



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

Chris Bazar
Agency Director

AGENDA ITEM NO. _____ August 2, 2016

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Room 110

Hayward, California
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July 19, 2016

Honorable Board of Supervisors
Administration Building
Oakland, California 94612

Dear Board Members:

SUBJECT: AUTHORIZE A LEASE BETWEEN THE COUNTY OF ALAMEDA AND RESOURCES FOR COMMUNITY DEVELOPMENT AND THE COMMERCIAL SUB-LEASE BETWEEN THE COUNTY OF ALAMEDA AND MANDELA MARKETPLACE INC. FOR 2,141 SQUARE FEET OF RETAIL SPACE AT 16385 E. 14TH STREET IN UNINCORPORATED ASHLAND

RECOMMENDATION:

Authorize the Community Development Agency Director, or his designee, upon review and approval of County Counsel, to execute an Ashland Family Housing commercial lease with Resources for Community Development (RCD) (Principal: Dan Sawislak; Location: Berkeley) and a commercial sub-lease with Mandela MarketPlace Inc. (Principal: Dana Harvey; Location: Oakland) in unincorporated Ashland to operate a community-based market and café offering fresh, healthier foods to Ashland residents.

DISCUSSION/SUMMARY:

RCD, a non-profit affordable housing developer, will lease a 2,141 square foot retail space in its new Ashland Family Housing development to the Community Development Agency (CDA) for a community-based market and café. CDA will sub-lease this prime retail space to Mandela MarketPlace, a nationally recognized non-profit, to own and operate the Ashland MarketPlace and Café Accelerator.

The MarketPlace and Café Accelerator will offer fresh, healthier foods to Ashland residents now living in a “food desert”, provide a much-needed community gathering space, and launch new local food businesses. Mandela MarketPlace has successfully operated a similar community-based market and café in West Oakland and brings the expertise needed to successfully manage this enterprise. Mandela MarketPlace will provide its innovative wrap-around services to emerging food entrepreneurs while creating new full-time jobs for which low-income residents will be recruited and trained.

In addition, the MarketPlace & Café Accelerator will nurture small, local businesses so that they will thrive and grow, in turn hiring local residents and building the economic capacity of Ashland.

CDA's obligations as a tenant under the commercial lease are passed through to Mandela MarketPlace under the sub-lease, including the payment of rent and utilities. Key provisions of the lease and corresponding sub-lease are outlined below:

- RCD and CDA will execute a 10-year commercial lease for 2,141 sq. foot of retail space at the nominal rent of \$200 per month, with rent payments beginning on August 1, 2017 or 90 days following the issuance of a certificate of occupancy
- CDA and Mandela MarketPlace Inc. will execute a sub-lease with an initial five-year term and one five-year renewable option
- Sub-lease awards possession to Mandela MarketPlace on May 1, 2017, following CDA's completion of tenant improvements
- Mandela MarketPlace will be responsible for rent and operational costs effective August 1, 2017, or 90 days following the issuance of a certificate of occupancy
- Mandela MarketPlace Inc. will own and operate the Ashland MarketPlace & Café Accelerator, a community-based market and café
- CDA will install fixed equipment and tenant improvements for the MarketPlace & Café Accelerator using its \$210,000 CDBG award. These improvements revert to RCD at the end of the 10-year lease
- Construction of tenant improvements is slated for March to May of 2017 with expected opening of the MarketPlace & Café Accelerator in June of 2017.

CDA was awarded \$210,000 in Alameda County Community Development Block Grant (CDBG) funds to install tenant improvements for the market and café, including sinks, counters and freezers. The CDBG funding requires site control in advance of awarding design and construction contracts to complete the needed tenant improvements. Authorizing the CDA Director to execute the commercial lease and sub-lease, upon review and approval of County Counsel, will enable CDA to meet its construction schedule and deliver the improved space to Mandela MarketPlace by May 2017. The MarketPlace and Café Accelerator is expected to open in June 2017.

The lease and sub-lease are in substantially final form. If approved, the CDA Director will execute the lease and sub-lease after the final language, in conformance with the terms described in this letter, is reviewed and approved by County Counsel.

FINANCING:

The commercial lease includes a nominal \$200 per month rent which CDA assigns to Mandela MarketPlace Inc. under the commercial sub-lease. The nominal rent is not due and payable until August 1, 2017, or 90 days following the issuance of a certificate of occupancy. CDA was awarded \$210,000 in Alameda County Community Development Block Grant (CDBG) funds to install fixed equipment and tenant improvements for the market and café. The \$210,000 funding is included in CDA's FY 16-17 MOE budget. There will be no impact to Net County Cost.

Very truly yours,



Chris Bazar, Director
Community Development Agency

cc: Susan Muranishi, County Administrator
Donna R. Ziegler, County Counsel
Steve Manning, Auditor-Controller
Naomi Hsu, County Administrator's Office
Brian Washington, Office of the County Counsel
U. B. Singh, CDA

COUNTY OF ALAMEDA

ASHLAND FAMILY HOUSING COMMERCIAL LEASE

THIS LEASE is made as of _____ 2016 by and between RESOURCES FOR COMMUNITY DEVELOPMENT, a California nonprofit public benefit corporation (“Landlord”), and the COUNTY OF ALAMEDA, a political subdivision of the State of California (“Tenant” and, together with Landlord, each, a “Party” and together, the “Parties”) who agree as follows:

W I T N E S S E T H

WHEREAS, Landlord and Tenant mutually desire to construct and operate commercial space to provide the Ashland MarketPlace and Café Accelerator; and

Whereas, Resources for Community Development owns a property located at 16385 E 14th Street, San Leandro, CA (hereafter “the Property”) that is an 85-unit affordable housing community, with 2,141 square feet of warm shell retail space on the ground floor (the retail space is hereinafter referred to as “the Premises”), and

Whereas, the County, through its Alameda County Community Development Agency’s Economic & Civic Development Department (ECD) proposes to lease the Premises effective July 19, 2016 through July 18, 2026; and

Whereas, Mandela Marketplace seeks to sublease 2,141 square feet of retail space from the County at 16385 E 14th Street, Ashland, CA to operate and manage the Ashland Marketplace & Café Accelerator; and

Whereas, the activation of new retail space in Ashland is a crucial economic development strategy to attract shoppers to the commercial district, serve the needs of local residents, and provide a new venue to showcase local food entrepreneurs and start-up businesses; and

Whereas, the Economic & Civic Development Department has been awarded \$210,000 in Community Development Block Grant (CDBG) funding to purchase and install fixed tenant improvements for the Ashland MarketPlace and Café, effective July 1, 2016.

WHEREAS the Landlord desires to lease the Premises to Tenant for such a purpose:

NOW THEREFORE it is agreed that in consideration of the terms, conditions, and covenants specified in this Lease Agreement, Landlord does lease to Tenant, and Tenant accepts from Landlord, the facilities and related improvements as shown on Exhibit “A” attached hereto:

PART ONE
Fundamental Lease Provisions

The fundamental provisions of this Lease are:

1. Lease Execution Date: August 2, 2016 (upon approval by Lessee's Board of Supervisors)
2. Premises: The ground floor commercial space located at 16395 E. 14th Street, Oakland, California which is located on Assessor's Parcel Number 080C-0479-023-03 and is shown on Exhibit A ("the Premises").
3. Term:
 - a. Term: Ten (10) years
 - b. Commencement Date of the Term: August 2, 2016
 - c. Expiration Date of the Term: August 1, 2026
4. Rent: Two Hundred Dollars (\$200) per month payable in advance on the first day of each month, beginning on the Rent Commencement Date and payable through the Expiration Date of the Term.

Additional consideration is provided in the form of

- a. Sub-lessee's agreement to operate the Premises at its own cost for benefit of the community; and
 - b. Lessee's use of Community Development Block Grant ("CDBG") funds to improve the Premises.
5. Rent Commencement Date: August 1, 2017 or 90 days following the issuance of a certificate of occupancy.
6. Permitted Use: A market and café offering healthier food options that provides a benefit for the residents of Ashland Place and the broader Ashland and Cherryland communities, and supports the 2015 Ashland/Cherryland Business District Specific Plan, or any other similar use that provides a benefit to the Ashland and Cherryland communities.
7. Addresses for Notices and Payment of Rent:

To Tenant: County of Alameda
c/o Community Dev. Agency -
Economic & Civic Development Department
224 W. Winton, Room 110
Hayward, CA 94544
Attention: Director

With a copy to:

County of Alameda
c/o Office of County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612
Attention: County Counsel

To Landlord: Resources for Community Development
2220 Oxford Street
Berkeley, CA 94704

8. Exhibits and Other Attachments: The following exhibits are attached to this Lease and made a part of it for all purposes.

Exhibit A – Premises and Tenant Improvements

Exhibit B – Tenant Insurance Requirements

Exhibit C – Operating Agreement

9. Parking: Five (5) on-site parking spaces shall be available to Tenant for Tenant's exclusive use. Three other timed spaces and a handicap parking space are also available on a non-exclusive basis.
10. Signage: All exterior signage and signage visible from the exterior of the Premises shall be placed and maintained with Landlord's prior written consent, which consent shall not be unreasonably withheld, and in compliance with applicable laws. Any business signs approved by Landlord and erected or installed by Tenant shall be in compliance with any ordinances and regulations promulgated by governmental or other regulating agencies. Tenant shall be responsible for obtaining all necessary sign permits from the appropriate governing agency.

Each reference in this Lease to any provision in the Fundamental Lease Provisions shall be construed to incorporate all of the terms provided under such Fundamental Lease Provisions. In the event of any conflict between a provision in the Fundamental Lease Provisions and a provision in the balance of the Lease, the Fundamental Lease Provisions shall control.

PART TWO

Lease Provisions

1. PREMISES.

- A. Landlord leases to Tenant, and Tenant leases from Landlord, the improvements and grounds described as the Premises in the Fundamental Lease Provisions.
- B. During the term of this Lease, Tenant, without additional charge unless otherwise expressly provided herein, is entitled to all of the rights and appurtenances set forth in this Lease, including, but not limited to the rights of ingress and egress to and from the Premises for Tenant and Tenant's contractors, agents, employees, invitees, and the general public.
- C. Tenant shall procure and maintain at its sole cost and expense any and all permits required by applicable law, if any, for Tenant's use and occupancy of the Premises. Tenant shall use the Premises solely for the Permitted Use specified in the Fundamental Lease Provisions and shall not use or permit the Premises to be used for any other purpose without Landlord's prior written approval. Tenant shall observe and comply with reasonable rules and regulations for the Property as provided in Exhibit C and as may be modified from time to time.
- D. Tenant intends to execute a Sub-Lease with Mandela MarketPlace Inc. to launch, own and manage a community-based food market and café to serve the Ashland and Cherryland communities, as well as the residents of Ashland Family Housing. Tenant intends to sub-lease to Mandela MarketPlace Inc. for an initial five-year term with one five-year option to renew the Sub-Lease. In the event Mandela MarketPlace Inc. does not sub-lease the space during the entire term, Tenant may substitute a suitable community serving organization as a replacement.

- 2. **TERM.** The terms and provisions of this Lease shall be effective between Landlord and Tenant as of the Lease Execution Date. The Term of this Lease shall be for the period stated in the Fundamental Lease Provisions commencing on the Commencement Date and expiring on the Expiration Date, unless the Term is otherwise terminated or extended as provided for in this Lease. The Execution Date shall be the date when the Landlord's Board of Directors and the Alameda County Board of Supervisors approve this Lease on behalf of the Tenant, and the Lease has been fully executed.

- 3. **TENANT IMPROVEMENTS.** Landlord has constructed at its expense the Ashland Family Housing project (the "Project"), which includes the Premises improved with a warm commercial shell as further described in the As-Built plans, print-dated October 2014 (the "Plans") which have been delivered to Tenant. Landlord shall not provide Tenant with any further improvements. Tenant's agreement to improve, operate, maintain and repair the Premises is part of the consideration for this Lease. Tenant has been afforded significant opportunity to be a part of, or receive information about, the

construction of the Project, and accepts the Premises in its “AS-IS” condition without any agreements, representations, understandings or obligations on the part of Landlord to perform any alteration, repairs or improvements thereto.

4. **RENT.** Tenant shall pay to Landlord the Rent as described in the Fundamental Lease Provisions, without any deduction or offset whatsoever.
5. **OPERATING EXPENSES.** Landlord will not charge Tenant any operating expenses or costs not expressly stated in the Lease.
6. **ORGANIZATIONAL CLEARANCE CERTIFICATE.** Landlord shall waive collection of the Tenant’s share of the property tax obligation provided the Tenant forwards to RCD an Organizational Clearance Certificate from the State Board of Equalization and a Finding Sheet from the Alameda County Tax Assessor by March 1st in the first year of the Lease and, thereafter, an annual renewal Form 267-A, plus attachments, no later than March 1 for each year of the term.
7. **SERVICES, UTILITIES, MAINTENANCE AND REPAIRS.**
 - A. **Utilities and Services.**
 - i. As part of its agreement to construct the Project, Landlord shall construct or cause the installation of all necessary utility service infrastructure, equipment and meters for electricity, gas, telephone and data services (collectively, “Utility Services”), as is described in detail in the Plans. As there is no separate water meter for the premises, the Landlord will submit an annual pro-rated water bill to the Tenant’s Sub-lessee with a corresponding notice to the Tenant. The Landlord’s obligation with respect to Utility Services does not extend beyond what is shown in the Plans.
 - ii. Tenant shall be responsible, at its sole cost, for establishing Utility Services with the respective Utility Services providers, and for all costs associated with those services, including but not limited to rate payments, maintenance, repairs and upgrades. Except as to the water bill as referenced in Section 7.A., Landlord shall have no responsibility for costs associated with Utility Services after the Commencement Date.
 - iii. In no event shall Landlord be liable for any interruption or failure in the supply of any such utility or other services to Tenant, except for an interruption in utility services caused by the gross negligence or willful misconduct of Landlord or its agents, employees, contractors or invitees that interferes with Tenant’s operations within the Premises.
 - iv. In no event shall any Rent owed Landlord under this Lease be abated by reason of the failure to furnish, delay in furnishing, unavailability or diminution in quality or quantity of any such utility or other services or interference with Tenant's business operations as a result of any such occurrence; nor shall any such occurrence

constitute an actual or constructive eviction of Tenant or a breach of an implied warranty by Landlord.

- B. **Security.** Tenant shall be responsible for its own security. Tenant shall provide security at the Premises as provided in Exhibit C.
- C. **Maintenance/Janitorial Services.** Tenant shall have the following obligations with respect to maintenance and janitorial services, except that Tenant may satisfy these obligations under any contractor or manufacturer's warranty, where applicable:
 - i. **HVAC.** Tenant shall repair and maintain all hot water, heating and air conditioning systems and equipment ("HVAC") within the Premises, or which serve the Premises exclusively, including, without limitation, any rooftop package HVAC units, distribution lines and internal venting systems. This shall include entering into a contract with a reputable and qualified maintenance contractor to regularly scheduled preventive maintenance/services if Tenant does not directly employ staff trained and certified to perform this function. Tenant shall operate, maintain and repair the HVAC in accordance with the requirements of Exhibit C.
 - ii. **Janitorial.** All cleaning and janitorial services sufficient to maintain the Premises interior and adjacent exterior in a clean well-maintained condition, including regular removal of trash and debris, shall be performed and obtained, at Tenant's sole cost and expense. Janitorial work shall be performed in accordance with the requirements of Exhibit C.
 - iii. **Landscaping and Contiguous Grounds.** Landlord shall maintain the landscaping and grounds at its sole cost and expense in accordance with the provisions of Exhibit C.
 - iv. **Good Repair.** Tenant shall at its sole cost maintain the Premises and all parts therein, including building systems (including all safety systems) and all equipment, fixtures and appurtenances furnished by Landlord under this Lease, in good repair and tenantable condition in conformance with Exhibit C, all regulations including but not limited to the California Code of Regulations, Title 8 (Division of Industrial Relations), and consistent with any applicable industry building standards so as to minimize breakdowns caused by deferred or inadequate maintenance.
 - v. **ADA Compliant.** As of the Commencement Date, Landlord certifies that the Premises comply with the provisions of the Americans with Disabilities Act and California's requirements. Tenant shall maintain Building and Premises at all times in conformity with the Americans with Disabilities Act (ADA) – Building Access, and all later enacted amendments thereof, and shall be responsible for all repairs, alterations and/or maintenance of the Premises under said laws.
 - vi. **Landlord Repair Obligations.** Landlord's repair obligation is limited to correction of construction defects in the work performed by Landlord; provided, however, to the extent such maintenance, repairs or replacements are required as a result of any act, neglect, fault or omission of Tenant or any of Tenant's Parties, Tenant shall pay to Landlord, as Additional Rent, the costs of such maintenance, repairs and

replacements. Except as otherwise expressly provided in this Lease, Landlord shall have no obligation to alter, remodel, improve, repair, renovate, redecorate or paint all or any part of the Premises.

