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**File ID:** 2026-00613

3/3/2026

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**[Sublease Agreement] Subleasing of Old Sacramento Waterfront Café - Steamers Building**

File ID: 2026-00613

**Location:** 1108 Front Street, District 4

**Recommendation:** Pass a **Motion:** 1) finding that special circumstances make the use of a bid procedure inappropriate and that the use of another competitive solicitation process is in the best interest of the City; and 2) authorizing the City Manager or designee to execute the attached Sublease Agreement with Der Biergarten Waterfront for an initial one-year term and up to three five-year extensions for a premises along the Old Sacramento Waterfront.

**Contact:** Valerie Mamone, Project Manager, (916) 808-5451, vmamone-werder@cityofsacramento.org, Office of Innovation and Economic Development; Dustin Hollingsworth, Assistant Director, (916) 808-5538, Convention and Cultural Services, djhollingsworth@cityofsacramento.org

**Presenter:** None

**Attachments:**

- 1-Description/Analysis
- 2-Sublease Agreement

**Description/Analysis**

**Issue Detail:** On November 19, 2024, staff updated the City Council on the Waterfront Reinvestment Program, which included the Waterfront Site Redevelopment Opportunity. The Waterfront Site Redevelopment Opportunity included two City-owned sites on the Embarcadero: the former Rio City Café building and adjacent Steamers Building. Synergistically, the two buildings could offer a variety of waterfront dining options to further attract visitors to Old Sacramento and staff anticipated issuing separate solicitations for each site.

The Steamers Building was previously used as an ancillary kitchen for Rio City Cafe. It is located on the waterfront at 1108 Front Street that measures approximately 750 square feet with an approximately 1,500 square feet of outdoor seating directly to the north of the building, adjacent to the river.

On June 16, 2025, staff issued a Request for Expression of Interest (RFEI) seeking a qualified restaurateur to sublease the Steamers Building. The RFEI called for a fast casual walk up café, food and beverage concept that will enliven the Embarcadero and increase riverfront vitality and connectivity. The City received eight responsive proposals from local and national restaurants, cafes and pop-up concepts.

An evaluation committee scored each of the eight proposals based on criteria specified in the RFEI and selected five of the eight proposals to be further evaluated through interviews. One of those five selected proposers declined the opportunity to interview.

During interviews proposers were able to elaborate further on their concepts and were again ranked based upon predetermined criteria published in the RFEI. As a result Der Biergarten Waterfront received the highest score and the committee recommended the concept to move forward with sublease negotiations. The attached sublease is the product of negotiations and Staff recommend executing the agreement.

The Steamers Building is situated on property owned by the State of California (“State”) and leased to the City through City Agreement No. 86013. The terms of the State lease require the City to get approval from State for sublease agreements with terms beyond one year. After City Council approval, the sublease will be submitted to the State Lands Commission for approval. If State approval is not obtained, the sublease may not be extended beyond the initial one-year term.

**Policy Considerations:** The approval of the sublease with Der Biergarten Waterfront will further the vision, goals, and objectives of the City’s 2040 General Plan, the 2003 Sacramento Riverfront Master Plan as approved by the cities of Sacramento and West Sacramento and the Sacramento riverfront priorities set out by the Mayor and City Council in 2017. Further, a new riverfront restaurant will support future city investments in the Old Sacramento Waterfront by creating a related and supporting asset that will aid the economic development efforts of the city and other civic organizations.

**Economic Impacts:** A new Sacramento waterfront business can have a significant, beneficial impact on Sacramento’s ability to capture increased sales and encourage visitors’ choice of Sacramento as a leisure destination. Additionally, a new restaurant will draw visitors to the waterfront, increase visitation and dwell time in the Old Sacramento Waterfront which will support other businesses.

