees as part of the Settlement Payment, and in addition the Academy will pay to the City all required City Processing Fees (including time and materials) when due (at the time of permit application or issuance, as applicable), and at the rates then in effect, including but not limited to, Planning and DBI fees associated with the Approvals for the Project, as well as all costs owing to the City to process this Agreement under Section 56.20 of the Administrative Code as further provided in the Settlement Agreement.

H. It is the intent of the Parties that all acts referred to in this Agreement shall be accomplished in a way as to fully comply with the California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*) (“**CEQA**”), the CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 *et seq.*), (the “**CEQA Guidelines**”), the Development Agreement Statute, Chapter 56, the Planning Code, the Enacting Ordinance and all other Laws in effect as of the Effective Date. This Agreement does not limit the City’s obligation to comply with applicable environmental Laws, including CEQA, before taking any discretionary action regarding the Project, or the Academy’s obligation to comply with the Approvals.

I. The Final Environmental Impact Report (the “**FEIR**”) prepared for the Academy of Art University Project and certified by the Planning Commission on July 28, 2016, and an Addendum to the FEIR dated _____, 2019 and considered by the Planning Commission on _____, 2019, together with the CEQA findings (the “**CEQA Findings**”) and the Mitigation Measures (defined below) adopted concurrently and set forth in the Mitigation Monitoring and Reporting Program (the “**MMRP**”) attached as Exhibit C, comply with CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code. The FEIR and Addendum thoroughly analyze the Project and Project alternatives, and the Mitigation Measures were designed to mitigate significant impacts to the extent they are susceptible to feasible mitigation. The City considered the information in the FEIR, the Addendum and the CEQA Findings in connection with approval of this Agreement and the Settlement Agreement and related agreements.

J. On November 20, 2019, the Historic Preservation Commission held a public hearing on the Project. Following the public hearing, the Historic Preservation Commission made the findings required by CEQA and approved permits to alter, and certificates of appropriateness, applicable to the historic resources as proposed by the Project.

K. On November 21, 2019, the Planning Commission held a public hearing on this Agreement and the Project. Following the public hearing, the Planning Commission adopted the CEQA findings and determined, among other things, that the FEIR and Addendum thoroughly analyze the Project, and the Mitigation Measures are designed to mitigate significant impacts to the extent they are susceptible to a feasible mitigation, and further determined that the Project and this Agreement will, as a whole, and taken in their entirety, continue to be consistent with the objectives, policies, general land uses and programs specified in the General Plan, as amended, including the eight priority policies set forth in Section 101.1 of the Planning Code (together the “**General Plan Consistency Findings**”). The City considered the information in the FEIR, the Addendum and the CEQA Findings in connection with this Agreement.

L. On December __, 2019, the Board of Supervisors, having received the Planning Commission’s recommendations, held a public hearing on this Agreement. Following the public hearing, on December __, 2019, the Board upheld the Planning Commission’s approval of the Environmental Impact Report, adopted as its own the Planning Commission’s CEQA findings, and approved this Agreement, incorporating by reference the General Plan Consistency Findings.

M. On _____, 2020, the Board adopted Ordinance No. _____, approving this Agreement (File No. _____), authorizing the Planning Director to execute this Agreement on behalf of the City, granting certain waivers, findings of consistency

and exemptions from the Planning and Administrative Codes and adopting amendments to the Planning Code (the “**Enacting Ordinance**”). The Enacting Ordinance became operative and effective on _____, 2020.

NOW, THEREFORE, in consideration of the foregoing and the promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

AGREEMENT
ARTICLE 1
DEFINITIONS

In addition to the definitions set forth above and elsewhere in this Agreement, the following definitions shall apply to this Agreement:

“**Academy**” is defined in the opening paragraph of this Agreement and includes jointly and severally except for certain monetary obligations as described in that paragraph, the Stephens Institute and the LLC Parties.

“**Academy Properties**” is defined in Recital F.

“**Administrative Code**” means the San Francisco Administrative Code as described in the opening paragraph, as such code may be amended from time to time.

“**Affordable Housing Public Benefit**” means the cash payment defined in Section 3.1. It is also sometimes referred to as the Affordable Housing Payment in this Agreement, as it is in the Settlement Agreement.

“**Agreement**” means this Development Agreement, the Exhibits and Schedules which have been expressly incorporated herein.

“**Annual Review Date**” is defined in Section 7.1.

“**Approvals**” means the approvals, entitlements, and permits listed on Exhibit D required in connection with the Project, including all applicable conditions of approval and mitigation and improvement measures contained in that exhibit.

“**Authorized Signatory**” means with respect to (a) the Stephen’s Institute, its President, or her duly authorized designee; (b) the LLC Parties, any authorized signatory under the respective LLC Party’s limited liability company agreement or its duly authorized designee; and (c) the City, its Director of Planning or his or her duly authorized designee.

“**Board of Supervisors**” or “**Board**” means the City’s Board of Supervisors.

“**CEQA**” is defined in Recital H.

“**CEQA Findings**” is defined in Recital I.

“**CEQA Guidelines**” is defined in Recital H.

“Chapter 56” is defined in Recital E.

“City” means the City as defined in the opening paragraph of this Agreement. Except as otherwise expressly set forth in this Agreement, references to the City means the City acting by and through the Planning Director or, as necessary, the Planning Commission, the Board of Supervisors or the City’s Board of Appeals.

“City Administrator” means the City Administrator of the City.

“City Agency” or **“City Agencies”** means, individually or collectively as the context requires, all City departments, agencies, boards, commissions, and bureaus, including the City Administrator, the City Attorney’s Office, Planning Department, MOHCD, RPD, SFPUC, OEWD, SFMTA, Public Works, and DBI, including any successor to any City departments, agencies, boards, commissions and bureaus. The City actions and proceedings subject to this Agreement shall be through the Planning Department, as well as affected City Agencies (and when required by Law, the Board of Supervisors).

“City Attorney” means the Office of the City Attorney of the City and County of San Francisco.

“City Costs” means the actual and reasonable costs incurred by a City Agency in preparing, adopting or amending this Agreement and in performing its obligations or defending its actions under this Agreement or otherwise contemplated by this Agreement, as determined on a reasonable and customary time and materials basis, including reasonable attorneys’ fees and costs but excluding work, hearings, costs or other activities contemplated or covered by Processing Fees. City Costs do not include any fees or costs incurred by a City Agency in connection with a City Default or which are payable by the City under Section 8.6 when the Stephens Institute or an LLC Party is the prevailing party.

“City Parties” is defined in Section 4.7.1.

“City Report” is defined in Section 7.2.2.

“City-Wide” means all real property within the territorial limits of the City and County of San Francisco, excluding any real property that is not subject to City regulation because it is owned or controlled by the United States or by the State of California.

“Combined Occupancy Rate” the occupancy rate for On Campus Students for housing units made available by the Stephens Institute among all of the Stephens Institute’s campus housing buildings in San Francisco.

“Consent Judgment” is defined in Recital D.

“Control” means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the day to day management, policies or activities of such Person, whether through ownership of voting securities, by contract or otherwise (excluding limited partner or non-managing member approval rights). **“Controlled”**, **“Controlling”** and **“Common Control”** have correlative meanings.

“Court” has the meaning given in Recital A.

“DBI” means the San Francisco Department of Building Inspection.

“Default” is defined in Section 8.3.

“Development Agreement Statute” is defined in Recital E and means only the Development Agreement Statute that is in effect as of the Effective Date.

“Effective Date” is defined in Section 2.1.

“Enacting Ordinance” is defined in Recital M.

“Excusable Delay” is defined in Section 9.5.

“Existing Standards” means the Approvals, the General Plan, the laws of the City, and any codes, statutes, rules, regulations, or executive mandates under those laws, as each of the foregoing is in effect on the Effective Date.

“Fair Share Fee” is defined in Section 3.2.5

“Federal or State Law Exception” is defined in Section 5.5.

“FEIR” is defined in Recital I.

“Future Projects” is defined in Section 3.2.6(b).

“General Plan Consistency Findings” is defined in Recital K.

“Guarantors” means the persons and entities who are parties to the Guaranty in favor of the City as described in Recital D.

“Guaranty” is defined in Recital D.

“Impact Fees and Exactions” means any fees, contributions, special taxes, exactions, impositions and dedications charged by the City or any City Agency, whether as of the Reference Date or at any time thereafter during the Term, including but not limited to transportation and transit fees, child care fee or in-lieu fees, SFPUC Capacity Charges, housing (including affordable housing) fees, dedications or reservation requirements, and obligations for on-or off-site improvements, Fair Share Fee, and in lieu Class I bike parking fees. Impact Fees and Exactions shall not include the Mitigation Measures, Processing Fees, taxes, special assessments, school district fees or any fees, taxes, assessments impositions imposed by Non-City Agencies.

“Impact Fees and Exactions Schedule” means the schedule attached to this Agreement as Schedule 1.

“Injunction” is defined in Recital D.

“Later Approvals” means any land use approvals, entitlements or permits from the City or any City Agency that are approved by the City after the Effective Date and are necessary or advisable for the implementation of the Project or any portion thereof, including all approvals as set forth in the Municipal Code, demolition permits, building permits, sewer and water connection permits, major and minor encroachment permits, street and sidewalk modifications, street improvement permits, permits to alter, certificates of appropriateness, certificates of occupancy, transit stop relocation permits, street dedication approvals and ordinances, subdivision maps, improvement plans, lot mergers, lot line adjustments and re-subdivisions and any amendment to the foregoing or to any Approval, in any case that are sought by the Academy and issued by the City in accordance with this Agreement.

“Law(s)” means, individually or collectively as the context requires, the Constitution and laws of the United States, the Constitution and laws of the State, the laws of the City, any codes, statutes, rules, regulations, or executive mandates under any of the foregoing, and any State or Federal court decision (including any order, injunction or writ) with respect to any of the foregoing, in each case to the extent applicable to the matter presented.

“Litigation Extension” is defined in Section 9.4.

“LLC Party(ies)” means collectively and individually the entities listed on Exhibit A to this Agreement, each of which has authorized Elisa Stephens, acting solely in her capacity as manager of each respective LLC Party and not as an individual, to execute this Agreement on its behalf as well as all other agreements and documents necessary for the implementation and execution of this Agreement.

“Losses” is defined in Section 4.7.1.

“Master Approvals” is defined in Section 5.3.1.

“Master CU” is defined in Section 3.2.1.

“Material Change” means any modification that (i) extends the Term, (ii) changes the permitted uses of Academy Properties, (iii) materially changes the Approvals needed for any aspect of the Project, or (iv) materially changes the Impact Fees and Exactions.

“Mitigation Measures” means the mitigation measures (as defined by CEQA) applicable to a portion of the Project as set forth in the MMRP.

“MMRP” means that certain mitigation monitoring and reporting program attached hereto as Exhibit C.

“MOHCD” means the San Francisco Mayor’s Office of Housing and Community Development, or successor agency.

“Municipal Code” means the San Francisco Municipal Code, as it may be amended from time to time.

“Non-Affiliate” means any Person not directly or indirectly Controlled by, or not under Common Control, with the other Person in question.

“Non-Academy Properties” means each of the properties identified on Exhibit B-2 to this Agreement.

“Non-City Agency” means a Federal, State or local governmental agency that is not a City Agency.

“Non-City Approval” means any permits, agreements, or entitlements from Non-City Agencies as may be necessary for any portion of the Project.

“Non-PDR” means businesses that do not engage in production, distribution, and repair use activities, as defined in Section 102 of the Planning Code.

“OEWD” means the San Francisco Office of Economic and Workforce Development, or successor agency.

“Official Records” means the official real estate records of the City and County of San Francisco, as maintained by the City’s Assessor-Recorder’s Office.

“On Campus Students” means on-site, full-time undergraduate and graduate students as described in Section 3.2.4.

“Party” and **“Parties”** are defined in the opening paragraph of this Agreement.

“Person” means any natural person or a corporation, partnership, trust, limited liability company, limited liability partnership or other entity.

“Planning Code” means the San Francisco Planning Code, as it may be amended from time to time.

“Planning Code Exemption Ordinance” is defined in Section 3.2.1.

“Planning Commission” means the Planning Commission of the City and County of San Francisco.

“Planning Department” means the Planning Department of the City and County of San Francisco.

“Planning Director” means the Director of the Planning Department.

“Processing Fees” means the standard fee imposed by the City upon the submission of an application for a permit or approval, which is not an Impact Fee or Exaction, in accordance with City practice on a City-Wide basis.

“Project” is defined in Recital F.

“Public Benefits” has the meaning given in Section 4.1.

“Public Health and Safety Exception” is defined in Section 5.2.

“PW” means the Public Works Department of the City and County of San Francisco.

“Reference Date” means the date for convenience of reference of this Agreement as provided in the opening paragraph.

“RPD” means the San Francisco Recreation and Park Department.

“San Francisco” means the territorial boundaries of the City and County of San Francisco.

“Settlement Agreement” is defined in Recital D.

“Settlement Payment” means the settlement payment required by the LLC Parties under the Settlement Agreement and guaranteed by the Guarantors under the Guaranty.

“SFMTA” means the San Francisco Municipal Transportation Agency.

“SFPUC” means the San Francisco Public Utilities Commission.

“SFPUC Capacity Charges” means all water and sewer capacity and connection fees and charges payable to the SFPUC, as and when due in accordance with the-applicable City requirements.

“Term” is defined in Section 2.2.

“Third-Party Challenge” means any administrative, legal or equitable action or proceeding instituted by any party other than the City or the Academy against the City or any City Agency challenging the validity or performance of any provision of this Agreement, the Project, the Approvals, the adoption or certification of the FEIR or other actions taken under CEQA, or other approvals under Laws relating to the Project, any action taken by the City or the Academy in furtherance of this Agreement, or any combination relating to the Project or any portion of the Project.

“Transfer” is defined in Section 8.4.1(f).

ARTICLE 2 EFFECTIVE DATE; TERM

Section 2.1 Effective Date. This Agreement shall take effect upon the later to occur of (i) the full execution and delivery of this Agreement by the Parties and (ii) the date the Enacting Ordinance is effective (the **“Effective Date”**). The City may record this Agreement in the Official Records on or after the Effective Date. If this Agreement terminates in accordance with its terms, then the City will, upon request by the Academy, record a memorandum of termination, within thirty (30) days of receipt of a written request by the Academy.

Section 2.2 Term. The term of this Agreement (the **“Term”**) shall commence upon the Effective Date and shall continue in full force and effect for twenty five (25) years after, unless

earlier terminated as provided in this Agreement, provided that the Term shall be extended for each day of a Litigation Extension.

ARTICLE 3 GENERAL RIGHTS AND OBLIGATIONS

Section 3.1 Affordable Housing Public Benefit.

3.1.1 Provision of Affordable Housing Public Benefit. The LLC Parties shall provide the “**Affordable Housing Public Benefit**” to the City, which Affordable Housing Public Benefit is defined as the cash payment of \$37,600,000 to the City. The City will use the cash payment solely for affordable housing purposes, with a first priority for uses related to the creation or preservation of single room occupancy (SRO) units in those districts of the Board of Supervisors in which the City alleges the Academy unlawfully converted SRO buildings to student housing including District 3, as the City may determine in its sole discretion. The LLC Parties shall provide the Affordable Housing Public Benefit by the date specified in the Settlement Agreement. This cash payment is in lieu of the LLC Parties providing, at no cost to the City, 160 new and rehabilitated units of affordable housing at 1055 Pine Street and 1069 Pine Street. Also, as part of the Settlement Agreement the LLC Parties will pay a Settlement Payment, a portion of which will be allocated to the City’s Small Sites Program as provided in that agreement.

3.1.2 Escrow Account. As further provided in the Settlement Agreement, if before the date on which the Affordable Housing Public Benefit is due (i) a Third Party Challenge is filed and such litigation is not finally resolved, (ii) a referendum petition is filed protesting the passage of the ordinance approving this Agreement or (iii) the relevant statutes of limitations to file a lawsuit under CEQA challenging such approvals, to file a writ of mandate challenging this Agreement, or to submit a petition protesting the adoption of the ordinance approving this Agreement under the referendum provisions of the City’s Charter, have not expired, the LLC Parties will, on or before the due date, deposit the Affordable Housing Public Benefit into an escrow account with a bank selected by the City from among the banks that the City regularly does business with. Monies in the account will be invested and reinvested in an interest-bearing account or certificate of deposit as designated by the City. All interest will accrue and be deposited in the account and any gain or loss will be borne by the account. The principal including any interest or other gains ultimately will be payable out of escrow to (1) the City once there is a final court judgment dismissing any Third-Party Challenge or upholding the validity of this Agreement or other Approvals, and the Enacting Ordinance becomes effective (including, without limitation, any failure of a referendum petition to qualify for the ballot or the adoption by the voters of an ordinance approving this Agreement following a qualifying referendum petition), in which event the City may expend those sums for purposes provided under this Agreement; or (2) the LLC Parties in the event there is a final court judgment that upholds the Third-Party Challenge and invalidates this Agreement or other Approvals or the Enacting Ordinance approving the this Agreement does not become effective (including, without limitation, any repeal of the Enacting Ordinance by the Board of Supervisors or failure of the voters to approve an ordinance approving this Agreement following submittal of a referendum petition that qualifies for the ballot. The LLC Parties will pay all escrow fees. The LLC Parties and the City shall agree on appropriate escrow instructions to the bank as provided in the Settlement Agreement consistent with this Section 3.1.

Section 3.2 Use and Operation of the Academy Properties.

3.2.1 Approvals

(a) Approval of Certain Existing Uses. As of the Effective Date, and as a condition precedent to this Agreement and the Parties' obligations under this Agreement, the Project has been approved by Historic Preservation Commission (Historic Preservation Commission Resolutions _____ and _____ on _____), the Planning Commission (Planning Commission Motion _____ on _____), and the Board of Supervisors (Ordinance No. _____ on _____), all of which are part of the Approvals. As further discussed in Article 5, certain Later Approvals (including building permits) are required to commence construction of the Project, the processing and approval of which are subject to the provisions of this Agreement. Planning Commission Motion _____ is the approval of a conditional use authorization for all proposed uses required for the Project (the "**Master CU**"). Board of Supervisors Ordinance No. _____ includes the approval of all Planning and Administrative Code waivers, exceptions and consistency findings and Planning Code amendments required for the Project (the "**Planning Code Exemption Ordinance**"). If Later Approvals are required to commence construction of the Project or authorize the changes in use to the Project as contemplated by this Agreement (such as the approval of a building permit to effectuate a change of use), the Academy shall discontinue all uses not authorized or contemplated by such Later Approval within ninety (90) days of issuance of each such Later Approval. The Academy shall discontinue the use of any Non-Academy Properties by the date shown on the Schedule of Performance.

(b) Scope of Approvals. The City agrees that all elements shown on the architectural plan sets submitted by the Academy to the City in conjunction with the Approvals and Later Approvals, are deemed approved and legally existing under the Municipal Code, provided, however, all such elements shall be subject to any newly adopted provision of the Municipal Code (subject to Section 5.2 below). For avoidance of doubt, elements shown on the architectural plan sets may include, but not be limited to, narrative descriptions, visual architectural drawing elements, and those found in pictorial depictions. For further avoidance of doubt, such elements may include, but not be limited to, signs, awnings, security gates, appendages, murals, doors, fenestration, building paint, security cameras, conduits, and the methods of attachment of the same.

(c) Prohibition on Academy Submittals Not Contemplated by the Project.

1. Neither the Stephens Institute, nor the LLC Parties, shall submit change of use or building permit applications for any of the Academy Properties not contemplated by the Project or Approvals, or deemed reasonably necessary or advisable by the City, to effectuate the Project, for one (1) year after the Effective Date, provided, however, the Academy may submit such applications for any of the Academy Properties solely for (i) the repair, maintenance, correction of a public nuisance, (ii) compliance with any legislation or requirement that protects persons or property from conditions creating a health, safety or physical risk, or (iii) compliance with a governmental directive, and in any such instance the Academy's submittal and processing of such land use entitlements shall not be subject to the prohibition in this section and this

Agreement does not otherwise prohibit or affect the Academy's rights to seek approval of such land use entitlements. The City understands and acknowledges that the Academy may seek future land use entitlements for the use of 701 Chestnut Street by the Stephens Institute for post-secondary institutional or other uses, which shall not be subject to the prohibition in this section and this Agreement does not otherwise prohibit or affect the Academy's rights to seek approval of such land use entitlements outside of this Agreement. Regardless of timing of any submittal for approval of 701 Chestnut Street, the Academy must comply with all applicable City codes, including without limitation the "Institutional Master Plan" requirements of Planning Code section 304.1. The Academy shall not occupy or use 701 Chestnut Street for the Stephens Institute's purposes until it has obtained all required permits and approvals required for such use.

2. Neither the Stephens Institute, nor the LLC Parties, shall submit any application to any City Agency for new or different signage, or changes in copy on existing signage, on any of the Academy Properties not contemplated by the Approvals, or as reasonably determined by the City reasonably necessary or advisable to effectuate the Project, until twenty-four (24) months after the completion of all work contemplated in the Schedule of Performance. However, the Academy may submit applications required for repair, maintenance, or to comply with a governmental directive, in relation to any existing signage or signage that is allowed by the Approvals.

3.2.2 Withdrawal of Certain Applications. In accordance with the Schedule of Performance, the Academy will irrevocably withdraw the building permits and conditional use applications listed in Schedule 2 attached to this Agreement.

3.2.3 Transition of Certain Existing Uses to Alternate Locations. In accordance with the Schedule of Performance, the Stephens Institute and/or the LLC Parties will implement the transition or conversion of: (a) the tourist hotel at 2550 Van Ness Avenue, known as the Da Vinci Villa Hotel, to 136 bedrooms (and approximately 306 beds) of Group Housing (with Student Housing use characteristics), including replacement housing for students vacated from the existing building at 1055 Pine Street, conditioned on the complete prior vacation of 1055 Pine Street as student housing before students may occupy 2550 Van Ness; (b) the conversion of 1142 Van Ness Avenue to post-secondary educational institutional use; and (c) the conversion of 1946 Van Ness Avenue to post-secondary educational institutional use.

(a) Da Vinci Villa Hotel. The City agrees that upon (i) the payment by the LLC Parties of the first installment of the Settlement Payment and (ii) the execution of the settlement documents (i.e., Settlement Agreement, Consent Judgment, Injunction, and the Guaranty) and (iii) delivery of a declaration, under oath, executed by the President of the Stephens Institute that the Stephens Institute and applicable LLC Party has vacated the property commonly known as 1055 Pine Street, then the City shall approve, within one (1) week of the Mayor's signature to the Enacting Ordinance, a complete and properly submitted building permit ("**Da Vinci Permit**"), approving a change of use of the property commonly known as 2550 Van Ness Avenue from Tourist Hotel with Ground Floor Restaurant to Group Housing (with Student Housing use characteristics) with Ground Floor Restaurant. Such approval shall be issued in time to, and permit the Academy the right to occupy, 2550 Van Ness for use as Group Housing (with Student Housing use characteristics) and Ground Floor Restaurant by January 14, 2020. All work necessary for

DBI to close out the De Vinci Permit shall be completed by the Stephens Institute, or applicable LLC Party, within one (1) year from the issuance of the permit.

3.2.4 Student Housing Metering.

(a) The Stephens Institute covenants and agrees to meet all future housing needs for its students, not otherwise entitled under this Agreement or the Approvals, through new construction on property that is zoned for such use, or conversion of existing non-residential, non-PDR structures to student housing use, as further provided below. The Stephens Institute agrees that it will undertake any such new construction or conversion only in accordance with then applicable Laws and after first obtaining required permits or approvals.

(b) The Stephens Institute covenants and agrees to not promise new students more housing units than the number of lawful units that are at its disposal. Further, the Stephens Institute covenants and agrees to not temporarily house its students in non-Stephens Institute facilities, including temporarily housing students in hotels, group housing or other dwelling units. Notwithstanding the foregoing, the Stephens Institute may, upon 30 days prior written notice to the City, occasionally and temporarily house students in hotels for fewer than thirty (30) consecutive days, provided, however, the Academy may give written notice as soon as possible in emergency situations such as fire, earthquake, extreme student distress, or other act of god, terrorism, or similar calamity entirely outside the control of the Academy. For the purposes of this Section 3.2.4(b), the over subscription of the Academy's available student housing stock by students of the Stephens Institute shall not constitute an emergency. Other than such temporary housing, the Stephens Institute will provide housing to students only in properties that have been approved in advance by the City for student housing use and all other applicable governmental regulatory authorities for student housing use.

(c) As of December 2016, the Stephens Institute provided housing in San Francisco for about 28% of all of its on-site, full-time undergraduate and graduate students taking no more than one course online per semester ("**On Campus Students**"). The Stephens Institute defines "full-time" as undergraduate students who take 12 or more credits per semester, and graduate students who take nine or more credits per semester. The Stephens Institute shall increase the percentage of housing it provides to On Campus Students as follows, subject to the process described below for deferring these otherwise required increases if occupancy rates do not support them:

1. By July 1, 2019, the Stephens Institute will house in San Francisco at least 32% of its On Campus Students; and

2. By July 1, 2022, the Stephens Institute will house in San Francisco at least 36% of its On Campus Students.

3. By July 1, 2023, the Stephens Institute will house in San Francisco at least 38% of its On Campus Students. After July 1, 2023, the Stephens Institute will use good faith efforts to have beds available in San Francisco for at least 45% of its On Campus Students, provided that the enforcement mechanisms described in this Section 3.2.4 will not apply to the 45% goal.