- vii. **General Obligations.** Tenant shall, at its sole cost and expense, observe and comply with all Laws and all requirements of any board of fire underwriters or similar body relating to the Premises now or hereafter in force relating to or affecting the condition, use, occupancy, alteration or improvement of the Premises (whether, except as otherwise provided herein, structural or nonstructural , including unforeseen and/or extraordinary alterations and/or improvements to the Premises and regardless of the period of time remaining in the Term). Tenant shall not cause, maintain or permit any nuisance in, on or about the Premises or the Property. Any repairs or alterations by Tenant shall be done in full compliance with all laws, including the ADA, and Exhibit C.
- viii. **Capital Replacements.** Tenant shall bear any and all costs if any mechanical, electrical, plumbing, HVAC and other equipment, facilities and systems located within the Premises (collectively, the "Premises Systems") or any major component of a Premises Systems needs to be replaced, regardless of fault or whether Tenant has performed all required routine maintenance of such Premises Systems in accordance with this Lease.

- 8. **PARKING.** Landlord shall provide Tenant with the on-site parking in the Fundamental Lease Provisions, the location of which shall be dictated by the terms of Exhibit C.
- 9. **LANDLORD'S RESERVED RIGHTS.** Landlord reserves the right to do any of the following: (a) make any changes, additions, improvements, maintenance, repairs or replacements in or to the Premises, and the fixtures and equipment thereof, upon agreement from Tenant, (b) make emergency repairs to protect the health and safety of the public, and to protect the Landlord's investment in the Premises where it has notified Tenant of the necessity of doing the same, and Tenant has failed to do so within 30 days, or other period of time as is dictated by the circumstances and such other period of time is so indicated in the notice herein described, in which event Tenant shall pay to Landlord, as Additional Rent, the costs of such maintenance, repairs and replacements. If Landlord is required to do any work within the Premises as a result of any changes to the Property as a result of Landlord's exercise of its rights under this Section, Landlord shall provide Tenant with reasonable advance written notice of the construction schedule to the extent that the Premises are affected, and Landlord shall endeavor to minimize, as reasonably practicable, the interference with Tenant's operations as a result of any such construction.

10. **PERFORMANCE REQUIREMENT.** Tenant or its sub-lessee shall operate the Premises as a community-based market and café or similar uses that provide community benefit in accordance with this Lease and the provisions of Exhibit C.

11. **ALTERATIONS.**

A. **Alterations.** Except as specifically provided herein, Tenant may not make any alterations, additions or improvements (“Alterations”) to the Premises without Landlord’s prior written consent. Tenant shall submit any and all plans, drawing, proposal and other documents as requested by Landlord to consider a request for consent to make Alterations. All work related to Alterations shall be done at the sole cost, charge, and expense of Tenant, and comply with all applicable codes and regulations. All Alterations performed by Tenant which are funded in whole or part with CDBG funds shall remain in the Premises following expiration of this Lease, regardless of whether such improvements are deemed to be fixtures or personal property. Landlord may, in its sole discretion, require that any other Alterations remain the property of Tenant and that they be removed therefrom by Tenant upon the expiration of this Lease; provided that, Landlord notifies Tenant in writing when approving an Alteration that it must be removed upon the expiration of this Lease. In the alternative, Landlord may require that any Alterations remain and be surrendered with the Premises at the end of the Term. Landlord may also require that any such Alterations be fully insured. Approval for any Alteration may require an amendment to this Lease.

B. **Performance of Work.**

- i. In the event Tenant makes any Alterations (with consent) it shall do so at its sole cost and expense, and Tenant shall obtain, at its sole cost and expense, any and all permits, authorizations, and certificates from all governmental agencies, including, without limitation, such zoning variances or changes as may be required with respect to such Alterations.
- ii. Tenant’s right to make Alterations is subject to the following: (i.) The work shall be performed by a licensed contractor who is experienced in such work; (ii) Tenant shall be responsible for all costs of repairs and improvements; and (iii) Tenant shall insert in its contract with its licensed contractor a provision requiring the contractor to provide Landlord with at as broad an indemnity as is contained in this Lease, or as broad an indemnity as is required by Tenant, whichever provides greater protection; and to name Landlord as additional insured on any insurance required by Tenant of the contractor for performance of the alteration work.

12. **ASSIGNMENT, SUBLETTING AND USE BY TENANT.**

A. **Consent.** Landlord consents to Tenant’s intended sub-lessee, Mandela MarketPlace LLC, for purposes of operating a community-based market and café. In the event the Tenant terminates its sub-lease with Mandela MarketPlace LLC, Tenant shall not

- assign this Lease, or any interest therein, and shall not sublet the Premises, or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person to occupy or use the Premises ("Transfer"), or any portion thereof without the prior written consent of Landlord, which shall not be unreasonably withheld. Landlord acknowledges that in the event Mandela MarketPlace Inc. terminates the sub-lease before the end of this Lease, Tenant intends to sub-lease to another use providing benefit to the community. Consent to one Transfer or use by any other person shall not be deemed to be consent to any subsequent Transfer or use by another person. Any such Transfer without such consent shall be void, and shall, at the option of Landlord, terminate this Lease.
- B. **Termination.** Tenant shall have an option to terminate this Lease (the "Termination Option"). Tenant may exercise the Termination Option by providing written notice (the "Option Notice") to Landlord at any time between the date which is thirty-six (36) months following the Lease Commencement Date and ending at 5:00 p.m. on the date which is ninety (90) months following the Lease Commencement Date (the "Termination Option Term"). The Option Notice shall indicate the date on which Tenant desires to terminate the Lease (the "Termination Date"), which shall be no earlier than thirty (30) days following the date of the Option Notice and no later than the end of the Termination Option Term. As of the Termination Date this Lease shall terminate and be of no further force or effect, except for those provisions that expressly survive termination.
- C. **Reasonable Disapproval.** Landlord shall not unreasonably deny Tenant's request to Transfer this Lease. Without limiting in any way Landlord's right to withhold its consent on any reasonable grounds, it is agreed that Landlord will not be acting unreasonably in refusing to consent to a Transfer if, in Landlord's reasonable opinion: (a) the proposed Transfer would result in more than two subleases of portions of the Premises being in effect at any one time during the Term; (b) the proposed assignee or subtenant does not have the financial capability to fulfill the obligations imposed by the Transfer; (c) there are less than six months remaining on the Term; (d) the proposed Transfer involves a change from a retail use of the Premises. Landlord will review and respond to any requests for assignment within 60 days. A consent by Landlord to one Transfer shall not be deemed a consent to any subsequent Transfer.
- D. **Other County Uses.** In recognition of the usefulness of the Premises to the Landlord's and Tenant's mission to maintain and enhance the general public health and welfare, Landlord shall allow the Tenant, its agencies and departments, liberal use of the Premises.

13. **SURRENDER AND HOLDING OVER.**

- A. **Surrender of Premises.** Upon the expiration or sooner termination of this Lease, Tenant shall surrender all keys for and possession of the Premises to Landlord broom

- clean and in good condition and repair, with the exception of reasonable wear and tear. Tenant shall surrender the Premises with all of the following removed and all damage caused by such removal repaired: (1) all personal property of Tenant, its employees, agents, volunteers and the public, and (2) Alterations identified by Landlord for removal. If Tenant fails to remove by the expiration or sooner termination of this Lease all identified items, Landlord may, (without liability to Tenant for loss thereof), at Tenant's sole cost and in addition to Landlord's other rights and remedies under this Lease, at law or in equity: (a) remove and store such items in accordance with applicable Law; and/or (b) upon ten (10) days' prior notice to Tenant and if Tenant does not remove such items during such 10 day-period, sell all or any such items at private or public sale for such price as Landlord may obtain as permitted under applicable Law. Landlord shall apply the proceeds of any such sale to any amounts due to Landlord under this Lease from Tenant (including Landlord's attorneys' fees and other costs incurred in the removal, storage and/or sale of such items), with any remainder to be paid to Tenant.
- B. **Retention of CDBG-funded fixed equipment and tenant improvements.** Tenant intends to purchase and install fixed equipment and tenant improvements as listed in Exhibit A, with Tenant's CDBG funding. All of the CDBG-funded fixed equipment and tenant improvements will remain in place at the expiration or termination of the lease term (whichever occurs first) and revert to the Landlord.
- C. **Hold Over.** Should Tenant hold over the premises after the Lease has terminated, such hold over shall be deemed merely a tenancy from month to month. Any holdover Rent shall be paid on a prorated per month basis without reduction for partial months during the holdover. Acceptance by Landlord of Rent after such expiration or earlier termination shall not constitute consent to a hold over hereunder or result in an extension of this Lease. This Section shall not be construed to create any express or implied right to holdover beyond the expiration of the Term or any extension thereof. The foregoing provisions of this Section are in addition to, and do not affect, Landlord's right of re-entry or any other rights of Landlord hereunder or otherwise at law or in equity.
14. **ENTRY.** Landlord, or its duly authorized representatives or agents, may enter upon the premises upon two (2) days written notice during the term of this Lease for the purpose of determining whether Tenant is complying with the terms and conditions hereof, or for any other purpose incidental to the rights of the Landlord. In case of emergency Landlord or its agents may enter premises without prior consent.
15. **INDEMNITY.**
- A. **Tenant's Indemnification.** Tenant shall be liable for, and shall indemnify, defend, protect and hold Landlord and Landlord's officials, officers, directors, managers, employees, agents, contractors, successors and assigns (collectively, "Landlord Parties")

harmless from and against, any and all claims, damages, judgments, suits, causes of action, losses, liabilities and expenses, including, without limitation, attorneys' fees and court costs (collectively, "Indemnified Claims"), arising or resulting from (i) any act or omission of Tenant, its agents, officers, director, employees, contractors or invitees (collectively, "Tenant's Parties"); (ii) the use of the Premises and conduct of Tenant's business by Tenant or any of Tenant's Parties, or any other activity, work or thing done, permitted or suffered by Tenant or any of Tenant's Parties, in or about the Premises or elsewhere on the Property, except to the extent caused by the gross negligence or willful misconduct of Landlord or Landlord's agents, contractors or employees; and/or (iii) any default by Tenant as to any obligations on Tenant's part to be performed under the terms of this Lease or the terms of any contract or agreement to which Tenant is a party or by which it is bound, affecting this Lease or the Premises. In case any action or proceeding is brought against Landlord or any Landlord Parties by reason of any such Indemnified Claims, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel approved in writing by Landlord, which approval shall not be unreasonably withheld. Landlord may participate in its own defense and Tenant shall not agree to any settlement without the written consent of Landlord.

B. **Third-Party Indemnification.** To the extent commercially reasonable, when Tenant or Tenant's Parties obtain indemnity protection from others concerning claims arising out of or pertaining to the Premises, they shall require any such party providing an indemnity to indemnify the Landlord on terms equal to those provided to Tenant or Tenant's Parties. C.

C. **Survival.** The indemnification obligations under this Section and elsewhere in this Lease shall survive the expiration or earlier termination of this Lease. The covenants, agreements and indemnification in this Section are not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried by the Parties pursuant to the provisions of this Lease.

16. **INSURANCE.**

A. **Tenant's Insurance.** Tenant shall maintain insurance as set forth on Exhibit B. Tenant may meet its insurance requirements through self-insurance.

B. **Third-Party Insurance:** Whenever Tenant requires any party to carry insurance for use of or work on or at the Premises, Tenant shall require that party to name the Landlord as additional insured.

C. **Landlord's Insurance.** Landlord shall obtain and maintain for the Term casualty insurance covering the Leased Premises in an amount not less than 90% of the full replacement cost or the amount of such insurance which Landlord's mortgage lender requires Landlord to maintain, whichever is greater, providing protection against any peril generally included within the classification "Fire and Extended Coverage."

17. **FIRE AND CAUSALTY DAMAGE.**

A. **Replacement.**

- i. In the event of any damage or destruction of all or any of the Premises, Tenant shall immediately notify Landlord thereof.
- ii. If the Premises is damaged by fire or other casualty to an extent not exceeding fifty percent (50%) of the full replacement cost thereof, and Tenant's contractor and/or the Landlord estimates in writing delivered to the parties that the damage thereto is such that the Premises may be repaired, reconstructed or restored to substantially its condition immediately prior to such damage within one hundred twenty (120) days from the date of such Casualty, and Tenant will receive insurance proceeds sufficient to cover the costs of such repairs, reconstruction and restoration, then Tenant shall within 30 days of the Casualty notify Landlord of the same and commence and proceed diligently with the work of repair, reconstruction and restoration and this Lease shall continue in full force and effect. If Tenant fails to conduct the repairs, reconstruction and restoration as described in this subsection within 120 days of the date of such Casualty, Landlord may at its discretion notify Tenant in writing of its intent to perform the repair, reconstruction and restoration itself, in which case this Lease shall terminate within 30 days of the Landlord's notification of its intent to perform the work unless Tenant agrees prior to the expiration of the 30th day to pay the cost of the Landlord's work in accordance with terms and conditions mutually agreeable to the Parties.
- iii. If, however, the Premises is damaged to an extent exceeding fifty percent (50%) of the full replacement cost thereof, or Tenant's contractor and/or the Landlord estimates that such work of repair, reconstruction and restoration will require longer than one hundred twenty (120) days to complete from the date of Casualty, or Tenant will not receive insurance proceeds sufficient to cover the costs of such repairs, reconstruction and restoration, then the Parties shall immediately meet and confer to decide whether to: (a) repair, reconstruct and restore the portion of the Premises damaged by such Casualty in which case this Lease shall continue in full force and effect; or (b) terminate this Lease.

B. **Tenant's Costs and Insurance Proceeds.** In the event the Landlord performs the repair, restoration or replacement work under Section 17(A)(ii) or (iii), Tenant shall deliver to Landlord all insurance proceeds for the restoration or replacement work received by Tenant whether or not this Lease is terminated as permitted, and Tenant hereby assigns to Landlord all rights to receive such insurance proceeds.

C. **Damage Near End of Term.** In addition to its termination rights in Sections elsewhere in this Section, Landlord and Tenant shall both have the right to terminate this Lease if any damage to the Premises occurs during the last six (6) months of the Term and

Landlord's contractor estimates in writing delivered to the parties that the repair, reconstruction or restoration of such damage cannot be completed within the earlier of (a) the scheduled expiration date of the Term, or (b) sixty (60) days after the date of such Casualty.

18. **HAZARDOUS MATERIALS.**

- A. **Definitions.** As used in this Lease, the term "Environment Law(s)" means any past, present or future Federal, state or local Law relating to (a) the environment, human health or safety, including, without limitation, emissions, discharges, releases or threatened releases of Hazardous Materials (as defined below) into the environment (including, without limitation, air, surface water, groundwater or land), or (b) the manufacture, generation, refining, processing, distribution, use, sale, treatment, receipt, storage, disposal, transport, arranging for transport, or handling of Hazardous Materials. As used in this Lease, the term "Hazardous Materials" means and includes any hazardous or toxic materials, substances or wastes as now or hereafter designated or regulated under any Environmental Laws including, without limitation, asbestos, petroleum, petroleum hydrocarbons and petroleum based products, urea formaldehyde foam insulation, polychlorinated biphenyls ("PCBs"), and Freon and other chlorofluorocarbons.
- B. **Prohibition.** Except for ordinary and general office supplies, such as copier toner, liquid paper, glue, ink and common household cleaning materials, substances commonly used in food preparation and retail establishments and motor vehicle fuel stored in fuel tanks of motor vehicles used on site in compliance with all Environmental Laws (some or all of which may constitute Hazardous Materials), Tenant agrees not to cause or permit any Hazardous Materials to be brought upon, stored, used, handled, generated, released or disposed of on, in, under or about the Premises or the Property by Tenant, its agents, officers, director, shareholders, members, managers, partners, employees, subtenants, assignees, licensees, contractor or invitees (collectively, "Tenant's Parties"), without the prior written consent of Landlord, which consent Landlord may withhold in its sole and absolute discretion.
- C. **Use.** Tenant represents and warrants to Landlord that Tenant does not use, generate, release, dispose of, store or maintain in the Premises or any portion of the Property, any Hazardous Materials except for normal office, janitorial materials and substances commonly used in food preparation and retail establishments. Upon the expiration or earlier termination of this Lease, Tenant agrees to promptly remove from the Premises and the Property, at its sole cost and expense, any and all Hazardous Materials, including any equipment or systems containing Hazardous Materials which are installed, brought upon, stored, used, generated or released upon, in, under or about the Premises and/or the Property or any portion thereof by Tenant or Tenant's Parties. To the fullest extent permitted by law, Tenant agrees promptly to indemnify, protect,

defend and hold harmless Landlord and Landlord's officials, officers, directors, managers, employees, agents, contractors, successors and assigns (collectively, "Landlord Parties") from and against any and all claims, damages, judgments, suits, causes of action, losses, liabilities, penalties, fines, expenses and costs (including, without limitation, clean-up, removal, remediation and restoration costs, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees and court costs) which arise or result from the presence of Hazardous Materials on, in, under or about the Premises. The provisions of this Article will survive the expiration or earlier termination of this Lease.