**Environmental Considerations:** Under the California Environmental Quality Act (CEQA) approval of the proposed sublease agreement has been determined to be exempt from CEQA pursuant to CEQA Guidelines Sections 15301. The project consists of the operation, repair, maintenance, permitting, leasing, and minor alteration of existing public or private structures, facilities, and mechanical equipment involving negligible or no expansion of existing or former use.

**Sustainability:** Not applicable.

**Commission/Committee Action:** Not applicable.

**Rationale for Recommendation:** City staff released a RFEI to seek a restauranter qualified to operate a successful walk-up café concept with food and beverages. The concept Der Biergarten Waterfront was selected and will accomplish the goals of activating the embarcadero by adding live music, communal tables and German food and drink offerings to families and patrons. Der Biergarten will generate revenue that can be reinvested in the public realm of Old Sacramento and the riverfront. The development of a new walk-up cafe on the waterfront will provide a world-class urban experience for residents, workers, and visitors. Further, the project will help to reactivate the Old Sacramento Waterfront and create an unique asset for marketing the Sacramento region.

**Financial Considerations:** Revenue from the businesses that fall within the area that the City leases from the State Land Commission have generated more than \$2,449,000 in the past four fiscal years (FYs) with a high FY2022/23 of \$963,052, as these revenues include pandemic related back rent payments, and a low in FY2024/25 of less than \$438,588 reflecting the closure of Rio City Cafe. Executing a sublease with Der Biergarten Waterfront in the Steamers Building will help restore revenues.

Pursuant to the lease between City and State, the City pays the State Lands Commission 20% of the gross rental income that it receives from the leased property, with the City keeping the other 80%.

The restaurants located on the Embarcadero are the highest revenue generators for the State-leased properties. The revenue is deposited as General Fund (Fund 1001) in the Convention and Cultural Services Department and is used for ongoing maintenance in Old Sacramento. An additional waterfront restaurant will be a significant source of revenue for the City and assist in maintenance costs in Old Sacramento.

**Local Business Enterprise (LBE):** Sean Deerfield and Der Biergarten Waterfront meet the requirements of LBE.

**Background:** On June 16, 2025, staff issued a Request for Expression of Interest to select a qualified restaurateur for a fast casual walk-up café concept for a sublease for the Steamers Building, a City-owned building located on the waterfront at 1108 Front Street that measures approximately 750 square feet.

The City requested proposals from restaurateurs for a walk-up café, food and beverage concept that would enliven the Embarcadero and increase riverfront vitality and connectivity. Additionally, it would create a new destination that extends the dwell time of visitors to Old Sacramento during the

day and attracts more visitors in the evening. The City received proposals from eight businesses:

1. A Kitchen Bayou
2. Der Biergarten Waterfront
3. Alchemist and Bike Dog Brewing
4. Fisherman Wharf Café
5. JMSI Poke, LLC
6. Everytable
7. Dutchman Stroopwafels
8. Balance Me Out

Staff reviewed and scored the eight proposals and recommended interviewing five of the proposers. An evaluation committee comprised of a Sacramento urban retail broker, an Administrative Analyst with City of Sacramento's Convention and Cultural Services, and a local restaurateur/entrepreneur reviewed and interviewed four of the Proposers: A kitchen Bayou, Der Biergarten Waterfront, Alchemist and Bike Dog Brewing and JMSI Poke, LLC. Fisherman Wharf Café opted not to interview.

Der Biergarten Waterfront received the highest score from the evaluation committee, and a decision was made to recommend the concept to move forward with sublease negotiations.

Sean Deerfield is a local business owner with establishments in Old Sacramento and Midtown. He is community-minded and a strong partner and collaborator in the city. With the current success of Der Biergarten Midtown this new concept in Old Sacramento will deliver an authentic German beer garden experience encouraging communal dining and social connections in a family-friendly environment. Der Biergarten Waterfront will offer a vast array of authentic German food and beverages, as well as local Sacramento craft beers catering to both the German culture aficionados and craft beer enthusiasts.