(d) Within fifteen (15) calendar days of each July 1st, the Stephens Institute must submit to the City's Planning Director an annual report of campus housing occupancy rates, on a form mutually agreed to by the Planning Director and the Stephens Institute. The report must specify the combined occupancy rate for On Campus Students for housing units made available to them among all of the Stephens Institute's campus housing buildings in San Francisco (the "**Combined Occupancy Rate**") for the immediately prior two academic years. The Combined Occupancy Rate will exclude housing units used for or made available to Stephens Institute faculty, staff or part-time students. The annual report shall include a description of how the Stephens Institute plans to meet the next applicable benchmark. Upon request by the Planning Director, the Stephens Institute must provide any additional information to verify the reported Combined Occupancy Rate. If in any year before any benchmark increase in housing as designated above is scheduled to occur, the verified Combined Occupancy Rate falls below an average of 90% for those two prior academic years, then the Stephens Institute may defer that benchmark increase in housing (and any later benchmark increase), for one year, subject again to the same annual process, on a continuing basis. That is, in any particular year the Stephens Institute will not have to satisfy its next housing benchmark unless the verified Combined Occupancy Rate for the reporting period of the immediately prior two academic years is an average of 90% or more. After a housing benchmark has been satisfied, if the verified Combined Occupancy Rate falls below 90% in the subsequent academic semester, the benchmark previously reached will again be deferred such that the Stephens Institute will not be required to maintain surplus housing units for which there is no longer demand. But under no circumstances will any deferral in a benchmark allow the Stephens Institute to reduce its housing below its current percentage of 28%. In no event may more than one-half of any additional housing for On Campus Students provided to meet these benchmarks be located in converted tourist hotels, provided that the Stephens Institute may satisfy the first benchmark through the conversion of one or more tourist hotels as contemplated in the Approvals.

(e) The City will provide the Stephens Institute with written notice of any non-compliance with the requirements described in subparagraph 3.2.4 (d) above within sixty (60) days of the City's discovery of the alleged violation. The Stephens Institute and the City will then meet and confer for up to thirty (30) days and attempt to resolve in good faith any disagreement about whether the Stephens Institute is in compliance and attempt to develop a mutually acceptable plan to cure any non-compliance. The Stephens Institute will cure any event of non-compliance within ninety (90) days from the end of the meet and confer period by doing one or more of the following: (a) acquiring the right to use units to house On Campus Students in an existing student housing building; (b) filing one or more applications with the City for the required permits and approvals to acquire or convert an existing building for campus housing and making that housing available within a reasonable period as approved by the Planning Director but no longer than 18 months, subject to unavoidable delays outside of the Stephens Institute's reasonable control; (c) filing one or more applications with the City for the required permits and approvals to build a campus housing project, and completing the project within a reasonable period as approved by the Planning Director but no longer than five years, subject to unavoidable delays outside of the Stephens Institute's reasonable control; or (d) limiting the number of incoming On Campus Students in the subsequent two academic semesters, and providing the City with a report of the Combined Occupancy Rate that shows occupancy of no more than 90% for both of those two semesters.

(f) The Stephens Institute provides housing in San Francisco only to On Campus Students who are full time (as described in subparagraph 3.2.4 (e) above), not part time, and the Stephens Institute does not anticipate changing its policy or practice to provide housing to part time students. If the Stephens Institute either changes its policy or practice to provide housing to part time students, or redefines full time students to encompass a significantly broader class of students (e.g., by lowering the minimum required credits per semester or allowing them to take more than one course on-line), then the Stephens Institute must give written notice of any such changes to the City in the next annual report of campus housing occupancy rates, and the Stephens Institute and the City shall mutually agree to make appropriate readjustments to the metering benchmarks and percentages set forth in subparagraph 3.2.4 (d) above. But the Stephens Institute may, upon written notice to the Planning Director, fill any unoccupied housing units designated for full time students, with part time students, on a temporary, semester-by-semester basis. The Stephens Institute will describe any such temporary use for part time students in its annual reports to the City's Planning Director.

3.2.5 Transportation. As required by the FEIR (Mitigation Measure C-M-TR-2.1a-AAU Fair Share Contribution to Cumulative Transit Impact), the LLC Parties must pay to the City a fair share contribution (a "**Fair Share Fee**") to mitigate the cumulative transit demand in transit ridership on the Kearny/Stockton and Geary corridors due to the Stephens Institute's growth. The Fair Share Fee is as shown on the attached Impact Fees and Exactions Schedule, which amount will become due in accordance with the Schedule of Performance. The City will deposit all payments of the Fair Share Fee into its Transportation Sustainability Fund and use the proceeds to maintain and expand the City's transportation system, including funding for projects that help reduce crowding on buses and trains and create safer streets, all consistent with the uses required of the monies in that fund.

3.2.6 Future Expansion.

(a) Institutional Master Plan. The Stephens Institute prepared its Institutional Master Plan in 2011 and updated it in 2013 and 2015. On July 5, 2019, the Stephens Institute prepared and filed a new Institutional Master Plan ("**IMP**") consistent with this Agreement and Planning Code section 304.5, and the Planning Commission accepted the 2019 IMP on July 25, 2019. The Stephens Institute covenants and agrees to at all times maintain an IMP accepted by the City, as required by Planning Code section 304.5, including required updates. The Stephens Institute must further update its IMP within 90 days of acquiring or leasing new property within San Francisco (i) where the Stephens Institute plans to use such property to construct new facilities that were not previously discussed in the IMP, (ii) when the Stephens Institute plans to demolish existing facilities within San Francisco that were not discussed in the Stephens Institute's most recent IMP or update, or (iii) where use of a facility will increase the Stephens Institute's size by 10,000 square feet or 25% of the Stephens Institute's total square footage (whichever is less), or result in significant changes in use of existing Stephens Institute facilities within San Francisco that were not discussed in the IMP. The Stephens Institute and the City will work together on an appropriate form for future IMP updates. The City will timely review any IMP or IMP update filed by the Stephens Institute in accordance with the requirements of the Planning Code.

(b) Future Projects; Compliance with All Then Applicable Laws. The following provisions apply to future construction, alterations and changes in use to all properties that the Academy may own, control, operate or use in San Francisco not contemplated by the Project or the Approvals, or necessary or advisable to effectuate the Project (collectively, “**Future Projects**”).

1. The Academy will ensure that all Future Projects will timely comply with all Laws, including, but not limited to, the City’s Planning and Building Codes.

2. The Academy will not occupy or use any property in San Francisco without first obtaining all required permits and approvals from the City and any other regulatory authority with jurisdiction, after completion of any required environmental review under CEQA. The Academy and the City will cooperate with each other in good faith in timely preparing any additional such environmental review that may be required under CEQA.

(c) No Conversion of Existing Housing. The Academy will not convert for any purpose any structure in San Francisco that is used or occupied as housing as of December 16, 2016, or for which the last legal use was residential. The Academy must notify in writing and consult with the Planning Director at least thirty (30) days before it intends to submit an application for any Future Project. The Planning Department will timely respond to requests by the Academy or an Affiliate for information about the required City land use permits, process and fees, consistent with its general practices in responding to information requests from other developers, which may include the provision of a Zoning Administrator’s determination letter within a reasonable period after the Academy or an Affiliate makes a request, so long as the Academy provides sufficient information to allow for such a determination. The 30-day requirement for the Academy and any Affiliate will not apply to building permits required to address imminent threats to public health, safety or the environment, provided that the Academy and/or Affiliate will notify the Planning Department as soon as practicable of any such emergency needs.

Section 3.3 Enforcement. All of the Academy’s obligations described in this Article 3 will be subject to enforcement by the City through the Consent Judgment, including the Injunction.

ARTICLE 4

PUBLIC BENEFITS; STEPHENS INSTITUTE/LLC PARTIES OBLIGATIONS AND CONDITIONS TO STEPHENS INSTITUTE/LLC PARTIES PERFORMANCE

Section 4.1 Public Benefits. The Parties acknowledge and agree that the development of the Project in accordance with this Agreement provides a number of public benefits (the “**Public Benefits**”) to the City beyond those achievable through existing Laws, including, but not limited to the Affordable Housing Public Benefit as further described Section 3.1 and the Schedule of Performance and as otherwise described in Recital G. The Academy must complete each of the Public Benefits for which each Party is responsible as provided in this Agreement in accordance with the Schedule of Performance.

Section 4.2 No Additional CEQA Review and General Plan Consistency. The Parties acknowledge that the FEIR and Addendum prepared for the Project comply with CEQA. The Parties further acknowledge that (a) the FEIR and Addendum contain a thorough analysis of the

Project and possible alternatives, (b) the Mitigation Measures have been adopted to eliminate or reduce to an acceptable level certain adverse environmental impacts of the Project, and (c) the Board of Supervisors adopted CEQA Findings, including a statement of overriding considerations in connection with the Approvals, under CEQA Guidelines Section 15093, for those significant impacts that could not be mitigated to a less than significant level. Accordingly, the City does not intend to conduct any further environmental review or mitigation under CEQA for any aspect of the Project described under this Agreement. The City shall rely on the FEIR, and Addendum to the greatest extent possible in accordance with applicable Laws, in all future discretionary actions required for the approval of the Project; provided, however, that nothing shall prevent or limit the discretion of the City to conduct additional environmental review to the extent that such additional environmental review is required by applicable Laws, including CEQA.

Section 4.3 Compliance with CEQA Mitigation Measures. The Academy shall comply with all Mitigation Measures imposed as applicable to the Project, as set forth in Exhibit C to this Agreement. Without limiting the foregoing, the Academy shall be responsible for compliance with all Mitigation Measures identified in the MMRP as the responsibility of the “project sponsor”. Nothing in this Agreement limits the ability of the City to impose conditions on any new, discretionary permit resulting from Material Changes as such conditions are determined by the City to be necessary to mitigate adverse environmental impacts identified through the CEQA process and associated with the Material Changes or otherwise to address significant environmental impacts as defined by CEQA created by an approval or permit; provided, however, any such conditions must be in accordance with applicable Law.

Section 4.4 Nondiscrimination. In the performance of this Agreement, the Academy agrees not to discriminate against any employee, City employee working with the Academy’s contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person’s race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

Section 4.5 City Cost Recovery.

4.5.1 The LLC Parties shall timely pay to the City all applicable Impact Fees and Exactions in accordance with the schedule in the Settlement Agreement and this Agreement.

4.5.2 The Academy shall timely pay to the City all Processing Fees applicable to the processing and issuing any of Approvals.

4.5.3 The LLC Parties shall pay to the City all City Costs incurred in connection with the drafting and negotiation of this Agreement, defending the Approvals, and in administering this Agreement (except for the costs that are covered by Processing Fees), within sixty (60) days following receipt of a written invoice complying with Section 4.5.4 from the City.

4.5.4 The Planning Department shall provide the Academy on a quarterly basis (or such alternative period as agreed to by the Parties) a reasonably detailed statement showing costs incurred by the Planning Department, the City Agencies and the City Attorney's Office, including the hourly rates for each City staff member at that time, the total number of hours spent by each City staff member during the invoice period, any additional costs incurred by the City Agencies and a brief non-confidential description of the work completed (provided, for the City Attorney's Office, the billing statement will be reviewed and approved by Planning Department but the cover invoice forwarded to the Academy will not include a description of the work). The Planning Department will use reasonable efforts to provide an accounting of time and costs from the City Attorney's Office and each City Agency in each invoice; provided, however, if the Planning Department is unable to provide an accounting from one or more of such parties the Planning Department may send an invoice to the Academy that does not include the charges of such party or parties without losing any right to include such charges in a future or supplemental invoice. The Academy's respective obligations to pay the City Costs as provided in this Section 4.5 shall survive the termination of this Agreement. The Academy shall have no obligation to reimburse the City for any City Cost that is not invoiced to the Academy within 18 months from the date the City Cost was incurred. The City will maintain records, in reasonable detail, with respect to any City Costs and upon written request of the Academy, and to the extent not confidential, shall make such records available for inspection by the Academy.

4.5.5 If the Academy in good faith disputes any portion of an invoice, then within sixty (60) days following receipt of the invoice the Academy, as applicable, shall provide notice of the amount disputed and the reason for the dispute, and the Parties shall use good faith efforts to reconcile the dispute as soon as practicable. The Academy shall have no right to withhold the disputed amount. If any dispute is not resolved within ninety (90) days following the Academy's notice to the City of the dispute, the Academy may pursue all remedies at law or in equity to recover the disputed amount.

Section 4.6 Prevailing Wages and Working Conditions. The Academy agrees that all Persons performing labor in the construction of any public improvements as defined in the Administrative Code, or otherwise as required by California law, on any site connected to the Project or portion of the Project shall be paid not less than the highest prevailing rate of wages for the labor so performed consistent with the requirements of Section 6.22(E) of the Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California, and the Academy shall include this requirement in any construction contract entered into by the Academy for any such public improvements. The Office of Labor Standards Enforcement of the City and County of San Francisco ("**OLSE**") shall enforce the requirements of this Section 4.6 and the Academy and its contractors will provide to OLSE any workforce payroll records as needed to confirm compliance with this section. The Academy shall also comply with any applicable first source hiring requirements under the Municipal Code.

Section 4.7 Indemnification. The LLC Parties shall Indemnify the City and its officers, agents and employees (collectively, the "**City Parties**") from and against any and all loss, cost, damage, injury, liability, and claims (collectively, "**Losses**") arising or resulting directly or indirectly from any third party claim against any City Party arising from (i) a Default by the Academy under this

Agreement, (ii) the Academy's failure to comply with the conditions of any Approval or Non-City Approval, (iii) the failure of any improvements constructed under this Agreement to comply with any local, Federal or State Law, (iv) any accident, bodily injury, death, personal injury, or loss of or damage to property occurring on such portion of the Academy Properties in connection with the construction by the Academy or its agents or contractors of any improvements under this Agreement, (v) a Third-Party Challenge, (vi) any dispute between the Academy, on the one hand, and their contractors or subcontractors, on the other hand, relating to the construction of any part of the Project, and (vii) any dispute between or among the Academy relating to any assignment of this Agreement or the obligations that run with the portion of the transferred portion of the Project, including any dispute relating to which such Person is responsible for performing certain obligations under this Agreement, in any case except to the extent that any of the foregoing Indemnification obligations is void or otherwise unenforceable under Law or is caused, contributed to or exacerbated by the negligence or willful misconduct of any of the City Parties, breach of this Agreement by the City or breach of any agreement in connection with this Agreement by any of the City Parties.

ARTICLE 5

LIMITED TEMPORARY VESTING AND CITY OBLIGATIONS

Section 5.1 Construction of the Project. This Agreement implements a mutually agreed approach by the Parties to bringing the Academy Properties into compliance with the Planning Code and that furthers sound urban planning principles. The Academy agrees to use and improve the Project in accordance with the Approvals, including the conditions of approval and the mitigation measures for the Project as adopted by the City, except to the extent that the Academy sells an Academy Property as permitted in this Agreement, or the City disapproves, waives, or disallows implementation of specific aspects of the Approvals or the Later Approvals (such as the installation of bike racks on sidewalks or the modification of curb cuts), in which case the Academy shall have no obligation to improve such portion of the Project. The Academy is obligated to comply with the terms and conditions of the Approvals and this Agreement at those times specified in the Approvals and this Agreement (including the Schedule of Performance).

The "performance period" for each Approval or Later Approval will be the period of time described on the Schedule of Performance, as long as the Academy has timely submitted a complete application to the City for approval. If the City disapproves or waives its implementation of a Later Approval, and such disapproval, or waiver prevents or makes infeasible the Academy's performance of a separate Approval or Later Approval, then the performance period for such separate Approval or Later Approval will be tolled on a day for day basis until such time that the Academy and the City has mutually agreed upon an alternate method of performance of the disapproved or waived Approval or Later Approval.

Section 5.2 Law Applicable to Future Projects. The Academy will ensure that all future construction, alterations and changes in use to all properties it may own, control, operate or use will timely comply with all then applicable Laws. This Agreement will not freeze any generally applicable City code requirements, fees or exactions that may apply to the Project, except as described in this section, or to any other future land uses by the Stephens Institute or the LLC Parties for the Stephens Institute's use, including, without limitation, the Stephens Institute's future expansion or operation, and requirements to provide for student housing or to prepare or update

an IMP. Beginning with the submittal of the building permit applications necessary to effectuate the Approvals (provided such building permits applications are submitted within 60 days after the Effective Date) and extending to the completion of the work as described in, and on the timeline provided in, the Schedule of Performance, the Project shall not be subject to any legislation that the City adopts that either (1) imposes new development impact fees or exactions for the Project that are not identified in this Agreement, (2) prevents or conflicts with the land use designations, permitted or conditionally permitted uses proposed by the Approvals, or (3) otherwise frustrates the implementation of the Approvals or the Later Approvals; provided, however, the Project is subject to any voter referendum that specifically overturns any of the Approvals or to the City's adoption of any amendments to the San Francisco Building Code, Fire Code or Housing Code that are of General Application (as defined below) or other legislation that protects persons or property from conditions creating a health, safety or physical risk (collectively, the "**Public Health and Safety Exception**").

For purposes of this section, legislation of "**General Application**" means a City ordinance that affects substantially all privately-owned property within the territorial limits of the City or any designated use classification or use district of the City, so long as any such ordinance affects more than an insubstantial amount of private property other than the property that is subject to the Approvals. Also, for avoidance of doubt, the authority reserved to the City under the Public Health and Safety Exception is more limited than the City's police power authority under state and federal law to regulate land uses, and is limited solely to addressing a specific and identifiable issue in each case required to address an actual and clear physical danger to the public and applies on a citywide basis to the same or similarly situated uses and applied in an equitable and non-discriminatory manner.

Section 5.3 Fees and Exactions. During the Term, the Academy shall pay all applicable Impact Fees and Exactions as described in the Settlement Agreement. All such Impact Fees and Exactions shall be calculated at the time payable in accordance with the City requirements on that date in the fee amount payable, as well as new types of Impact Fees and Exactions after the Effective Date to the extent permitted by Section 5.2 of this Agreement. The Planning Department has provided the Academy with its estimate of the applicable development impact fees for the Project, as shown in Schedule 1, and the Academy has agreed with the estimate of those fees. The Parties acknowledge and agree that all such fees shall be adjusted by the City by index as determined by the City.

5.3.1 Processing Fees. The Academy shall pay all required City Processing Fees (including time and materials) when due (at the time of permit application or issuance, as applicable), and at the rates then in effect, including, but not limited to, Planning Department and DBI fees associated with the Project. The amount of the City Processing Fees for the Master CU, Master Permit to Alter and Master Certificate of Appropriateness (collectively "**Master Approvals**") shall be based solely on time and materials, and no separate application fee shall be assessed for Master Approvals. Where building permit fees are calculated, based on construction costs, those fees will be calculated based on the value of those portions of the Project requiring new expenditures by the Academy, and such calculations shall exclude the value of unpermitted work previously performed at Academy Properties that are set for legalization and which does not require further construction, repair or demolition by the Academy.

Section 5.4 Chapter 41 Replacements. Notwithstanding any provision of Administrative Code Chapter 41 to the contrary, as consistent with the Ordinance approving this Agreement, the 30 of “Residential Hotel Units” located at the properties commonly known as 1080 Bush Street and 1153 Bush Street shall be converted to Group Housing, as defined in the Planning Code, and Administrative Code Chapter 41 shall no longer apply to such units. As replacements for such converted units, thirty-nine (39) Tourist Hotel Units at the property commonly known as 860 Sutter Street will be converted to Residential Hotel Units by the date set forth in the Schedule of Performance, and Chapter 41 shall apply to those converted units. The Academy agrees to record in the City’s Official Records, a Notice of Special Restrictions reflecting the conversion of the thirty-nine (39) units at 860 Sutter Street to Residential Hotel Units, in the form of Exhibit G against title to that property.

Section 5.5 Federal or State Laws.

5.5.1 City’s Exceptions. Notwithstanding any provision in this Agreement to the contrary, each City Agency having jurisdiction over the Project shall exercise its discretion under this Agreement in a manner that is consistent with the Public Health and Safety Exception or reasonably calculated and narrowly drawn to comply with applicable changes in Federal or State Law affecting the physical environment (the “**Federal or State Law Exception**”).

5.5.2 Changes in Federal or State Laws. If Federal or State Laws issued, enacted, promulgated, adopted, passed, approved, made, implemented, amended or interpreted after the Reference Date have gone into effect and (i) preclude or prevent compliance with one or more provisions of the Approvals or this Agreement, or (ii) materially and adversely affect the Academy, or the City’s rights, benefits, or obligations under this Agreement, then such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such Federal or State Law. In such event, this Agreement shall be modified only to the extent necessary or required to comply with such Law.

5.5.3 Changes to Development Agreement Statute. This Agreement has been entered into in reliance upon the provisions of the Development Agreement Statute. No amendment or addition to the Development Agreement Statute that would affect the interpretation or enforceability of this Agreement, increase the obligations or diminish the rights of the Academy under this Agreement or increase the obligations of or diminish the benefits to the City under this Agreement shall be applicable to this Agreement unless such amendment or addition is specifically required by Law or is mandated by a court of competent jurisdiction. If such amendment or change is permissive rather than mandatory, this Agreement shall not be affected.

5.5.4 Effect on Agreement. If any of the modifications, amendments or additions described in this Section 5.5 would materially and adversely affect the construction, development, use, operation, or occupancy of the Project or its cost, or any material portion, such that the Project, or the applicable portion thereof (a “**Law Adverse to Academy**”), then Academy shall notify the City and propose amendments or solutions that would maintain the benefit of this Agreement for both Parties. Upon receipt of a notice under this Section 5.5.4, the Parties agree to meet and confer in good faith for a period of not less than sixty (60) days, unless resolution is sooner reached, in an attempt to resolve the issue. If the Parties cannot resolve the issue in sixty (60) days or such longer period as may be agreed to by the Parties, then the Parties shall attempt to resolve their

dispute before Judge Harold E. Kahn of the Court, or if he is not available another mutually acceptable Judge of the Court or a mediator at JAMS in San Francisco for nonbinding mediation for a period of not less than thirty (30) days. If the Parties remain unable to resolve the issue following such mediation, then either Party shall have the right to seek available remedies at law or in equity to maintain the benefit of this Agreement or alternatively to seek termination of this Agreement if the benefit of this Agreement cannot be maintained in light of the Law Adverse to Academy.

Section 5.6 No Action to Impede Approvals. Except and only as required under Section 5.5, the City shall take no action under this Agreement nor impose any condition on the Project that could conflict with the terms and conditions of any of the Approvals. An action taken or condition imposed shall be deemed to be in conflict with the terms and conditions of any of the Approvals as set forth in Section 5.5.1.

Section 5.7 Estoppel Certificates. The Academy may, at any time, and from time to time, deliver notice to the Planning Director requesting that the Planning Director certify to the Academy, a potential Transferee, a Mortgagee and/or a potential Mortgagee: (i) that this Agreement is in full force and effect and a binding obligation of the Parties; (ii) that this Agreement has not been amended or modified, or if so amended or modified, identifying the amendments or modifications and stating their date and providing a copy or referring to the recording information; (iii) that, to the best of the Planning Director's knowledge after due inquiry, the Academy is not in breach of its obligations under this Agreement, or describing the nature and amount of any such breach; and (iv) the findings of the City as to the most recent annual review performed under Section 7.1. The Planning Director, acting on behalf of the City, shall execute and return such certificate within ten (10) Business Days following receipt of the request. At such Person's request, the City shall provide an estoppel certificate in recordable form, which such Person may record in the Official Records at its own expense.

Section 5.8 Taxes. Nothing in this Agreement limits the City's ability to impose new or increased taxes or special assessments, or any equivalent or substitute tax or assessment, provided no tax or assessment shall be targeted or directed at the Project, including any tax or assessment targeted or directed solely at all or any part of the Academy Properties. Nothing in the foregoing prevents the City from imposing any tax or assessment against the Academy Properties, or any portion of the Academy Properties, that is enacted in accordance with Law and applies to all similarly-situated property on a City-Wide basis.

ARTICLE 6 MUTUAL OBLIGATIONS

Section 6.1. General Cooperation; Agreement to Cooperate. The Parties agree to cooperate with one another and use diligent efforts to expeditiously implement the Project in accordance with the Approvals and this Agreement, and to undertake and complete all actions or proceedings reasonably necessary or appropriate to ensure that the objectives of this Agreement and the Approvals are implemented and as authorized to execute, with acknowledgment or affidavit if required, any and all documents and writings that may be necessary or proper to achieve the objectives of this Agreement and the Approvals. Except for ordinary administrative costs of the City, nothing in this Agreement obligates the City to spend any sums of money or incur any costs other than City Costs or costs that the Academy reimburses through the payment of Processing

Fees. The Parties agree that the Planning Department will act as the City's lead agency to facilitate coordinated City review of applications for the Project.

Section 6.2. Notice of Completion, Revocation or Termination. Within thirty (30) days after any termination of this Agreement in accordance with its terms, the Parties agree to execute a written statement acknowledging such revocation or termination, signed by the appropriate agents of the Parties, and record such instrument in the Official Records.

Section 6.3 Schedule of Performance. The Parties shall comply with all of their respective obligations set forth in the Schedule of Performance. The Parties acknowledges that failure to perform any obligation on the date due under the Schedule of Performance (and recognizing that every due date in the Schedule of Performance is one for which time is of the essence, but each such date is subject to Schedule of Performance's extension provisions) may result in the either Party declaring an Event of Default.

Section 6.4 Joint Defense. The Parties agree that they have a common interest with respect to environmental review under CEQA and other analysis of the Project and development of the Project as contemplated by this Agreement, including in responding to and defending against any Third-Party Challenges that are filed or reasonably anticipated. In furtherance of such interests, the Parties, their respective affiliates and/or their respective counsel may choose to share and exchange confidential and privileged information relevant to any Third-Party Challenges that are filed or reasonably anticipated. The Parties intend that all such information shall be fully protected from disclosure by the attorney-client privilege, and/or any other applicable privilege or Law, and/or by the attorney work product doctrine, and that such information shall remain as fully protected by the attorney-client privilege, any other applicable privilege or Law, and the work product doctrine as though the sharing and exchange had not occurred. The Parties intend that the sharing and exchange of such information, as between and among themselves and their respective affiliates, does not constitute a waiver of any privilege or other protection and shall be protected under the joint defense and common interest doctrine. Such information so shared or exchanged shall therefore remain secret and protected from disclosure to third parties to the maximum extent permitted by Law.