- D. **Notification of Mold and Water.** Tenant shall give Landlord written notice of any evidence of Mold, water leaks or water infiltration in the Premises promptly upon discovery of same. At its expense, Tenant shall investigate, clean up and remediate any Mold in the Premises that is caused by Tenant's occupancy. Investigation, clean up and remediation of such mold may be performed only after Tenant has Landlord's written approval of a plan for such remediation. All clean up and remediation shall be done in compliance with all applicable Laws and to the reasonable satisfaction of Landlord. As used in this Lease, "Mold" means mold, fungi, spores, microbial matter, mycotoxins and microbiological organic compounds.
- E. **Tenant's Obligations.** Tenant shall cooperate fully at all times with Landlord and abide by all reasonable regulations and requirements which Landlord may prescribe for the proper functioning and protection of the Premise's services and systems as provided in Exhibit C.
- F. **Inspection; Compliance.** Landlord and Landlord Parties shall have the right, but not the obligation, to inspect, investigate, sample and/or monitor the Premises, including any air, soil, water, groundwater or other sampling, and any other testing, digging, drilling or analyses, at any time to determine whether Tenant is complying with the terms of this Section. Tenant shall provide Landlord with access to all relevant facilities, records and personnel. If Tenant is not in compliance with any of the provisions of this Section or in the event of a release of any Hazardous Materials on, under, from or about the Premises, Landlord and Landlord Parties shall have the right, but not the obligation, without limitation on any of Landlord's other rights and remedies under this Lease, to immediately enter upon the Premises and to discharge Tenant's obligations under this Section at Tenant's expense, including without limitation the taking of emergency or long term remedial action. Landlord and Landlord Parties shall endeavor to minimize interference with Tenant's operations but shall not be liable for any such interference. In addition, Landlord, at Tenant's sole cost and expense, shall have the right, but not the obligation, to join and participate in any legal proceedings or actions initiated in connection with any claims or, causes of action arising out of the storage, generation, use or disposal by Tenant or Tenant's Parties of Hazardous Materials on, under, from or about the Premises. All sums reasonably disbursed,

deposited or incurred by Landlord in connection herewith, including, but not limited to, all costs, expenses and actual attorneys' fees, shall be due and payable by Tenant to Landlord, as an item of Additional Rent, on demand by Landlord, together with interest thereon at the Interest Rate from the date of such demand until paid by Tenant.

G. **Tenant Obligations.** If the presence of any Hazardous Materials on, under or about the Premises caused or permitted by Tenant or Tenant's Parties results in (i) injury to any person, (ii) injury to or contamination of the Premises, or (iii) injury to or contamination of any real or personal property wherever situated, Tenant, at its sole cost and expense, shall promptly take all actions necessary to return the Premises to the condition existing prior to the introduction of such Hazardous Materials to the Premises and to remedy or repair any such injury or contamination. Without limiting any other rights or remedies of Landlord under this Lease, Tenant shall pay the cost of any cleanup work performed on, under or about the Premises as required by this Lease or any Environmental Laws in connection with the removal, disposal, neutralization or other treatment of such Hazardous Materials caused or permitted by Tenant or Tenant's Parties. Notwithstanding anything to the contrary contained in the foregoing, Tenant shall not, without Landlord's prior written consent, take any remedial action in response to the presence of any Hazardous Materials on, under or about the Premises, or enter into any settlement agreement, consent decree or other compromise with any governmental agency with respect to any Hazardous Materials claims; provided, however, Landlord's prior written consent shall not be necessary in the event that the presence of Hazardous Materials on, under or about the Premises (i) poses an immediate threat to the health, safety or welfare of any individual, or (ii) is of such a nature that an immediate remedial response is necessary and it is not possible to obtain Landlord's consent before taking such action. Tenant's failure to timely comply with this Subsection or any other Subsection of this Section shall constitute an event of default under this Lease.

H. **Tenant's Responsibility at Conclusion of Lease.** Promptly upon the expiration or sooner termination of this Lease, Tenant shall confirm in writing to Landlord that (i) Tenant has made a diligent effort to determine whether any Hazardous Materials are on, under or about the Premises, as a result of any acts or omissions of Tenant or Tenant's Parties and (ii) no such Hazardous Materials exist on, under or about the Premises, other than as specifically identified to Landlord by Tenant in writing. If Tenant discloses the existence of Hazardous Materials on, under or about the Premises or if Landlord at any time discovers that Tenant or Tenant's Parties caused or permitted the release of any Hazardous Materials on, under, from or about the Premises, Tenant shall, at Landlord's request, immediately prepare and submit to Landlord within thirty (30) days after such request a comprehensive plan, subject to Landlord's approval, specifying the actions to be taken by Tenant to return the Premises to the condition existing prior to the introduction of such Hazardous Materials. Upon Landlord's

approval of such cleanup plan, Tenant shall, at Tenant's sole cost and expense, without limitation on any rights and remedies of Landlord under this Lease or at law or in equity, immediately implement such plan and proceed to clean up such Hazardous Materials in accordance with all Environmental Laws and as required by such plan and this Lease.

19. **CONDEMNATION.**

- A. **Substantial or Partial Taking.** Subject to the provisions of this Section below, either party may terminate this Lease if any material part of the Premises is taken or condemned for any public or quasi-public use under law, by eminent domain or private purchase in lieu thereof (a "Taking"). The terminating party shall provide written notice of termination to the other party within thirty (30) days after it first receives notice of the Taking. The termination shall be effective as of the effective date of any order granting possession to, or vesting legal title in, the condemning authority. If this Lease is not terminated, the Parties shall meet and confer regarding all elements of this Lease which are dependent upon the area of the Premises shall be appropriately adjusted to account for any reduction in the square footage of the Premises, and make appropriate amendments to Exhibit C.
- B. **Temporary Taking.** In the event of a Taking of the Premises or any part thereof for temporary use, (a) this Lease shall be and remain unaffected thereby and Rent shall not abate, and (b) Tenant shall be entitled to receive for itself such portion or portions of any award made for such use with respect to the period of the Taking which is within the Term, provided that if such taking shall remain in force at the expiration or earlier termination of this Lease, Tenant shall perform its obligations with respect to surrender of the Premises and shall pay to Landlord the portion of any award which is attributable to any period of time beyond the termination date. For purpose of this Section a temporary taking shall be defined as a taking for a period of two hundred seventy (270) days or less.

20. **MUTUALITY OF OBLIGATION.** The obligations and covenants of the Landlord, and the Tenant's obligation to pay rent and other Tenant obligations and covenants, arising under or related to this Lease, are interdependent.

21. **TAXES.** The Parties acknowledge that as a public agency, Tenant is exempted from property taxation under current California law. Tenant is responsible for any and all taxes, fees and service charges other than property taxes, including but not limited to parcel taxes, special taxes, user fees, and other government charges that are an incidence of property ownership. If Tenant fails to pay timely any taxes, fees, services charge or similar, and its failure to do so imperils the Landlord's continued ownership of the Premises, the Landlord may at its sole discretion pay any amounts due and owing, and

recover the same from Tenant. Tenant's failure to repay Landlord for any amounts paid out by Landlord under this section within 30 days written notice of the same shall be grounds for termination of the Lease.

22. **HEADINGS.** The headings used in this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.
23. **SEVERABILITY.** If any term or provision of the Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Lease shall not be affected thereby, and each term and provision of the Lease shall be valid and be enforceable to the fullest extent permitted by law.
24. **NON-DISCRIMINATION.** Tenant agrees that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age, handicapping condition, or sexual preference be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried out in whole or in part within the Premises. Tenant shall not, on the grounds of race, color, religion, national origin, sex, age, handicapping condition, or sexual preference:
- A. Deny any service or other benefit provided in the Premises.
 - B. Provide a lesser degree of service or other benefit from that provided to others in the Premises.
 - C. Restrict in any way the enjoyment of any advantage or privilege enjoyed by others receiving services or benefits within the Premises.
25. **NO WAIVER.** No failure by either party to insist upon the strict performance of any provision of this Lease or to exercise any right or remedy for any breach and no acceptance of full or partial rent or other performance by either party during the continuance of any breach shall constitute a waiver of any such breach of such provision.
26. **TENANT DEFAULT.**
- The occurrence of any of the following shall constitute a material breach of this Lease by Tenant and an event of default:
- A. Any failure by Tenant to pay rent or other amounts when due hereunder.
 - B. A failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant, where such failure continues for thirty (30) days after written notice thereof by Landlord to Tenant. However, if the nature of Tenant's default is such that it may be cured but more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant shall commence such cure within said thirty (30) day period and thereafter diligently

prosecute such cure to completion, which completion shall occur not later than sixty (60) days from the date of such notice from Landlord.

- C. A general assignment by Tenant or any guarantor or surety of Tenant's obligations hereunder ("Guarantor") for the benefit of creditors.
- D. The filing of a voluntary petition in bankruptcy by Tenant or the filing by or against Tenant of a petition, voluntary or involuntary, for reorganization, or the filing of an involuntary petition by the creditors of Tenant, said involuntary petition remaining undischarged for a period of one hundred twenty (120) days.
- E. Tenant's abandonment or vacation of the Premises for a period in excess of nine (9) months without a program, activity or use benefitting the community.

27. **LANDLORD REMEDIES UPON TENANT DEFAULT.**

Landlord and Tenant agree that Landlord's remedies for any default by Tenant include the each of the following:

- A. **Termination.** In the event of any default by Tenant which remains uncured, then in addition to any other remedies available to Landlord at law or in equity, Landlord shall have the immediate option to terminate this Lease and all rights of Tenant hereunder by giving written notice of such intention to terminate. In the event that Landlord shall elect to so terminate this Lease, then Landlord may recover from Tenant the worth at the time of award of any unpaid rent which had been earned at the time of such termination.
- B. **Continuation or Lease; Re-Entry Rights.** In addition to any other remedies available to Landlord under this Lease, at law or in equity, upon default and abandonment, Landlord shall also have the right to (a) continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due, and (b) with or without terminating this Lease, to re-enter the Premises and remove all persons and property from the Premises, with the exception that Landlord shall not remove any CDBG-funded fixed equipment and tenant improvements listed in Exhibit A prior to expiration of the 10-year lease term. Such property may be removed, stored and/or disposed of as permitted by applicable Law. No re-entry or taking possession of the Premises by Landlord pursuant to this Section and no acceptance of surrender of the Premises or other action on Landlord's part, shall be construed as an election to terminate this Lease unless a written notice of such intention be given to Tenant or unless the termination is decreed by a court of competent jurisdiction. No notice from Landlord or notice given under a forcible entry and detainer statute or similar Laws will constitute an election by Landlord to terminate this Lease unless such notice specifically so states. Notwithstanding any reletting without termination by Landlord because of any default, Landlord may at any time after such reletting elect to terminate this Lease for any such default.
- C. **Landlord's Right to Cure.** Except as specifically provided otherwise in this Lease, all covenants and agreements by Tenant under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any abatement or offset of Rent. In the event of any Default by Tenant, Landlord may, without waiving or

releasing Tenant from any of Tenant's obligations, make such payment or perform such other act as required to cure such Default on behalf of Tenant. All sums so paid by Landlord and all necessary incidental costs incurred by Landlord in performing such other acts shall be payable by Tenant to Landlord within five (5) days after demand as Additional Rent.

- D. **Rights and Remedies Cumulative.** All rights, options and remedies of Landlord contained in this Section and elsewhere in this Lease shall be construed and held to be cumulative, and no one exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease. Nothing in this Section shall be deemed to limit or otherwise affect Tenant's indemnification of Landlord pursuant to any provision of this Lease.

28. **FORCE MAJEURE.** Any prevention, delay or stoppage due to acts of God, war, judicial orders, civil commotion, and other causes beyond the reasonable control of either party obligated to perform, shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.
29. **SURVIVAL.** Landlord's and Tenant's obligations shall survive the expiration of the Term or any other termination of this Lease. This paragraph is intended to supplement and not to limit other provisions of this Lease pertaining to indemnities and attorney's fees.
30. **SUCCESSORS BOUND.** All covenants, agreements, terms and conditions contained in this Lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.
31. **SUBORDINATION AND ATTORNMENT.**
- A. **Future Subordination and Attornment.** Subject to the provisions of this Section, this Lease and all of Tenant's rights hereunder shall be subordinate to the lien of any future mortgage, deed of trust or any other security instrument, hereafter affecting or encumbering the Real Property (an "Encumbrance"; the holder of the beneficial interest thereunder being referred to as an "Encumbrancer").
- B. **Nondisturbance.** If any Encumbrance to which this Lease is subordinate is foreclosed, or a deed in lieu of foreclosure is given to the Encumbrancer thereunder, this Lease shall not terminate and the rights and possession of Tenant under this Lease shall not be disturbed if no default by Tenant then exists under this Lease.
32. **TIME OF THE ESSENCE.** Time is of the essence of this Lease and applies to all times, restrictions, conditions and limitations contained herein.

33. **ENTIRE AGREEMENT.** This instrument along with any exhibits and attachments hereto constitutes the entire agreement between Landlord and Tenant relative to the Premises and the Property and this agreement, and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Landlord (as approved by its Board of Directors) and Tenant (as approved by the Alameda County Board of Supervisors). Landlord and Tenant agree hereby that all prior or contemporaneous written or oral agreements between and among themselves and their agents or representatives relative to the leasing of the Premises are merged in or revoked by this agreement. This Lease shall be interpreted under the laws of the State of California.
34. **NOTICES.**
- A. **Method of Delivery.** Notice shall be sufficiently given for all purposes as follows:
1. When personally delivered to the recipient, notice is effective on delivery.
 2. When mailed first-class to the last address of the recipient known to the party giving notice, notice is effective five days after mailing.
 3. When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
 4. When delivered by *overnight delivery such as Federal Express/United Parcel/DHL WorldWide Express* with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.
 5. When sent by telex or fax to the last telex or fax number of the recipient known to the party giving notice, notice is effective on receipt as long as (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or fax shall be considered to have been received on the next business day if it is received after 5 p.m. (recipient's time) or on a nonbusiness day.
- B. **Refused, Unclaimed, or Undeliverable Notices.** Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service.
- C. **Address.** Notices given pursuant to this Paragraph, shall be addressed to the respective parties, as identified under Notices in the in the Fundamental Lease Provisions.

35. **COMPLIANCE WITH APPLICABLE LAW.** Tenant shall comply with all applicable federal, state and local laws.
36. **STATEMENT OF LEASE.** Tenant will, within thirty (30) days next following receipt of a joint written request from Landlord and a prospective lender or purchaser of the Premises, execute and deliver to Landlord a letter stating that the same is issued subject to the conditions stated in this clause and, if such is the case, that (1) the Lease is in full force and effect; (2) the date to which the rent and other charges have been paid in advance, if any; and (3) whether any notice of default has been issued.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and year first above written.

COUNTY OF ALAMEDA

RESOURCES FOR COMMUNITY
DEVELOPMENT, a California nonprofit
public benefit corporation

By: _____
Signature

By: _____
Signature

Name: _____
(Printed)

Name: _____
(Printed)

Title: President of the Board of Supervisors

Title: _____

Date: _____

Date: _____

Approved as to Form:
DONNA R. ZIEGLER
COUNTY COUNSEL

By: _____
Deputy

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

I hereby certify under penalty of perjury that the President of the Board of Supervisors was duly authorized to execute this document on behalf of the County of Alameda by a majority vote of the Board on (date) _____ and that a copy has been delivered to the President as provided by Government Code Section 25103.

Date _____

By _____
Clerk of the Board
County of Alameda, State of California

EXHIBIT A – Premises and Tenant Improvements

Premises: 2,141 square feet of ground-floor commercial space located at 16395 E. 14th Street, San Leandro, CA, 94578, on Assessor Parcel Number 080C-0479-023-03, plus access to and use of the adjacent outdoor dining area by customers and employees of the Tenant's Sub-lessee.