# Contract Routing Sheet

Payment / Performance Bond Only

### General Routing Information

Department: Economic Development Department

Contract Coordinator: Blair Hongo Email: bhongo@cityofsacramento.org

Effective Date: 03/23/2026 Expiration Date: 03/23/2041

Grant/Project Name: RIVER CITY ENTERTAINMENT, LLC dba. DER BIERGARTEN WATERFRONT

Other Party: \_\_\_\_\_

Original Not to Exceed Amount: \$ 0.00

Assessor's Parcel Number(s): \_\_\_\_\_

Project Number: \_\_\_\_\_ Bid/RFQ/RFP#: 1251411001

### Supplements/Addendums/Change Orders

Adjusted Amount of this Change (+/-): \_\_\_\_\_ New Not to Exceed Amount: \_\_\_\_\_

Change In Scope: No

Original Contract Number: \_\_\_\_\_ Supplement Number: \_\_\_\_\_

### Council Approval

Original Meeting Date: 3/3/2026 Council File ID: 2026-00613

Supplement Meeting Date: \_\_\_\_\_ Council File ID: \_\_\_\_\_

### Processing Information

- Clerk's Office to Mail for Recording
- Return to Dept for Other Party Signature
- Real Estate
- Return to Dept for Recording
- Construction Related
- Additional Originals Attached – Return to Dept.

**Add notes/instructions, including any other contract or council file ID numbers related to this agreement:**

**Signing Authority** - Department Directors up to \$100K; \$100K - \$250K City Manager or Assistant City Manager; \$250K+ Council Approval & Council Appointee or designee.

### Department Review and Routing

AB 339 Review Confirmation (if needed ) \_\_\_\_\_

Sign Blair Hongo

Sign Valerie Mamona-Werder

Sign \_\_\_\_\_

Sign \_\_\_\_\_

Sign \_\_\_\_\_

CITY OF SACRAMENTO

**SUBLEASE**

STEAMERS BUILDING – WALK UP CAFÉ  
OLD SACRAMENTO

**THIS SUBLEASE** (“Lease”) is made at Sacramento, California, dated for convenience on March 23, 2026, by and between the CITY OF SACRAMENTO, a municipal corporation (“City”), and RIVER CITY ENTERTAINMENT a Limited Liability Corporation. *dba* - DER BIERGARTEN WATERFRONT. (“Tenant”).

1. **DESCRIPTION OF PREMISES.** The City leases to Tenant, and Tenant leases from City, upon the terms and conditions set forth herein, the first floor of the Steamers Building in Old Sacramento along with outdoor dining space (the “Premises”). The Premises includes the first floor of the Steamers Building, the equipment space above the first floor, and an outdoor dining area located on the Embarcadero with views of the Sacramento River, comprising approximately 1,550 square feet. The specific location of the Premises is set forth in Exhibit A, attached hereto and incorporated by this reference.
2. **TERM.**
  - A. *Initial Lease Term.* The initial term of this Lease commences on March 23, 2026 (the “Commencement Date”) for a one-year term (“Initial Lease Term”).
  - B. *Extended Term.* The parties may, by mutual written agreement, extend the term of this Lease for up to three additional five-year terms (each an “Extended Term”). Tenant acknowledges that the Premises are being leased to the City by the State of California, by and through its State Lands Commission (the “Primary Lease”), and this Lease is a sublease from the City to Tenant. Pursuant to the Primary Lease, City cannot authorize any Extended Term without approval from the State Lands Commission. Notwithstanding the foregoing, State Lands Commission approval of Extended Term(s) shall not bind the City, and City reserves sole discretion to agree to any Extended Term.
  - C. *Holdover.* If Tenant shall for any reason hold over beyond the Initial Term or any Extended Term with the consent, expressed or implied, of City, such holding over shall be month-to-month only, subject to the terms and conditions of this Lease but shall not be a renewal of the Lease; and the consideration to be paid shall be at rates then prevailing under the terms of this Lease.
  - D. *Waiver of Relocation Benefits.* Tenant has been informed that City is exploring redevelopment plans for this Premises. Tenant agrees and acknowledges it is not

entitled to relocation benefits per this Lease and Tenant waives any and all claims Tenant might have to relocation assistance, as described under the California Government Code section 7260, et seq., from the City in the event the Premises are redeveloped.