Section 6.5 Third-Party Challenges. The Academy shall assist and cooperate with the City at the Academy's own expense in connection with any Third-Party Challenge to this Agreement or any of the Approvals. The City Attorney's Office may use its own legal staff or outside counsel in connection with defense of the Third-Party Challenge. The LLC Parties shall reimburse the City for its actual costs in defense of the action or proceeding, including but not limited to the time and expenses of the City Attorney's Office (at the non-discounted rates then charged by the City Attorney's Office) and any consultants. Upon request the LLC Parties shall receive monthly invoices for all such costs.

Section 6.6 Agreement to Cooperate in the Event of a Judgment. To the extent that a judgment is entered in a Third-Party Challenge limiting the scope of the Project (or a portion) or an Approved Use, including the City's actions taken under CEQA, the Parties agree to cooperate with each other to expeditiously develop, seek governmental approvals for, and implement a modified Project and any required CEQA review. In the event the Parties do not reach agreement to implement a modified Project and complete any required CEQA review and approval within forty-five (45)

days after a final judgment, the City may elect, by 10 days prior written notice to the Academy, to terminate this Agreement as to the Project (or portion) or Approved Use.

Section 6.7 No Delay Absent Court Order. The filing of any Third-Party Challenge shall not delay or stop the development, use, processing or construction of the Project, including the processing of any Approvals or Later Approvals, unless the third party obtains a court order preventing such development, use, processing, or construction.

Section 6.8 Other Necessary Acts. Each Party shall use good faith efforts to take such further actions as may be reasonably necessary to carry out this Agreement and the Approvals in accordance with the terms and conditions of this Agreement (and subject to all Laws) to provide and secure to each Party the full and complete enjoyment of its rights and privileges under this Agreement. In their course of performance under this Agreement, the Parties shall cooperate and shall undertake such actions as may be reasonably necessary to implement the Project as contemplated by this Agreement.

ARTICLE 7

PERIODIC REVIEW OF ACADEMY'S COMPLIANCE

Section 7.1 Annual Review. Under Section 65865.1 of the Development Agreement Statute and Section 56.17 of the Administrative Code (as of the Effective Date), at the beginning of the second week of each January following final adoption of this Agreement and for so long as this Agreement is in effect (the "**Annual Review Date**"), the Planning Director shall commence a review to ascertain whether the Academy has, in good faith, complied with the Agreement. The failure to commence such review in January shall not waive the Planning Director's right to do so later in the calendar year. The Planning Director may elect to forego an annual review if no significant construction work in connection with the Project has occurred during that year, or if such review is otherwise not deemed necessary, in which event the Academy shall be deemed to be in compliance with this Agreement for purposes of this review requirement.

Section 7.2. Review Procedure. In conducting the initial and the annual reviews of Academy's compliance with this Agreement as described in Section 7.1, the Planning Director shall follow the process set forth in this Section 7.2.

7.2.1 Required Information from the Academy. On or before the end of January each year, the Academy shall provide a letter to the Planning Director explaining, with appropriate backup documentation, the Academy's compliance with this Agreement for the preceding calendar year. The burden of proof, by substantial evidence, of compliance is upon the Academy. The Planning Director shall post a copy of the Academy's submittals on the Planning Department's website.

7.2.2 City Report. Within sixty (60) days after the Academy submit such letter, the Planning Director shall review the information submitted by the Academy and all other available evidence regarding the Academy's compliance with this Agreement and shall consult with applicable City Agencies as appropriate. All such available evidence, including final staff reports, shall, upon receipt by the City, be made available as soon as possible to the Academy. The Planning Director, with a copy to the City Attorney, shall notify the Academy in writing whether the Academy has complied with the terms of this Agreement (the "**City Report**"), and

post the City Report on the Planning Department's website in accordance with the requirements of Chapter 56. If the Planning Director finds the Academy not in compliance with this Agreement, then, without limiting the City's rights under the Consent Judgment and Injunction, the City may pursue available rights and remedies in accordance with this Agreement and Chapter 56. The City's failure to initiate or to timely complete the annual review shall not be a Default and shall not be deemed to be a waiver of the right to do so at a later date. All costs incurred by the City under this section shall be included in the City Costs.

Section 7.3. Default. The rights and powers of the City under this Section 7.3 are in addition to, and shall not limit, the rights of the City to terminate or take other action under this Agreement or the Consent Judgment or Injunction, on account of a Default by the Academy.

ARTICLE 8

ENFORCEMENT OF AGREEMENT; DEFAULT; REMEDIES

Section 8.1. Enforcement. As of the Reference Date, the only Parties to this Agreement are the City, the Stephens Institute, and the LLC Parties. Except as expressly set forth in this Agreement (for successors and Transferees), this Agreement is not intended, and shall not be construed, to benefit or be enforceable by any other Person whatsoever.

Section 8.2. Consent Judgment; Injunction. As set forth in the Consent Judgment and the Injunction, the Court has reserved jurisdiction to enforce the provisions of this Agreement.

Section 8.3. Default. The following shall constitute a "Default" under this Agreement: (i) the failure to make any payment under this Agreement or the Settlement Agreement when due and such failure continues for more than ten (10) days following delivery of notice that such payment was not made when due and demand for compliance; and (ii) the failure to perform or fulfill any other material term, provision, obligation or covenant of this Agreement when required and such failure continues for more than sixty (60) days following notice of such failure and demand for payment. Notwithstanding the foregoing, if a failure can be cured but the cure cannot reasonably be completed within sixty (60) days, then it shall not be considered a Default if a cure is commenced within such sixty (60) day period and diligently prosecuted to completion. Any such notice given by a Party shall specify the nature of the alleged failure and, where appropriate, the manner in which such failure satisfactorily may be cured. If before the end of the applicable cure period the failure that was the subject of such notice has been cured to the reasonable satisfaction of the Party that delivered such notice, such Party shall issue a written acknowledgement to the other Party of the cure of such failure. Notwithstanding any other provision in this Agreement to the contrary, if the LLC Parties convey or transfer some but not all of the Academy Properties to a Party that is not affiliated with the Academy (a "**Non-Affiliate**"), and such conveyance or transfer is permitted under this Agreement, there shall be no cross-default between the Academy on one hand, and the Non-Affiliate. Accordingly, if a Non-Affiliate Defaults, it shall not be a Default by any other Transferee or Party that owns a different portion of the Academy Properties.

8.3.1 Material Breach. “**Material Breach**” means:

(a) The LLC Parties fail to make any payment required under this Agreement or the Settlement Agreement within ten (10) days after the date when due.

(b) Only until such time as the first installment of the Settlement Payment and the full Affordable Housing Payment is paid by the LLC Parties, any lien or other instrument is recorded against all or any part of the Academy Properties, prior to the Effective Date, and is (i) without the City’s prior written consent, (ii) not otherwise permitted by this Agreement, or (iii) not necessary to effectuate the Project, and the said lien is not removed from title or otherwise remedied to the City’s satisfaction within thirty (30) days after the Academy’s receipt of written notice from the City to cure the default, or, if the default cannot be cured within a 30-day period, the Academy Parties will have sixty (60) days to cure the default, or any longer period of time reasonably deemed necessary by the City, *provided that* the Academy commences to cure the default within the 30-day period and diligently pursues the cure to completion.

(c) The Academy fails to perform or observe any other term, covenant or agreement contained in any this Agreement, including, but not limited to, as set forth in the Schedule of Performance, and the failure continues for thirty (30) days after the Academy’s receipt of written notice from the City to cure the default, or, if the default cannot be cured within a 30-day period, the Academy will have sixty (60) days to cure the default, or any longer period of time deemed reasonably necessary by the City, *provided that* the Academy commence to cure the default within the 30-day period and diligently pursues the cure to completion.

(d) Any representation or warranty made by the Academy in this Agreement proves to have been incorrect in any material respect when made.

(e) Only until such time as the City receives the first installment of the Settlement Payment and the Affordable Housing Payment in full and the work contemplated in the Schedule of Performance has been completed, the Stephens Institute or the LLC Parties is dissolved or liquidated or merged with or into any other entity; or, if that entity is a corporation, partnership, limited liability company or trust, the Stephens Institute or an LLC Party ceases to exist in its present form and (where applicable) in good standing and duly qualified under the laws of the jurisdiction of formation and California for any period of more than ten (10) days; or, if an entity is an individual, such individual dies or becomes incapacitated; or all or substantially all of the assets of the Stephens Institute or any LLC Party are sold or otherwise transferred, provided, however, this Section 8.3.1(e) shall not apply to any LLC Party whose sole asset constitutes a single Academy Property that is withdrawn after the Effective Date from use by the Stephens Institute as long as the Academy provides the City with information appropriate for the City to reasonably determine that the remaining LLC Parties have the capacity to satisfy their financial obligations under the Settlement Agreement and this Agreement. The Stephens Institute shall have the right to reorganize as, or into, a non-profit entity, as defined under an applicable state’s business code, if the resultant entity assumes all of the obligations under this Agreement by a written assignment and assumption agreement in form and substance reasonably acceptable to the City.

(f) Unless otherwise expressly permitted by this Agreement, until such time as the first installment of the Settlement Payment and the full Affordable Housing Payment

is paid by the LLC Parties, the Stephens Institute or any LLC Party sells, leases, assigns, encumbers or otherwise transfers all or any portion of its interests in the Academy or of its right, title or interest in the Academy Properties (a “**Transfer**”) without the City’s prior consent. This provision shall not be deemed to prohibit or otherwise restrict the Stephens Institute and the LLC Parties from (i) granting easements, leases, subleases, licenses or permits to facilitate the development, operation and use of the Academy Properties in whole or in part consistent with the Approvals, any Future Approvals and this Agreement, (ii) encumbering the Academy Properties or any portion of the improvements by any Mortgage (provided that the Academy gives the City advance written notice of such Mortgage), or (iii) granting an occupancy leasehold interest in portions of the Academy Properties, and no such action shall constitute a Transfer under this Agreement or require an assignment and assumption agreement or any consent of the City and the transferee, beneficiary or other applicable Person under any such instrument shall not be deemed a successor to Stephens Institute and the LLC Parties or a Transferee.

(g) Without the City’s prior written consent, the Stephens Institute or any LLC Party assigns or attempts to assign any rights or interest under this Agreement, whether voluntarily or involuntarily.

(h) The Stephens Institute or any of the LLC Parties is subject to an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature or makes an assignment for the benefit of creditors; or the Stephens Institute or any LLC Party or consents to the appointment of any receiver, trustee or similar official for the Academy or for all or any part of its property (or an appointment is made without its consent and the appointment continues undischarged and unstayed for sixty (60) days); or the Stephens Institute or any LLC Party institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to the Academy or to all or any part of its property or relating to an LLC Party or any part of its property under the laws of any jurisdiction (or a proceeding is instituted without its consent and continues undismissed and unstayed for more than sixty (60) days); or any judgment, writ, warrant of attachment or execution or similar process is issued or levied against any other portion of the Academy Properties and is not released, vacated or fully bonded within sixty (60) days after its issue or levy.

(i) The Academy or any of the Guarantors is in default of its obligations under the Settlement Agreement or the Guaranty as applicable, and the default remains uncured following the expiration of any applicable cure periods.

Section 8.4. Remedies.

8.4.1 Specific Performance. Without limiting the remedies available under the Consent Judgment and Injunction, in the event of a Default, the remedies available to a Party shall include specific performance of this Agreement in addition to any other remedy available at law or in equity.

8.4.2 Termination. Until the payment of the first installment of Settlement Payment, as provided for in the Settlement Agreement and payment in full of the Affordable Housing Payment, as provided for on the Schedule of Performance, in the event of a Material

Breach, the non-Defaulting Party may elect to terminate this Agreement by sending a notice of termination to the Defaulting Party, which notice of termination shall describe in reasonable detail the Material Breach. Any such termination shall be effective upon the date set forth in the notice of termination, which shall in no event be earlier than sixty (60) days following delivery of the notice.

8.4.3 City Processing/Certificates of Occupancy. The City shall not be required to process any requests for approval or take other actions under this Agreement during any period in which the Academy is in material Default.

8.4.4 Receivership. The City may apply to any court of competent jurisdiction for specific performance, or an injunction against any violation, of this Agreement or for any other remedies or actions to correct the Academy's material noncompliance with this Agreement.

8.4.5 Certain Immaterial Violations of the Planning Code. If the City determines that any of the Academy Properties do not comply with the Planning Code, and those violations are not material (as the term "material" is defined in the Injunction), then such violation shall not be a Default under this Agreement, and the City shall, if the City determines to seek a remedy, proceed to seek remedies against the Academy consistent with how it would pursue enforcement against any other private property owner in San Francisco, i.e. not pursuant to this Section 8.4. If the City determines that the Academy has committed a material violation of the Planning Code (as the term "material" is defined in the Injunction) for any Academy Property or Properties or a pattern of violations even if immaterial involving multiple Academy Properties, or if such violation involves any failure by the Academy to materially comply with its obligations in the Approvals for any Academy Property or Non-Academy Property, then the City may proceed to seek a remedy as provided for in this Agreement and in the Consent Judgment and the Injunction.

Section 8.5 Time Limits; Waiver; Remedies Cumulative. Failure by a Party to insist upon the strict or timely performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of any condition or failure of performance, including a default, shall be effective or binding upon such Party unless made in writing by such Party, and no such waiver shall be implied from any omission by a Party to take any action with respect to such failure. No express written waiver shall affect any other condition, action, or inaction or cover any other period of time other than any condition, action, or inaction and/or period of time specified in such express waiver. One or more written waivers under any provision of this Agreement shall not be deemed to be a waiver of any subsequent condition, action, or inaction or any other term or provision contained in this Agreement. Nothing in this Agreement shall limit or waive any other right or remedy available to a Party to seek injunctive relief or other expedited judicial and/or administrative relief permitted under this Agreement to prevent irreparable harm.

Section 8.6 Attorneys' Fees. Should legal action be brought by either Party against the other for a Default under this Agreement or to enforce any provision in this Agreement, the prevailing Party in such action shall be entitled to recover its reasonable attorneys' fees and costs. For purposes of this Agreement, "reasonable attorneys' fees and costs" means the reasonable fees and expenses of counsel to the Party, which may include printing, duplicating and other expenses, air

freight charges, hiring of experts and consultants and fees billed for law clerks, paralegals, librarians and others not admitted to the bar but performing services under the supervision of an attorney, and shall include all such reasonable fees and expenses incurred with respect to appeals, mediation, arbitrations and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees and costs were incurred. For the purposes of this Section 8.6, the reasonable fees of attorneys of the City Attorney's Office shall be based on the fees regularly charged by the attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's Office services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office.

ARTICLE 9

AMENDMENT; TERMINATION; EXTENSION OF TERM

Section 9.1 Amendment. This Agreement may only be amended with the mutual written consent of the Parties. Other than upon the expiration of the Term and except as expressly provided in Sections 2.2, and Section 8.4.2, this Agreement may only be terminated with the mutual written consent of the Parties. Any amendment to this Agreement that does not constitute a Material Change may be agreed to by the Planning Director (and, to the extent it affects any rights or obligations of a City department, with the approval of that City Department), subject to approval as to form by the City Attorney. Any amendment that is a Material Change will require the approval of the Planning Director, the Planning Commission, the Director of MOHCD and the Board of Supervisors (and, to the extent it affects any rights or obligations of a City department, after consultation with that City department), as well as approval as to form by the City Attorney.

Section 9.2 Termination and Vesting. At the election of the City, any termination of this Agreement shall concurrently effect a termination of the Approvals, except as to any Approval that has vested under Existing Standards or in accordance with this Agreement.

Section 9.3 Amendment Exemptions. No issuance of an Approval or an amendment of an Approval shall by itself require an amendment to this Agreement. Upon issuance of any Approval or upon the making of any such change, such Approval or change shall be deemed to be incorporated automatically into the Project and vested under this Agreement (subject to any conditions set forth in such Later Approval). Notwithstanding the foregoing, if there is any direct conflict between the terms of this Agreement, on the one hand, and an Approval, on the other hand, then the Parties shall concurrently amend this Agreement (subject to all necessary approvals in accordance with this Agreement) to ensure the terms of this Agreement are consistent with such Later Approval. The Planning Department shall have the right to approve on behalf of the City changes and updates to the Project, in each keeping with the Planning Department's customary practices, and any such changes and updates shall not be deemed to conflict with or require an amendment to this Agreement or the Approvals so long as they do not constitute a Material Change (and, for the avoidance of doubt, are approved by the Academy to the extent required under this Agreement). If the Parties fail to amend this Agreement as set forth above when required (*i.e.*, when there is a Material Change), then the terms of this Agreement shall prevail over any Approval or any amendment to an Approval that conflicts with this Agreement until so amended.

Section 9.4. Litigation and Referendum Extension. If any Third-Party Challenge is filed challenging this Agreement or an Approval having the direct or indirect effect of delaying this

Agreement or any Approval (including but not limited to any CEQA determinations), including any challenge to the validity of this Agreement or any of its provisions, or if this Agreement or an Approval is suspended pending the outcome of an electoral vote on a referendum, then the Term of this Agreement (including the milestone dates set forth in the Schedule of Performance) and all Approvals shall be extended for the number of days equal to the period starting from the commencement of the litigation or the suspension (or as to Approvals, the date of the initial grant of such Approval) to the end of such litigation or suspension (a "**Litigation Extension**"). The Parties shall document the start and end of a Litigation Extension in writing within thirty (30) days from the applicable dates.

Section 9.5. Excusable Delay. An Excusable Delay means the occurrence of an event beyond a Party's reasonable control that causes such Party's performance of an obligation to be delayed, interrupted or prevented, including, but not limited to: changes in Federal or State Laws; strikes or the substantial interruption of work because of labor disputes; inability to obtain materials; freight embargoes; civil commotion, war or acts of terrorism; inclement weather, fire, floods, earthquakes, or other acts of God; epidemics or quarantine restrictions; litigation; unforeseen site conditions (including archaeological resources or the presence of hazardous materials); or the failure of any governmental agency, public utility or communication service provider to issue a permit, authorization, consent or approval required to permit construction within the standard or customary time period for such issuing authority following the Academy's submittal of a complete application for such permit, authorization, consent or approval, together with any required materials. Excusable Delay shall not include delays resulting from failure to obtain financing or have adequate funds, changes in market conditions, or the rejection of permit, authorization or approval requests based upon the Academy's failure to satisfy the procedural or substantive requirements for the permit, authorization or approval request. In the event of Excusable Delay, the Parties agree that (i) the time periods for performance of the delayed Party's obligations impacted by the Excusable Delay shall be strictly limited to the period of such delay, interruption or prevention and the delayed Party shall, to the extent commercially reasonable, act diligently and in good faith to remove the cause of the Excusable Delay or otherwise complete the delayed obligation, and (ii) following the Excusable Delay, a Party shall have all rights and remedies available under this Agreement, if the obligation is not completed within the time period as extended by the Excusable Delay. If an event which may lead to an Excusable Delay occurs, the delayed Party shall notify the other Party in writing of such occurrence as soon as possible after becoming aware that such event may result in an Excusable Delay, and the manner in which such occurrence is likely to substantially interfere with the ability of the delayed Party to perform under this Agreement.

ARTICLE 10

TRANSFER OR ASSIGNMENT; RELEASE; CONSTRUCTIVE NOTICE

Section 10.1 Permitted Transfer of this Agreement. Except as expressly provided in Section 10.2, the Academy shall have the right to convey, assign or otherwise Transfer any of its right, title and interest in and to this Agreement to a party (a "**Transferee**") with the City's prior written consent, which shall not be unreasonably delayed, conditioned or withheld. For the purposes of this Section 10.1 the City shall respond to any written request by the Academy for the City's consent to a Transfer within thirty (30) days. If the City fails to respond to such request within thirty (30) days, the City shall be deemed to have approved the Academy's request.

Section 10.2 Rights of the Academy. After such time the first installment of the Settlement Payment and the full Affordable Housing Payment are paid by the LLC Parties, the Stephens Institute and the LLC Parties shall have the right to convey assign or otherwise Transfer any of its rights, title and interests in the Academy Properties without the City's prior consent, provided that it contemporaneously transfers to the Transferee and Transferee, and the same assumes, all of the obligations under this Agreement under the Schedule of Performance for that property, as evidenced by a written agreement in form and substance reasonably approved by the City. Further, after such time as the first installment of the Settlement Payment and the full Affordable Housing Payment are paid, the Academy shall have the right to convey assign or otherwise Transfer any of its rights, title and interests in an Academy Property, without the City's prior consent, before the completion of the work in the Schedule of Performance, provided that the Academy proves to the City's reasonable satisfaction the LLC Parties remaining after such Transfer maintain enough equity interests in the remaining Academy Properties sufficient to meet their obligations under both the Settlement Agreement and this Agreement. The Academy shall have the right to convey assign or otherwise Transfer any of its rights, title and interests, without restriction including the City's prior consent, in Non-Academy Properties at any time, and in Academy Properties after the LLC Parties both (a) pay the first installment of the Settlement Payment and pay in full the Affordable Housing Payment and (b) all the work contemplated under the Schedule of Performance is completed. Upon the Transfer of an Academy Property as permitted by this Agreement, such Academy Property shall no longer be considered an 'Academy Property' under this Agreement, nor shall such property be subject any provision under this Agreement relating to Academy Properties. The provisions in this Article 10 shall not be deemed to prohibit or otherwise restrict the Stephens Institute and the LLC Parties from (i) granting easements, leases, subleases, licenses or permits to facilitate the development, operation and use of the Academy Properties in whole or in part consistent with the Approvals, any Future Approvals and this Agreement, (ii) encumbering the Academy Properties or any portion of the improvements by any Mortgage, or (iii) granting an occupancy leasehold interest in portions of the Academy Properties, and no such action shall constitute a Transfer under this Agreement or require an Assignment and Assumption Agreement or any consent of the City and the transferee, beneficiary or other applicable Person under any such instrument shall not be deemed a successor to Stephens Institute and the LLC Parties or a Transferee. But until the Affordable Housing Payment and the Settlement are paid in full and all the work is completed under the Schedule of Performance, the Academy will give the City prior written notice of any new or increased Mortgage on any of the Academy Properties.

ARTICLE 11

THE ACADEMY'S REPRESENTATIONS AND WARRANTIES

Section 11.1 Interest of the Stephens Institute; Due Organization and Standing. The Stephens Institute is a California corporation, in good standing under the Laws of the State of California, with the right and authority to enter into this Agreement. The Stephens Institute has all requisite power to own or lease the Academy Properties and authority to conduct its business and to enter into and to carry out and consummate the transactions contemplated by this Agreement.

Section 11.2 Interests of the LLC Parties. Each of the LLC Parties are in good standing under the Laws of the State of California and under laws of the state in which it was formed, with the right and authority to enter into this Agreement. Each LLC Party has all requisite power to own

or lease the Academy Properties and authority to conduct its business and to enter into and to carry out and consummate the transactions contemplated by this Agreement.

Section 11.3 No Inability to Perform; Valid Execution. The Stephens Institute and each of the LLC Parties represents and warrants that it is not a party to any other agreement that would conflict with its obligations under this Agreement and the Stephens Institute and the LLC Parties have no knowledge of any inability to perform its respective obligations under this Agreement. The execution and delivery of this Agreement and the agreements it contemplates by the Stephens Institute and the LLC Parties have been duly and validly authorized by all necessary action. This Agreement is be a legal, valid and binding obligation of the Academy, enforceable against the Stephens Institute and the LLC Parties in accordance with its terms.

Section 11.4 Conflict of Interest. Through its execution of this Agreement, the Stephens Institute and the LLC Parties acknowledge that each of them is familiar with the provisions of Section 15.103 of the City's Charter, Article III, Chapter 2 of the City's Campaign and Governmental Conduct Code, and Section 87100 *et seq.* and Section 1090 *et seq.* of the California Government Code, and certifies that it does not know of any facts that constitute a violation of such provisions and agrees that it will promptly notify the City if it becomes aware of any such fact during the Term.

Section 11.5 Notification of Limitations on Contributions. By executing this Agreement, the Academy acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of the Academy's board of directors; the Academy's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in the Academy; any sub-contractor listed in the bid or contract; and any committee that is sponsored or controlled by the Academy. The Academy certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

Section 11.6 Other Documents. No document furnished by the Academy including, without limitation, any LLC Party to the City with its application for this Agreement nor this Agreement contains any untrue statement of material fact or omits a material fact necessary to make the statements contained in that document or the application, or in this Agreement, not misleading under the circumstances under which any such statement shall have been made.

Section 11.7 No Bankruptcy. The Academy represents and warrants to the City that the neither Stephens Institute nor any LLC Party has filed nor is the subject of any filing of a petition under the federal bankruptcy law or any federal or state insolvency laws or Laws for composition of indebtedness or for the reorganization of debtors, and no such filing is threatened.

Section 11.8 Due Execution and Delivery. By all necessary action, the Academy has duly authorized and approved the execution and delivery of the Agreement and the performance of its obligations contemplated by this Agreement.

ARTICLE 12

MISCELLANEOUS PROVISIONS

Section 12.1 Entire Agreement. This Agreement, including the Exhibits, and the agreements between the Parties specifically referenced in this Agreement, including referenced provisions of the Settlement Agreement, constitutes the entire agreement between the Parties with respect to the subject matter.