Legal Description:

Real property in the unincorporated area of Ashland, County of Alameda, State of California, described as follows:

BEGINNING AT A POINT ON THE WESTERN LINE OF KENT AVENUE, FORMERLY LAUREL AVENUE, DISTANT THEREON NORTH 00°41'00" EAST, 418.00 FEET FROM THE NORTHERN LINE OF DELANO STREET, FORMERLY MAPLE STREET, SAID POINT OF BEGINNING ALSO BEING THE NORTHEASTERN CORNER OF THE PARCEL OF LAND DESCRIBED IN THE, DEED FROM BERNARD MADRID AND WIFE TO STANLEY T. FUKUCHI AND WIFE, DATED JANUARY 20, 1947 AND RECORDED FEBRUARY 13, 1947 IN BOOK 5088, PAGE 179, INSTRUMENT NO. AB/12109, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG THE NORTHERN LINE OF SAID DEED (5088 O.R. 179), NORTH 89°16'49" WEST, 230.00 FEET TO THE WESTERN LINE OF SAID DEED (5088 O.R. 179); THENCE ALONG SAID WESTERN LINE; SOUTH 00°41'00" WEST, 55.00 FEET; THENCE ALONG THE MOST SOUTHERLY LINE OF PARCEL 2 AS DESCRIBED IN THAT CERTAIN INDIVIDUAL GRANT DEED RECORDED AUGUST 25, 2000 AS DOCUMENT NUMBER 2000257155, OFFICIAL RECORDS OF ALAMEDA COUNTY, NORTH 89°16'49" WEST, 70.00 FEET TO THE EASTERN LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO SAN LORENZO SCHOOL DISTRICT OF ALAMEDA COUNTY, DATED JANUARY 25, 1949 AND RECORDED FEBRUARY 11, 1949 IN BOOK 5726, PAGE 185, INSTRUMENT NO. AD/10328, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG SAID EASTERN LINE (5726 O.R. 185), NORTH 00°41'00" EAST, 362.96 FEET TO THE MOST NORTHERLY LINE OF PARCEL ONE AS DESCRIBED IN SAID INDIVIDUAL GRANT DEED; THENCE ALONG LAST SAID LINE, SOUTH 89°16'49" EAST, 119.96 FEET TO THE WESTERN LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO SEBASTIAN PAREDERA, DATED JANUARY 22, 1923 AND RECORDED JANUARY 23, 1923 IN BOOK 331, PAGE 335, INSTRUMENT NO. T/4719, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG SAID WESTERN LINE (331 O.R. 335), SOUTH 00°41'00" WEST, 50.00 FEET TO THE SOUTHERN LINE OF SAID DEED (331 O.R. 335); THENCE ALONG SAID SOUTHERN LINE, SOUTH 89°17'34" EAST, 176.86 FEET TO THE WESTERN LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO THE COUNTY OF ALAMEDA, DATED MAY 4, 1928 AND RECORDED JANUARY 29, 1931 IN BOOK 2524, PAGE 259, INSTRUMENT NO. BB/5849, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG SAID WESTERN LINE (2524 O.R. 259), SOUTH 48°29'41" EAST, 4.20 FEET TO THE MOST NORTHERLY CORNER OF PARCEL TWO AS DESCRIBED IN THAT CERTAIN DOCUMENT ENTITLED "NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY (ASHLAND FAMILY HOUSING)", RECORDED NOVEMBER 27, 2013 AS DOCUMENT NUMBER 2013372054, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG THE

NORTHEASTERLY LINE OF LAST SAID PARCEL TWO, CONTINUING SOUTH 48°29'41" EAST, 79.29 FEET TO THE MOST NORTHERLY CORNER OF PARCEL THREE AS DESCRIBED IN SAID DOCUMENT (DOCUMENT NUMBER 2013372054); THENCE ALONG THE NORTHEASTERLY LINE OF LAST SAID PARCEL THREE, CONTINUING SOUTH 48°29'41" EAST, 39.68 FEET TO THE NORTHEASTERLY CORNER THEREOF; THENCE ALONG THE EASTERLY LINE OF LAST SAID PARCEL THREE, SOUTH 07°11'55" WEST, 26.59 FEET TO THE SOUTHEASTERLY CORNER THEREOF; THENCE ALONG THE GENERAL SOUTHEASTERLY LINE OF LAST SAID PARCEL THREE, SOUTH 62°53'30" WEST, 11.11 FEET AND ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 143.00 FEET, THROUGH A CENTRAL ANGLE OF 08°06'45", AN ARC LENGTH OF 20.24 FEET TO THE MOST SOUTHERLY CORNER THEREOF; THENCE ALONG THE GENERAL SOUTHEASTERLY LINE OF SAID PARCEL TWO (DOCUMENT NUMBER 2013372054), CONTINUING ALONG LAST SAID CURVE TO THE LEFT WITH A RADIUS OF 143.00 FEET, THROUGH A CENTRAL ANGLE OF 44°07'15", AN ARC LENGTH OF 110.12 FEET TO A POINT OF COMPOUND CURVATURE AND ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 200.00 FEET, THROUGH A CENTRAL ANGLE OF 09°41'28", AN ARC LENGTH OF 33.83 FEET TO THE WESTERLY LINE OF SAID KENT AVENUE; THENCE ALONG LAST SAID LINE, SOUTH 00°41'00" WEST, 10.50 FEET TO THE POINT OF BEGINNING. APN: 080C-0479-023-03, 080C-0479-024, 080C-0479-025 & 080C-0479-026

List of Fixed Equipment and Improvements To Be Installed by Tenant:

Tenant will purchase and install the following fixed equipment and tenant improvements upon execution of the Lease and a Sub-lease with Mandela MarketPlace LLC. The fixed equipment and tenant improvements will revert to the Landlord upon termination or expiration of the Lease. Fixed equipment includes:

- Three-compartment sink
- Hand wash sink
- Mop sink
- Food prep. sink
- Built-in freezer
- Display refrigerator
- Dishwasher
- Built-in counters

Tenant Improvements Include Purchase and Installation Of:

- Commercial-grade flooring
- Ceiling lighting fixtures
- Ceiling finishes over the food preparation area
- Sheet rock
- Heating ducts

EXHIBIT B – Insurance Requirements

1. INSURANCE

1.1 Tenant's Requirements

(a) From and after the date the Premises are delivered to Tenant 1, Tenant shall, at its expense, procure, carry, and maintain or cause to be maintained insurance coverage in full force and effect, in a form reasonably acceptable to Landlord, and with insurance companies reasonably acceptable to Landlord and authorized to transact business in the State of California, covering the following:

(i) Comprehensive general liability and property damage insurance together with bodily injury coverage applying to the use and occupancy of the Leased Premises, the Project, or any part of either, or any areas adjacent thereto, and the business operated by Tenant, or any other occupant, on the Leased Premises. Such insurance shall include Broad Form Contractual liability insurance coverage insuring all of the Tenant's indemnity obligations under the Lease. Such coverage shall have a minimum combined single limit of liability of at least one million dollars (\$1,000,000). Such policy shall be written to apply to all bodily injury, property damage, personal injury and other covered loss, however occasioned, occurring during the policy term, and shall be endorsed to add parties under Section 1.1(c) as an additional insured. Such insurance shall also include, whether by endorsement or otherwise, all of the following coverages: personal injury; and employer's non-owned automobile liability. All such insurance shall provide that an act or omission of one of the named insured shall not reduce or void coverage to the other named insured and shall afford coverage for all claims based on acts, omissions, injury and damage, which claims occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period. (B) Tenant shall maintain property insurance covering all of tenant's leasehold improvements, alterations, additions or improvements permitted under this Lease, and damage resulting therefrom, trade fixtures, merchandise and personal property from time to time in, on or upon the Leased Premises, in an amount not less than the full replacement cost thereof, providing protection against any peril included within the classification Special Form "All Risk." Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed.

(ii) Tenant shall also maintain Worker's Compensation insurance for employees, in accordance with the California Law and employer's liability insurance with a limit of no less than \$1,000,000 per employee and \$1,000,000 per occurrence. Such coverage shall be endorsed to waive the insurer's rights of subrogation against Landlord. If at any time during the term of this Lease, the amount or coverage of insurance which Tenant is required to carry under this section is, in Landlord's reasonable judgment, materially less than the amount or type of insurance coverage typically carried by owners or Tenants of properties which are similar to and operated for similar purposes as the Leased Premises, Landlord shall have the right to require Tenant to increase the amount or change the type of insurance coverage required under this Section.

- (iii) Insurance covering the repair and replacement of all plate glass in the Premises;
- (iv) During the course of any construction activities undertaken by Tenant, builder's risk insurance; and

(b) All insurance required under Section 1.1 shall name Landlord, Ashland Family Housing, L.P. and the John Stewart Company as additional insureds.

(c) Insurance carriers must have an AM Best rating of at least A-VII. Duplicate copies of such policies or certificates of such insurance shall be promptly furnished to the Landlord prior to the Commencement Date and, at least thirty (30) days prior to the expiration of such policies evidencing the renewal or replacement thereof and the payment of premiums thereof. To the extent obtainable, any policy of insurance shall provide that any change or cancellation of said policy must be made in writing and sent to Tenant and Landlord at their respective principal offices at least thirty (30) days before the effective date of cancellation. .

(d) No later than the Commencement Date, Tenant shall provide Landlord with certificates of insurance evidencing the coverage required under this Lease.

(e) In the event Tenant does not comply with the requirements of this Section 1.1, Landlord may, at its option, purchase liability insurance coverage to protect the Landlord and the cost of such insurance shall be Additional Rent owed by Tenant to Landlord, payable within ten (10) days of written demand. Acceptance of insurance certificates by Landlord shall not limit or eliminate the duties or responsibilities of Tenant set forth in this Lease.

1.2 Landlord's Requirements.

Landlord shall, at its expense, procure, carry, and maintain or cause to be maintained insurance coverage covering the following:

(a) Commercial general liability insurance on an occurrence basis, with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate , for liability arising out of or resulting from personal injury, death, or property damage sustained or alleged to have been sustained by any person for any reason on the Project

(b) Standard fire and extended coverage insurance, with special form ("all risks") endorsements, covering the Premises and the Building, other than Tenant's improvements and personal property in the Premises, in an amount equal to the full replacement value of the Premises.

1.3 Waiver of Subrogation.

Subject to the next sentence, the parties release each other, and their respective authorized representatives, from any claims for damage to the Premises and the Project that are caused by or result from risks insured against under any property insurance policies carried by the

parties and in force at the time of any such damage to the extent of insurance coverage. Each party shall, to the extent obtainable, cause each property insurance policy carried by it to include such provisions as necessary such that the waiver of subrogation contained herein shall be enforceable under the policy in connection with any damage covered by such policy.

EXHIBIT C – Operating Agreement

RULES AND REGULATIONS

1) Sub-lessee and Sub-lessee's representatives, agents, and employees (which are collectively included in the term "Sub-lessee" as used herein) shall not in any way obstruct the sidewalks, entry passages, pedestrian passageways, entrances and exits of the Premises or the Project, and shall use the same only as passageways to and from the Premises. This restriction does not apply to sidewalk areas and passageways which are included as a portion of Sub-lessee's space. All public entrances and exits to the Premises shall be kept unobstructed and open to the public at all times during established business hours.

2) Sub-lessee shall be responsible for cleaning and maintaining their Premises in a state commonly found in like buildings, including without limitation vacuuming, sweeping, dusting, washing windows (both interior and exterior), emptying trash into central garbage cans on each floor, and disposing of food wastes on a daily basis.

3) Sub-lessee shall have guaranteed access to the Building during regular business hours on regular business days as Lessor shall determine. Sub-lessee with keys to the Building may access the Building at any time. Sleeping is not allowed in the Building.

4) With the exception of assisting animals for disabled persons, animals are prohibited in the Building.

5) All Sub-lessee produced publicity materials must include information about wheelchair accessibility at the Building.

6) All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances designated for such purposes by Lessor. The delivery or shipping of merchandise, supplies and fixtures to and from the Premises shall be subject to such rules and regulations as in the judgment of the Lessor are necessary for the proper operation of the Premises.

7) All wet garbage, waste, rubbish, and trash ("refuse") shall be stored in proper containers within Sub-lessee's Premises until it is placed in the appropriate refuse collection receptacles designated by the Lessor. Removal of refuse from the Sub-lessee's Premises shall occur at such times and in a manner as may be prescribed by Lessor.

8) Sub-lessee shall not erect, install, place, paint or attach materials (including but not limited to signs, posters, equipment, or fixtures) to the exterior of the building without the prior written consent of Lessor. Sub-lessee shall not in any way deface the exterior of the building.

9) No awning or shade shall be affixed or installed over or in the show windows or exterior of the Premises except with the written consent of Lessor. No signs shall be affixed to the exterior of the building without prior written consent of Lessor and in conformance with

applicable laws and regulations.

10) Sub-lessee shall not do anything in the Premises, or bring or keep anything therein, which will in any way increase or tend to increase the risk of fire or the rate of fire insurance, or which shall conflict with the regulations of any government agency or administrative body having jurisdiction, or the law or with any insurance policy on the Premises.

11) Sub-lessee shall not install, maintain or use any equipment or machinery, which causes unreasonable noise, vibration, or which by its weight may endanger or by its use harm any portion of the building or Premises; this shall be enforced even though its original installation or presence may have been permitted.

12) Sub-lessee shall not make, nor permit to be generated within the Premises, any loud or improper noises, nor interfere in any way with other tenants' and the public's quiet enjoyment of the Premises. No loudspeakers, televisions, phonographs, radios, CD players, or other devices shall be used in a manner so as to be heard or seen outside of the Leased Premises without prior written consent of Lessor. Such consent shall be at the sole discretion of Lessor. Sub-lessee shall conduct its business in a quiet and orderly manner so as not to create unreasonable or unrelated noise.

13) Sub-lessee shall not cause or permit any obnoxious or foul odors that disturb the public or other tenants. Should such odors be evident, Sub-lessee shall be required to take immediate steps to remedy same upon written notice from Lessor.

14) Plumbing facilities and fixtures shall not be used for any other purpose than that for which they are constructed, and no foreign substances of any kind shall be placed therein. The expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Sub-lessee who caused the same, or whose employees, agents or invitees caused same.

15) Sub-lessee shall use, at Sub-lessee's cost, such pest extermination contractor as Lessor may direct and at such intervals as Lessor may require.

16) Sub-lessee is required to observe all security regulations issued by the Lessor.

17) Retail Sub-lessee shall maintain business hours established by Lessor.

18) Sub-lessee agrees to use, to the greatest extent possible, materials which are reusable or recyclable for the service of its customers.

19) Lessor reserves the right from time to time, for public welfare or Sub-lessee's benefit, to amend or supplement the foregoing rules and regulations, and to adopt the promulgated additional rules and regulations applicable to the Premises. Reasonable notice of such rules and regulations and amendments and supplements thereto, if any, shall be given to Sub-lessee.

20) Sub-lessee agrees to comply with all rules and regulations and amendments and supplements thereto, upon reasonable notice to Sub-lessee from Lessor.

21) Smoking of any kind is NOT allowed in or on Premises, including but not limited to in and around any Common Area, and any other area designated by Lessor.

22) Lessor Not a Guarantor of Smoke-free Environment - Efforts by the Lessor to designate the Property as "No Smoking," does not make Lessor the guarantor of the Sub-lessee's health or the condition of the Premises with regard to smoke.

23) Lessor shall always be notified of a key change and provided with a two (2) sets of keys for emergency access. Lessor will provide the fire department access to one set of keys.

24) Except where required by law, neither cash nor blank money orders/checks will be accepted in payment for rent, repairs or other charges.

25) Lessor shall not have any direct or derivative liability as a result of the undersigned Sub-lessee's failure to comply with these rules and regulations. The Lessor shall have the sole discretion to determine when to act and what remedies are appropriate for Lessor's use in the enforcement of these rules and regulations and the terms of the various Sub-lessee's sub-lease terms.