### 3. **RENT.**

A. *Base Rent.* The base rent for the Premises is \$2,075 per month<sup>1</sup> (“Base Rent”) and shall become due and payable on the Commencement Date and on or before the first day of every month of the Lease as specified in Section 3(D) below. Commencing on the first day of the first calendar month following the first anniversary of the Commencement Date, and on the first day of the first calendar month following each subsequent anniversary of the Commencement Date during the Lease, the Base Rent shall be adjusted upward based on changes in the Consumer Price Index (“CPI”). The adjustment shall be calculated as follows:

- (1) Index Used. The “Consumer Price Index for All Urban Consumers (CPI-U), San Francisco-Oakland-Hayward, CA (1982–84=100),” as published by the U.S. Department of Labor, Bureau of Labor Statistics (or any successor index).
- (2) Calculation. The Base Rent payable for the second and each subsequent year shall equal the Base Rent for the immediately preceding year multiplied by a fraction, the numerator of which is the CPI most recently published prior to the adjustment date, and the denominator of which is the CPI published for the same month one year earlier.
- (3) Floor and Ceiling. Notwithstanding the foregoing, in no event shall the annual adjustment be negative, nor greater than 5% of the prior year’s Base Rent.
- (4) Publication Delay. If the CPI is not published for the relevant month, the most recently published CPI shall be used for that year’s calculation.
- (5) Successor Index: If the CPI is discontinued or substantially altered, City shall select a comparable index published by the U.S. government that most nearly reflects changes in the cost of living.

B. *Percentage Gross Receipts.*

- (1) In addition to Base Rent and all other sums payable under this Lease, Tenant shall pay to City percentage rent (“Gross Receipts Rent”) in an amount equal to 6% of Gross Receipts for each consecutive 12 full calendar month period commencing on the

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<sup>1</sup> Base Rent of \$2,075 reflects a negotiated rental amount regarding approximately 750 sf of indoor space at \$2.25/sf and approximately 1,550 sf of outdoor space at \$0.25/sf. The sf figures are estimates and actual figures will not impact the Base Rent amount.

first day of the first full calendar month following the Opening Date (as defined below) (each, a "Measuring Year"), but only to the extent Gross Receipts for such Measuring Year exceed the Breakpoint Amount; provided, however, that the final Measuring Year shall end on the expiration or earlier termination of this Lease. The "Breakpoint Amount" for each Measuring Year shall be the sum of (i) \$400,000 plus (ii) the total Base Rent payable for such Measuring Year.

Gross Receipts Rent shall be calculated annually for each Measuring Year by multiplying 6% by the amount, if any, by which Gross Receipts for such Measuring Year exceed the Breakpoint Amount. If Gross Receipts for a Measuring Year do not exceed the Breakpoint Amount, no Gross Receipts Rent shall be due for such Measuring Year. Gross Receipts Rent, if any, shall be due and payable within 30 days following the end of each Measuring Year, together with a calculation of Gross Receipts Rent due.

If the final Measuring Year is less than 12 full calendar months, the Breakpoint Amount shall be prorated based on the number of days in such partial Measuring Year relative to 365 days, and Gross Receipts Rent shall be calculated accordingly.