Section 12.2 Incorporation of Exhibits. Except for the Approvals, which are listed solely for the convenience of the Parties, each Exhibit to this Agreement is incorporated in and made a part of this Agreement as if set forth in full. Each reference to an Exhibit in this Agreement shall mean that Exhibit as it may be updated or amended from time to time in accordance with the terms of this Agreement.

Section 12.3 Binding Covenants; Run With the Land. Under Section 65868 of the Development Agreement Statute, from and after recordation of this Agreement in the Official Records, all of the provisions, agreements, rights, powers, standards, terms, covenants, and obligations contained in this Agreement shall be binding upon the Parties and, subject to the provisions of this Agreement, including Article 12, their respective heirs, successors (by merger, consolidation, or otherwise) and assigns and all Persons acquiring the Academy Properties, any lot, parcel or any portion of the Academy Properties, or any interest in the Academy Properties, whether by sale, operation of Law or in any manner whatsoever, and shall inure to the benefit of the Parties and such heirs, successors, assigns and Persons. Subject to the provisions of this Agreement, including Article 12, all provisions of this Agreement shall be enforceable during the Term as equitable servitudes and constitute covenants and benefits running with the land under Law, including California Civil Code Section 1468.

Section 12.4 Applicable Law and Venue. This Agreement has been executed and delivered in and shall be interpreted, construed, and enforced in accordance with the Laws of the State of California. Venue for any proceeding related to this Agreement shall be solely in the courts for the State of California located in the City and County of San Francisco. Each Party consents to the jurisdiction of the State or Federal courts located in the City. Each Party expressly waives any and all rights that it may have to make any objections based on jurisdiction or venue to any suit brought to enforce this Agreement in accordance with the foregoing provisions.

Section 12.5 Construction of Agreement. The Parties have mutually negotiated the terms and conditions of this Agreement, and its terms and provisions have been reviewed and revised by legal counsel for the City, the Stephens Institute, and the LLC Parties. Accordingly, no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the

interpretation or enforcement of this Agreement. Therefore, each Party waives the effect of Section 1654 of the California Civil Code, which interprets uncertainties in a contract against the party that drafted the contract. Language in this Agreement shall be construed as a whole and in accordance with its true meaning. Each reference in this Agreement to this Agreement or any of the Approvals shall be deemed to refer to this Agreement or the Approvals as amended from time to time under the provisions of this Agreement, whether or not the particular reference refers to such possible amendment. In the event of a conflict between the provisions of this Agreement and Chapter 56, the provisions of this Agreement shall govern and control.

Section 12.6 Recordation. Under the Development Agreement Statute and Chapter 56, the Clerk of the Board of Supervisors shall have a copy of this Agreement and any amendment recorded in the Official Records within ten (10) days after the Effective Date or the effective date of such amendment, as applicable, with recording fees (if any) to be borne by the Academy.

Section 12.7 Obligations Not Dischargeable in Bankruptcy. Neither the Stephens Institute's obligations nor any LLC Parties obligation under this Agreement are dischargeable in bankruptcy.

Section 12.8 Survival. Following expiration of the Term, this Agreement shall be deemed terminated and of no further force and effect, except for any provision that, by its express terms, survives the expiration or termination of this Agreement.

Section 12.9 Signature in Counterparts. This Agreement may be executed in duplicate counterpart originals, each of which is deemed to be an original, and all of which when taken together shall constitute one and the same instrument.

Section 12.10 Notices. Whenever any notice or any other communication is required or permitted to be given under any provision of this Agreement (as, for example, where a Party is permitted or required to "notify" the other Party, but not including communications made in any meet and confer or similar oral communication contemplated under this Agreement), such notice or other communication shall be in writing and shall be deemed to have been given on the earliest to occur of (i) the date of the actual delivery, (ii) if mailed, three (3) Business Days after the date mailed by certified or registered mail, return receipt requested, with postage prepaid, (iii) if sent with a reputable air or ground courier service, fees prepaid, the date on which such courier represents such notice will be available for delivery, or (iv) if by electronic mail, on the day of sending such electronic mail if sent before 5:00 p.m. California time on a Business Day (and, otherwise, on the next Business Day), in each case to the respective address(es) (or email address(es)) of the Party to whom such notice is to be given as set forth below, or at such other address(es) (or email address(es)) of which such Party shall have given notice to the other Party as provided in this Section 12.10. To be deemed given under this Agreement, any such notice or other communication sent by electronic mail must also be confirmed within two (2) Business Days by delivering such notice or other communication by one of the other means of delivery set forth in this Section 12.10. Legal counsel for a Party may give notice on behalf of such Party. The Parties intend that the requirements of this Section 12.10 cannot be waived or varied by course of conduct. Any reference in this section to the date of receipt, delivery, giving or effective date, as the case may be, of any notice or communication shall refer to the date such communication is deemed to have been given under the terms of this Section 12.10. Rejection or other refusal to accept or the

inability to deliver because of changed address of which no notice was given under this Section 12.10 shall be deemed to constitute receipt of notice or other communication sent.

To the City:

John Rahaim
Director of Planning
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, California 94102
Email: john.rahaim@sfgov.org

with a copy to:

Dennis J. Herrera
City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Chief Deputy City Attorney, Academy of Art Development
Agreement
Email: ronald.flynn@sfcityatty.org

and to:

Attn: Chief Assistant City Attorney (Academy)
email: jesse.smith@sfcityatty.org

and to:

Attn: Deputy City Attorney, Land Use Team (Academy)
email: kristen.jensen@sfcityatty.org

To the Stephens Institute:

Academy of Art University
79 New Montgomery Street
San Francisco, CA 94105
Attn: Office of the President
Email: Estephens@Academyart.edu

with a copy to:

J. Abrams Law, P.C.
One Maritime Plaza
Suite 1900
San Francisco, CA 94111
Attn: Jim Abrams, Esq.
Email: jabrams@jabramslaw.com

To the LLC Parties:

79 New Montgomery Street
San Francisco, CA 94105
Attn: Dr. Elisa Stephens
Email: Estephens@academyart.edu

with a copy to:

J. Abrams Law, P.C.
One Maritime Plaza
Suite 1900
San Francisco, CA 94111
Attn: Jim Abrams, Esq.
Email: jabrams@jabramslaw.com

Section 12.11 Severability. Except as is otherwise specifically provided for in Section 5.5, if any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect, except to the extent that enforcement of the remaining provisions of this Agreement would be unreasonable or grossly inequitable under all the circumstances or would frustrate the fundamental purpose of this Agreement.

Section 12.12 Non-Liability of City Officials and Others. Notwithstanding anything to the contrary in this Agreement, no individual board member, director, commissioner, officer, employee, official or agent of City or any City Agency shall be personally liable to or its successors and assigns in the event of any Default by the City or for any obligation under this Agreement, including any amount that may become due to the Stephens Institute or the LLC Parties, or their successors and assigns under this Agreement.

Section 12.13 Time. Time is of the essence with respect to each provision of this Agreement in which time is a factor, including, but not limited, all deadlines in the Schedule of Performance and all dates on which payments are due under this Agreement and the Settlement Agreement. References to time shall be to the local time in the City on the applicable day. References in this Agreement to days, months and quarters shall be to calendar days, months and quarters, respectively, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice, meet a deadline or to undertake any other action occurs on a day that is not a Business Day, then the last day for giving the notice, replying to the notice, meeting the deadline or undertake the action shall be the next succeeding Business Day, or if such requirement is to give notice before a certain date, then the last day shall be the next succeeding Business Day. Where a date for performance is referred to as a month without reference to a specific day in such month, or a year without reference to a specific month in such year, then such date shall be deemed to be the last Business Day in such month or year, as applicable.

Section 12.14 Approvals and Consents. As used in this Agreement, the words “approve”, “consent” and words of similar import and any variations thereof refer to the prior written consent of the applicable Party or other Person, including the approval of applications by City Agencies.

Whenever any approval or consent is required or permitted to be given by a Party under this Agreement, it shall not be unreasonably withheld, conditioned or delayed unless the approval or consent is explicitly stated in this Agreement to be within the “sole discretion” (or words of similar import) of such Party. The reasons for failing to grant approval or consent, or for giving a conditional approval or consent, shall be stated in reasonable detail in writing. Approval or consent by a Party to or of any act or request by the other Party shall not be deemed to waive or render unnecessary approval or consent to or of any similar or subsequent acts or requests.

Section 12.15 Project Is a Private Undertaking; No Joint Venture or Partnership. The Project, proposed to be undertaken by the Stephens Institute and the LLC Parties, as applicable, is a private development. The City has no interest in, responsibility for, or duty to third persons concerning any of those improvements. The Stephens Institute and the LLC Parties, as applicable, shall exercise full dominion and control over all the Academy Properties, subject only to the limitations and obligations of the Stephens Institute and the LLC Parties contained in this Agreement. Nothing contained in this Agreement, or in any document executed in connection with this Agreement, shall be construed as creating a joint venture or partnership between the City and the Stephens Institute or the LLC Parties. Neither Party is acting as the agent of the other Party in any respect under this Agreement. The Stephens Institute and the LLC Parties are not a state or governmental actor with respect to any activity conducted by the Stephens Institute or the LLC Parties under this Agreement.

Section 12.16 No Third Party Beneficiaries. There are no third party beneficiaries to this Agreement.

[Signatures on following page]

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

CITY:

CITY AND COUNTY OF SAN
FRANCISCO,
a municipal corporation

By: _____
John Rahaim
Director of Planning

Approved on _____, 2020
Board of Supervisors Ordinance No.

Approved as to form:

DENNIS J. HERRERA, City Attorney

By: _____
Michelle Sexton
Deputy City Attorney

STEPHENS INSTITUTE:

STEPHENS INSTITUTE,
a California corporation

By: _____
Dr. Elisa Stephens
President

[Signatures Continue]

LLC PARTIES:

2300 STOCKTON STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1916 OCTAVIA STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1153 BUSH STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

2209 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1835 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

[Signatures Continue]

1080 BUSH STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1069 PINE STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1055 PINE STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

60 FEDERAL STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

491 POST STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

[Signatures Continue]

701 CHESTNUT STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

860 SUTTER STREET, LLC,
a Delaware limited liability company;

By: _____
Dr. Elisa Stephens
Manager

S/F 466 TOWNSD, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

620 RSSE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

2151 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

[Signatures Continue]

2211 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

825 SUTTER STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

601 BRANNAN STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1727 LOMBARD II, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

2225 JERROLD AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

[Signatures Continue]

460 TOWNSEND STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

950 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

2801 LEAVENWORTH-CANNERY, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

79 NEW MONTGOMERY STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

625 POLK STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

[Signatures Continue]

625 SUTTER STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

740 TAYLOR STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1946 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

1142 VAN NESS AVENUE, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

575 HARRISON, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

[Signatures Continue]

1900 JACKSON STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

736 JONES STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

560 POWELL STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

655 SUTTER STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

680/688 SUTTER STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

[Signatures Continue]

2550 VNPOOL, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

700 MONTGOMERY STREET, LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

150 HAYES LLC,
a Delaware limited liability company

By: _____
Dr. Elisa Stephens
Manager

[Signatures End]

Exhibit A

List of the LLC Parties

1. 601 Brannan Street, LLC, a Delaware limited liability company
2. 60 Federal Street, LLC, a Delaware limited liability company
3. 2801 Leavenworth-Cannery, LLC, a Delaware limited liability company
4. 79 New Montgomery Street, LLC, a Delaware limited liability company
5. 625 Polk Street, LLC, a Delaware limited liability company
6. 491 Post Street, LLC, a Delaware limited liability company
7. 625 Sutter Street, LLC, a Delaware limited liability company
8. 740 Taylor Street, LLC, a Delaware limited liability company
9. S/F 466 Townsd, LLC, a Delaware limited liability company
10. 1835 Van Ness Avenue LLC, a Delaware limited liability company
11. 2151 Van Ness Avenue, LLC, a Delaware limited liability company
12. 1946 Van Ness Avenue, LLC, a Delaware limited liability company
13. 1142 Van Ness Avenue, LLC, a Delaware limited liability company
14. 1080 Bush Street, LLC, a Delaware limited liability company
15. 1153 Bush Street, LLC, a Delaware limited liability company
16. 575 Harrison, LLC, a Delaware limited liability company
17. 1900 Jackson Street, LLC, a Delaware limited liability company
18. 736 Jones Street, LLC, a Delaware limited liability company
19. 1727 Lombard II, LLC, a Delaware limited liability company
20. 1916 Octavia Street, LLC, a Delaware limited liability company
21. 560 Powell Street, LLC, a Delaware limited liability company
22. 620 RSSE, LLC, a Delaware limited liability company
23. 655 Sutter Street, LLC, a Delaware limited liability company
24. 680/688 Sutter Street, LLC, a Delaware limited liability company
25. 825 Sutter Street, LLC, a Delaware limited liability company
26. 860 Sutter Street, LLC, a Delaware limited liability company
27. 2209 Van Ness Avenue, LLC, a Delaware limited liability company
28. 2211 Van Ness Avenue, LLC, a Delaware limited liability company
29. 2550 VNPool, LLC, a Delaware limited liability company
30. 2225 Jerrold Avenue, LLC, a Delaware limited liability company
31. 950 Van Ness Avenue, LLC, a Delaware limited liability company
32. 150 Hayes LLC, a Delaware limited liability company
33. 700 Montgomery Street, LLC, a Delaware limited liability company
34. 1069 Pine Street, LLC, a Delaware limited liability company
35. 701 Chestnut Street, LLC, a Delaware limited liability company
36. 2300 Stockton Street, LLC, a Delaware limited liability company
37. 460 Townsend, LLC, a Delaware limited liability company
38. 1055 Pine Street, LLC, a Delaware limited liability company

Exhibit B-1

Legal Descriptions of Academy Properties

601 Brannan St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Commencing at the point of intersection of the Southeasterly line of Brannan Street and the Southwesterly line of 5th Street; running thence Southwesterly and along said line of Brannan Street 275 feet; thence at a right angle Southeasterly 250 feet to the Northwesterly line of Bluxome Street; thence at a right angle Northeasterly along said line of Bluxome Street 275 feet to the Southwesterly line of 5th Street; thence at a right angle Northwesterly along said line of 5th Street 250 feet to the point of commencement.

Being a part of South Beach Block No. 18

Assessor's Lot 132; Block 3785

410 Bush St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at the point of intersection of the Northerly line of Bush Street with the Westerly line of St. George Alley; running thence Westerly and along said line of Bush Street 48 feet; running thence at a right angle Northerly 275 feet to the Southerly line of Pine Street; running thence at a right angle Easterly and along said line of Pine Street 48 feet to the Westerly line of St. George Alley; running thence Southerly and along said line of St. George Alley 275 feet to the Northerly line of Bush Street and the point of beginning.

Being a portion of 50 Vara Block No. 94

Assessor's Lot 007, Block 0270

58-60 Federal St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL I:

Beginning at a point on the Northwesterly line of Federal Street, distant thereon 275 feet Northeasterly from the Northeasterly line of 2nd Street; running thence Northeasterly along said line of Federal Street, if extended Northeasterly 137 feet 6 inches to a point on the Northwesterly line of Federal Street, distant thereon 412 feet 6 inches Southwesterly from the Southwesterly line of 1st Street; thence at a right angle Southeasterly 115 feet; thence at a right angle Southwesterly 117 feet 6 inches; thence at a right angle Northwesterly 115 feet to the Northwesterly line of Federal Street and the point of beginning.

BEING a portion of 100 Vara Block No. 351.

PARCEL II:

Beginning at a point on the Southeasterly line of Federal Street, distant thereon 275 feet Northeasterly from the Northeasterly line of 2nd Street; running thence Southeasterly and parallel with said Northeasterly line of 2nd Street 94 feet; thence running Southwesterly at a right angle 25 feet parallel with the said Southeasterly line of Federal Street to a point 250 feet distant from said Northeasterly line of 2nd Street; thence at a right angle Northwesterly 95 feet to the Southeasterly line of Federal Street; thence at a right angle Northeasterly and along said Southeasterly line of Federal Street to the point of beginning.

Assessor's Lot 074; Block 3774

2801 Leavenworth St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL ONE:

Beginning at the point of intersection of the Westerly line of Leavenworth Street and the Southerly line of Jefferson Street; running thence Westerly along said line of Jefferson Street 209.666 feet; thence deflecting 90° 04' 30" to the left and running Southerly 141.370 feet; thence Southerly and Southeasterly along a curve to the left tangent to the preceding course which curve has a radius of 301.90 feet; a central angle of 26° 16' 49.43" and an arc distance of 138.475 feet to a point on the Northerly line of Beach Street; thence deflecting 63° 38' 40.57" to the left from the tangent of the preceding curve, at last said point and running Easterly along said line of Beach Street 178.100 feet to the Westerly line of Leavenworth Street; thence Northerly along said line of Leavenworth Street 275.00 feet to the point of beginning.

Being a portion of 50 Vara Block No. 259.

Assessor's Lot 001; Block 0010

PARCEL TWO:

The easements, rights and restrictions which benefit the Cannery Owner (as defined in the Declaration [as hereinafter defined]) as contained in Declaration of Covenants, Conditions, Restrictions and Agreements (Parking Lot) recorded January 8, 1973, in Book B716 of Official Records, Page 900, as amended by "Notice of Amendment to Covenants, Conditions, Restrictions and Agreements" dated October 13, 1976, recorded October 18, 1976 in Liber C248, Page 253 of Official Records and Exhibits thereto. (collectively the "Declaration").

77-79 New Montgomery St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the Northwestern line of Mission Street, distant thereon seventy (70) feet Southwesterly from the Southwesterly line of Second Street; running thence Southwesterly and along said line of Mission Street one hundred forty-three (143) feet and ten and one-half (10-1/2) inches to the Northeasterly line of New Montgomery Street; thence Northwesterly and along said line of New Montgomery Street one hundred sixty (160) feet, more or less, to the Southeasterly line of Jessie Street; thence Northeasterly and along said line of Jessie Street one hundred thirty-eight (138) feet, more or less, to a point distant thereon seventy (70) feet Southwesterly from the Southwesterly line of Second Street; thence at a right angle Southeasterly and parallel to the Southwesterly line of Second Street one hundred sixty (160) feet to the point of beginning.

Being a portion of 100 Vara Block No. 354
Assessor's Lot 014; Block 3707

180 New Montgomery St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Parcel 1:

Commencing at the point of the intersection of the Northwestern line of Howard Street with the Southwesterly line of New Montgomery Street; running thence Northwesterly along the Southwesterly line of New Montgomery Street 160 feet to the Southeasterly line of Natoma Street; thence Southwesterly along the Southeasterly line of Natoma Street 142 feet and 6 inches; thence at a right angle Southeasterly 70 feet; thence at a right angle Northeasterly 15 feet and 4 inches; thence at a right angle Southeasterly 90 feet to the Northwestern line of Howard Street; thence Northeasterly along the Northwestern line of Howard Street 127 feet and 2 inches to the point of commencement.

Being a portion of 100 Vara Block No. 355.
Lot 22 Block 3722

Parcel 2:

Commencing at a point on the Southeasterly line of Natoma Street, distant thereon 142 feet 6 inches Southwesterly from the Southwesterly line of New Montgomery Street; thence at a right angle Southeasterly 70 feet to the true point of commencement; thence at a right angle Southwesterly 9 feet 8 inches; thence at a right angle Southeasterly 90 feet to the Northwestern line of Howard Street; thence Northeasterly along the Northwestern line of Howard Street 25 feet; thence at a right angle Northwesterly 90 feet; thence at a right angle Southwesterly 15 feet 4 inches to the true point of commencement.

Being a portion of 100 Vara Block No. 355.
Lot 23 Block 3722

625 Polk St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

BEGINNING at the corner formed by the intersection of the Northerly line of Turk Street with the Westerly line of Polk Street; and running thence Northerly along the Westerly line of Polk Street 137 feet, 6 inches; thence at a right angle Westerly 137 feet, 6 inches; thence at a right angle Southerly 137 feet, 6 inches to the Northerly line of Turk Street; and thence at a right angle Easterly along said line of Turk Street 137 feet, 6 inches to the point of beginning.

BEING a part of Western Addition Block No. 63.

BEING Assessors Lot 002; Block 0742

491 Post St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at the intersection of the Southerly line of Post Street with the Easterly line of Mason Street; running thence Southerly along the said Easterly line of Mason Street 137 feet, 6 inches; thence at right angles Easterly 110 feet; Thence at right angles Northerly 137 feet, 6 inches to the said Southerly line of Post Street; and Thence Westerly along the said Southerly line of Post Street 110 feet to the said Easterly line of Mason Street and the point of beginning.

Being a portion of 50 Vara Lot No. 970.

Assessor's Lot 009; Block 0307

540 Powell St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the Easterly line of Powell Street, distant thereon 87 feet and 6 inches Southerly from the Southerly line of Bush Street; running thence Southerly along said line of Powell Street 50 feet; thence at a right angle Easterly 137 feet and 8 5/8 inches to a point perpendicularly distant 275 feet and 10 inches Westerly from the Westerly line of Stockton Street; thence at a right angle Northerly and parallel with the Easterly line of Powell Street 23 feet; thence at a right angle Westerly 2 5/8 inches to a point perpendicularly distant 137 feet and 6 inches Easterly from the Easterly line of Powell Street; thence at a right angle Northerly and parallel with the Easterly line of Powell Street 27 feet to the Southerly line of Anson Place; thence at a right angle Westerly along said line of Anson Place 137 feet and 6 inches to the point of beginning.

Being a portion of 50 Vara Block No. 141.

Lot 009 Block 0285

625-629 Sutter St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL I:

COMMENCING at a point on the southerly line of Sutter Street, distant thereon 70 feet and 6 inches westerly from the westerly line of Mason Street; running thence westerly along said line of Sutter Street 67 feet; thence at a right angle southerly 127 feet and 6 inches; thence at a right angle easterly 20 feet; thence at a right angle northerly 40 feet; thence at a right angle easterly 47 feet; and thence at a right angle northerly 87 feet and 6 inches to the point of commencement.

PARCEL II:

ALSO, as appurtenant to the westerly 20 feet of said premises, an easement of right of way over the following described parcel of land, to-wit:

COMMENCING at a point on the westerly line of Mason Street, distant thereon 127 feet and 6 inches southerly from the southerly line of Sutter Street; running thence southerly along said line of Mason Street 10 feet; thence at a right angle westerly 137 feet and 6 inches; thence at a right angle northerly 10 feet; thence at a right angle easterly 137 feet and 6 inches to the point of commencement, as granted by Edward B. Hindes and Dorothy V. Hindes, his wife to Herman W. Newbauer, by Deed recorded January 2, 1903, in Book 1983 of Deeds, Page 70, at all times to be used as appurtenant to the land conveyed for the purpose of passing to and from between the rear of said lot and said Mason Street, nothing in the Grant contained to be construed as an agreement that said alley-way shall be dedicated or used by the public.

APN: Lot 014; Block 0297

740 Taylor St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the Easterly line of Taylor Street, distant thereon 80 feet Southerly from the Southerly line of Bush Street; running thence Southerly along said Easterly line of Taylor Street 57 feet and 6 inches; thence at a right angle Easterly 62 feet and 6 inches; thence at a right angle Northerly 57 feet and 6 inches; thence at a right angle Westerly 62 feet and 6 inches to the point of beginning.

Being a portion of 50 Vara Block No. 193.
Assessor's Lot 012; Block 0283

466 Townsend St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Commencing at the point of intersection of the Northeasterly line of 6th Street and the Northwesternly line of Townsend Street; running thence Northwesternly along said Northeasterly line of 6th Street 137 feet 6 inches; thence at a right angle Northeasterly 275 feet; thence at a right angle Southeasterly 137 feet 6 inches to the Northwesternly line of Townsend Street; thence at a right angle Southwesterly along said Northwesternly line of Townsend Street 275 feet to the point of beginning.

BEING part of 100-Vara Block No. 386
Being Assessor's Lot 005; Block 3785

1849 Van Ness Ave.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL I:

Commencing at the point of intersection of the Southerly line of Washington Street and the Westerly line of Van Ness Avenue; running thence Southerly along said line of Van Ness Avenue 72 feet; thence at a right angle Westerly 190 feet; thence at a right angle Northerly 72 feet to the Southerly line of Washington Street; thence at a right angle Easterly along said line of Washington Street 190 feet to the point of commencement.

Being a portion of Western Addition Block No. 90.
Assessor's Lot 001; Block 0618

PARCEL II:

Commencing at a point on the Westerly line of Van Ness Avenue, distant thereon 72 feet Southerly from the Southerly line of Washington Street; running thence Westerly parallel with said line of Washington Street 190 feet; thence at right angle Northerly 72 feet to the Southerly line of Washington Street; thence at a right angle Westerly along said line of Washington Street 21 feet 9 inches; thence at a right angle Southerly 127 feet, 8-1/4 inches; thence at a right angle Easterly 102 feet; thence at a right angle Northerly 5 feet, 8-1/4 inches; thence at a right angle Easterly 109 feet, 9 inches to the Westerly line of Van Ness Avenue; thence at a right angle Northerly along said line of Van Ness Avenue 50 feet to the point of commencement.