COUNTY OF ALAMEDA
MANDELA MARKETPLACE LLC
COMMERCIAL SUB- LEASE

THIS LEASE is made as of _____ 2016 by and between MANDELA MARKETPLACE, INC., a California nonprofit public benefit corporation (“Sub-lessee”) and the COUNTY OF ALAMEDA, a political subdivision of the State of California (“Lessor” and, together with Sub-lessee, each, a “Party” and together, the “Parties”) who agree as follows:

W I T N E S E T H

WHEREAS, Lessor and Sub-lessee mutually desire to construct and operate commercial space to provide the Ashland MarketPlace and Café Accelerator; and

Whereas, Resources for Community Development owns a property located at 16385 E 14th Street, Ashland, CA (hereafter “the Property”) that is an 85-unit affordable housing community, with 2,141 square feet of warm shell retail space on the ground floor, and

Whereas, the Alameda County Community Development Agency’s Economic & Civic Development Department (ECD) proposes to be the primary lease holder effective July 1, 2016 through June 30, 2026; and

Whereas, Mandela MarketPlace seeks to sublease 2,141 square feet of retail space from the County at 16385 E 14th Street, Ashland, CA to operate and manage the Ashland MarketPlace & Café Accelerator; and

Whereas, the Economic & Civic Development Department has been awarded \$210,000 in Community Development Block Grant (CDBG) funding to purchase and install fixed tenant improvements for the Ashland MarketPlace and Café Accelerator, effective July 1, 2016.

Whereas, the activation of new retail space in Ashland is a crucial economic development strategy to attract shoppers to the commercial district, serve the needs of local residents, provide a new venue to showcase local food entrepreneurs and start-up businesses, and generate new jobs for local residents; and

WHEREAS the Lessee desires to lease the Premises to Sub-Lessee for such a purpose:

NOW THEREFORE it is agreed that in consideration of the terms, conditions, and covenants specified in this Facilities Sub-Lease Agreement, Lessee does sub-lease to Sub-lessor, and Sub-lessee accepts from Lessor, the facilities and related improvements as shown on Exhibit “A” attached hereto:

PART ONE

Fundamental Sub-lease Provisions

The fundamental provisions of this Sub-lease are:

1. Lease Execution Date: August 2, 2016 (upon approval by Lessee's Board of Supervisors)
2. Premises: The ground floor commercial space located at 16395 E. 14th Street, Oakland, California which is located on Assessor's Parcel Number 080C-0479-023-03 and is shown on Exhibit A ("the Premises").
3. Term:
 - a. Term: Initial Five (5) year term with option to renew for Five (5) years
 - b. Commencement Date of the Term: August 2, 2016
 - c. Sub-lessee Possession and Use of Premises: May 1, 2017
 - d. Expiration Date of the Initial Term: August 1, 2021
 - e. Commencement date of the Renewal Term: August 2, 2021
 - f. Expiration date of the Renewal Term: August 1, 2026
4. Rent: Two Hundred Dollars (\$200) per month payable in advance on the first day of each month, beginning on the Rent Commencement Date and payable through the Expiration Date of the Term.

Additional consideration is provided in the form of

- a. Sub-lessee's agreement to operate the Premises at its own cost for benefit of the community; and
 - b. Lessee's use of Community Development Block Grant ("CDBG") funds to improve the Premises.
5. Rent Commencement Date: August 1, 2017 or 90 days following the issuance of a certificate of occupancy.
6. Permitted Uses: A market and café offering healthier food options that provides a benefit for the residents of Ashland Place and the broader Ashland and Cherryland communities, and supports the 2015 Ashland/Cherryland Business District Specific Plan, or any other similar use that provides a benefit to the Ashland and Cherryland communities.
7. Addresses for Notices and Payment of Rent:

To Lessee: County of Alameda
c/o Community Dev. Agency -
Economic & Civic Development Department
224 W. Winton, Room 110
Hayward, CA 94544
Attention: Director

With a copy to:

County of Alameda
c/o Office of County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612
Attention: County Counsel

To Sub-lessee: Mandela MarketPlace Inc.
1364 7th Street
Oakland, CA. 94607
Attention: Executive Director

8. Exhibits and Other Attachments: The following exhibits are attached to this Lease and made a part of it for all purposes.

Exhibit A – Premises and Tenant Improvements
Exhibit B – Insurance Requirements
Exhibit C - Operating Agreement

9. Parking: Five (5) on-site parking spaces shall be available to Sub-lessee for Sub-lessee's exclusive use. Three other timed spaces and a handicap parking space are also available on a non-exclusive basis.
10. Signage: All exterior signage and signage visible from the exterior of the premises shall be placed and maintained with Lessor's prior written consent, which consent shall not be unreasonably withheld, and in compliance with applicable laws. Any business signs approved by Lessor and erected or installed by Sub-lessee shall be in compliance with any ordinances and regulations promulgated by governmental or other regulating agencies. Sub-lessee shall be responsible for obtaining all necessary sign permits from the appropriate governing agency.

Each reference in this Sub-lease to any provision in the Fundamental Lease Provisions shall be construed to incorporate all of the terms provided under such Fundamental Lease Provisions. In the event of any conflict between a provision in the Fundamental Lease Provisions and a provision in the balance of the Sub-lease, the Fundamental Lease Provisions shall control.

PART TWO
Sub-lease Provisions

1. PREMISES.

- A. Lessor leases to Sub-lessee, and Lessor from Resources for Community Development (“Landlord”), the improvements and grounds described as the Premises in the Fundamental Lease Provisions.
- B. During the term of this Lease, Sub-lessee, without additional charge unless otherwise expressly provided herein, is entitled to all of the rights and appurtenances set forth in this sub-lease, including, but not limited to the rights of ingress and egress to and from the Premises for Sub-lessee’s contractors, agents, employees, invitees, and the general public making use of the Ashland MarketPlace and Café Accelerator.
- C. Sub-lessee shall procure and maintain at its sole cost and expense any and all permits required by applicable law for Sub-lessee’s use and occupancy of the Premises. Sub-lessee shall use the Premises solely for the Permitted Use specified in the Fundamental Lease Provisions and shall not use or permit the Premises to be used for any other purpose without Lessor’s prior written approval. Sub-lessee shall observe and comply with reasonable rules and regulations for the Property as provided in Exhibit C and as may be modified from time to time.

2. **TERM.** The terms and provisions of this Sub-lease shall be effective between Lessor and Sub-lessee as of the sub-lease Execution Date. The Term of this Sub-lease shall be for the period stated in the Fundamental Lease Provisions commencing on the Commencement Date and expiring on the Expiration Date, unless the Term is sooner terminated or extended as provided in this Sub-lease. The Execution Date shall be the date when the Lessor’s Alameda County Board of Supervisors has approved this Sub-lease on behalf of the Lessor and the Sub-lessee’s Board of Directors has approved this Sub-lease on behalf of the Sub-lessee, and the Sub-lease has been fully executed.

3. **TENANT IMPROVEMENTS.** The Landlord has constructed at its expense the Ashland Family Housing project (the “Project”), which includes the Premises improved with a warm commercial shell as further described in the As-Built plans, print-dated October 2014 (the “Plans”). Lessor will use \$210,000 in Community Development Block Grant (CDBG) funding to purchase and install fixed tenant improvements for the Ashland MarketPlace and Café Accelerator, beginning on August 2, 2016 and completed prior to the Sub-lessee’s Possession and Use of Premises. Exhibit A lists the fixed equipment and tenant improvements. The Lessor-installed tenant improvements will revert to the Landlord at the termination of the Lease. Upon installation of the fixed equipment and completion of the tenant improvements, Lessor will then award possession to the Sub-lessee. The Sub-lessee will purchase, install and maintain any equipment and fixtures needed for its operation and maintenance of the MarketPlace and Café Accelerator. Sub-

lessee agrees to remove any equipment and fixtures that sub-lessee provides or installs upon termination or expiration of the Sub-Lease. Sub-lessee accepts the Premises in its "AS-IS" condition, including the fixed tenant improvements listed in Exhibit A. There are no agreements, representations, or obligations on the part of Lessor to perform any alteration, repairs or improvements.

4. **RENT.** Sub-lessee shall pay to Lessor the Rent as described in the Fundamental Lease Provisions, without any deduction or offset whatsoever.
5. **OPERATING EXPENSES.** Lessor will not charge Sub-lessee any operating expenses or costs not expressly stated in the Lease.
6. **ORGANIZATIONAL CLEARANCE CERTIFICATE.** Sub-lessee shall reasonably cooperate with Lessor in preparing any necessary documentation to apply for applicable tax exemption.
7. **SERVICES, UTILITIES, MAINTENANCE AND REPAIRS.**
 - A. **Utilities and Services.**
 - i. As there is no separate water meter for the premises, the Landlord will submit an annual, pro-rated water bill to the Tenant's Sub-lessee with a corresponding notice to the Tenant and Sub-lessee shall be responsible for paying for water service. The Landlord's and Lessee's obligation with respect to Utility Services does not extend beyond what is shown in the Plans. The Lessor does not warrant the availability of any or all Utility Services at the Premises for any day beyond the Commencement Date, except that the Landlord shall be responsible for correction of all construction defects as concerns the Utility Services.
 - ii. Sub-lessee shall be responsible, at its sole cost, for establishing Utility Services with the respective Utility Services providers, and for all costs associated with those services, including but not limited to rate payments, maintenance, repairs and upgrades. Lessor shall have no responsibility for costs associated with Utility Services after the Sub-lessee's Possession and Use of the Premises Date.
 - iii. In no event shall Lessor be liable for any interruption or failure in the supply of any such utility or other services to Sub-lessee, except for an interruption in utility services caused by the gross negligence or willful misconduct of Lessor or Landlord or its agents, employees, contractors or invitees that interferes with Sub-lessee's operations within the Premises.
 - iv. In no event shall any Rent owed Lessor under this Sub-Lease be abated by reason of the failure to furnish, delay in furnishing, unavailability or diminution in quality or quantity of any such utility or other services or interference with Sub-lessee's business operations as a result of any such occurrence; nor shall any such

occurrence constitute an actual or constructive eviction of Sub-lessee or a breach of an implied warranty by Lessor.

- B. **Security.** Sub-lessee shall be responsible for its own security. Sub-lessee shall provide security at the Premises as provided in Exhibit C.
- C. **Maintenance/Janitorial Services.** Sub-lessee shall have the following obligations with respect to maintenance and janitorial services, except that Sub-lessee may satisfy these obligations under any contractor or manufacturer's warranty, where applicable:
 - i. **HVAC.** Sub-lessee shall repair and maintain all hot water, heating and air conditioning systems and equipment ("HVAC") within the Premises, or which serve the Premises exclusively, including, without limitation, any rooftop package HVAC units, distribution lines and internal venting systems. This shall include entering into a contract with a reputable and qualified maintenance contractor to regularly scheduled preventive maintenance/services if Sub-lessee does not directly employ staff trained and certified to perform this function. Sub-lessee shall operate, maintain and repair the HVAC in accordance with the requirements of Exhibit C.
 - ii. **Janitorial.** All cleaning and janitorial services sufficient to maintain the Premises interior and adjacent exterior in a clean well-maintained condition, including regular removal of trash and debris, shall be performed and obtained, at Sub-lessee's sole cost and expense. Janitorial work shall be performed in accordance with the requirements of Exhibit C.
 - iii. **Landscaping and Contiguous Grounds.** As provided in the Lessor's Lease, the Landlord shall maintain the landscaping and grounds at its sole cost and expense in accordance with the provisions of Exhibit C.
 - iv. **Good Repair.** Sub-lessee shall at its sole cost maintain the Premises and all parts therein, including building systems (including all safety systems) and all equipment, fixtures and appurtenances furnished by Lessor under this Lease, in good repair and tenantable condition in conformance with Exhibit C, all regulations including but not limited to the California Code of Regulations, Title 8 (Division of Industrial Relations), and consistent with any applicable industry building standards so as to minimize breakdowns caused by deferred or inadequate maintenance.
 - v. **ADA Compliant.** Sub-lessee shall maintain Building and Premises at all times in conformity with the Americans with Disabilities Act (ADA) – Building Access, and all later enacted amendments thereof, and shall be responsible for all repairs, alterations and/or maintenance of the Premises under said laws.
 - vi. **Lessor Repair Obligations.** Lessor's repair obligation is limited to correction of construction defects in the work performed by Lessor or the Landlord; provided, however, to the extent such maintenance, repairs or replacements are required as a result of any act, neglect, fault or omission of Sub-lessee or any of Sub-lessee's Parties, Sub-lessee shall pay to Lessor, as Additional Rent, the costs of such maintenance, repairs and replacements. Except as otherwise expressly provided in

this Lease, Lessor shall have no obligation to alter, remodel, improve, repair, renovate, redecorate or paint all or any part of the Premises. Sub-lessee waives the right to make repairs at Lessor's expense under any applicable Laws (including, without limitation, to the extent the Premises are located in California, the provisions of California Civil Code Sections 1941 and 1942 and any successor statutes or laws of a similar nature).

- vii. **General Obligations.** Sub-lessee shall, at its sole cost and expense, observe and comply with all Laws and all requirements of any board of fire underwriters or similar body relating to the Premises now or hereafter in force relating to or affecting the condition, use, occupancy, alteration or improvement of the Premises (whether, except as otherwise provided herein, structural or nonstructural, including unforeseen and/or extraordinary alterations and/or improvements to the Premises and regardless of the period of time remaining in the Term). Sub-lessee shall not cause, maintain or permit any nuisance in, on or about the Premises or the Property. Any repairs or alterations by Sub-lessee shall be done in full compliance with all laws, including the ADA, and Exhibit C.
- viii. **Capital Replacements.** Sub-lessee shall bear any and all costs if any mechanical, electrical, plumbing, HVAC and other equipment, facilities and systems located within or serving the Premises (collectively, the "Premises Systems") or any major component of a Premises Systems needs to be replaced, regardless of fault or whether Sub-lessee has performed all required routine maintenance of such Premises Systems in accordance with this Sub-lease. Sub-lessee shall replace Premises Systems in a timely manner to avoid interruption of availability of the community-based business to the public, and to collateral impact on the integrity of the Premises. Prior to undertaking any such repairs, Sub-lessee shall notify and receive approval from Lessor.

- 8. **PARKING.** Lessor shall provide Sub-lessee with the on-site parking in the Fundamental Lease Provisions, the location of which shall be dictated by the terms of Exhibit C.
- 9. **LESSOR'S RESERVED RIGHTS.** Lessor reserves the right to do any of the following: (a) make any changes, additions, improvements, maintenance, repairs or replacements in or to the Premises, and the fixtures and equipment thereof, upon agreement from Sub-lessee, (b) make emergency repairs to protect the health and safety of the public, and to protect the Lessor's investment in the Premises where it has notified Sub-lessee of the necessity of doing the same, and Sub-lessee has failed to do so within 30 days, or other period of time as is dictated by the circumstances and such other period of time is so indicated in the notice herein described, in which event Sub-lessee shall pay to Lessor, as Additional Rent, the costs of such maintenance, repairs and replacements. If Lessor is required to do any work within the Premises as a result of any changes to the Property as a result of Lessor's exercise of its rights under this Section, Lessor shall provide Sub-

lessee with reasonable advance written notice of the construction schedule to the extent that the Premises are affected, and Lessor shall endeavor to minimize, as reasonably practicable, the interference with Sub-lessee's operations as a result of any such construction.

10. **PERFORMANCE REQUIREMENT.** Sub-lessee shall operate the Premises as a community-based market and café or similar uses that provide community benefit in accordance with this Sub-lease and the provisions of Exhibit C.

11. **ALTERATIONS.**

A. **Alterations.** Following Sub-lessee's initial installation of equipment and fixtures, Sub-lessee will need to secure Lessor's prior written consent to make any further alterations, additions or improvements ("Alterations") to the Premises. Sub-lessee shall submit any and all plans, drawing, proposals and other documents as requested by Lessor to consider a request for consent to make Alterations. All work related to Alterations shall be done at the sole cost, charge, and expense of Sub-lessee, and comply with all applicable codes and regulations. All Alterations performed by Lessor which are funded in whole or part with CDBG funds shall remain in the Premises following expiration of this Sub-lease. (Lessor's CDBG-funded tenant improvements are listed in Exhibit A). Lessor may, in its sole discretion, require that any other Alterations remain the property of Sub-lessee and that they be removed therefrom by Sub-lessee upon the expiration of this Sub-lease; provided that, Lessor notifies Sub-lessee in writing when approving an Alteration that it must be removed upon the expiration of this Sub-lease. Alternatively, Lessor may require that any Alterations remain and be surrendered with the Premises at the end of the Term. Lessor may also require that any such Alterations be fully insured. Approval for any Alteration may require an amendment to this Sub-lease.

B. **Performance of Work.**

- i. In the event Sub-lessee makes any Alterations (with consent) it shall do so at its sole cost and expense, and Sub-lessee shall obtain, at its sole cost and expense, any and all permits, authorizations, and certificates from all governmental agencies, including, without limitation, such zoning variances or changes as may be required with respect to such Alterations.
- ii. Sub-lessee's right to make Alterations is subject to the following: (i) The work shall be performed by a licensed contractor who is experienced in such work; (ii) Sub-lessee shall be responsible for all costs of repairs and improvements; and (iii) Sub-lessee shall insert in its contract with its licensed contractor a provision requiring the contractor to provide Lessor with as broad an indemnity as is contained in this Sub-lease, or as broad an indemnity as is required by Lessor, whichever provides greater protection; and to name Lessor as additional insured on

any insurance required by Sub-lessee of the contractor for performance of the alteration work.