- (2) The term "Gross Receipts" as used in this Lease is defined as all money, cash, receipts, receivables, or other things of value including, but not limited to, the entire price charged for all food, beverages, and merchandise sold and services provided on or from the Premises whether or not payment is made at the time of sale, subject to the following:
- (a) The following (and only the following) shall be excluded from Gross Receipts:
    - i. The amount of returned food and merchandise.
    - ii. Permitted sales of trade fixtures or personal property to be replaced by Tenant which are not stock in trade.
    - iii. Sums and credits received in the settlement of claims for loss of, or damage to, merchandise.
  - (b) The following (and only the following) shall be deducted from Gross Receipts:

- i. Sales and excise taxes applicable thereto required to be collected by Tenant, its agents, or employees.
  - ii. Federal, state, municipal, or other taxes required by law to be collected from consumers, but the amount of such taxes shall be shown on the books and records elsewhere herein required to be kept and maintained.
  - iii. Tips/gratuities paid out to employees.
- C. *Garbage, Waste, and Recycling Charges.* The Garbage, waste, and recycling charges described in Section 9(D) (“Waste Charges”) shall become due and payable on the Commencement Date and on or before the first day of every month of the Lease as specified in Section 3(D) below.
- D. *Payment.* All Base Rent and Waste Charges must be paid to City on the Commencement Date and on or before the first day of every month during the Initial Lease Term and any Extended Term. Tenant shall be obligated to pay Base Rent, Gross Receipts Rent, and Waste Charges without deduction or offset except as otherwise set forth in this Lease. Base Rent for the month of the Commencement Date and any partial month of occupancy shall be prorated as to the number of days in such month. All payments shall be made in lawful money of the United States by check payable to “City of Sacramento” and delivered to:

City of Sacramento  
551 Sequoia Pacific Blvd  
Sacramento, CA 95811
- E. *Move-in Period Rent Waiver.* Notwithstanding anything to the contrary contained in this Lease, and provided Tenant is not in default beyond any applicable notice and cure period, City agrees to waive Tenant’s obligation to pay Base Rent during the “Move-In Period.”

The “Move-In Period” shall commence on the Commencement Date and shall expire on the earlier of: (i) the date that is 60 days after the Commencement Date, or (ii) the date Tenant first opens the Premises for business to the public for the regular conduct of its operations (the “Opening Date”).

The Move-In Period is intended solely to allow Tenant to enter the Premises for purposes of installing equipment, stocking inventory, training staff, and otherwise preparing the Premises for the commencement of business operations. If Tenant opens for business prior to the expiration of 60 days following the Commencement Date, the Move-In Period shall automatically terminate as of the Opening Date without notice.

Beginning on the first day immediately following the expiration of the Move-In Period, Tenant shall commence payment of Base Rent in accordance with the terms of this Lease. If the Move-In Period expires on a day other than the last day of a calendar month, Base Rent for the remainder of such partial month shall be prorated on a per diem basis and shall be due and payable immediately upon expiration of the Move-In Period. Thereafter, Base Rent shall be due and payable in advance on the first day of each calendar month as provided elsewhere in this Lease.

The foregoing waiver applies only to Base Rent. Tenant shall remain responsible for all other Rent and all other obligations under this Lease during the Move-In Period. The Move-In Period shall not extend the term of this Lease, shall not be deemed a rent credit or deferral, and shall not apply during any period in which Tenant is in default beyond applicable notice and cure periods.

4. **DELINQUENT RENT.** The term "Rent" shall mean all monetary obligations of Tenant to City under the terms of this Lease, including but not limited to Base Rent, Gross Receipts, Waste Charges, and Late Fees. In the event that Rent payment is not received by City on or before the day for which Rent is due, Rent for that month shall be automatically increased by an amount equal to 10% percent ("Late Fee") of the current monthly Rent. The occurrence of a holiday or weekend on the first day of any month does not provide an exception to the assessment of a Late Fee. The Late Fee shall be in addition to and not in lieu of all other remedies of City for failure to make timely payment of rentals pursuant to this Lease. All Rent payments shall be applied to the earliest arrears.