Being a portion of Western Addition Block No. 90.
Assessor's Lot 001B; Block 0618

2151 Van Ness Ave.

The land referred to herein is situated In the State of California, County of San Francisco, City of San Francisco, and is described as follows:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE SOUTHERLY LINE OF BROADWAY WITH THE WESTERLY LINE OF VAN NESS A VENUE, AND RUNNING THENCE WESTERLY ALONG THE SAID LINE OF BROADWAY TWO HUNDRED AND FORTYSEVEN (247) FEET, THREE (3) INCHES MORE OR LESS TO THE NORTHEAST CORNER OF LOT NUMBER 4 OF THE SAME BLOCK, THE SAID NORTHEAST CORNER BEING ONE HUNDRED AND THIRTY-SEVEN (137) FEET SIX (6) INCHES EASTERLY FROM THE SOUTHEAST CORNER OF FRANKLIN STREET AND BROADWAY; THENCE AT A RIGHT ANGLE SOUTHERLY ALONG SAID EASTERLY SIDE OF SAID LOT NUMBER "4" ONE HUNDRED AND THIRTY-THREE (133) FEET, TWO AND ONE-FOURTH (2-1/4) INCHES MORE OR LESS TO A POINT MID-WAY BETWEEN THE SOUTHERLY LINE OF BROADWAY AND THE NORTHERLY LINE OF PACIFIC AVENUE; THENCE EASTERLY TWO HUNDRED AND FORTY-SEVEN (247) FEET, THREE (3) INCHES MORE OR LESS TO THE WESTERLY LINE OF VAN NESS A VENUE, AND INTERSECTING SAID LINE OF VAN NESS AVENUE ONE HUNDRED AND THIRTY-THREE (133) FEET TWO AND ONE-FOURTH (2-1/4) INCHES SOUTHERLY FROM THE SOUTHERLY LINE OF BROADWAY; THENCE NORTHERLY ALONG SAID WESTERLY LINE OF VAN NESS AVENUE ONE HUNDRED AND THIRTY-THREE (133) FEET TWO AND ONE-FOURTH (2-1/4) INCHES TO THE SOUTHERLY LINE OF BROADWAY AND THE POINT OF BEGINNING, BEING LOTS NUMBER FIVE (5) AND SIX (6) IN WESTERN ADDITION BLOCK NUMBER 93 AS LAID DOWN AND DESIGNATED ON THE OFFICIAL MAP OF THE CITY AND COUNTY OF SAN FRANCISCO. EXCEPTING THEREFROM, ALL THOSE PORTIONS OF SAID LAND CONVEYED TO THE ROMAN CATHOLIC WELFARE CORPORATION OF SAN FRANCISCO, A CALIFORNIA CORPORATION, BY DEED DATED FEBRUARY 25, 1953 AND RECORDED ON FEBRUARY 27, 1953 IN BOOK 6103 AT PAGE 365, OFFICIAL RECORDS OF THE CITY AND COUNTY OF SAN FRANCISCO.

APN: Lot 015, Block 0575

1946 Van Ness Ave.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Commencing at the point of intersection of the Southerly line of Jackson Street and the Easterly line of Van Ness Avenue; running thence Southerly and along said line of Van Ness Avenue 65 feet; thence at a right angle Easterly 111 feet 6 inches; thence at a right angle Northerly 65 feet to the Southerly line of Jackson Street; thence at a right angle Westerly along said line of Jackson Street 111 feet 6 inches to the point of commencement.

Being part of Western Addition Block No. 51

Assessor's Lot 010A; Block 0598

1142 Van Ness Ave.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at the point of intersection of the Southerly line of Post Street and the Easterly line of Van Ness Avenue; running thence Easterly along said line of Post Street 109 feet; thence at a right angle Southerly 120 feet to the Northerly line of Cedar Street; thence at a right angle Westerly along said line of Cedar Street 109 feet to the Easterly line of Van Ness Avenue; thence at a right angle Northerly along said line of Van Ness avenue 120 feet to the point of beginning.

Being a portion of Western Addition Block No. 59.
Assessor's Lot 011; Block 0694

1080 Bush St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Commencing at a point on the northerly line of Bush Street, distant thereon 68 feet, 9 inches Easterly from the Easterly line of Leavenworth Street; running thence Easterly and along said line of Bush Street 45 feet, 10 inches; thence at a right angle Northerly 137 feet, 6 inches; thence at a right angle Westerly 45 feet, 10 inches; thence at a right angle Southerly 82 feet, 6 inches; thence at a right angle Easterly 1-1/2 inches; thence at a right angle Southerly 45 feet; thence at a right angle Westerly 1-1/2 inches; thence at a right angle Southerly 10 feet to the point of commencement.

Being part of 50 Vara Lot No. 1139, in Block No. 249.
Assessor's Lot 15; Block 0276

1153 Bush St.

The land referred to herein is situated in the State of California, City and County of San Francisco and is described as follows:

BEGINNING at a point on the southerly line of Bush Street, distant thereon 177 feet and 6 inches easterly from the easterly line of Hyde Street; running thence easterly and along said line of Bush Street 42 feet and 6 inches; thence at a right angle southerly 137 feet and 6 inches; thence at a right angle westerly 42 feet and 6 inches; thence at a right angle northerly 137 feet and 6 inches to the point of beginning.

BEING part of 50 Vara Block No. 279.
Assessor's Lot 26; Block 280

575 Harrison St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

All that certain real property, as shown on that certain Map entitled, "Parcel Map of 575 Harrison Street, a 33 Unit Live/Work Condominium Project," which Map was filed for record in the Office of the Recorder of the City and County of San Francisco, State of California on November 16, 2005 in Book 92 of Condominium Maps at Pages 107 to 108.

APN: Lots 198 thru 230 (formerly Lot 069); Block 3764

1900 Jackson St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at the point of intersection of the Northerly line of Jackson Street with the Westerly line of Gough Street; running thence Westerly along said line of Jackson Street 34.50 feet; thence at a right angle Northerly 77.687 feet; thence at a right angle Easterly 34.50 feet to the Westerly line of Gough Street; thence at a right angle Southerly along said line of Gough Street 77.687 feet to the point of beginning.

Being a portion of Western Addition Block No. 163
Assessor's Lot 004A; Block 0592

736 Jones St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the Easterly line of Jones Street, distant thereon 100 feet Southerly from the Southerly line of Sutter Street; running thence Southerly along said Easterly line of Jones Street 37 feet and 6 inches; thence at a right angle Easterly 107 feet and 6 inches; thence at a right angle Northerly 37 feet and 6 inches; and thence at a right angle Westerly 107 feet and 6 inches to the point of beginning.

Being a portion of 50 Vara Block No. 222.
APN: Lot 027; Block 0298

1727 Lombard St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL ONE:

Commencing at a point on the Northerly line of Greenwich Street, distant thereon 156 feet, 3 inches Easterly from the Easterly line of Laguna Street; running thence Easterly and along said line of Greenwich Street, 50 feet; thence at a right angle Northerly 137 feet, 6 inches; thence at a right angle Westerly 50 feet; thence at a right angle Southerly 137 feet, 6 inches to the point of commencement.

Being part of Western Addition, Block No. 187.

PARCEL TWO:

Commencing at a point on the Southerly line of Lombard Street, distant thereon 131 feet and 3 inches Easterly from the Easterly line of Laguna Street; running thence Easterly along said line of Lombard Street, 50 feet; thence at a right angle Southerly 106 feet and 3 inches; thence at a right angle Westerly 50 feet; thence at a right angle Northerly 106 feet and 3 inches to the point of commencement.

Being part of Western Addition, Block No. 187.

PARCEL THREE:

Commencing at point on the Southerly line of Lombard Street (as widened) distant thereon 181 feet 3 inches Easterly from the Easterly line of Laguna Street; running Easterly and along said line of Lombard Street, 25 feet; thence at a right angle Southerly 106 feet, 3 inches; thence at a right angle Westerly 25 feet; thence at a right angle Northerly 106 feet, 3 inches to the point of commencement.

Being part of Western Addition, Block No. 187.

PARCEL FOUR:

Beginning at a point on the Southerly line of Lombard Street (as widened) distant thereon 206 feet and 3 inches Easterly from the Easterly line of Laguna Street; running thence Easterly and along said line of Lombard Street, 25 feet; thence at a right angle Southerly 106 feet and 3 inches; thence at a right angle Westerly, 25 feet; thence at a right angle Northerly 106 feet and 3 inches to the point of beginning.

Being part of Western Addition, Block No. 187.

PARCEL FIVE:

Beginning at a point on the Southerly line of Lombard Street, as widened, distant thereon 106 feet, 3 inches Westerly from the Westerly line of Octavia Street; running thence Westerly and along said line of Lombard Street, 75 feet; thence at a right angle Southerly 106 feet, 3 inches; thence at a right angle Easterly 75 feet; thence at a right angle Northerly 106 feet, 3 inches to the point of beginning.

Being a portion of Western Addition, Block No. 187.

APN: Lot 036, Block 0506

1916 Octavia St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the Easterly line of Octavia Street, distant thereon 137 feet 6 inches Northerly from the Northerly line of California Street; running thence Northerly and along said line of Octavia Street 75 feet; thence at a right angle Easterly 130 feet; thence at a right angle Southerly 75 feet; thence at a right angle Westerly 130 feet to the point of beginning.

APN: Lot: 011; Block: 0640

560 Powell St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at the point of intersection of the Southerly line of Bush Street and the Easterly line of Powell Street; running thence Easterly along said line of Bush Street 45 feet; thence at a right angle Southerly 67 feet 6 inches; thence at a right angle Westerly 45 feet to the Easterly line of Powell Street; thence Northerly along said line of Powell Street 67 feet, 6 inches to the point of beginning.

Being a part of Vara Block No. 141.
Assessor's Lot 010; Block 0285

620 Sutter St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the Northerly line of Sutter Street, distant thereon 45 feet Westerly from the point formed by the intersection of the said Northerly line of Sutter Street with the Westerly line of Mason Street; running thence Westerly along said Northerly line of Sutter Street 92 feet and 6 inches; thence at a right angle Northerly 137 feet and 6 inches; thence at a right angle Easterly 50 feet; thence at a right angle Southerly 1 foot 2 inches; thence at a right angle Easterly 42 feet and 6 inches; thence at a right angle Southerly 136 feet 4 inches to said Northerly line of Sutter Street at the point of beginning.

Being a portion of Vara Lot No. 591, as the same is laid down and numbered on the Official Map of the City and County of San Francisco, State of California.
Assessor's Lot 004A; Block 0283

655 Sutter St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL I:

Beginning at a point on the Southerly line of Sutter Street, distant thereon 187 feet, 6 inches Westerly from the Westerly line of Mason Street; running thence Westerly along said line of Sutter street 60 feet, 6 inches; thence at a right angle Southerly 137 feet, 6 inches; thence at a right angle Easterly 60 feet, 6 inches; thence at a right angle Northerly 137 feet, 6 inches to the point of beginning.

Being a portion of 50 Vara Block No. 194.

PARCEL II:

A Non-Exclusive Easement of right of way in, to and over the following described alleyway: Beginning at a point on the Westerly Line of Mason Street, distant thereon 127 feet and 6 inches Southerly from the Southerly line of Sutter Street; running thence Southerly along said line of Mason Street 10 feet; thence at a right angle Westerly 187 feet and 6 inches; thence at a right angle Northerly 10 feet; thence at a right angle Easterly 187 feet and 6 inches to the point of beginning.

Said Easement is as set forth in that certain Decree Establishing Title filed January 19th, 1911 in San Francisco County Superior Court Case No. 22542 (McInerney Series) and Recorded January 19th, 1911 in the office of the Recorder of the City and County of San Francisco, State of California Book 499 of Deeds, Page 1.

Assessor's Lot 012; Block 0297

680-688 Sutter St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL 1:

Beginning at a point on the Northerly line of Sutter Street, distant thereon 41 feet, 9 1/2 inches Easterly line of Taylor Street, running thence Easterly along said line of Sutter Street 44 feet, 7 3/4 inches; thence Northerly to a point perpendicularly distant 41 feet, 1 inch Northerly from the Northerly line of Sutter Street and also perpendicularly distant 86 feet, 4 5/8 inches Easterly from the Easterly line of Taylor Street; thence Northerly to a point perpendicularly distant 65 feet, 7 inches Northerly from the Northerly line of Sutter Street and also perpendicularly distant 86 feet, 8 3/4 inches Easterly from the Easterly line of Taylor Street; thence Northerly to the Southerly line of a 10 foot alley at a point distant thereon 86 feet 10 1/4 inches Easterly from the Easterly line of Taylor Street; thence Westerly along said Southerly line of said Alley 45 feet, 0 1/4 of an inch to a point distant thereon 41 feet, 10 inches Easterly from the Easterly line of Taylor Street; thence Southerly 27 feet, more or less, to a point perpendicularly distant 54 feet, 8 inches Northerly from the Northerly line of Sutter Street, and also perpendicularly distant 41 feet, 9 7/8 inches Easterly from the Easterly line of Taylor Street; thence Southerly to a point perpendicularly distant 35 feet Northerly from the Northerly line of Sutter Street and also perpendicularly distant 41 feet, 9 inches Easterly from the Easterly line of Taylor Street; thence Southerly 35 feet, more or less, to the point of beginning.

Being a part of 50 Vara Block No. 193.

PARCEL 2:

An Easement of Right of Way for ingress and egress over all Alleyway hereinabove referred to and described as follows:

Beginning at a point on the Easterly line of Taylor Street, distant thereon 81 feet, 8 inches Northerly from the Northerly line of Sutter Street; running thence Northerly along said line of Taylor Street 10 feet; thence at a right angle Easterly 87 feet, 6 inches; thence at a right angle Southerly 10 feet; thence at a right angle Westerly 87 feet, 6 inches to the point of beginning.

Assessor's Lot 007; Block 0283

817-831 Sutter St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the southerly line of Sutter Street, distant thereon 57 feet 6 inches westerly from the westerly line of Jones Street, running thence westerly along said line of Sutter Street 80 feet; thence at a right angle southerly 110 feet; thence at a right angle easterly 55 feet; thence at a right angle northerly 9 feet and 6 inches; thence at a right angle easterly 25 feet; thence at a right angle northerly 100 feet 6 inches; to the point of beginning.

Being part of 50 Vara Lot No. 1087.

Assessor's Lot 021; Block 0299

860 Sutter St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the Northerly line of Sutter Street, distant thereon 137 feet and 6 inches Easterly from the Easterly line of Leavenworth Street; running thence Easterly along said line of Sutter Street 46 feet and 17 1/2 inches; thence at a right angle Northerly 137 feet and 6 inches; thence at a right angle Westerly 46 feet and 7 1/2 inches; thence at a right angle Northerly 137 feet and 6 inches to the point of beginning.

Being a portion of 50 Vara Block No. 250.

Assessor's Lot 006; Block 0281

2209 Van Ness Ave.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL I:

Beginning at a point on the Westerly line of Van Ness Avenue, distant thereon 90 feet and 6 inches Northerly from the Northerly line of Broadway; running thence Northerly and along said

Westerly line of Van Ness Avenue 47 feet; thence at a right angle Westerly 135 feet and 3 inches; thence at a right angle Southerly 47 feet; thence at a right angle Easterly 135 feet and 3 inches to the point of beginning.

Being a portion of Western Addition Block No. 94

PARCEL II:

Beginning at a point perpendicularly distant Westerly 123 feet from the Westerly line of Van Ness Avenue and perpendicularly distant Southerly 136 feet and 6 inches from the Southerly line of Vallejo Street; running thence Southerly and parallel with the Westerly line of Van Ness Avenue 1 foot; thence at a right angle Westerly 12 feet and 3 inches; thence at a right angle Northerly 1 foot; thence at a right angle Easterly 12 feet and 3 inches to the point of beginning.

Being part of Western Addition Block No. 94

Assessor's Lot 029; Block 0570

BEING PART OF LOT NO 29, BLOCK NO. 570.

2211 Van Ness Ave.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the Westerly line of Van Ness Avenue, distant thereon 107 feet, 6 inches Southerly from the Southerly line of Vallejo Street; running thence Southerly along said line of Van Ness Avenue 30 feet; thence at a right angle Westerly 123 feet; thence at a right angle Northerly 30 feet; and thence at a right angle Easterly 123 feet to the point of beginning.

Being a portion of Western Addition, Block No. 94

Assessor's Lot 005; Block 0570

2550 Van Ness Ave.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL 1:

Beginning at the point of intersection of the Easterly line of Van Ness Avenue with the Southerly line of Filbert Street; and running thence Easterly along said Southerly line of Filbert Street 223 feet 3 inches; thence at a right angle Southerly 137 feet 6 inches; thence at a right angle Westerly 223 feet 3 inches to the said Easterly line of Van Ness Avenue; thence Northerly along last named line 137 feet 6 inches to the point of beginning.

Being a portion of Western addition Block No. 45.

PARCEL 2:

An easement for driveway purposes over and along the following described parcel of land: Beginning at a point on the Southerly line of Filbert Street, distant thereon 223 feet 3 inches Easterly from the Easterly line of Van Ness Avenue; running thence Easterly along said line of Filbert Street 20 feet; thence at a right angle Southerly 137 feet 6 inches; thence at a right

angle Westerly 20 feet; and thence at right angle Northerly 137 feet 6 inches to the point of beginning.

The aforesaid easement is not to include any portion of the existing building now situated on said easement.

Assessor's Lot 021; Block 0526

2225 Jerrold Ave.

The land referred to hereinbelow is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL ONE: BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY LINE OF UPTON STREET WITH THE SOUTHWESTERLY LINE OF JERROLD AVENUE; RUNNING THENCE NORTHWESTERLY ALONG SAID LINE OF JERROLD AVENUE 167.257 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY 360 FEET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY 167.257 FEET, MORE OR LESS, TO THE NORTHWESTERLY LINE OF UPTON STREET; THENCE AT A RIGHT ANGLE NORTHEASTERLY ALONG SAID LINE OF UPTON STREET 360 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:
COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY LINE OF UPTON STREET WITH THE SOUTHWESTERLY LINE OF JERROLD AVENUE; RUNNING THENCE NORTHWESTERLY ALONG SAID LINE OF JERROLD AVENUE 167.257 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY 360 FEET TO THE TRUE POINT OF COMMENCEMENT, SAID TRUE POINT OF COMMENCEMENT BEING THE MOST WESTERLY CORNER OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO CALIFORNIA BODY & TRAILER MFRS., RECORDED SEPTEMBER 26, 1966 (B84 OR 812); THENCE CONTINUING SOUTHWESTERLY ALONG SAID LINE RUNNING AT A RIGHT ANGLE TO JERROLD AVENUE 160 FEET; THENCE AT A RIGHT ANGLE SOUTHEASTERLY 0.667 FEET; THENCE AT A RIGHT ANGLE SOUTHWESTERLY 122.788 FEET; THENCE SOUTHERLY ALONG A CURVE TO THE LEFT TANGENT TO THE PRECEDING COURSE, WITH A RADIUS OF 279.439 FEET AND A CENTRAL ANGLE OF 24 48' 01" A DISTANCE OF 120.954 FEET TO A POINT ON THE NORTHEASTERLY LINE OF MCKINNON AVENUE, DISTANT THEREON 140.818 FEET NORTHWESTERLY FROM THE NORTHWESTERLY LINE OF UPTON STREET; THENCE SOUTHEASTERLY ALONG SAID LINE OF MCKINNON AVENUE 140.818 FEET TO THE NORTHWESTERLY LINE OF UPTON STREET; THENCE AT A RIGHT ANGLE NORTHEASTERLY ALONG SAID LINE OF UPTON STREET 400 FEET TO THE INTERSECTION THEREOF WITH THE SOUTHWESTERLY LINE OF THE ABOVE REFERRED TO PARCEL; THENCE NORTHWESTERLY ALONG SAID SOUTHWESTERLY LINE 167.257 FEET TO THE TRUE POINT OF COMMENCEMENT.

950 Van Ness Ave.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL A:

Beginning at a point on the Southerly line of O'Farrell Street, distant thereon 109 feet Easterly from the Easterly line of Van Ness Avenue; and running thence Easterly along said line of O'Farrell Street 30 feet; thence at a right angle Southerly 120 feet; thence at a right angle Westerly 30 feet; and thence at a right angle Northerly 120 feet to the point of beginning. Being a portion of Western Addition Block No. 61.

PARCEL B:

Beginning at a point of intersection of the Southerly line of O'Farrell Street with the Easterly line of Van Ness Avenue; running thence Southerly along said line of Van Ness Avenue 60 feet; thence at a right angle Easterly 109 feet; thence at a right angle Northerly 60 feet to the Southerly line of O'Farrell Street; and thence at a right angle Westerly along said line of O'Farrell Street 109 feet to the point of beginning. Being a portion of Western Addition Block No. 61.

PARCEL C:

Beginning at a point on the Easterly line of Van Ness Avenue, distant thereon 60 feet Southerly from the Southerly line of O'Farrell Street; running thence Southerly along said line of Van Ness Avenue 60 feet to the Northerly line of Olive Street; thence at a right angle Easterly along said line of Olive Street 109 feet; thence at a right angle Northerly 60 feet; and thence at a right angle Westerly 109 feet to the point of beginning.

Being a portion of Western Addition Block No. 61.

APN: 0718-017 (Parcel A), 0718-021 (Parcels B and C)

Exhibit B-2

Legal Descriptions of Non-Academy Properties

700 Montgomery St.

The land referred to in this Report is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Parcel A, as said Parcel is shown on Parcel Map 1366 which Map filed October 23, 2006 in Book 47, Page 13,
of Parcel Maps, San Francisco County Records.
Being a part of 50 Vara Block No. 50
A portion of Assessor's Lot 028; Block 0196

1069 Pine St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at the point of intersection of the Southerly line of Pine Street, distant thereon 87 feet and 6 inches Easterly from the Southeasterly corner of Pine and Jones Streets; and running thence Easterly along the Southerly line of Pine Street 50 feet; thence at a right angle Southerly 137 feet and 6 inches; thence at a right angle Westerly 137 feet and 6 inches; thence at a right angle Northerly 10 feet; thence at a right angle Easterly 87 feet and 6 inches; thence at a right angle Northerly 127 and 6 inches to the point of beginning.
Being a part of 50 Vara Block No. 1072
Assessor's Lot 8; Block 275

2295 Taylor St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at the point of intersection of the Southerly line of Chestnut Street and Westerly line of Taylor Street; and running thence Westerly along said line of Chestnut Street 72 feet; thence at a right angle Southerly 145 feet; thence at a right angle Easterly 72 feet to the Westerly line of Taylor Street 145 feet to the point of beginning.
Being a part of 50 Vara Block No. 206
Assessor's Lot 1; Block 66

2340 Stockton St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Commencing at a point formed by the intersection of the easterly line of Stockton Street with the northerly line of North Point Street; running thence northerly along said easterly line of Stockton Street 275 feet to the southerly line of Beach Street; thence easterly along said southerly line of Beach Street 137 feet, 6 inches; thence at a right angle southerly and parallel with the easterly line of Stockton Street 275 feet to the northerly line of North Point Street 137 feet, 6 inches to the said easterly line of Stockton Street and the point of commencement.

Being a part of fifty Vara Block No. 99

Assessor's Lot 4; Block 18

460 Townsend St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Beginning at a point on the Northwesternly line of Townsend Street distant thereon 275 feet Northeastly from the Northeastly line of 6th Street; running thence Northeastly along said line of Townsend Street 84 feet; thence at a right angle Northwesternly 250 feet to the Southeastly line of Bluxome Street; thence Southwestly along said line of Bluxome Street 84 feet; thence at a right angle Southeastly 250 feet to the point of beginning.

Being part of 100 Vara Block No. 386

EXCEPTING THEREFROM:

Commencing on the Northwesternly line of Townsend Street distant thereon 275 feet Northeastly from the Northeastly line of 6th Street; thence at a right angle Northwesternly to said Northwesternly line of Townsend Street 125 feet to a point, said point being the true point of beginning; running thence at a right angle Northwesternly 125 feet to the Southeastly line of Bluxome Street; thence at a right angle Southwestly along said line of Bluxome Street 84 feet; thence at a right angle Southeastly 125 feet to the point of beginning.

Being part of 100 Vara Block No. 386

Assessor's Lot 023; Block 3785

150 Hayes St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

PARCEL ONE:

Beginning at a point on the Northerly line of Hayes Street, distant thereon 110 feet Westerly from the Westerly line of Polk Street; running thence Westerly along said line of Hayes Street 25 feet; thence at a right angle Northerly 120 feet to the Southerly line of Ivy Avenue; thence Easterly along said Southerly line of Ivy Avenue 25 feet; and thence at a right angle Southerly 120 feet to the point of beginning.

Being portion of Western Addition Block No. 68.

PARCEL TWO:

Beginning at a point on the Northerly line of Hayes Street, distant thereon 135 feet Westerly from the Westerly line of Polk Street; running thence Westerly and along said Northerly line of Hayes Street 85 feet; thence at a right angle Northerly 120 feet to the Southerly line of Ivy

Street (formerly Ivy Avenue); thence at a right angle Easterly and along said Southerly line of Ivy Street 85 feet; and thence at a right angle Southerly 120 feet to the Northerly line of Hayes Street and the point of beginning.

Being portion of Western Addition Block No. 68.

PARCEL THREE:

Beginning at a point on the Northerly line of Hayes Street, distant thereon 109 feet Easterly from the point of intersection of the Easterly line of Van Ness Avenue with the said line of Hayes Street; running thence Easterly along said line of Hayes Street 55 feet; thence at a right angle Northerly 120 feet to the Southerly line of Ivy Street; thence at a right angle Westerly along said Southerly line of Ivy Street 55 feet; and thence at a right angle Southerly 120 feet to the Northerly line of Hayes Street and the point of beginning.

Being a portion of Western Addition Block No. 68.

Assessor's Lot 022; Block 0811

1055 Pine St.

The land referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Parcel One: Beginning at a point on the Northwesterly line of Pine Street distant thereon 137 feet and 6 inches easterly from the Easterly line of Jones Street; running thence Easterly along said line of Pine Street 94 feet and 6 inches; thence at a right angle Southerly 137 feet and 6 inches; thence at a right angle Westerly 94 feet and 6 inches; thence at a right angle Northerly 137 feet and 6 inches to the point of beginning.