12. **ASSIGNMENT, SUBLETTING AND USE BY TENANT.**

- A. **Consent.** Sub-lessee shall not assign this Sub-lease, or any interest therein, and shall not sublet the Premises, or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person to occupy or use the Premises ("Transfer"), or any portion thereof without the prior written consent of Lessor. Consent to one Transfer or use by any other person shall not be deemed to be consent to any subsequent Transfer or use by another person. Any such Transfer without such consent shall be void, and shall, at the option of Lessor, terminate this Sub-lease.
- B. **Termination.** Sub-lessee has the option to terminate this Lease (the "Termination Option"). Sub-lessee may exercise the Termination Option by providing 90 days written notice (the "Option Notice") to Lessor at any time between 36 months following the Lease Commencement Date) and the Expiration Date of the Initial Term. Upon a renewal of the Sub-lease, an Option Notice may be provided between August 2, 2021 and 90 days prior to Lessor's right to terminate with Landlord. The Option Notice shall indicate the date on which Tenant desires to terminate the Lease (the "Termination Date"). As of the Termination Date this Sub-lease shall terminate and be of no further force or effect, except for those provisions which expressly survive termination.
- C. **Reasonable Disapproval.** Lessor shall not unreasonably deny Sub-lessee's request to Transfer this Sub-lease. Without limiting in any way Lessor's right to withhold its consent on any reasonable grounds, it is agreed that Lessor will not be acting unreasonably in refusing to consent to a Transfer if, in Lessor's reasonable opinion: (a) the proposed Transfer would result in more than two subleases of portions of the Premises being in effect at any one time during the Term; (b) the proposed assignee or subtenant does not have the financial capability to fulfill the obligations imposed by the Transfer; (c) there are less than six months remaining on the Term; (d) the proposed Transfer involves a change of use of the Premises. Lessor will review and respond to any requests for assignment within 60 days. A consent by Lessor to one Transfer shall not be deemed a consent to any subsequent Transfer.

13. **SURRENDER AND HOLDING OVER.**

- A. **Surrender of Premises.** Upon the expiration or sooner termination of this Sub-lease, Sub-lessee shall surrender all keys for and possession of the Premises to Lessor broom clean and in good condition and repair, reasonable wear and tear excepted. Sub-lessee shall surrender the Premises with all of the following removed and all damage caused by such removal repaired: (1) all personal property of Sub-lessee and its employees, agents, volunteers and the public, and (2) Alterations identified by Lessor for removal. If Sub-lessee fails to remove by the expiration or sooner

termination of this Sub-lease all identified items, Lessor may, (without liability to Lessor for loss thereof), at Sub-lessee's sole cost and in addition to Lessor's other rights and remedies under this Sub-lease, at law or in equity: (a) remove and store such items in accordance with applicable Law; and/or (b) upon ten (10) days' prior notice to Sub-lessee and if Sub-lessee does not remove such items during such 10 day-period, sell all or any such items at private or public sale for such price as Lessor may obtain as permitted under applicable Law. Lessor shall apply the proceeds of any such sale to any amounts due to Lessor under this Sub-lease from Sub-lessee (including Lessor's fees and other costs incurred in the removal, storage and/or sale of such items), with any remainder to be paid to Sub-lessee.

B. Hold Over. Should Sub-lessee hold over the premises after the Sub-lease has terminated, such hold over shall be deemed merely a tenancy from month to month. Any holdover Rent shall be paid on a prorated per month basis without reduction for partial months during the holdover. Acceptance by Lessor of Rent after such expiration or earlier termination shall not constitute consent to a hold over hereunder or result in an extension of this Sub-lease. This Section shall not be construed to create any express or implied right to holdover beyond the expiration of the Term or any extension thereof. If Sub-lessee holds over after the expiration or earlier termination of the Term with or without the express written consent of Lessor, then, in addition to all other remedies available to Lessor, Sub-lessee shall be liable, and shall pay to Lessor within ten (10) days after demand, for all losses incurred by Lessor as a result of such holdover, and shall indemnify, defend and hold Lessor and the Lessor's Parties harmless from and against all liabilities, damages, losses, claims, suits, costs and expenses (including reasonable attorneys' fees and costs) arising from or relating to any such holdover tenancy, including without limitation, any claim for damages made by a succeeding sub-lessee. Sub-lessee's indemnification obligation hereunder shall survive the expiration or earlier termination of this Sub-lease. The foregoing provisions of this Section are in addition to, and do not affect, Lessor's right of re-entry or any other rights of Lessor hereunder or otherwise at law or in equity.

14. **ENTRY.** Lessor, or its duly authorized representatives or agents, may enter upon the premises upon two (2) days written notice during the term of this Sub-lease for the purpose of determining whether Sub-lessee is complying with the terms and conditions hereof, or for any other purpose incidental to the rights of the Lessor. In case of emergency Lessor or its agents may enter premises without prior consent.

15. **INDEMNITY.**

A. **Sub-lessee's Indemnification.** Sub-lessee shall be liable for, and shall indemnify, defend, protect and hold Lessor and Lessor's officials, officers, directors, managers, employees, agents, contractors, successors and assigns (collectively, "Lessor's Parties")

harmless from and against, any and all claims, damages, judgments, suits, causes of action, losses, liabilities and expenses, including, without limitation, attorneys' fees and court costs (collectively, "Indemnified Claims"), arising or resulting from (i) any act or omission of Sub-lessee, its agents, officers, director, employees, contractors or invitees (collectively, "Sub-lessee's Parties"); (ii) the use of the Premises and conduct of Sub-lessee's business by Sub-lessee or any of Sub-lessee's Parties, or any other activity, work or thing done, permitted or suffered by Sub-lessee or any of Sub-lessee's Parties, in or about the Premises or elsewhere on the Property, except to the extent caused by the gross negligence or willful misconduct of Lessor or Lessor's agents, contractors or employees; and/or (iii) any default by Sub-lessee as to any obligations on Sub-lessee's part to be performed under the terms of this Sub-lease or the terms of any contract or agreement to which Sub-lessee is a party or by which it is bound, affecting this Sub-lease or the Premises. The foregoing indemnification shall include, but not be limited to, any injury to, or death of, any person, or any loss of, or damage to, any property on the Premises, or on adjoining sidewalks, streets or ways, or connected with the use, condition or occupancy thereof, whether or not Lessor or any Lessor's Parties has or should have knowledge or notice of the defect or conditions causing or contributing to such injury, death, loss or damage. In case any action or proceeding is brought against Lessor or any Lessor's Parties by reason of any such Indemnified Claims, Sub-lessee, upon notice from Lessor, shall defend the same at Sub-lessee's expense by counsel approved in writing by Lessor, which approval shall not be unreasonably withheld. Lessor may participate in its own defense and Sub-lessee shall not agree to any settlement without the written consent of Lessor.

- B. **Third-Party Indemnification.** When Sub-lessee or Sub-lessee's Parties obtain indemnity protection from others concerning claims arising out of or pertaining to the Premises, they shall require any such party providing an indemnity to indemnify the Lessor ("County") on terms equal to those provided to Sub-lessee or Sub-lessee's Parties.
- C. **Survival.** The indemnification obligations under this Section and elsewhere in this Sub-lease shall survive the expiration or earlier termination of this Sub-lease. The covenants, agreements and indemnification in this Section are not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried by the Parties pursuant to the provisions of this Lease.

16. **INSURANCE.**

- A. **Sub-lessee's Insurance.** Sub-lessee shall maintain insurance as set forth in Exhibit B.
- B. **Third-Party Insurance:** Whenever Sub-lessee requires any party to carry insurance for use of or work on or at the Premises, Sub-lessee shall require that party to name the Lessor and Landlord as additional insured.
- C. **Landlord's Insurance.** Landlord shall obtain and maintain for the Term casualty insurance covering the Leased Premises in an amount not less than 90% of the full replacement cost or the amount of such insurance which Landlord's mortgage lender

requires Landlord to maintain, whichever is greater, providing protection against any peril generally included within the classification "Fire and Extended Coverage."

- D. **Waiver of Claims.** Lessor and Sub-Lessee agree that insurance carried or required to be carried by either of them against loss or damage to property by fire, flood, earthquake, acts of terrorism, acts of war, or other casualty shall contain a clause whereby the insurer waives its right to subrogation against the other party, its elected officials, directors, employees, volunteers, and agents, and each party shall indemnify the other against any loss or expense, including reasonable attorneys' fees, resulting from the failure to obtain such waiver.
- E. **Waiver of Subrogation**
Sub-Lessee hereby grants to Lessor a waiver of any right to subrogation which any insurer of said Sub-Lessee may acquire against the Lessor by virtue of the payment of any loss under such insurance. Sub-Lessee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Lessor has received a waiver of subrogation endorsement from the insurer.
- F. **Special Risks or Circumstances**
Lessor reserves the right to modify these requirements at any time, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

17. **FIRE AND CAUSALTY DAMAGE.**

A. **Replacement.**

- i. In the event of any damage or destruction of all or any of the Premises, Sub-lessee shall immediately notify Lessor thereof.
- ii. If the Premises is damaged by fire or other casualty to an extent not exceeding fifty percent (50%) of the full replacement cost thereof, and Sub-lessee's contractor and/or the Lessor estimates in writing delivered to the parties that the damage thereto is such that the Premises may be repaired, reconstructed or restored to substantially its condition immediately prior to such damage within one hundred twenty (120) days from the date of such Casualty, and Sub-lessee will receive insurance proceeds sufficient to cover the costs of such repairs, reconstruction and restoration, then Sub-lessee shall within 30 days of the Casualty notify Lessor of the same and commence and proceed diligently with the work of repair, reconstruction and restoration and this Sub-lease shall continue in full force and effect. If Sub-lessee fails to conduct the repairs, reconstruction and restoration as described in this subsection within 120 days of the date of such Casualty, Lessor may at its discretion notify Sub-lessee in writing of its intent to perform the repair, reconstruction and restoration itself, in which case the Lessor may choose to terminate the Sub-lease within 30 days of the Lessor's notification of its intent to perform the work unless Sub-lessee agrees prior to the expiration of the 30th day to pay the cost of the Lessor's work in accordance with terms and conditions mutually agreeable to the Parties.

- iii. If, however, the Premises is damaged to an extent exceeding fifty percent (50%) of the full replacement cost thereof, or Sub-lessee's contractor and/or the Lessor estimates that such work of repair, reconstruction and restoration will require longer than one hundred twenty (120) days to complete from the date of Casualty, or Sub-lessee will not receive insurance proceeds sufficient to cover the costs of such repairs, reconstruction and restoration, then the Parties shall immediately meet and confer to decide whether to: (a) repair, reconstruct and restore the portion of the Premises damaged by such Casualty in which case this Sub-lease shall continue in full force and effect; or (b) Lessor may choose to terminate this Lease.
- B. **Sub-lessee's Costs and Insurance Proceeds.** In the event the Lessor performs the repair, restoration or replacement work under Section 17(A)(ii) or (iii), Sub-lessee shall deliver to Lessor all insurance proceeds received by Sub-lessee whether or not the Lessor chooses to terminate the Sub-lease as permitted, and Sub-lessee hereby assigns to Lessor all rights to receive such insurance proceeds. If, for any reason (including Sub-lessee's failure to obtain insurance for the full replacement cost of any Alterations which Sub-lessee is required to insure) Sub-lessee fails to receive insurance proceeds covering the full replacement cost of the Premises, Sub-lessee shall be deemed to have self-insured the replacement cost of Premises and upon any damage or destruction thereto, Sub-lessee shall immediately pay to Lessor the full replacement cost of such items, less any insurance proceeds actually received by Lessor from Landlord's or Sub-lessee's insurance with respect to such items.
- C. **Damage Near End of Term.** In addition to its termination rights in Sections elsewhere in this Section, Lessor and Sub-lessee shall both have the right to terminate this Sub-lease if any damage to the Premises occurs during the last six (6) months of the Term and Lessor's contractor estimates in writing delivered to the parties that the repair, reconstruction or restoration of such damage cannot be completed within the earlier of (a) the scheduled expiration date of the Term, or (b) sixty (60) days after the date of such Casualty.

18. **HAZARDOUS MATERIALS.**

- A. **Definitions.** As used in this Sub-lease, the term "Environment Law(s)" means any past, present or future Federal, state or local Law relating to (a) the environment, human health or safety, including, without limitation, emissions, discharges, releases or threatened releases of Hazardous Materials (as defined below) into the environment (including, without limitation, air, surface water, groundwater or land), or (b) the manufacture, generation, refining, processing, distribution, use, sale, treatment, receipt, storage, disposal, transport, arranging for transport, or handling of Hazardous Materials. As used in this Sub-lease, the term "Hazardous Materials" means and includes any hazardous or toxic materials, substances or wastes as now or hereafter designated or

- regulated under any Environmental Laws including, without limitation, asbestos, petroleum, petroleum hydrocarbons and petroleum based products, urea formaldehyde foam insulation, polychlorinated biphenyls ("PCBs"), and Freon and other chlorofluorocarbons.
- B. **Prohibition.** Except for ordinary and general office supplies, such as copier toner, liquid paper, glue, ink and common household cleaning materials, substances commonly used in food preparation and retail establishments and motor vehicle fuel stored in fuel tanks of motor vehicles used on site in compliance with all Environmental Laws (some or all of which may constitute Hazardous Materials), Sub-lessee agrees not to cause or permit any Hazardous Materials to be brought upon, stored, used, handled, generated, released or disposed of on, in, under or about the Premises or the Property by Sub-lessee, its agents, officers, director, shareholders, members, managers, partners, employees, subtenants, assignees, licensees, contractor or invitees (collectively, "Sub-lessee's Parties"), without the prior written consent of Lessor, which consent Lessor may withhold in its sole and absolute discretion.
- C. **Use.** Sub-lessee represents and warrants to Lessor that Sub-lessee does not use, generate, release, dispose of, store or maintain in the Premises or any portion of the Property, any Hazardous Materials except for normal office and janitorial materials. Upon the expiration or earlier termination of this Lease, Sub-lessee agrees to promptly remove from the Premises and the Property, at its sole cost and expense, any and all Hazardous Materials, including any equipment or systems containing Hazardous Materials which are installed, brought upon, stored, used, generated or released upon, in, under or about the Premises and/or the Property or any portion thereof by Sub-lessee or Sub-lessee's Parties. To the fullest extent permitted by law, Sub-lessee agrees promptly to indemnify, protect, defend and hold harmless Lessor and Lessor's officials, officers, directors, managers, employees, agents, contractors, successors and assigns (collectively, "Lessor's Parties") from and against any and all claims, damages, judgments, suits, causes of action, losses, liabilities, penalties, fines, expenses and costs (including, without limitation, clean-up, removal, remediation and restoration costs, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees and court costs) which arise or result from the presence of Hazardous Materials on, in, under or about the Premises or any other portion of the Property and which are caused or permitted by Sub-lessee or any of Sub-lessee's Parties. The provisions of this Article will survive the expiration or earlier termination of this Lease.
- D. **Notification of Mold and Water.** Sub-lessee shall give Lessor written notice of any evidence of mold, water leaks or water infiltration in the Premises promptly upon discovery of same. At its expense, Sub-lessee shall investigate, clean up and remediate any mold in the Premises. Investigation, clean up and remediation may be performed only after Sub-lessee has Lessor's written approval of a plan for such remediation. All clean up and remediation shall be done in compliance with all applicable Laws and to

the reasonable satisfaction of Lessor. As used in this Sub-lease, "mold" means mold, fungi, spores, microbial matter, mycotoxins and microbiological organic compounds.