Being portion of 50 Vara Block No. 220

PARCEL TWO:

Together with and as an appurtenance thereto the right to construct and maintain a brick or pipe sewer through the following described property. Beginning at a point on the Northerly line of Bush Street, distant thereon 210 feet Westerly from the Westerly line of Taylor Street; running thence Northerly and parallel with said line of Taylor Street 110 feet; thence at a right angle Easterly 17 feet and 6 inches; thence at a right angle Northerly 27 feet and 6 inches; thence at a right angle Westerly 27 feet and 6 inches; thence at a right angle Southerly 137 feet and 6 inches to the Northerly line of Bush Street; thence Easterly along said line of Bush Street 10 feet to the point of beginning.

Exhibit C

Mitigation Monitoring and Reporting Program

[Attached]

EXHIBIT 2: MITIGATION MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility

MITIGATION MEASURES AGREED TO BY PROJECT SPONSOR

CULTURAL AND PALEONTOLOGICAL RESOURCES

Mitigation Measure M-CP-2.1 – Project-Specific Preliminary Archaeological Assessment. [Applies to growth in the 12 study areas: Impacts C-4.1 and CP-4.3] This archeological mitigation measure shall apply to any project involving any soils-disturbing or soils-improving activities including excavation, utilities qualified installation, grading, soils remediation, compaction/chemical grouting to a depth of two feet below ground surface (bgs) or consultant; greater within the following study areas: SA-2, Lombard Street/Van Ness Avenue, SA-5, Mid Market Street; SA-6, Fourth Street/Howard Street; SA-7, Rincon Hill East; SA-8, Third Street/Bryant Street; SA-9, Second Street/Brannan Street; and SA-12, Ninth Street/Folsom Street; to a depth of four feet bgs or greater and located within properties within the remaining study areas (SA-1, Lombard Street/Divisadero Street; SA-3, Mid Van Ness Avenue; SA-4, Sutter Street/Mason Street; SA-10, Fifth Street/Brannan Street; and SA-11, Sixth Street/Folsom Street); or to the thresholds identified in the Area Plan EIR Archeological Mitigation Zones outlined in Table 4.5-2, Area Plan EIR Archeological Resources Mitigation Measures, p. 4.5-59, for projects covered by those Zones.

Projects to which this mitigation measure applies shall be subject to Preliminary Archeology Review (PAR) by the San Francisco Planning Department archeologist, or a Preliminary Archeological Sensitivity Study (PASS) may be required in consultation with the San Francisco Planning Department archeologist. The PASS shall be prepared by an archeological consultant from the pool of qualified archeological consultants maintained by the Planning Department archeologist. The PASS shall contain the following:

Prior to any soil disturbing activities	Project-specific Preliminary Archaeological Assessment	Project sponsor, archaeologist and Environmental Review Officer (ERO)	The project archaeologist consult with the ERO as indicated. Considered complete after review and approval of the Final Archeological Resources Report by the ERO.
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MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Monitoring/Reporting/Responsibility		
		Mitigation Schedule	Mitigation Action	Monitoring Schedule

- Determine the historical uses of the project site based on any previous archeological documentation and Sanborn maps.
- Determine types of archeological resources/properties that may have been located at the project site and whether the archeological resources/property types would potentially be eligible for listing on the California Register.
- Determine if 19th- or 20th-century soils-disturbing activities may have adversely affected the identified potential archeological resources.
- Assess potential project effects in relation to the depth of any identified potential archeological resource.
- Provide a conclusion that assesses whether any California Register-eligible archeological resources could be adversely affected by the Proposed Project and recommends appropriate further action.

Based on the PAR or PASS, the Environmental Review Officer (ERO) shall determine if an Archeological Research Design Treatment Plan (ARDTP) shall be required to more definitively identify the potential for California Register-eligible archeological resources to be present at the project site and determine the appropriate action necessary to reduce the potential effect of the project on archeological resources to a less-than-significant level. The scope of the ARDTP shall be determined in consultation with the ERO and consistent with the standards for archeological documentation established by the Office of Historic Preservation (OHP) for purposes of compliance with CEQA (OHP Preservation Planning Bulletin No. 5). If the PAR or PASS adequately identifies the potential for California Register-eligible archeological resources to be present at the project site, the ERO shall determine the appropriate action necessary to reduce the potential effect of

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Monitoring and Reporting Program		
		Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility Monitoring Schedule

the project on archeological resources to a less-than-significant level. Actions may include an archeological testing program, archeological monitoring program, archeological data recovery program, accidental discovery measures/worker training, final reporting, curation, consultation with descendant communities, and interpretation undertaken in consultation with the Planning Department archeologist by an archeological consultant from the pool of qualified archeological consultants maintained by the Planning Department archeologist.

TRANSPORTATION AND CIRCULATION

Mitigation Measure M-TR-3.1 – Shuttle Demand, Service Monitoring, and Capacity Utilization Performance Standard.

[Applies to growth in the 12 study areas and at the six project sites: Impacts TR-3.1, TR-3.2, TR-3.3, and C-TR-3] AAU shall develop, implement, and provide to the City a shuttle management plan to address meeting the peak hour shuttle demand needs of its growth. The shuttle management plan shall address the monitoring, analysis, and potential correction such that unmet shuttle demand would not impact the City's transit and transportation system. Analysis of shuttle bus demand and capacity utilization shall occur at least on an annual basis, or as needed to address shuttle demand. Specifically, analysis and adjustments shall be made on any AAU shuttle routes to reduce shuttle peak hour capacity utilization when the performance standard of 100 percent capacity utilization is regularly observed to be exceeded on any of the AAU shuttle routes.¹ Additionally, the shuttle management plan shall address how shuttle demand at the six project sites will be provided. As additional project sites are added the shuttle management plan would be adjusted to reflect up-to-date shuttle routes, stops and services, as well as a capacity

Development, submittal, and approval of shuttle management plan

Submitted Annually

Project sponsor

ERO or designee; MTA

Annually

Update shuttle management plan, as needed, to address capacity utilization performance standard and as additional project sites are added or prior

¹ The 100 percent performance standard was derived from the local and regional transit operational performance standards. Since AAU's vehicles and operations vary from transit service (e.g., not all shuttle buses allow for standing passengers), AAU may propose alternate performance standards that could equivalently meet this goal while addressing the specific design of their fleet.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Monitoring/Reporting/Responsibility			Monitoring Schedule
		Mitigation Schedule	Mitigation Action	Reporting Responsibility	

utilization analysis, as needed to, indicate that the proposed demand for shuttle services could be met and avoid potential mode shifts to other travel modes. AAU shall report annually to the City on capacity utilization and alter its schedules and/or capacity, as necessary to avoid regular exceedances of the capacity utilization standard.

Mitigation Measure C-M-TR-2.1a - AAU Fair Share Contribution to Cumulative Transit Impact. [Applies to growth in the 12 study areas and at the six project sites: Impacts C-TR-2.1a, C-TR-2.2a, and C-TR-2.3a] AAU shall be required to make a fair share contribution to mitigate the cumulative transit demand impact related to AAU growth in transit ridership on the Kearny/Stockton corridor of the Northeast screenline and on the Geary corridor of the Northwest screenline to SFMTA.	Project sponsor	Prior to issuance of a building permit	Payment of fair-share transit fee to SFMTA	Project Sponsor, ERO, and SFMTA	Ongoing
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AAU's fair share contribution shall be made in addition to the applicable Transportation Sustainability Fee (TSF) for Non-Residential, except Hospitals and Health Services, 800-99,999 GSF and Non-Residential, except Hospitals and Health Services, all GSF above 99,999 GSF and for Residential or any successor fee that supersedes this fee.

AAU's fair share contribution fee will be calculated by determining the discount for existing uses that would otherwise be permitted by Section 411A.4, or any successor fee ordinance. Rather than discount such amounts, the amount of such discount will be paid as a fair share contribution fee ("Fair Share Fee"). The Fair Share Fee will be calculated based on the total square footage of use in the EIR for each project site and for the proposed square footage of use when a project in one of the study areas is proposed. Payment of the Fair Share Fee is due prior to the issuance of a building permit for the project or portion of the project. The City shall account for the expenditure of funds to support additional transit in the affected corridors. The payment

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Monitoring and Reporting Program		
		Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility Monitoring Schedule

of the Fair Share Fee shall satisfy the AAU's fair share contribution obligations for all projects where the mitigation measure applies.

AAU may apply to the ERO to reduce, adjust, or modify this fee prior to a project approval based on substantial evidence supporting the absence of any reasonable relationship between the impact of the AAU use on cumulative transit demand and the amount of fee charged.

NOISE

Mitigation Measure M-NO-2.1a – Interior Noise Levels for Residential Uses. [Applies to growth in the 12 study areas: Impacts NO-2.1a, NO-2.3, and C-NO-1] For new development including conversion of non-noise-sensitive to noise-sensitive uses located along streets with noise levels above 60 dBA (L_{dn}), where such development is not already subject to the California Noise Insulation Standards in California Code of Regulations Title 24, the project sponsor of future individual developments within the study areas shall conduct a detailed analysis of noise reduction requirements. Such analysis shall be conducted by person(s) qualified in acoustical analysis and/or engineering. Noise-insulation features identified and recommended by the analysis shall be included in the design, as specified in the *San Francisco General Plan* Land Use Compatibility Guidelines for Community Noise to reduce potential interior noise levels to the maximum extent feasible. Additional noise attenuation features may need to be incorporated into the building design where noise levels exceed 70 dBA (L_{dn}) to ensure that acceptable interior noise levels can be achieved.

Project sponsor; qualified acoustical consultant uses consultant

During project design

Detailed analysis of noise reduction requirements

Planning Department; Building Inspection

Considered complete upon approval of building permit plans

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>Mitigation Measure M-NO-2.1b – Siting of Noise-Sensitive Uses. [Applies to growth in the 12 study areas: Impacts NO-2.1a, NO-2.3, and C-NO-1] To reduce potential conflicts between existing noise-generating uses and new sensitive receptors, for qualified new residential development and development that includes other acoustical noise-sensitive uses (primarily, residences, and also including consultant schools and child care, religious, and convalescent facilities and the like), the San Francisco Planning Department shall require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-generating uses within 900 feet of, and that have a direct line-of-sight to, the project site, and including at least one 24-hour noise measurement (with average and maximum noise level readings taken so as to be able to accurately describe maximum levels reached during nighttime hours) prior to the first project approval action. The analysis shall be prepared by persons qualified in acoustical analysis and/or engineering and shall demonstrate with reasonable certainty that Title 24 standards, where applicable, can be met, and that there are no particular circumstances about the individual project site that appear to warrant heightened concern about noise levels in the vicinity. Should the Planning Department conclude that such concerns be present, the Planning Department may require the completion of a detailed noise assessment by person(s) qualified in acoustical analysis and/or engineering prior to the first project approval action, in order to demonstrate that acceptable interior noise levels consistent with those in the Title 24 standards can be attained.</p>	<p>Project sponsor; Planning Department; for qualified acoustical consultant</p>	<p>Prior to issuance of a building permit</p>	<p>Analysis of site noise-generating uses</p>	<p>Project sponsor; Planning Department</p>	<p>Considered complete upon approval of building permit plans</p>

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>Mitigation Measure M-NO-2.1c – Siting of Noise-Generating Equipment. [Applies to growth in the 12 study areas: Impacts NO-2.1a, NO-2.3, and C-NO-1] If AAU proposes, as part of a Department; change of use new (as opposed to replacement) mechanical qualified equipment or ventilation units that would be expected, to increase acoustical ambient to noise levels by 5 dBA or more, either short-term, at consultant nighttime, or as 24-hour average, in the proposed Project site vicinity, the San Francisco Planning Department shall require the preparation of an analysis that includes, at a minimum, a site survey to identify potential noise-sensitive uses (primarily, residences, and also including schools and child care, religious, and convalescent facilities and the like) within 900 feet of, and that have a direct line-of-sight to, the project site, and at least one 24-hour noise measurement (with average and maximum noise level readings taken so as to be able to accurately describe maximum levels reached during nighttime hours), prior to the first project approval action. The analysis shall be conducted prior to issuance of a building permit. The analysis shall be prepared by persons qualified in acoustical analysis and/or engineering and shall demonstrate with reasonable certainty that the proposed equipment would not cause a conflict with the use compatibility requirements in the <i>San Francisco General Plan</i> and would not violate Noise Ordinance Section 2909. If necessary to meet these standards, the proposed equipment shall be replaced with quieter equipment, deleted entirely, or mitigated through implementation of site-specific noise reduction features or strategies.</p>	<p>Project sponsor; Planning Department</p>	<p>Prior to issuance of a building permit</p>	<p>Analysis of site noise-generating uses</p>	<p>Project sponsor; Planning Department</p>	<p>Considered complete upon approval of building plans</p>

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
AIR QUALITY					
Mitigation Measure M-AQ-2.1 - Construction Emissions Minimization within an Air Pollutant Exposure Zone. [Applies to growth in the 12 study areas and at PS-1, P-S-3, and PS-4: Impacts AQ-2.1, AQ-2.2, and AQ-2.3] This mitigation measure is applicable to renovation activities occurring within an Air Pollutant Exposure Zone and where off-road diesel powered equipment is required and would operate for more than 20 total hours over the duration of construction at any one site.	Project sponsor/ contractor(s).	Prior to construction activities requiring the use of off-road equipment.	Submit certification statement.	Project sponsor / contractor(s) and the ERO.	Considered complete on submittal of certification statement.
A. Construction Emissions Minimization Plan. Prior to issuance of a construction permit, the project sponsor shall submit a Construction Emissions Minimization Plan (Plan) to the Environmental Review Officer (ERO) for review and approval by an Environmental Planning Air Quality Specialist. The Plan shall detail project compliance with the following requirements:	Project sponsor and contractor	Prior to issuance of a permit specified in Section 106A.3.2.6 of the Francisco Building Code.	Prepare and submit a Plan.	Project sponsor/ contractor(s) and the ERO.	Considered complete on findings by ERO that Plan is complete.
1. All off-road equipment greater than 25 hp and operating for more than 20 total hours over the entire duration of construction activities shall meet the following requirements:					
a) Where access to alternative sources of power is available, portable diesel engines shall be prohibited.					
b) All off-road equipment shall have:					
i. Engines that meet or exceed either U.S. Environmental Protection Agency (USEPA) or California Air Resources Board (ARB) Tier 2 off-road emission standards, and					
ii. Engines that are retrofitted with an ARB Level 3 Verified Diesel Emissions Control					

Adopted Mitigation Measures	MONITORING AND REPORTING PROGRAM			
	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility Monitoring Schedule

Strategy (VDECS).²

c) Exceptions:

- i. Exceptions to A(1)(a) may be granted if the project sponsor has submitted information providing evidence to the satisfaction of the ERO that an alternative source of power is limited or infeasible at the project site and that the requirements of this exception provision apply. Under this circumstance, the sponsor shall submit documentation of compliance with A(1)(b) for on-site power generation.
- ii. Exceptions to A(1)(b)(ii) *may* be granted if the project sponsor has submitted information providing evidence to the satisfaction of the ERO that a particular piece of off-road equipment with an ARB Level 3 VDECS is (1) technically not feasible, (2) would not produce desired emissions reductions due to expected operating modes, (3) installing the control device would create a safety hazard or impaired visibility for the operator, or (4) there is a compelling emergency need to use off-road equipment that are not retrofitted with an ARB Level 3 VDECS and the sponsor has submitted documentation to the ERO that the requirements of this exception provision apply. If granted an exception to A(1)(b)(ii), the project sponsor must comply with the requirements of

² Equipment with engines meeting Tier 4 Interim or Tier 4 Final emission standards automatically meet this requirement, therefore a VDECS would not be required.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Monitoring and Reporting Program		
		Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility
				Monitoring Schedule

A(1)(c)(iii).

- iii. If an exception is granted pursuant to A(1)(c)(ii), the project sponsor shall provide the next cleanest piece of off-road equipment as provided by the step down schedules in Table 4.8-13, Off-Road Equipment Compliance Step-Down Schedule.

Table 4.8-13 Off-Road Equipment Compliance Step-Down Schedule		
Compliance Alternative	Engine Emission Standard	Emissions Control
1	Tier 2	ARB Level 2 VDECS
2	Tier 2	ARB Level 1 VDECS
3	Tier 2	Alternative Fuel*
<p>How to use the table: If the requirements of (A)(1)(b) cannot be met, then the project sponsor would need to meet Compliance Alternative 1. Should the project sponsor not be able to supply off-road equipment meeting Compliance Alternative 1, then Compliance Alternative 2 would need to be met. Should the project sponsor not be able to supply off-road equipment meeting Compliance Alternative 2, then Compliance Alternative 3 would need to be met.</p> <p>* Alternative fuels are not a VDECS.</p>		

2. The project sponsor shall require the idling time for off-road and on-road equipment be limited to no more than two minutes, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment. Legible and visible signs shall be posted

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/ Reporting Responsibility	Monitoring Schedule
in multiple languages (English, Spanish, Chinese) in designated queuing areas and at the construction site to remind operators of the two minute idling limit.					
3. The project sponsor shall require that construction operators properly maintain and tune equipment in accordance with manufacturer specifications.					
4. The Plan shall include estimates of the construction timeline by phase with a description of each piece of off-road equipment required for every construction phase. Off-road equipment descriptions and information may include, but is not limited to: equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, engine serial number, and expected fuel usage and hours of operation. For VDECS installed: technology type, serial number, make, model, manufacturer, ARB verification number level, and installation date and hour meter reading on installation date. For off-road equipment using alternative fuels, reporting shall indicate the type of alternative fuel being used.					
5. The Plan shall be kept on-site and available for review by any persons requesting it and a legible sign shall be posted at the perimeter of the construction site indicating to the public the basic requirements of the Plan and a way to request a copy of the Plan. The project sponsor shall provide copies of Plan to members of the public as requested.					
B. <i>Reporting.</i> Monthly reports shall be submitted to the ERO indicating the construction phase and off-road equipment information used during each phase including the information required in A(4). In addition, for off-road	Project sponsor/ contractor(s).	Monthly	Submit monthly reports.	Project sponsor/ contractor(s) and the ERO.	Considered complete on findings by ERO that Plan is being/was

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
equipment using alternative fuels, reporting shall include the actual amount of alternative fuel used.					implemented.
Within six months of the completion of construction activities, the project sponsor shall submit to the ERO a final report summarizing construction activities. The final report shall indicate the start and end dates and duration of each construction phase. For each phase, the report shall include detailed information required in A(4). In addition, for off-road equipment using alternative fuels, reporting shall include the actual amount of alternative fuel used.					
C. <i>Certification Statement and On-Site Requirements.</i> Prior to the commencement of construction activities, the project sponsor must certify (1) compliance with the Plan and (2) all applicable requirements of the Plan have been incorporated into contract specifications.					
Mitigation Measure M-AQ-3.3 – Maximum Daily Construction Activities. [Applies to growth in the 12 study areas and at the six project sites: Impacts AQ-3.3 and C-AQ-2] Construction activities shall be limited to the renovation (including architectural coating) of a maximum of 100,000 square feet of building space at a time.	Project Sponsor and contractor	Ongoing during construction	Maximum daily construction activities	Project Sponsor; Contractor; Planning Department; and the ERO	Considered complete after construction activities have ended
Mitigation Measure M-AQ-4.1a – Best Available Technology for Diesel Generators. [Applies to growth in the 12 study areas: Impacts AQ-4.1 and AQ-4.3] All new (i.e., not replacement) diesel generators shall have engines that (1) meet Tier 4 Final or Tier 4 Interim emission standards, or (2) meet Tier 2 emission standards and are equipped with a California Air Resources Board (ARB) Level 3 Verified Diesel Emissions Control Strategy (VDECS).	Project Sponsor	Prior to issuance of permit for backup diesel generator from City agency.	Submittal of plans detailing compliance and documentation of compliance with BAAQMD Regulation 2, Rules 2 and 5.	Project sponsor and the ERO.	Considered complete approval of plans detailing compliance.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures		Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	Monitoring Schedule
Mitigation Measure M-AQ-4.1b – Best Available Technology for Boilers. . [Applies to growth in the 12 study areas: Impacts AQ-4.1 and AQ-4.3] All new (i.e., not replacement) boilers shall be natural gas operated. If infeasible, all boilers shall be equipped with Best Available Control Technologies, such as fuel gas filters, or baghouse or electrostatic precipitators. BACTs shall be approved by BAAQMD through the permitting process.	Control	Project sponsor and contractor	Prior to issuance of permit for boiler from City agency	Submittal of plans detailing compliance and documentation of compliance with BAAQMD Regulation	Project sponsor and the ERO.	Considered complete approval of plans detailing compliance.
	Study areas: Impacts AQ-4.1 and AQ-4.3] <i>Air Filtration and Ventilation Requirements for Sensitive Land Uses.</i> Prior to receipt of a building permit for a change of use to a sensitive land use, the project sponsor shall submit an enhanced ventilation plan for the proposed building(s). The enhanced ventilation plan shall be prepared and signed by, or under the supervision of, a licensed mechanical engineer or other individual authorized by the California Business And Professions Code Sections 6700-6799. The enhanced ventilation plan shall show that the building ventilation system will be capable of achieving protection from particulate matter (PM _{2.5}) equivalent to that associated with a Minimum Efficiency Reporting Value (MERV) 13 filtration, as defined by American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) standard 52.2. The enhanced ventilation plan shall explain in detail how the project will meet the MERV-13 performance standard identified in this measure.	Project sponsor and contractor	Prior to receipt of a building permit	Enhanced Ventilation Plan; Maintenance Plan; disclosure to buyers and renters	Project sponsor and the ERO.	Ongoing during operation
Mitigation Measure M-AQ-4.1c – Air Filtration Measures within an Air Pollutant Exposure Zone. [Applies to growth in the 12 study areas: Impacts AQ-4.1 and AQ-4.3] <i>Air Filtration and Ventilation Requirements for Sensitive Land Uses.</i> Prior to receipt of a building permit for a change of use to a sensitive land use, the project sponsor shall submit an enhanced ventilation plan for the proposed building(s). The enhanced ventilation plan shall be prepared and signed by, or under the supervision of, a licensed mechanical engineer or other individual authorized by the California Business And Professions Code Sections 6700-6799. The enhanced ventilation plan shall show that the building ventilation system will be capable of achieving protection from particulate matter (PM _{2.5}) equivalent to that associated with a Minimum Efficiency Reporting Value (MERV) 13 filtration, as defined by American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) standard 52.2. The enhanced ventilation plan shall explain in detail how the project will meet the MERV-13 performance standard identified in this measure.		Project sponsor and contractor	Prior to receipt of a building permit	Enhanced Ventilation Plan; Maintenance Plan; disclosure to buyers and renters	Project sponsor and the ERO.	Ongoing during operation
Maintenance Plan. Prior to receipt of a building permit for a change of use to a sensitive land use, the project sponsor shall present a plan that ensures ongoing maintenance for the ventilation and filtration systems.		Project sponsor	Prior to receipt of a building permit	Enhanced Ventilation Plan; Maintenance Plan; disclosure to buyers and renters	Project sponsor and the ERO.	Ongoing during operation
Disclosure to Renters. The project sponsor shall also ensure the disclosure to buyers (and renters) that the building is located in an area with existing sources of air pollution and as such, the		Project sponsor	Prior to receipt of a building permit	Enhanced Ventilation Plan; Maintenance Plan; disclosure to buyers and renters	Project sponsor and the ERO.	Ongoing during operation

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Mitigation Action	Monitoring/Reporting Responsibility	
				Reporting	Monitoring Schedule

building includes an air filtration and ventilation system designed to remove 80 percent of outdoor particulate matter and shall inform occupants of the proper use of the installed air filtration system.

HAZARDS AND HAZARDOUS MATERIALS

Mitigation Measure M-HZ-2.1 – Testing and Removal of Hazardous Building Materials. [Applies to growth in the study areas and at PS-1, PS-2, PS-3, PS-4, and PS-6: Impacts HZ-2.1, HZ-2.2, HZ-2.3, and C-HZ-1] AAU shall ensure that for any existing building where tenant improvements are planned, the building is surveyed for hazardous building materials including PCB-containing electrical equipment, fluorescent light ballasts containing PCBs or DEHP, and fluorescent light tubes containing mercury vapors. The results of testing shall be provided to DBL. The materials not meeting regulatory standards shall be removed and properly disposed of prior to the start of tenant improvements for buildings in the study areas. Old light ballasts that are removed during renovation shall be evaluated for the presence of PCBs. In the case where the presence of PCBs in the light ballast cannot be verified, the light ballast shall be assumed to contain PCBs and handled and disposed of as such, according to applicable laws and regulations. Any other hazardous building materials identified either before or during demolition or renovation shall be abated according to federal, state, and local laws and regulations.

Project sponsor and contractor
 Prior to building improvements
 Ensure hazardous materials are properly disposed
 Project sponsor; contractor; Department of Building Inspection (DBI)
 Considered complete when equipment containing PCBs or DEHP or other hazardous materials are properly disposed

Exhibit D

List of Approvals

Board of Supervisors

1. Approval of Development Agreement, Planning and Administrative Code Waivers, Exemptions and Findings of Consistency and Planning Code Amendments (Ordinance No. _____, dated _____, 2019).
2. Adopting CEQA Findings and Statement of Overriding Considerations (Resolution No. _____, dated _____, 2019).

Planning Commission

1. Certification of the Final Environmental Impact Report (Motion No. 19704, adopted July 28, 2016).
2. Adopting CEQA Findings (including a Statement of Overriding Considerations), and a Mitigation Monitoring and Reporting Program (Motion No. _____, adopted _____, 2019).
3. Approval of master Conditional Use Authorization authorizing the Stephens Institute and/or the LLC Parties proposed uses at certain Academy properties, as well as property-specific Planning Code exceptions and modifications required for such uses (Motion No. _____, adopted _____, 2019)
4. Recommendation to the Board of Supervisors to approve a Development Agreement among the City, Stephens Institute, and LLC Parties (Resolution No. _____, adopted _____, 2019).
5. Recommendation to the Board of Supervisors to approve Planning and Administrative Code Waivers, Exemptions and Findings of Consistency and Planning Code Amendments. (Resolution No. _____, adopted _____, 2019).