- E. **Sub-lessee's Obligations.** Sub-lessee shall cooperate fully at all times with Lessor and abide by all reasonable regulations and requirements which Lessor may prescribe for the proper functioning and protection of the Premise's services and systems as provided in Exhibit C.
- F. **Inspection; Compliance.** Lessor and Lessor's Parties shall have the right, but not the obligation, to inspect, investigate, sample and/or monitor the Premises, including any air, soil, water, groundwater or other sampling, and any other testing, digging, drilling or analyses, at any time to determine whether Sub-lessee is complying with the terms of this Section. Sub-lessee shall provide Lessor with access to all relevant facilities, records and personnel. If Sub-lessee is not in compliance with any of the provisions of this Section or in the event of a release of any Hazardous Materials on, under, from or about the Premises, Lessor and Lessor's Parties shall have the right, but not the obligation, without limitation on any of Lessor's other rights and remedies under this Sub-lease, to immediately enter upon the Premises and to discharge Sub-lessee's obligations under this Section at Sub-lessee's expense, including without limitation the taking of emergency or long term remedial action. Lessor and Lessor's Parties shall endeavor to minimize interference with Sub-lessee's operations but shall not be liable for any such interference. In addition, Lessor, at Sub-lessee's sole cost and expense, shall have the right, but not the obligation, to join and participate in any legal proceedings or actions initiated in connection with any claims or, causes of action arising out of the storage, generation, use or disposal by Sub-lessee or Sub-lessee's Parties of Hazardous Materials on, under, from or about the Premises. All sums reasonably disbursed, deposited or incurred by Lessor in connection herewith, including, but not limited to, all costs, expenses and actual attorneys' fees, shall be due and payable by Sub-lessee to Lessor, as an item of Additional Rent, on demand by Lessor, together with interest thereon at the Interest Rate from the date of such demand until paid by Sub-lessee.
- G. **Sub-lessee's Obligations.** If the presence of any Hazardous Materials on, under or about the Premises caused or permitted by Sub-lessee or Sub-lessee's Parties results in (i) injury to any person, (ii) injury to or contamination of the Premises, or (iii) injury to or contamination of any real or personal property wherever situated, Lessor, at its sole cost and expense, shall promptly take all actions necessary to return the Premises to the condition existing prior to the introduction of such Hazardous Materials to the Premises and to remedy or repair any such injury or contamination. Without limiting any other rights or remedies of Lessor under this Lease, Sub-lessee shall pay the cost of any cleanup work performed on, under or about the Premises as required by this Sub-lease or any Environmental Laws in connection with the removal, disposal, neutralization or other treatment of such Hazardous Materials caused or permitted by Sub-lessee or

Lessor's Parties. If Lessor has reason to believe that Sub-lessee or Sub-lessee's Parties may have caused or permitted the release of any Hazardous Materials on, under, from or about the Premises, then Lessor may require Sub-lessee, at Tenant's sole cost and expense, to conduct monitoring activities on or about the Premises satisfactory to Lessor, in its sole and absolute judgment, concerning such release of Hazardous Materials on, under, from or about the Premises. Notwithstanding anything to the contrary contained in the foregoing, Sub-lessee shall not, without Lessor's prior written consent, take any remedial action in response to the presence of any Hazardous Materials on, under or about the Premises, or enter into any settlement agreement, consent decree or other compromise with any governmental agency with respect to any Hazardous Materials claims; provided, however, Lessor's prior written consent shall not be necessary in the event that the presence of Hazardous Materials on, under or about the Premises (i) poses an immediate threat to the health, safety or welfare of any individual, or (ii) is of such a nature that an immediate remedial response is necessary and it is not possible to obtain Lessor's consent before taking such action. Sub-lessee's failure to timely comply with this Subsection or any other Subsection of this Section shall constitute an event of default under this Lease.

- H. **Sub-lessee's Responsibility at Conclusion of Sub-lease.** Promptly upon the expiration or sooner termination of this Sub-lease, Sub-lessee shall confirm in writing to Lessor that (i) Sub-lessee has made a diligent effort to determine whether any Hazardous Materials are on, under or about the Premises, as a result of any acts or omissions of Sub-lessee or Sub-lessee's Parties and (ii) no such Hazardous Materials exist on, under or about the Premises, other than as specifically identified to Lessor by Sub-lessee in writing. If Sub-lessee discloses the existence of Hazardous Materials on, under or about the Premises or if Lessor at any time discovers that Sub-lessee or Sub-lessee's Parties caused or permitted the release of any Hazardous Materials on, under, from or about the Premises, Sub-lessee shall, at Lessor's request, immediately prepare and submit to Lessor within thirty (30) days after such request a comprehensive plan, subject to Lessor's approval, specifying the actions to be taken by Sub-lessee to return the Premises to the condition existing prior to the introduction of such Hazardous Materials. Upon Lessor's approval of such cleanup plan, Sub-lessee shall, at Sub-lessee's sole cost and expense, without limitation on any rights and remedies of Lessor under this Sub-lease or at law or in equity, immediately implement such plan and proceed to clean up such Hazardous Materials in accordance with all Environmental Laws and as required by such plan and this Sub-lease.

19. **CONDEMNATION.**

- A. **Substantial or Partial Taking.** Subject to the provisions of this Section below, either party may terminate this Sub-lease if any material part of the Premises is taken or

condemned for any public or quasi-public use under law, by eminent domain or private purchase in lieu thereof (a "Taking"). The terminating party shall provide written notice of termination to the other party within thirty (30) days after it first receives notice of the Taking. The termination shall be effective as of the effective date of any order granting possession to, or vesting legal title in, the condemning authority. If this Sub-lease is not terminated, the Parties shall meet and confer regarding all elements of this Sub-lease which are dependent upon the area of the Premises shall be appropriately adjusted to account for any reduction in the square footage of the Premises, and make appropriate amendments to Exhibit C.

B. **Temporary Taking.** In the event of a Taking of the Premises or any part thereof for temporary use, (a) this Sub-lease shall be and remain unaffected thereby and Rent shall not abate, and (b) Sub-lessee shall be entitled to receive for itself such portion or portions of any award made for such use with respect to the period of the Taking which is within the Term, provided that if such taking shall remain in force at the expiration or earlier termination of this Lease, Sub-lessee shall perform its obligations with respect to surrender of the Premises and shall pay to Lessor the portion of any award which is attributable to any period of time beyond the termination date. For purpose of this Section a temporary taking shall be defined as a taking for a period of two hundred seventy (270) days or less.

20. **MUTUALITY OF OBLIGATION.** The obligations and covenants of the Lessor, and the Sub-lessee's obligation to pay rent and other Sub-lessee's obligations and covenants, arising under or related to this Sub-lease, are interdependent.
21. **TAXES.** The Parties acknowledge that as a public agency, Lessor is exempted from property taxation under current California law. In the event that the property is subject to property taxation, Sub-lessee shall be responsible for the payment of property taxes, including taxes for possessory interest. Sub-lessee is responsible for any and all taxes, fees and service charges other than property taxes, including but not limited to parcel taxes, special taxes, user fees, and other government charges that are an incidence of property ownership. If Sub-lessee fails to pay timely any taxes, fees, services charge or similar, and its failure to do so imperils the Lessor's continued use of the Premises, the Lessor may at its sole discretion pay any amounts due and owing, and recover the same from Sub-lessee. Sub-lessee's failure to repay Lessor for any amounts paid out by Lessor under this section within 30 days written notice of the same shall be grounds for termination of the Sub-lease.
22. **HEADINGS.** The headings used in this Sub-lease are not a part of this Sub-lease and shall have no effect upon the construction or interpretation of any part hereof.
23. **SEVERABILITY.** If any term or provision of the Sub-lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the

remainder of the Sub-lease shall not be affected thereby, and each term and provision of the Sub-lease shall be valid and be enforceable to the fullest extent permitted by law.

24. **NON-DISCRIMINATION.** Sub-lessee agrees that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age, handicapping condition, or sexual preference be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried out in whole or in part within the Premises. Sub-lessee shall not, on the grounds of race, color, religion, national origin, sex, age, handicapping condition, or sexual preference:
- A. Deny any service or other benefit provided in the Premises.
 - B. Provide a lesser degree of service or other benefit from that provided to others in the Premises.
 - C. Restrict in any way the enjoyment of any advantage or privilege enjoyed by others receiving services or benefits within the Premises.
25. **NO WAIVER.** No failure by either party to insist upon the strict performance of any provision of this Sub-lease or to exercise any right or remedy for any breach and no acceptance of full or partial rent or other performance by either party during the continuance of any breach shall constitute a waiver of any such breach of such provision.
26. **SUB-LESSEE DEFAULT.**
- The occurrence of any of the following shall constitute a material breach of this Sub-lease by Sub-lessee and an event of default:
- A. Any failure by Sub-lessee to pay rent or other amounts when due hereunder.
 - B. A failure by Sub-lessee to observe and perform any other provision of this Sub-lease to be observed or performed by Sub-lessee, where such failure continues for thirty (30) days after written notice thereof by Lessor to Sub-lessee. However, if the nature of Sub-lessee's default is such that it may be cured but more than thirty (30) days are reasonably required for its cure, then Sub-lessee shall not be deemed to be in default if Sub-lessee shall commence such cure within said thirty (30) day period and thereafter diligently prosecute such cure to completion, which completion shall occur not later than sixty (60) days from the date of such notice from Lessor.
 - C. A general assignment by Sub-lessee or any guarantor or surety of Sub-lessee's obligations hereunder ("Guarantor") for the benefit of creditors.
 - D. The filing of a voluntary petition in bankruptcy by Sub-lessee or the filing by or against Sub-lessee of a petition, voluntary or involuntary, for reorganization, or the filing of an involuntary petition by the creditors of Sub-lessee, said involuntary petition remaining undischarged for a period of one hundred twenty (120) days.
 - E. Sub-lessee's abandonment or vacation of the Premises for a period in excess of nine (9) months without a program, or use benefitting the community.

27. **LESSOR'S REMEDIES UPON SUB-LESSEE'S DEFAULT.**

Lessor and Sub-lessee agree that Lessor's remedies for any default by Sub-lessee include the each of the following:

- A. **Termination.** In the event of any default by Sub-lessee which remains uncured, then in addition to any other remedies available to Lessor at law or in equity, Lessor shall have the immediate option to terminate this Sub-lease and all rights of Sub-lessee hereunder by giving written notice of such intention to terminate. In the event that Lessor shall elect to terminate this Sub-lease, then Lessor may recover from Sub-lessee: (i) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus (ii) any other amount necessary to compensate Lessor for all the detriment proximately caused by Sub-lessee's to perform its obligations under this Sub-lease.
- B. **Continuation or Lease; Re-Entry Rights.** In addition to any other remedies available to Lessor under this Lease, at law or in equity, Lessor shall also have the right to (a) continue this Sub-lease in effect after Sub-lessee's breach and abandonment and recover Rent as it becomes due, and (b) with or without terminating this Sub-lease, to re-enter the Premises and remove all persons and property from the Premises, with the exception that Lessor shall not remove **any** CDBG-funded tenant improvements and/or property (as listed in Exhibit A) prior to expiration of its 10-year Lease. Such property may be removed, stored and/or disposed of as permitted by applicable Law. No re-entry or taking possession of the Premises by Lessor pursuant to this Section and no acceptance of surrender of the Premises or other action on Lessor's part, shall be construed as an election to terminate this Sub-lease unless a written notice of such intention be given to Sub-lessee or unless the termination is decreed by a court of competent jurisdiction. No notice from Lessor or notice given under a forcible entry and detainer statute or similar Laws will constitute an election by Lessor to terminate this Sub-lease unless such notice specifically so states. Notwithstanding any reletting without termination by Lessor because of any default, Lessor may at any time after such reletting elect to terminate this Sub-lease for any such default.
- C. **Lessor's Right to Cure.** Except as specifically provided otherwise in this Sub-lease, all covenants and agreements by Sub-lessee under this Sub-lease shall be performed by Sub-lessee at Sub-lessee's sole cost and expense and without any abatement or offset of Rent. In the event of any Default by Sub-lessee, Lessor may, without waiving or releasing Sub-lessee from any of Sub-lessee's obligations, make such payment or perform such other act as required to cure such Default on behalf of Sub-lessee. All sums so paid by Lessor and all necessary incidental costs incurred by Lessor in performing such other acts shall be payable by Sub-lessee to Lessor within five (5) days after demand as Additional Rent.
- D. **Rights and Remedies Cumulative.** All rights, options and remedies of Lessor contained in this Section and elsewhere in this Sub-lease shall be construed and held to be cumulative, and no one exclusive of the other, and Lessor shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be

provided by law or in equity, whether or not stated in this Sub-lease. Nothing in this Section shall be deemed to limit or otherwise affect Sub-lessee's indemnification of Lessor and Landlord pursuant to any provision of this Sub-lease.

28. **FORCE MAJEURE.** Any prevention, delay or stoppage due to acts of God, war, judicial orders, civil commotion, and other causes beyond the reasonable control of either party obligated to perform, shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage.
29. **SURVIVAL.** Lessor's and Sub-lessee's obligations shall survive the expiration of the Term or any other termination of this Sub-lease. This paragraph is intended to supplement and not to limit other provisions of this Sub-lease pertaining to indemnities and attorney's fees.
30. **SUCCESSORS BOUND.** All covenants, agreements, terms and conditions contained in this Sub-lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.
31. **SUBORDINATION AND ATTORNMENT.**
 - A. **Future Subordination and Attornment.** Subject to the provisions of this Section, this Sub-lease and all of Sub-lessee's rights hereunder shall be subordinate to the lien of any future mortgage, deed of trust or any other security instrument, hereafter affecting or encumbering the Real Property (an "Encumbrance"; the holder of the beneficial interest thereunder being referred to as an "Encumbrancer").
 - B. **Nondisturbance.** If any Encumbrance to which this Sub-lease is subordinate is foreclosed, or a deed in lieu of foreclosure is given to the Encumbrancer thereunder, this Sub-lease shall not terminate and the rights and possession of Sub-lessee under this Sub-lease shall not be disturbed if no default by Sub-lessee then exists under this Sub-lease.
32. **TIME OF THE ESSENCE.** Time is of the essence of this Sub-lease and applies to all times, restrictions, conditions and limitations contained herein.
33. **ENTIRE AGREEMENT.** This instrument along with any exhibits and attachments hereto constitutes the entire agreement between Lessor and Sub-lessee relative to the Premises and the Property and this agreement, and the exhibits and attachments may be altered, amended or revoked only by an instrument in writing signed by both Lessor (as approved by the Alameda County Board of Supervisors) and Sub-lessee (as approved by its Board of Directors). Lessor and Sub-lessee agree hereby that all prior or contemporaneous written or oral agreements between and among themselves and their agents or

representatives relative to the leasing of the Premises are merged in or revoked by this agreement. This Sub-lease shall be interpreted under the laws of the State of California.

34. **NOTICES.**

- A. **Method of Delivery.** Notice shall be sufficiently given for all purposes as follows:
1. When personally delivered to the recipient, notice is effective on delivery.
 2. When mailed first-class to the last address of the recipient known to the party giving notice, notice is effective five days after mailing.
 3. When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
 4. When delivered by *overnight delivery such as Federal Express/United Parcel/DHL WorldWide Express* with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.
 5. When sent by telex or fax to the last telex or fax number of the recipient known to the party giving notice, notice is effective on receipt as long as (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or fax shall be considered to have been received on the next business day if it is received after 5 p.m. (recipient's time) or on a nonbusiness day.
- B. **Refused, Unclaimed, or Undeliverable Notices.** Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service.
- C. **Address.** Notices given pursuant to this Paragraph, shall be addressed to the respective parties, as identified under Notices in the in the Fundamental Lease Provisions.

35. **COMPLIANCE WITH APPLICABLE LAW.** Sub-lessee shall comply with all federal, state and local laws.

36. **STATEMENT OF LEASE.** Sub-lessee will, within thirty (30) days next following receipt of a joint written request from Lessor and a prospective lender or purchaser of the Premises, execute and deliver to Lessor a letter stating that the same is issued subject to the conditions stated in this clause and, if such is the case, that (1) the Sub-lease is in full force and effect; (2) the date to which the rent and other charges have been paid in advance, if any; and (3) whether any notice of default has been issued.

IN WITNESS WHEREOF, the parties have executed this Sub-lease as of the day and year first above written.

COUNTY OF ALAMEDA

MANDELA MARKETPLACE Inc., a
California nonprofit
public benefit corporation

By: _____
Signature

By: _____
Signature

Name: _____
(Printed)

Name: _____
(Printed)

Title: President of the Board of Supervisors

Title: _____

Date: _____

Date: _____

Approved as to Form:
DONNA R. ZIEGLER
COUNTY COUNSEL

By: _____
Deputy

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

I hereby certify under penalty of perjury that the President of the Board of Supervisors was duly authorized to execute this document on behalf of the County of Alameda by a majority vote of the Board on (date) _____ and that a copy has been delivered to the President as provided by Government Code Section 25103.

Date _____

By _____
Clerk of the Board
County of Alameda, State of California

EXHIBIT A – Premises and Tenant Improvements

Premises: 2,141 square feet of ground-floor commercial space located at 16395 E. 14th Street, San Leandro, CA, 94578, on Assessor Parcel Number 080C-0479-023-03, plus access to and use of the adjacent outdoor dining area by customers and employees of the Tenant's Sub-lessee.

Legal Description:

Real property in the unincorporated area of Ashland, County of Alameda, State of California, described as follows:

BEGINNING AT A POINT ON THE WESTERN LINE OF KENT AVENUE, FORMERLY LAUREL AVENUE, DISTANT THEREON NORTH 00°41'00" EAST, 418.00 FEET FROM THE NORTHERN LINE OF DELANO STREET, FORMERLY MAPLE STREET, SAID POINT OF BEGINNING ALSO BEING THE NORTHEASTERN CORNER OF THE PARCEL OF LAND DESCRIBED IN THE, DEED FROM BERNARD MADRID AND WIFE TO STANLEY T. FUKUCHI AND WIFE, DATED JANUARY 20, 1947 AND RECORDED FEBRUARY 13, 1947 IN BOOK 5088, PAGE 179, INSTRUMENT NO. AB/12109, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG THE NORTHERN LINE OF SAID DEED (5088 O.R. 179), NORTH 89°16'49" WEST, 230.00 FEET TO THE WESTERN LINE OF SAID DEED (5088 O.R. 179); THENCE ALONG SAID WESTERN LINE; SOUTH 00°41'00" WEST, 55.00 FEET; THENCE ALONG THE MOST SOUTHERLY LINE OF PARCEL 2 AS DESCRIBED IN THAT CERTAIN INDIVIDUAL GRANT DEED RECORDED AUGUST 25, 2000 AS DOCUMENT NUMBER 2000257155, OFFICIAL RECORDS OF ALAMEDA COUNTY, NORTH 89°16'49" WEST, 70.00 FEET TO THE EASTERN LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO SAN LORENZO SCHOOL DISTRICT OF ALAMEDA COUNTY, DATED JANUARY 25, 1949 AND RECORDED FEBRUARY 11, 1949 IN BOOK 5726, PAGE 185, INSTRUMENT NO. AD/10328, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG SAID EASTERN LINE (5726 O.R. 185), NORTH 00°41'00" EAST, 362.96 FEET TO THE MOST NORTHERLY LINE OF PARCEL ONE AS DESCRIBED IN SAID INDIVIDUAL GRANT DEED; THENCE ALONG LAST SAID LINE, SOUTH 89°16'49" EAST, 119.96 FEET TO THE WESTERN LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO SEBASTIAN PAREDERA, DATED JANUARY 22, 1923 AND RECORDED JANUARY 23, 1923 IN BOOK 331, PAGE 335, INSTRUMENT NO. T/4719, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG SAID WESTERN LINE (331 O.R. 335), SOUTH 00°41'00" WEST, 50.00 FEET TO THE SOUTHERN LINE OF SAID DEED (331 O.R. 335); THENCE ALONG SAID SOUTHERN LINE, SOUTH 89°17'34" EAST, 176.86 FEET TO THE WESTERN LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO THE COUNTY OF ALAMEDA, DATED MAY 4, 1928 AND RECORDED JANUARY 29, 1931 IN BOOK 2524, PAGE 259, INSTRUMENT NO. BB/5849, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG SAID WESTERN LINE (2524 O.R. 259), SOUTH 48°29'41" EAST, 4.20 FEET TO THE MOST NORTHERLY CORNER OF PARCEL TWO AS DESCRIBED IN THAT CERTAIN DOCUMENT ENTITLED "NOTICE OF AFFORDABILITY RESTRICTIONS ON TRANSFER OF PROPERTY (ASHLAND FAMILY

HOUSING)", RECORDED NOVEMBER 27, 2013 AS DOCUMENT NUMBER 2013372054, OFFICIAL RECORDS OF ALAMEDA COUNTY; THENCE ALONG THE NORTHEASTERLY LINE OF LAST SAID PARCEL TWO, CONTINUING SOUTH 48°29'41" EAST, 79.29 FEET TO THE MOST NORTHERLY CORNER OF PARCEL THREE AS DESCRIBED IN SAID DOCUMENT (DOCUMENT NUMBER 2013372054); THENCE ALONG THE NORTHEASTERLY LINE OF LAST SAID PARCEL THREE, CONTINUING SOUTH 48°29'41" EAST, 39.68 FEET TO THE NORTHEASTERLY CORNER THEREOF; THENCE ALONG THE EASTERLY LINE OF LAST SAID PARCEL THREE, SOUTH 07°11'55" WEST, 26.59 FEET TO THE SOUTHEASTERLY CORNER THEREOF; THENCE ALONG THE GENERAL SOUTHEASTERLY LINE OF LAST SAID PARCEL THREE, SOUTH 62°53'30" WEST, 11.11 FEET AND ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 143.00 FEET, THROUGH A CENTRAL ANGLE OF 08°06'45", AN ARC LENGTH OF 20.24 FEET TO THE MOST SOUTHERLY CORNER THEREOF; THENCE ALONG THE GENERAL SOUTHEASTERLY LINE OF SAID PARCEL TWO (DOCUMENT NUMBER 2013372054), CONTINUING ALONG LAST SAID CURVE TO THE LEFT WITH A RADIUS OF 143.00 FEET, THROUGH A CENTRAL ANGLE OF 44°07'15", AN ARC LENGTH OF 110.12 FEET TO A POINT OF COMPOUND CURVATURE AND ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 200.00 FEET, THROUGH A CENTRAL ANGLE OF 09°41'28", AN ARC LENGTH OF 33.83 FEET TO THE WESTERLY LINE OF SAID KENT AVENUE; THENCE ALONG LAST SAID LINE, SOUTH 00°41'00" WEST, 10.50 FEET TO THE POINT OF BEGINNING. APN: 080C-0479-023-03, 080C-0479-024, 080C-0479-025 & 080C-0479-026

List of Fixed Equipment and Improvements To Be Installed by Tenant:

Tenant will purchase and install the following fixed equipment and tenant improvements upon execution of the Lease and a Sub-lease with Mandela MarketPlace Inc. The fixed equipment and tenant improvements will revert to the Landlord upon termination or expiration of the Lease.

Fixed equipment includes:

- Three-compartment sink
- Hand wash sink
- Mop sink
- Food prep. sink
- Built-in freezer
- Display refrigerator
- Dishwasher
- Built-in counters

Tenant Improvements Include Purchase and Installation Of:

- Commercial-grade flooring
- Ceiling lighting fixtures
- Ceiling finishes over the food preparation area
- Sheet rock
- Heating ducts

EXHIBIT B – Insurance Requirements

1. INSURANCE

1.1 Tenant's Requirements

(a) From and after the date the Premises are delivered to Tenant 1, Tenant shall, at its expense, procure, carry, and maintain or cause to be maintained insurance coverage in full force and effect, in a form reasonably acceptable to Landlord, and with insurance companies reasonably acceptable to Landlord and authorized to transact business in the State of California, covering the following:

(i) Comprehensive general liability and property damage insurance together with bodily injury coverage applying to the use and occupancy of the Leased Premises, the Project, or any part of either, or any areas adjacent thereto, and the business operated by Tenant, or any other occupant, on the Leased Premises. Such insurance shall include Broad Form Contractual liability insurance coverage insuring all of the Tenant's indemnity obligations under the Lease. Such coverage shall have a minimum combined single limit of liability of at least one million dollars (\$1,000,000). Such policy shall be written to apply to all bodily injury, property damage, personal injury and other covered loss, however occasioned, occurring during the policy term, and shall be endorsed to add Landlord as an additional insured. Such insurance shall also include, whether by endorsement or otherwise, all of the following coverages: personal injury; and employer's non-owned automobile liability. All such insurance shall provide that an act or omission of one of the named insured shall not reduce or void coverage to the other named insured and shall afford coverage for all claims based on acts, omissions, injury and damage, which claims occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period. (B) Tenant shall maintain property insurance covering all of tenant's leasehold improvements, alterations, additions or improvements permitted under this Lease, heating, ventilation and air conditioning equipment and damage resulting therefrom, trade fixtures, merchandise and personal property from time to time in, on or upon the Leased Premises, in an amount not less than the full replacement cost thereof, providing protection against any peril included within the classification Special Form "All Risk." Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed.

(ii) Tenant shall also maintain or require sublease to maintain Worker's Compensation insurance for employees, in accordance with the California Law and employer's liability insurance with a limit of no less than \$1,000,000 per employee and \$1,000,000 per occurrence. Such coverage shall be endorsed to waive the insurer's rights of subrogation against Landlord. If at any time during the term of this Lease, the amount or coverage of insurance which Tenant is required to carry under this section is, in Landlord's reasonable judgment, materially less than the amount or type of insurance coverage typically carried by owners or Tenants of properties which are similar to and operated for similar purposes as the Leased Premises, Landlord shall

have the right to require Tenant to increase the amount or change the type of insurance coverage required under this Section.

(iii) Insurance covering the repair and replacement of all plate glass in the Premises;

(iv) During the course of any construction activities undertaken by Tenant, builder's risk insurance; and

(b) To the extent applicable to Tenant's use of the Premises, all such additional insurance as required to obtain and maintain in good standing all licenses and permits required to operate the Premises for licensed child care services.

(c) All insurance required under Section 1.1 shall name Landlord, Ashland Family Housing, L.P. and the John Stewart Company, together with and all entities whose names and insured interests have been provided to Tenant, as additional insureds.

(d) Insurance carriers must have an AM Best rating of at least A-X. Duplicate copies of such policies or certificates of such insurance shall be promptly furnished to the Landlord prior to the Commencement Date and, at least thirty (30) days prior to the expiration of such policies evidencing the renewal or replacement thereof and the payment of premiums thereof. To the extent obtainable, any policy of insurance shall provide that any change or cancellation of said policy must be made in writing and sent to Tenant and Landlord at their respective principal offices at least thirty (30) days before the effective date of cancellation. .

(e) No later than the Commencement Date, Tenant shall provide Landlord with certificates of insurance evidencing the coverage required under this Lease.

(f) In the event Tenant does not comply with the requirements of this Section 1.1, Landlord may, at its option, purchase liability insurance coverage to protect the Landlord and the cost of such insurance shall be Additional Rent owed by Tenant to Landlord, payable within ten (10) days of written demand. Acceptance of insurance certificates by Landlord shall not limit or eliminate the duties or responsibilities of Tenant set forth in this Lease.

1.2 Landlord's Requirements.

Landlord shall, at its expense, procure, carry, and maintain or cause to be maintained insurance coverage covering the following:

(a) Commercial general liability insurance on an occurrence basis, with a combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate , for liability arising out of or resulting from personal injury, death, or property damage sustained or alleged to have been sustained by any person for any reason on the Project

(b) Standard fire and extended coverage insurance, with special form ("all risks") endorsements, covering the Premises and the Building, other than Tenant's improvements

and personal property in the Premises, in an amount equal to the full replacement value of the Premises.

1.3 Waiver of Subrogation.

Subject to the next sentence, the parties release each other, and their respective authorized representatives, from any claims for damage to the Premises and the Project that are caused by or result from risks insured against under any property insurance policies carried by the parties and in force at the time of any such damage to the extent of insurance coverage. Each party shall, to the extent obtainable, cause each property insurance policy carried by it to include such provisions as necessary such that the waiver of subrogation contained herein shall be enforceable under the policy in connection with any damage covered by such policy.

EXHIBIT C – Operating Agreement

RULES AND REGULATIONS

1) Sub-lessee and Sub-lessee's representatives, agents, and employees (which are collectively included in the term "Sub-lessee" as used herein) shall not in any way obstruct the sidewalks, entry passages, pedestrian passageways, entrances and exits of the Premises or the Project, and shall use the same only as passageways to and from the Premises. This restriction does not apply to sidewalk areas and passageways which are included as a portion of Sub-lessee's space. All public entrances and exits to the Premises shall be kept unobstructed and open to the public at all times during established business hours.

2) Sub-lessee shall be responsible for cleaning and maintaining their Premises in a state commonly found in like buildings, including without limitation vacuuming, sweeping, dusting, washing windows (both interior and exterior), emptying trash into central garbage cans on each floor, and disposing of food wastes on a daily basis.

3) Sub-lessee shall have guaranteed access to the Building during regular business hours on regular business days as Lessor shall determine. Sub-lessee with keys to the Building may access the Building at any time. Sleeping is not allowed in the Building.

4) With the exception of assisting animals for disabled persons, animals are prohibited in the Building.

5) All Sub-lessee produced publicity materials must include information about wheelchair accessibility at the Building.

6) All loading and unloading of goods shall be done only at such times, in the areas, and through the entrances designated for such purposes by Lessor. The delivery or shipping of merchandise, supplies and fixtures to and from the Premises shall be subject to such rules and regulations as in the judgment of the Lessor are necessary for the proper operation of the Premises.

7) All wet garbage, waste, rubbish, and trash ("refuse") shall be stored in proper containers within Sub-lessee's Premises until it is placed in the appropriate refuse collection receptacles designated by the Lessor. Removal of refuse from the Sub-lessee's Premises shall occur at such times and in a manner as may be prescribed by Lessor.

8) Sub-lessee shall not erect, install, place, paint or attach materials (including but not limited to signs, posters, equipment, or fixtures) to the exterior of the building without the prior written consent of Lessor. Sub-lessee shall not in any way deface the exterior of the building.

9) No awning or shade shall be affixed or installed over or in the show windows or exterior of the Premises except with the written consent of Lessor. No signs shall be affixed to the exterior of the building without prior written consent of Lessor and in conformance with applicable laws and regulations.

10) Sub-lessee shall not do anything in the Premises, or bring or keep anything therein, which will in any way increase or tend to increase the risk of fire or the rate of fire insurance, or which shall conflict with the regulations of any government agency or administrative body having jurisdiction, or the law or with any insurance policy on the Premises.

11) Sub-lessee shall not install, maintain or use any equipment or machinery, which causes unreasonable noise, vibration, or which by its weight may endanger or by its use harm any portion of the building or Premises; this shall be enforced even though its original installation or presence may have been permitted.

12) Sub-lessee shall not make, nor permit to be generated within the Premises, any loud or improper noises, nor interfere in any way with other tenants' and the public's quiet enjoyment of the Premises. No loudspeakers, televisions, phonographs, radios, CD players, or other devices shall be used in a manner so as to be heard or seen outside of the Leased Premises without prior written consent of Lessor. Such consent shall be at the sole discretion of Lessor. Sub-lessee shall conduct its business in a quiet and orderly manner so as not to create unreasonable or unrelated noise.

13) Sub-lessee shall not cause or permit any obnoxious or foul odors that disturb the public or other tenants. Should such odors be evident, Sub-lessee shall be required to take immediate steps to remedy same upon written notice from Lessor.

14) Plumbing facilities and fixtures shall not be used for any other purpose than that for which they are constructed, and no foreign substances of any kind shall be placed therein. The expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Sub-lessee who caused the same, or whose employees, agents or invitees caused same.

15) Sub-lessee shall use, at Sub-lessee's cost, such pest extermination contractor as Lessor may direct and at such intervals as Lessor may require.

16) Sub-lessee is required to observe all security regulations issued by the Lessor.

17) Retail Sub-lessee shall maintain business hours established by Lessor.

18) Sub-lessee agrees to use, to the greatest extent possible, materials which are reusable or recyclable for the service of its customers.

19) Lessor reserves the right from time to time, for public welfare or Sub-lessee's benefit, to amend or supplement the foregoing rules and regulations, and to adopt the promulgated additional rules and regulations applicable to the Premises. Reasonable notice of such rules and regulations and amendments and supplements thereto, if any, shall be given to Sub-lessee.

20) Sub-lessee agrees to comply with all rules and regulations and amendments and supplements thereto, upon reasonable notice to Sub-lessee from Lessor.

21) Smoking of any kind is NOT allowed in or on Premises, including but not limited to in and around any Common Area, and any other area designated by Lessor.

22) Lessor Not a Guarantor of Smoke-free Environment - Efforts by the Lessor to designate the Property as "No Smoking," does not make Lessor the guarantor of the Sub-lessee's health or the condition of the Premises with regard to smoke.

23) Lessor shall always be notified of a key change and provided with a two (2) sets of keys for emergency access. Lessor will provide the fire department access to one set of keys.

24) Except where required by law, neither cash nor blank money orders/checks will be accepted in payment for rent, repairs or other charges.

25) Lessor shall not have any direct or derivative liability as a result of the undersigned Sub-lessee's failure to comply with these rules and regulations. The Lessor shall have the sole discretion to determine when to act and what remedies are appropriate for Lessor's use in the enforcement of these rules and regulations and the terms of the various Sub-lessee's sub-lease terms.