Historic Preservation Commission

1. Approval of master Permit to Alter for those Academy Properties subject to Article 11 of the Planning Code (Motion No. _____, adopted _____, 2019)
2. Approval of master Certificate of Appropriateness for those Academy Properties subject to Article 10 of the Planning Code (Motion No. _____, adopted _____, 2019)
3. Adopting CEQA Findings (including a Statement of Overriding Considerations), and a Mitigation Monitoring and Reporting Program (Motion No. _____, adopted _____, 2019).

4. Recommendation to the Board of Supervisors to approve a Development Agreement among the City, Stephens Institute, and LLC Parties (Resolution No. _____, adopted _____, 2019).

5. Recommendation to the Board of Supervisors to approve Planning and Administrative Code Waivers, Exemptions and Findings of Consistency and Planning Code Amendments. (Resolution No. _____, adopted _____, 2019).

Exhibit E

Schedule of Performance

Section 1. Approvals as Condition Precedent to Development Agreement. The Approvals outlined on Exhibit D represent conditions precedent to the effectiveness of this Agreement. In connection with the application for the Master CU, the Stephens Institute and LLC Parties have submitted to the City detailed architectural plans dated _____, 2019 and memorialized as Exhibit B to Planning Commission Motion No. _____, approving Master CU Application No. 2019-012970CUA outlining the scope of work the Stephens Institute and LLC Parties are required to complete for each Academy Property, as included in the Master CU application. (“**Scope of Work Plans**”).

Section 2. Building Permit Submittal. The Stephens Institute and the LLC Parties must submit to the City complete building permit applications, as well as any applications to PW and SFMTA required for approval of any improvements in the public right of way, required to implement the Scope of Work Plans within sixty (60) days after the Effective Date, provided, however, for the property commonly known as 1946 Van Ness Street, the Stephens Institute and the LLC Parties shall submit a complete building permit application within twelve (12) months after the Effective Date.

For each property, the Academy shall submit a single building permit, which shall detail any permitted phasing of the work in accordance with the Schedule of Performance. Upon completion of any phase, the Academy will provide notification to the City containing reasonable documentation of the completion of work and shall promptly accommodate City requests for inspection. For avoidance of doubt, the Academy's completion of a Phase below shall not be tied to a requirement that a given building permit be finally closed by the Department of Building Inspection and, instead, building permits contemplated in this section shall be closed in the ordinary course of Department of Building Inspection practice.

In performing the Scope of Work under this Agreement the Academy shall comply with all applicable Laws.

Section 3. City Approval of Building Permit Applications. The City shall approve each of the building permits, described in Section 2 above, within four (4) months of each such building permit submittal to the City. The Stephens Institute and LLC Parties’ substantial completion deadlines for each property described in Section 4 below shall not begin to run until all Later Approvals for that property have been approved by the City.

Section 4. Stephens Institute and LLC Parties Schedule of Performance.

4.1 Phase One.

(a) For each Scope of Work Plan, Phase One shall consist of:

- (i) all interior building improvements required to accommodate each specific building's change of use;
- (ii) all work connected to approved signage, including removal of any unpermitted signage; and
- (iii) any improvements or alterations in the public right of way adjacent to the building.

(b) The Stephens Institute, or applicable LLC Party, shall substantially complete Phase One within eight (8) months of the date of the issuance of all required Approvals and Later Approvals for work required to be completed under this Agreement for each individual property.

4.2 Phase Two.

(a) Phase Two shall consist of all exterior building alterations, including all building repair and restoration work, and window replacements, included in the Scope of Work Plans except for the approved signage work required under Phase One and all work required under Phase Three. To be clear, Phase Two shall also include building repairs and restoration work, and window replacements at all properties except 58-60 Federal Street.

(b) The Stephens Institute, or applicable LLC Party, shall substantially complete Phase Two within fourteen (14) months from the issuance of all required Approvals and Later Approvals for work required to be completed under this Agreement for each individual property.

4.3 Phase Three.

(a) Phase Three shall consisted of all improvements in the Scope of Work Plans related to external lighting, security cameras, and electrical conduit, and all improvements in the Scope of Work Plan for the property commonly known as 58 Federal Street.

(b) The Stephens Institute, or applicable LLC Party, shall substantially complete Phase Three within twenty (20) months from the issuance of all required Approvals and Later Approvals for work required to be completed under this Agreement for each individual property.

4.4 1946 Van Ness Avenue.

The Stephens Institute, or applicable LLC Party, must complete all work associated with the 1946 Van Ness Avenue Scope of Work Plan on the timeframe allotted in DBI's initial approval of the building permit application associated with the property commonly known as 1946 Van Ness Avenue. For the avoidance of doubt, DBI's timeframe for the completion of the work associated with 1946 Van Ness Avenue shall be consistent with other similarly situated properties. The Stephens Institute, and applicable LLC Party, must seek approval by the Planning Department for any extension of such time allotted by DBI through the initial permit issuance. Such approval shall be reasonably given by the Planning Department and issued within thirty (30) days from the

Academy's written submittal of a request for such approval to the Planning Department. If the Planning Department fails to respond within such timeframe, the Planning Department shall be deemed to have approved such extension.

4.5 2550 Van Ness Avenue.

Notwithstanding Sections 4.1 through 4.3 above, the Stephens Institute, or applicable LLC Party, shall substantially complete all work associated with the 2550 Van Ness Avenue Scope of Work Plan within twelve (12) months from the issuance of all required Approvals and Later Approvals for work required to be completed under this Agreement for the property commonly known as 2550 Van Ness Avenue.

4.6 Withdrawn Buildings.

On or before the Effective Date, the Academy shall have withdrawn all Stephens Institute use from the below listed properties:

700 Montgomery Street

168 Bluxome Street

1055 Pine Street

The Academy shall withdraw all Stephen Institute use from the below listed properties within six (6) months following the Effective Date, subject to the City's approval of Stephen's Institute use in 701 Chestnut Street pursuant to Section 3.2.1(c)(1) of the Development Agreement:

1069 Pine Street

701 Chestnut Street

2340 Stockton Street

460 Townsend Street

150 Hayes Street

121 Wisconsin Street

4.7 Withdrawal of Certain Applications. Within thirty (30) days of the Effective Date, the Academy will irrevocably withdraw the building permits and conditional use applications listed in Schedule 2.

Section 5. Vacation of Academy Properties. The Stephens Institute, and LLC Parties, shall be determined to have met the schedule of performance in the event any building subject to this Agreement is vacated before the Academy completes the work required pursuant to the Scope of

Work Plan for that property so long as all remaining work to the exterior of the building required pursuant to the elevation sheets on the Scope of Work Plan for properties identified as Category A historic resources and/or subject to Articles 10 or 11 of the Planning Code, and not specifically tied to the change or use of the property, has been completed, or such work has been contractually assumed by the Transferee, before such Transfer occurs, under a document in form and substance reasonably approved by the City and such Transfer is permitted under the Development Agreement. Any such assumption shall require the Transferee to complete the work on the timelines found in this Schedule of Performance. Buildings voluntarily vacated by the Academy shall retain their last legal land use designation as of the time they are vacated and subsequent entities shall not be entitled to the changes of use designations, permitted uses, and/or conditional use authorizations to be granted under this Agreement; however, nothing in this paragraph shall limit any subsequent owner's ability to seek a change of use, entitlement, or related permits in accordance with applicable Laws, outside the context of the Development Agreement. The Stephens Institute, and applicable LLC Party, shall provide written notice of their intent to vacate, or Transfer, any such building to the Planning Director and the City Attorney at least thirty (30) days before doing so.

Section 6. Unforeseen Circumstances. The Parties understand that unforeseen circumstances may arise that will render this Schedule of Performance impractical, impossible, or overly burdensome due to unforeseen material increases in cost, scope of work, or material operational complications, in each instance entirely outside of the Academy's control, including, but not limited, to technical building permit requirements that substantially increase the scope of work beyond that contemplated in this Schedule of Performance. If such an event arises the Academy and LLC parties will provide written notice to the Planning Director, the City Attorney and the Director of DBI within 30 days requesting an extension ("**Extension Notice**"). Upon receipt, and in no event less than two (2) weeks after receipt of the Extension Notice, the DBI Director may recommend an extension to the Planning Director based on the reasonable and customary amount of time required to complete the work required under the given circumstances. The Planning Director may thereafter grant or deny the extension. The Planning Director shall issue a written notice granting or denying the extension and outlining the extension's length or describing the reasoning for denying such an extension ("**Planning Director Notice**"), within thirty (30) days after the City's receipt of the Extension Notice.

If the Academy disagrees with the Planning Director Notice for any good faith reason, then the Academy, a representative of the Planning Director, a representative of DBI, and a representative of the City Attorney agree to meet and confer in good faith to determine the appropriate extension, if any, to this Schedule of Performance. Such meeting shall occur within thirty (30) days after the issuance of the Planning Director Notice.

If the parties' good faith efforts to meet and confer do not result in resolution of the issue the parties shall attend a settlement conference with the Honorable Judge Harold Kahn (or an agreed upon successor Judge of the Superior Court of California for the County of San Francisco) where the parties will be afforded the opportunity to be heard and present evidence within thirty (30) days after the parties meeting. The parties agree to abide by the determination of the Honorable Judge Harold Kahn (or an agreed upon successor Judge of the Superior Court of California for the County of San Francisco) concerning the resolution of the disputed issue.

It shall not be a default under this Agreement, nor shall the City issue a notice of default for failure to meet any deadline identified in this Schedule of Performance, if the Academy has provided the above written notice, until after such time as the conference before the Judge of the Superior Court described above has been completed. Provided the Academy has acted in good faith, and the delivery of the Extension Notice results in the Academy missing a deadline in this Schedule of Performance, such deadline shall be extended by such time equal to the delivery of the Extension Notice and the final resolution of the issue under this provision.

Section 7. Affordable Housing Public Benefit. As further provided in the Settlement Agreement, the Affordable Housing Public Benefit shall be paid by the LLC Parties, jointly and severally, six (6) months from the Effective Date, subject to Section 3.1 of this Agreement.

Exhibit F

Form of Certificate of Use for
the three Academy Properties that will include Chapter 41 units after Approvals



**CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION**

**NO. 2019-004
DATE ISSUED: October --, 2019**

CERTIFICATE OF USE

AUTHORIZES THE OPERATION OF

**0 RESIDENTIAL GUEST ROOMS
16 TOURIST GUEST ROOMS***

AT

1153 Bush Street

**THIS PERMIT IS VALID FROM THE DATE OF ISSUANCE UNTIL REVISED OR REVOKED
PURSUANT TO CHAPTER 41 OF THE SAN FRANCISCO ADMINISTRATIVE CODE AND THE SAN
FRANCISCO BUILDING CODE.**

**PLEASE NOTE THAT THE "RESIDENTIAL AND TOURIST" TERMS INDICATED ABOVE ARE SAN FRANCISCO ADMINISTRATIVE CODE, CHAPTER
41 DESIGNATIONS ONLY. THESE DESIGNATIONS DO NOT SUPERSEDE THE REQUIREMENTS OF ANY OTHER CITY CODES.**

***Pursuant to the _____, 20__ Development Agreement by and among the City and County of San Francisco and the Stephens Institute, dba
Academy of Art University and the LLC Parties ("Development Agreement"), the HCO designations of the guest rooms at 1053 Bush Street are as
follows: 16 Group Housing bedrooms with a Student Housing use characteristic not subject to Administrative Code Chapter 41.**

DIRECTOR OF THE DEPARTMENT OF BUILDING INSPECTION
Tom Hui, S.E., C.B.O.



CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION

NO. 2019-003
DATE ISSUED: October --, 2019

CERTIFICATE OF USE

AUTHORIZES THE OPERATION OF

0 RESIDENTIAL GUEST ROOMS
15 TOURIST GUEST ROOMS*

AT

1080 Bush Street

THIS PERMIT IS VALID FROM THE DATE OF ISSUANCE UNTIL REVISED OR REVOKED
PURSUANT TO CHAPTER 41 OF THE SAN FRANCISCO ADMINISTRATIVE CODE AND THE SAN
FRANCISCO BUILDING CODE.

PLEASE NOTE THAT THE "RESIDENTIAL AND TOURIST" TERMS INDICATED ABOVE ARE SAN FRANCISCO ADMINISTRATIVE CODE, CHAPTER
41 DESIGNATIONS ONLY. THESE DESIGNATIONS DO NOT SUPERSEDE THE REQUIREMENTS OF ANY OTHER CITY CODES.

*Pursuant to the _____, 20__ Development Agreement by and among the City and County of San Francisco and the Stephens Institute, dba
Academy of Art University and the LLC Parties ("Development Agreement"), the HCO designations of the guest rooms at 1080 Bush Street are as
follows: 15 Units are Group Housing bedrooms with a Student Housing use characteristic and 42 apartments/dwelling units; the Group Housing
and apartments/dwelling units at 1080 Bush are not subject to Administrative Code Chapter 41.

DIRECTOR OF THE DEPARTMENT OF BUILDING INSPECTION

Tom Hui, S.E., C.B.O.



CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION

NO. 2019-002
DATE ISSUED: October --, 2019

CERTIFICATE OF USE

AUTHORIZES THE OPERATION OF

89 RESIDENTIAL GUEST ROOMS*
0 TOURIST GUEST ROOMS

AT

860 Sutter Street

THIS PERMIT IS VALID FROM THE DATE OF ISSUANCE UNTIL REVISED OR REVOKED
PURSUANT TO CHAPTER 41 OF THE SAN FRANCISCO ADMINISTRATIVE CODE AND THE SAN
FRANCISCO BUILDING CODE.

PLEASE NOTE THAT THE "RESIDENTIAL AND TOURIST" TERMS INDICATED ABOVE ARE SAN FRANCISCO ADMINISTRATIVE CODE, CHAPTER
41 DESIGNATIONS ONLY. THESE DESIGNATIONS DO NOT SUPERSEDE THE REQUIREMENTS OF ANY OTHER CITY CODES.

*Pursuant to the _____, 20__ Development Agreement by and among the City and County of San Francisco and the Stephens Institute, dba
Academy of Art University and the LLC Parties ("Development Agreement"), the HCO designations of the guest rooms at 860 Sutter Street are as
follows: 89 Residential Guest Rooms subject to Administrative Code Chapter 41; 0 Tourist Guest Rooms.

DIRECTOR OF THE DEPARTMENT OF BUILDING INSPECTION

Tom Hui, S.E., C.B.O.

FRAME AND POST IN PLAIN VIEW

Exhibit G

**Form of Notice of Special Restrictions for SRO Units in
1153 Bush Street, 1080 Bush Street and 860 Sutter Street**

RECORDING REQUESTED BY:

**When Recorded Mail Document
and Tax Statement To:**

APN: Block 0280, Lot 026 SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY
Address: 1153 Bush, San Francisco, CA

NOTICE OF SPECIAL RESTRICTIONS

We, **OWNER NAME**, the owner of that certain real property situated in the City and County of San Francisco, State of California (the "Property") and more particularly described as follows:

Being Assessor's **Block 0280, Lot 026, commonly known as 1153 Bush Street**, hereby give notice that there are special restrictions on the use of said property under Chapter 41 of the San Francisco Administrative Code ("HCO")

Said Restrictions are the conditions for which a change of the certified guestroom designations under the HCO shall be allowed at the Property, 860 Sutter, and 1080 Bush. The prior legal use of the residential hotel located at 860 Sutter Street, was 39 Tourist guest rooms and 50 Residential guest rooms without kitchens, with shared, communal and private bathrooms, and communal kitchen space. The prior legal use of the apartment building/residential hotel located at 1080 Bush Street, was 15 Residential guest rooms without kitchens and 42 apartments/dwelling units. The prior legal use of the residential hotel located at 1153 Bush Street was 14 Residential guest rooms without kitchens, and 1 dwelling unit. Under the _____, 20__ Development Agreement by and among the City and County of San Francisco and the Stephens Institute, dba Academy of Art University and the LLC Parties ("Development Agreement"), it has been proposed that the HCO designations of the guest rooms at the three subject buildings be changed as follows: 860 Sutter Street has 89 Residential guest rooms under Administrative Code Chapter 41 entitled under the Planning Code as Group Housing bedrooms with a Student Housing use characteristic; 1080 Bush has 15 Group Housing bedrooms with a Student Housing use characteristic and 42

apartments/dwelling units not subject to Administrative Code Chapter 41; 1153 Bush Street has 16 Group Housing bedrooms with a Student housing use characteristic not subject to Administrative Code Chapter 41. As part of the Development Agreement, Owner agrees to the following restrictions and conditions for the Property in perpetuity:

1. The number of guest rooms, the floor plan of the guest rooms, the space and layout of the common areas shall not be altered, reduced, or changed without prior authorization by the Department of Building Inspection and, as applicable, by the Department of Planning.
2. Individual kitchens may not be added to the guest rooms at the Property without prior authorization by the Department of Planning and the Department of Building Inspection as required by City codes.
3. Aside from those exceptions specifically noted in the Development Agreement, the Property shall be subject to all local laws and ordinances, including but not limited to the San Francisco Building Code, the San Francisco Planning Code, the San Francisco Electrical Code, the San Francisco Existing Building Code, the San Francisco Green Building Code, the San Francisco Housing Code, the San Francisco Mechanical Code, the San Francisco Plumbing Code, and the San Francisco Rent Stabilization and Arbitration Ordinance.

Date: _____

OWNER

Date: _____

OWNER

RECORDING REQUESTED BY:

**When Recorded Mail Document
and Tax Statement To:**

APN: Block 0276, Lot 015 SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY
Address: 1080 Bush, San Francisco, CA

NOTICE OF SPECIAL RESTRICTIONS

We, **OWNER NAME**, the owner of that certain real property situated in the City and County of San Francisco, State of California (the "Property") and more particularly described as follows:

Being Assessor's **Block 0276, Lot 015, commonly known as 1080 Bush Street**, hereby give notice that there are special restrictions on the use of said property under Chapter 41 of the San Francisco Administrative Code ("HCO")

Said Restrictions are the conditions for which a change of the certified guestroom designations under the HCO shall be allowed at the Property, 860 Sutter, and 1153 Bush. The prior legal use of the residential hotel located at 860 Sutter Street was 39 Tourist guest rooms and 50 Residential guest rooms without kitchens, with shared, communal and private bathrooms, and communal kitchen space. The previous legal use of the apartment building/residential hotel located at 1080 Bush Street, was 15 Residential guest rooms without kitchens and 42 apartments/dwelling units. The previous legal use of the residential hotel located at 1153 Bush Street was 14 Residential guest rooms without kitchens, and 1 dwelling unit. Under the _____, 20__ Development Agreement by and among the City and County of San Francisco and the Stephens Institute, dba Academy of Art University and the LLC Parties ("Development Agreement"), it has been proposed that the HCO designations of the guest rooms at the three subject buildings be changed as follows: 860 Sutter Street has 89 Residential guest rooms under Administrative Code Chapter 41 and entitled under the Planning Code as Group Housing bedrooms with a Student Housing use characteristic; 1080 Bush has 15 Group Housing bedrooms with a Student Housing use characteristic and 42 apartments/dwelling units not subject to Administrative Code Chapter 41; 1153 Bush Street has 16 Group Housing bedrooms with a Student Housing use characteristic not subject to Administrative Code Chapter 41. As part of the Development Agreement, Owner agrees to the following restrictions and conditions for the Property in perpetuity:

1. The number of guest rooms, the floor plan of the guest rooms, the space and layout of the common areas shall not be altered, reduced, or changed without prior authorization by the Department of Building Inspection and, as applicable, by the Department of Planning.

2. Individual kitchens may not be added to the guest rooms at the Property without prior authorization by the Department of Planning and the Department of Building Inspection as required by City codes.
3. Aside from those exceptions specifically noted in the Development Agreement, the Property shall be subject to all local laws and ordinances, including but not limited to the San Francisco Building Code, the San Francisco Planning Code, the San Francisco Electrical Code, the San Francisco Existing Building Code, the San Francisco Green Building Code, the San Francisco Housing Code, the San Francisco Mechanical Code, the San Francisco Plumbing Code, and the San Francisco Rent Stabilization and Arbitration Ordinance.

Date: _____

OWNER

Date: _____

OWNER

RECORDING REQUESTED BY:

**When Recorded Mail Document
and Tax Statement To:**

APN: Block 0281, Lot 006 SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY
Address: 860 Sutter, San Francisco, CA

NOTICE OF SPECIAL RESTRICTIONS

We, **OWNER NAME**, the owner of that certain real property situated in the City and County of San Francisco, State of California (the "Property") and more particularly described as follows:

Being Assessor's **Block 0281, Lot 006, commonly known as 860 Sutter Street**, hereby give notice that there are special restrictions on the use of said property under Chapter 41 of the San Francisco Administrative Code ("HCO")

Said Restrictions are the conditions for which a change of the certified guestroom designations under the HCO shall be allowed at the Property, 1080 Bush, and 1153 Bush. The previous legal use of the residential hotel located at 860 Sutter Street was 39 Tourist guest rooms and 50 Residential guest rooms without kitchens, with shared, communal and private bathrooms, and communal kitchen space. The previous legal use of the apartment building/residential hotel located at 1080 Bush Street, was 15 Residential guest rooms without kitchens and 42 apartments/dwelling units. The previous legal use of the residential hotel located at 1153 Bush Street was 14 Residential guest rooms without kitchens, and 1 dwelling unit. Under the _____, 20__ Development Agreement by and among the City and County of San Francisco and the Stephens Institute, dba Academy of Art University and the LLC Parties ("Development Agreement"), it has been proposed that HCO designations of the guest rooms at the three subject buildings be changed as follows: 860 Sutter Street has 89 Residential guest rooms under Administrative Code Chapter 41 and entitled under the Planning Code as Group Housing bedrooms with a Student Housing use characteristic; 1080 Bush has 15 Group Housing bedrooms with a Student Housing use characteristic and 42 apartments/dwelling units not subject to Administrative Code Chapter 41; 1183 Bush Street has 16 Group Housing bedrooms with a Student housing use characteristic not subject to Administrative Code Chapter 41. As part of the Development Agreement, Owner agrees to the following restrictions and conditions for the Property in perpetuity:

1. All 89 guest rooms at the Property are Residential guest units as defined by the HCO, and subject to all requirements/conditions/regulations of the HCO ordinance. These 89 guest

rooms shall be governed by the HCO in perpetuity unless a Permit to Convert is obtained in accordance with the HCO.

2. Aside from those exceptions specifically noted in the Development Agreement, the Property shall be subject to all local laws and ordinances, including but not limited to the San Francisco Building Code, the San Francisco Electrical Code, the San Francisco Existing Building Code, the San Francisco Green Building Code, the San Francisco Housing Code, the San Francisco Mechanical Code, the San Francisco Plumbing Code, and the San Francisco Rent Stabilization and Arbitration Ordinance.
3. The number of guest rooms, the floor plan of the guest rooms, the space and layout of the common areas shall not be altered, reduced, or changed without prior authorization by the Department of Building Inspection and, as applicable, by the Department of Planning. Individual kitchens may not be added to the guest rooms at the Property.

Date: _____

OWNER

Date: _____

OWNER

Schedule 1

Impact Fee and Extraction Schedule

Academy of Art Development Impact Fees

Address	Estimated TSF/TIDF Fee	Estimated Residential Child Care Fee	Estimated EN Fee	EIR Transit Mitigation Fair Share Fee	Estimated Total Fee Payment	Description of Change in Use, Other Notes
601 Brannan St.	\$ 75,663.00				\$ 75,663.00	Office to PSEI use
58-60 Federal St.	\$ 76,209.30				\$ 76,209.30	Office to PSEI use
2225 Jerrold Ave.	\$ 133,040.88				\$ 133,040.88	PDR to Institutional use (for community facility)
2801 Leavenworth St.	\$ 76,209.30			\$ 1,474,986.48	\$ 1,551,195.78	Office to PSEI use (partial change in use at 2nd and 3rd floors)
1727 Lombard St.		\$ 5,181.65			\$ 5,181.65	Non-residential to Residential
77 New Montgomery St.	\$ 126,580.50				\$ 126,580.50	Office to PSEI use
180 New Montgomery St.	\$ 168,999.30				\$ 168,999.30	Office to PSEI use
410 Bush St.	\$ 23,187.60				\$ 23,187.60	Non-residential to Residential
620 Sutter St.		\$ 20,122.72			\$ 20,122.72	Non-residential to Residential
817-831 Sutter St.		\$ 15,322.06			\$ 15,322.06	Non-residential to Residential
860 Sutter St.		\$ 4,477.78			\$ 4,477.78	Non-residential to Residential
468 Townsend St.			\$ 510,328.91		\$ 510,328.91	PDR to Institutional use
2211 Van Ness Ave.		\$ 401.10			\$ 401.10	Non-residential to Residential
2550 Van Ness Ave.		\$ 22,934.73			\$ 22,934.73	Non-residential to Residential
Student Housing Metering Fee					\$ 7,128.00	calculated for 9 properties at rate of \$792 per property
Class 1 Bike Parking In-lieu Fee					\$ 77,859.00	calculated based on maximum deficiency of 150 Class 1 spaces, at rate of \$519.06 per space
TOTALS	\$ 1,682,362.26	\$ 68,440.04	\$ 510,328.91	\$ 1,474,986.48	\$ 3,821,104.69	

Schedule 2

Schedule of Withdrawn Building Permits and Withdrawn Conditional Use Applications

- 860 Sutter
 - Building Permit Number 201009130696
- 410 Bush
 - Building Permit Number 201108098351
- 601 Brannan
 - Building Permit Number 2011006084046
 - Building Permit Number 201006084045
- 180 New Montgomery
 - Building Permit Number 201312043363
 - Building Permit Number 201312043359
- 1916 Octavia
 - Building Permit Number 201105095664
 - Building Permit Number 201105095670
- 2211 Van Ness
 - Building Permit Number 200804028568
- 58 Federal
 - Building Permit Number 201006084048
 - Building Permit Number 201006084047
- 625 Polk
 - Building Permit Number 201212075767
- 1055 Pine
 - Conditional Use Authorization Number 2007.1074C
 - Building Permit Number 201406107946
- 1069 Pine
 - Conditional Use Authorization Number 2007.1075C
- 2295 Taylor
 - Conditional Use Authorization Number 2007.1079C
 - Building Permit Number 201005051799
- 700 Montgomery
 - Conditional Use Authorization Number 2016.010637CUA
 - Certificate of Appropriateness Number 2016.012033COA
- 2340 Stockton
 - Building Permit Number 201211134025

EXHIBIT E TO SETTLEMENT AGREEMENT

GUARANTY

(ATTACHED)

GUARANTY

This **GUARANTY** is given as of _____, 2019, by the persons and entities listed on Exhibit A attached hereto and made a part hereof, jointly and severally (collectively, "**Guarantor**" and each a "**Guarantor Entity**"), to the City and County of San Francisco, a municipal corporation and charter city and county of the State of California ("**City**") located at 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102.

RECITALS

WHEREAS, City, the Stephens Institute, a California corporation doing business as the Academy of Art University (the "**Academy**") and the persons and/or entities listed on Exhibit B attached hereto and made a part hereof (each an "**LLC Party**" and collectively, the "**LLC Parties**"), have entered into a Development Agreement, dated _____, 2019 (the "**Development Agreement**"), and a Settlement Agreement, dated _____, 2019 (the "**Settlement Agreement**" and, together with the Development Agreement, the "**Agreements**"), wherein the LLC Parties are required to perform certain obligations for the benefit of the City as set forth in the Agreements; and

WHEREAS, City authorization of the Agreements is contingent on certain of such obligations under the Settlement Agreement as more particularly described on Exhibit C attached hereto and made a part hereof (collectively, the "**Guaranteed Obligations**") being guaranteed by Guarantor as set forth in this Guaranty; and

WHEREAS, Guarantor will directly or indirectly benefit from the Academy's interest in the Agreements and deems it to be in Guarantor's best interest to provide this Guaranty to City; and

WHEREAS, Guarantor is willing to guarantee the Guaranteed Obligations under the terms set forth below.

NOW THEREFORE, in consideration of the above premises and the mutual promises and covenants contained below (which Guarantor acknowledges constitute adequate consideration for its obligations hereunder) Guarantor, intending to be legally bound, agrees as follows:

1. Obligations of Guarantor. Guarantor unconditionally and irrevocably guarantees to City the due and punctual payment (and not merely the collectability) and performance, as applicable, of the Guaranteed Obligations as and when the same shall become due and/or payable, on the terms provided in this Guaranty. In addition, Guarantor shall pay, and upon City request shall reimburse City promptly for, all reasonable costs and expenses actually and reasonably incurred by City to enforce City's rights, powers or remedies under this Guaranty (including, without limitation, reasonable collection charges and Attorneys' Fees and Costs (as defined below)) (together with any late payment interest on amounts due as set forth below). With respect to Guaranteed Obligations any amount due and payable by Guarantor under this Guaranty but not paid within forty-five (45) days after receipt of City's written demand therefor shall be accompanied by interest on such amounts at the lesser of ten percent (10%) per annum

or the maximum amount permitted by law, calculated from the date of Guarantor's receipt of City's written demand therefor through and including the date of payment of such amounts (calculated on the basis of a 365-day year and for the actual number of days elapsed).

2. Duration. This Guaranty shall continue in force until all Guaranteed Obligations are paid in full to City or the Agreements are terminated. City shall not be bound or obligated to exhaust its recourse against the LLC Parties or other persons or take any other action before being entitled to demand performance by Guarantor hereunder. This Guaranty shall continue to be effective even in the event of the insolvency, bankruptcy or reorganization of an LLC Party. This Guaranty will also survive and be binding upon Guarantor following any merger, reorganization, consolidation or other change in Guarantor's structure, personnel, business or affairs.

3. Remedies of City. The rights and remedies of City under this Guaranty are cumulative and concurrent and shall not be exclusive of any other rights or remedies that City may have against an LLC Party, Guarantor or any other person. No set-off, counterclaim, reduction or diminution of an obligation or any defense of any kind or nature that Guarantor has or may have against the, an LLC Party or City shall affect, modify or impair the obligations of Guarantor under this Guaranty.

4. Waivers. Guarantor hereby waives: (a) notice of acceptance of this Guaranty; (b) demand of payment, notice of nonperformance, notice of dishonor, presentation, protest, and indulgences and (except as specifically provided in this Guaranty) notices of any kind whatsoever; (c) any right to assert or plead any statute of limitations relating to this Guaranty, the Agreements (and Guarantor agrees that any act that tolls any statute of limitations applicable to the Agreements will operate similarly to toll the statute of limitations applicable to Guarantor's liability for the Guaranteed Obligations); (d) any right to require City to proceed against the LLC Parties, the Academy or any other person or entity liable to City except to the extent expressly set forth in the Agreements; (e) any right to require City to pursue or enforce any remedy that City now has or may later have against the LLC Parties, the Academy or any other person or entity; (f) any right to participate in any security now or later held by City; and (h) any defense that may arise by the reason of: (1) the incapacity, lack of authority, death, disability or other defense of the LLC Parties, the Academy or any other person or entity (other than satisfaction of the applicable Guaranteed Obligations or the applicable Guaranteed Obligations are not then due; (2) the revocation or repudiation of this Guaranty by Guarantor; (3) failure of City to file or enforce a claim against the estate (either in administration, bankruptcy or any other proceeding) of the LLC Parties, the Academy or any others; (4) any election by City in any proceeding instituted under the United States Bankruptcy Code, as amended (11 U.S.C. §§ 101, *et seq.*); (5) any borrowing or granting of a security interest under section 364 of the United States Bankruptcy Code; (6) City's election of any remedy against Guarantor, the LLC Parties or the Academy or any other party to the extent permitted hereunder or under the Agreements, as applicable; (7) City's taking, modification, or releasing of any collateral or guarantees, or any failure to perfect any security interest in, or the taking of or failure to perfect any other action with respect to any collateral securing performance of obligations under the Agreements, as applicable; (8) any amendment or modification of the Agreements or related documents, whether or not known or consented to by Guarantor (provided that the Guaranteed Obligations shall not be expanded without the consent of Guarantor); or (9) any offset by Guarantor against any obligation now or later owed to Guarantor by the LLC Parties, the Academy or any other person,

it being the intention of this Guaranty that Guarantor remain liable to the full extent set forth in this Guaranty until the full performance of each and every Guaranteed Obligation, term, condition and covenant of the Agreements to be performed with respect to the Obligations, respectively,. Without limiting the generality of the foregoing, Guarantor expressly waives any and all benefits under California Civil Code sections 2809, 2810, 2819, 2839, 2845, 2846, 2848, 2849, 2850, 2855, 2899 and 3433.

5. Further Assurances. Guarantor agrees to do all such things and execute all such documents as City may consider necessary or desirable to give full effect to this Guaranty and to perfect and preserve the rights and powers of City hereunder. Guarantor acknowledges and confirms that Guarantor itself has established its own adequate means of obtaining from the LLC Parties on a continuing basis all information desired by Guarantor concerning the financial condition of the LLC Parties and that Guarantor will look to the LLC Parties to keep adequately informed of their financial condition.

6. Independent Obligations; Continuing Guaranty; Joint and Several Liability. This Guaranty is a primary and original payment and performance obligation of Guarantor and is absolute, unconditional, continuing and irrevocable.

Each guarantor entity listed in the Agreements (collectively, “**Guarantor Entities**”) shall be jointly and severally liable for the obligations of Guarantor under this Guaranty. However, (a) if any of the Guarantors is a trust, in no event shall the trustees or beneficiaries of such trust be personally liable for the obligations of such trust as a Guarantor, and only the assets of such trust shall be available to satisfy the obligations of such trust as a Guarantor, and (b) if any of the Guarantors is a corporation, partnership or limited liability company, in no event shall the shareholders, partners, members, employees, agents or contractors of such corporation, partnership or limited liability company be personally liable for the obligations of such corporation, partnership or limited liability company as a Guarantor, and only the assets of such corporation, partnership or limited liability company shall be available to satisfy the obligations of such corporation, partnership or limited liability company as a Guarantor.

7. Effect of Bankruptcy. In the event that, pursuant to any insolvency, bankruptcy, reorganization, receivership or other debtor relief law or any judgment, order or decision thereunder, City must rescind or restore any payment, or any part thereof, received by City, any prior release or discharge from the terms of this Guaranty shall be without effect, and this Guaranty will remain in effect as if the payment had not been made to City.

8. Assignment. This Guaranty is for the benefit of City and its successors and assigns, and is binding upon Guarantor. Guarantor may not assign or transfer any of its obligations under this Guaranty, whether by operation of law or otherwise, without the prior written consent of City.

9. Representations and Warranties. Guarantor represents and warrants to City that (a) the execution, delivery and performance of this Guaranty by Guarantor have been duly authorized by all requisite action of Guarantor and do not require the consent of any governmental agency or other third party which has not been obtained, (b) this Guaranty has been duly executed and delivered to City, (c) the incurrence by Guarantor of its obligations under

this Guaranty constitute and will constitute private and commercial acts of Guarantor, and the obligations of Guarantor hereunder will rank at least *pari passu* with all other unsecured indebtedness of Guarantor, (d) Guarantor is subject to civil and commercial law with respect to its obligations under this Guaranty and enjoys no immunity, sovereign or otherwise, from any suit or proceeding, the jurisdiction of any court, recoupment, setoff or legal process (and hereby waives any defense of immunity to the extent available to Guarantor), (e) no taxes are imposed by virtue of Guarantor's execution or delivery of this Guaranty other than any payable by Guarantor and which have already been paid, (f) this Guaranty is in proper legal form for the enforcement of this Guaranty, and (g) no filing, recording or notarization not already made is required, and no tax or other charge not already paid must be paid, on or as a condition to the enforceability of this Guaranty.

10. Payments. All payments by Guarantor under this Guaranty shall be made (a) in U.S. dollars to such account in the United States as City may from time to time designate to Guarantor and (b) free and clear of, and without deduction or withholding for or on account of any present or future income, stamp other taxes or levies, imposts, duties, charges, fees, deductions or withholdings now or hereafter imposed, levied, collected, withheld or assessed by an governmental authority (collectively "**Taxes**"). If any Taxes are required to be withheld from any amounts payable by Guarantor under this Guaranty, the amounts payable shall be increased to the extent necessary to provide the full amount (after payment of all Taxes) owing by Guarantor under this Guaranty.

11. Subrogation. If Guarantor makes any payment to City as a part of the Guaranteed Obligations pursuant to this Guaranty, then Guarantor shall be subrogated to the rights of City against the LLC Parties, the Academy or others with respect to such paid Guaranteed Obligations, and City agrees to take such steps as Guarantor may reasonably request to implement such subrogation (provided Guarantor shall pay City all costs actually incurred with respect thereto pursuant to the Agreements and that City shall not incur any liabilities in taking any such steps).

12. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of California, without regard to any of conflict of laws rule that would require the application of laws other than those of the State of California.

13. Consents.

(a) GUARANTOR IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY CALIFORNIA STATE OR FEDERAL COURT SITTING IN SAN FRANCISCO, CALIFORNIA, IN THE UNITED STATES OF AMERICA IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY. GUARANTOR WAIVES ANY OBJECTION TO VENUE IN SAN FRANCISCO, CALIFORNIA AND ANY OBJECTION TO ANY ACTION OR PROCEEDING ON THE BASE OF FORUM NON CONVENIENS. FINAL JUDGMENT AGAINST GUARANTOR IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTION.

(b) Without releasing, discharging, impairing, or otherwise affecting any obligations of Guarantor under this Guaranty or the validity or enforceability of this Guaranty, City, by action or inaction, in its sole and absolute discretion and without notice to Guarantor, may refuse or fail to enforce all or any portion of City's rights, powers or remedies under this Guaranty, the Agreements or any related documents. City, in its sole and absolute discretion and without notice to Guarantor may additionally: (a) compromise, settle, extend the time for payment or performance of all or any part of the Guaranteed Obligations; and (b) deal in all respects with Guarantor as if this Guaranty were not in effect. It is the intent of the Guarantor and City that Guarantor shall remain liable for the payment and performance of the Guaranteed Obligations and all other obligations guaranteed hereby to the extent set forth herein, notwithstanding any act or thing that might otherwise operate as a legal or equitable discharge of a surety other than payment or performance of the applicable Guaranteed Obligations.

14. Process Agent. Guarantor hereby irrevocably and unconditionally appoints the party(ies) then identified as the addressee(s) for receipt of notices for Guarantor under this Agreement, with offices on the date hereof at the respective addresses set forth in Section 17 below, as its agent for service of process ("**Process Agent**") of any summons or other legal process in any action or proceeding arising out of or relating to this Guaranty, and such agent is hereby authorized and directed to accept such service on behalf of Guarantor. Guarantor shall at all times maintain a Process Agent in the State of California, as a Process Agent to receive service of process. Guarantor shall notify City prior to any change of Process Agent.

15. Partial Invalidity. If any provision of this Guaranty is found by a court of competent jurisdiction to be prohibited, illegal, invalid, inoperable or unenforceable, such prohibition, illegality, invalidity, inoperability shall not affect the remainder thereof or any other clause, provision or section, and each such clause, provision or section shall be deemed to be effective and operative in the manner and to the full extent permitted by law.

16. Attorneys' Fees and Costs. Should either Guarantor or City institute any action or proceeding in court to enforce any provision hereof or for damages by reason of an alleged breach of any provision of this Guaranty, the prevailing party shall be entitled to receive from the losing party court costs incurred by the prevailing party including, without limitation, reasonable expert witness fees and reasonable costs and expenses, travel time and associated costs; transcript preparation fees and costs; document copying expenses; exhibit preparation costs; carrier expenses and postage and communications expenses; such amount as a court or other decision maker may adjudge to be actual and reasonable attorneys' fees for the services rendered to the prevailing party in such action or proceeding; actual and reasonable fees and costs associated with execution upon any judgment or order; and actual and reasonable costs on appeal and any collection efforts (the "**Attorneys' Fees and Costs**"). For purposes of this Guaranty, the Attorneys' Fees and Costs shall include the fees and costs of in-house counsel for City based on the fees regularly charged by private attorneys with the equivalent number of years of professional experience in the subject matter area of the law for which City's services were rendered who practice in the City and County of San Francisco in law firms with approximately the same number of attorneys as employed by the City.

17. Notices. Any demand, notice or other communication under this Guaranty shall be in writing and shall be delivered by hand, send by overnight mail or courier or transmitted by

e-mail. Any communication to City shall be effective upon receipt and shall be delivered or sent to:

John Rahaim
Director of Planning
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, California 94102
Email: john.rahaim@sfgov.org

with a copy to:

Dennis J. Herrera, Esq.
City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Chief Deputy City Attorney, Academy of Art Settlement Agreement
Email: ronald.flynn@sfcityatty.org
and to:
Attn: Chief Assistant City Attorney (Academy)
email: jesse.smith@sfcityatty.org
Attn: Deputy City Attorney, Land Use Team (Academy)
email: kristen.jensen@sfcityatty.org

Any notices sent by City to Guarantor shall be deemed effective upon receipt and shall be delivered or sent to the following address(es) (and/or to such other addresses as Guarantor may identify as its address(es) for receipt of notices under this Guaranty in written notice to City):

If to Guarantor:

The Stephens Institute
79 New Montgomery Street
San Francisco, CA 94105
Attn: Elisa Stephens
email: EStephens@academyart.edu

With a copy to:

David J. Millstein, Esq.
Millstein and Associates
100 The Embarcadero, Penthouse
San Francisco, CA 94105
email: dmillstein@millstein-law.com

James Abrams, Esq.
J. Abrams Law, P.C.
One Maritime Plaza Suite 1900
San Francisco, CA 94111
email: jabrams@abramslaw.com

Joseph Alioto Veronese, Esq.
700 Montgomery Street
San Francisco, CA 94111-2104
email: joe@aliotolg.com

18. Merger of Prior Agreements. Guarantor and City intend that this Guaranty shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. Guarantor and City further intend that this Guaranty shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Guaranty.

19. Interpretation of Guaranty. Unless otherwise specified, whenever in this Guaranty reference is made to any Section, or any defined term, the reference shall be deemed to refer to the Section or defined term of this Guaranty. Any reference to a Section includes all subsections and subparagraphs of that Section. The use in this Guaranty of the words “including”, “such as” or words of similar import when following any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific items or matters, whether or not language of non-limitation, such as “without limitation” or “but not limited to”, or words of similar import, is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter. In the event of a conflict between the Recitals and the remaining provisions of the Guaranty, the remaining provisions shall prevail. Any titles of the several parts and Sections of this Guaranty are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions. The masculine, feminine or neutral gender and the singular and plural forms include the others whenever the context requires. References to days, months and years mean calendar days, months and years unless otherwise specified. References to any law, specifically or generally, will mean the law as amended, supplemented or superseded from time to time. The provisions of this Guaranty shall be construed as a whole according to their common meaning and not strictly for or against either Guarantor or City in order to achieve the objectives and purposes of Guarantor and City, regardless of who drafted this Guaranty.

20. Substitute Security.

(a) Substitute Security. If at any time during the period this Guaranty is in effect, the Net Worth of Guarantor Entities in the aggregate falls below Twenty-Five Million Dollars (\$25,000,000) (the “**Net Worth Requirement**”) or Guarantor causes or allows to occur a Significant Change (as defined in Section 20(b) below) (each, a “**Substitute Security Event**”), then Guarantor shall notify City, the LLC Parties and the Academy as soon as reasonably practicable. A Significant Change with respect to one or more Guarantor Entities will not

constitute a Substitute Security Event as long as the Guarantor Entities meet the Net Worth Requirement in the aggregate. For purposes of measuring compliance with the Net Worth Requirement, Net Worth would not include the Net Worth of a Guarantor Entity that caused or allowed to occur a Significant Change described in Section 20(b) (i), (ii), (iii) and (v), and would include the Net Worth of a Guarantor Entity that caused or allowed to occur a Significant Change pursuant to Section 20(b)(iv) below, but only if (A) the sum of each such final non-appealable judgment against one or more Guarantor Entities does not exceed ten percent (10%) of the Guarantor Entities' aggregate Net Worth, or (B) if the sum of each such final non-appealable judgment against one or more Guarantor Entities exceeds ten percent (10%) of the Guarantor Entities' aggregate Net Worth, the Guarantor Entities satisfy or bond the judgments within twenty (20) days. Upon the occurrence of a Substitute Security Event, LLC Parties are required under the Development Agreement to supply City with a substitute guaranty (in the form of this Guaranty), an unconditional letter of credit, or other form of security, in each case: (i) in favor of City; (ii) in form and substance, and issued by persons or entities, reasonably satisfactory to City (including satisfaction of the Net Worth Requirement); (iii) in the amount of one hundred percent (100%) of the Guaranteed Obligations and (iv) to remain in effect until the Guaranteed Obligations are fulfilled ("**Substitute Security**"). If LLC Parties do not supply City with the Substitute Security within the time period required by the Development Agreement, City shall notify Guarantor and Guarantor shall provide such Substitute Security within ten (10) days after City's notice. Failure of City to give notice of LLC Parties' failure to provide the Substitute Security shall not relieve Guarantor of its obligations hereunder. It shall be a default of Guarantor under this Guaranty, and a default of the LLC Parties under the terms of the Development Agreement, if Guarantor fails to provide the Substitute Security within ten (10) days after City's notice. City's sole remedy against Guarantor for Guarantor's failure to provide the Substitute Security in the event the LLC Parties do not provide it as required under the Development Agreement will be to require Guarantor to specifically perform its obligation to provide the Substitute Security and not to seek damages against Guarantor attributable to such failure; however, this limitation on remedies shall apply only to Guarantor's failure to provide the Substitute Security in the event the LLC Parties fail to provide the Substitute Security as required under the Development Agreement, not to City's rights to enforce this Guaranty generally, and shall not limit City's rights against the LLC Parties under the Development Agreement. Upon the LLC Parties or Guarantor providing the Substitute Security required under this Section 20(a), City shall promptly return this Guaranty.

(b) Significant Change. For purposes of Section 20(a) above, "**Significant Change**" means (i) a Guarantor Entity files a petition for bankruptcy, or makes a general assignment for the benefit of its creditors, (ii) a receiver is appointed on account of a Guarantor Entity's insolvency, (iii) a writ of execution or attachment or any similar process is issued or levied against any bank accounts of a Guarantor Entity, or against any substantial portion of any property or assets of a Guarantor Entity, unless a writ of execution is dismissed within ninety (90) days and a writ of attachment is dismissed within thirty (30) days, (iv) a final non-appealable judgment is entered against a Guarantor Entity in an amount in excess of ten percent (10%) of the Guarantor Entity's Net Worth and the Guarantor Entity does not satisfy or bond the judgment within twenty (20) days, or (v) without the consent of a Guarantor Entity, an application for relief is filed against the Guarantor Entity under any federal or state bankruptcy law, unless the application is dismissed within ninety (90) days.

21. Counterparts. This Guaranty may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

22. Exculpation of Academy. Notwithstanding anything to the contrary contained in this Guaranty, in no event shall the Academy be a Guarantor or deemed to be a Guarantor under this Guaranty, and in no event shall the Academy have any liability under this Guaranty.

IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be executed as of the date shown above.

SUSANNE STEPHENS

ELISA STEPHENS

SCOTT ALAN STEPHENS

ELISA STEPHENS REVOCABLE TRUST

By: _____
Elisa Stephens, Trustee

STEPHENS FAMILY REVOCABLE TRUST

By: _____
Robert L. Underwood, Trustee

SCOTT ALAN STEPHENS REVOCABLE TRUST

By: _____
Scott Alan Stephens, Trustee

ACCEPTED AND AGREED:

CITY:

CITY AND COUNTY OF SAN
FRANCISCO,
a municipal corporation

Approved as to form:

DENNIS J. HERRERA, City Attorney

By: _____
John Rahaim
Director of Planning

By: _____
Michelle Sexton, Deputy City Attorney

EXHIBIT A

PERSONS AND/OR ENTITIES COMPRISING GUARANTOR

Susanne Stephens

Elisa Stephens

Scott Alan Stephens

Elisa Stephens Revocable Trust

Stephens Family Revocable Trust

Scott Alan Stephens Revocable Trust

EXHIBIT B

LLC PARTIES

1. 601 Brannan Street, LLC, a Delaware limited liability company
2. 60 Federal Street, LLC, a Delaware limited liability company
3. 2801 Leavenworth-Cannery, LLC, a Delaware limited liability company
4. 79 New Montgomery Street, LLC, a Delaware limited liability company
5. 625 Polk Street, LLC, a Delaware limited liability company
6. 491 Post Street, LLC, a Delaware limited liability company
7. 625 Sutter Street, LLC, a Delaware limited liability company
8. 740 Taylor Street, LLC, a Delaware limited liability company
9. S/F 466 Townsd, LLC, a Delaware limited liability company
10. 1835 Van Ness Avenue LLC, a Delaware limited liability company
11. 2151 Van Ness Avenue, LLC, a Delaware limited liability company
12. 1946 Van Ness Avenue, LLC, a Delaware limited liability company
13. 1142 Van Ness Avenue, LLC, a Delaware limited liability company
14. 1080 Bush Street, LLC, a Delaware limited liability company
15. 1153 Bush Street, LLC, a Delaware limited liability company
16. 575 Harrison, LLC, a Delaware limited liability company
17. 1900 Jackson Street, LLC, a Delaware limited liability company
18. 736 Jones Street, LLC, a Delaware limited liability company
19. 1727 Lombard II, LLC, a Delaware limited liability company
20. 1916 Octavia Street, LLC, a Delaware limited liability company
21. 560 Powell Street, LLC, a Delaware limited liability company
22. 620 RSSE, LLC, a Delaware limited liability company
23. 655 Sutter Street, LLC, a Delaware limited liability company
24. 680/688 Sutter Street, LLC, a Delaware limited liability company
25. 825 Sutter Street, LLC, a Delaware limited liability company
26. 860 Sutter Street, LLC, a Delaware limited liability company
27. 2209 Van Ness Avenue, LLC, a Delaware limited liability company
28. 2211 Van Ness Avenue, LLC, a Delaware limited liability company
29. 2550 VNPool, LLC, a Delaware limited liability company
30. 2225 Jerrold Avenue, LLC, a Delaware limited liability company
31. 950 Van Ness Avenue, LLC, a Delaware limited liability company
32. 150 Hayes LLC, a Delaware limited liability company
33. 700 Montgomery Street, LLC, a Delaware limited liability company
34. 1069 Pine Street, LLC, a Delaware limited liability company
35. 701 Chestnut Street, LLC, a Delaware limited liability company
36. 2300 Stockton Street, LLC, a Delaware limited liability company
37. 460 Townsend, LLC, a Delaware limited liability company
38. 1055 Pine Street, LLC, a Delaware limited liability company

EXHIBIT C

GUARANTEED OBLIGATIONS

The obligation of the LLC Parties to make the “Settlement Payment” pursuant to Section 2.2.1 of the Settlement Agreement.