5. **SECURITY DEPOSIT**

- A. *Amount.* Prior to the Commencement Date, Tenant shall pay to the City a security deposit in the amount of \$10,000 ("Security Deposit"), as security for the full and faithful performance by Tenant of the terms, conditions, and covenants of this Lease.
- B. *Appropriation.* If at any time during the term of this Lease, Tenant defaults in the payment of Rent or any portion of Rent required by this Lease, City may appropriate and apply any portion of the Security Deposit reasonably necessary to remedy such default. If at any time during the term of this Lease, Tenant or its agents or employees damage the Premises, City may appropriate and apply any portion of the Security Deposit reasonably necessary to fund the necessary repair. If on the termination of this Lease, Tenant fails to leave the Premises in a clean condition, ordinary wear and tear excepted, City may appropriate and apply any portion of the Security Deposit reasonably necessary to put the Premises in clean condition. Prior to any appropriation of Security Deposit funds during the term of the Lease, City shall provide ten (10) days written notice to

Tenant. In the event that City applies all or any portion of the Security Deposit for a purpose authorized by this Section, Tenant shall restore the amount of the Security Deposit so applied by City with the next due payment of monthly rent.

- C. *Return of Unused Portion.* Upon termination or expiration of this Lease, City shall return to Tenant the remaining portion of the Security Deposit, if any, within 30 days after the date City receives possession of the Premises. Tenant shall not be entitled to any interest on any portion of the Security Deposit.

## 6. USE OF PREMISES.

- A. *Specific Use.* The Premises shall, during the term of this Lease and any extensions thereof, be used exclusively for the purpose of conducting the food and beverage retail operations of Tenant. Commercial activity other than the sale of food and beverage requires the written approval of the City. Notwithstanding the foregoing, the space above the first floor may only be used for storage purposes.
- B. *Insurance Hazards.* No use shall be made or permitted to be made of the Premises, nor acts done, which will increase the existing rate of insurance upon the Premises, or cause a cancellation of any insurance policy covering the Premises, or any part thereof, nor shall Tenant sell, or permit to be kept, used, or sold, in or about the Premises, any article which may be prohibited by the standard form of fire insurance policies. Tenant, shall at its sole cost and expense, comply with any and all requirements pertaining to the Premises, of any insurance organization or company, necessary for the maintenance of reasonable fire and public liability insurance, covering the Premises and appurtenances.
- C. *Waste; Nuisance.* Tenant shall not commit any waste or any public or private nuisance upon the Premises, and Tenant shall not commit any act which may disturb the quiet enjoyment of other tenants in Old Sacramento. Tenant may not use any sound amplification device (e.g., a device which plays music or amplifies one's voice) after 10:00 PM unless such use is permitted by a City-issued permit.
- D. *Tenant Improvements.* Tenant shall furnish, at its own expense, all furniture, fixtures, and equipment necessary for the operation of the Premises. Tenant must secure City's written approval, which shall not be unreasonably withheld, prior to the placement of any improvements within or on the Premises. Tenant acknowledges that pursuant to the Primary Lease, State approval of this Lease is required prior to Tenant making any improvements to the Premises. Outdoor furniture visible from the Embarcadero is subject to the approval of the City. Tenant is responsible for maintaining, repairing, replacing, and securing from

theft all outdoor furniture, which must be maintained in attractive condition and good repair.

- E. *Business Management.* Tenant will operate and manage its retail service operation in a first class, businesslike manner. Tenant shall ensure that its employees conduct themselves at all times in a professional manner. Tenant shall maintain a staff adequate to operate and administer any services performed on the Premises in a safe and quality manner. Tenant shall further ensure that a competent representative of Tenant is in attendance on the Premises at all times during the hours of operation of the Premises to make decisions binding on the operation. In addition, Tenant shall furnish City with the name of the person(s) who will be responsible for the daily on-site operation and management of the Premises.
  
- F. *Days and Hours of Operation.* Tenant shall operate its business a minimum of six days a week for eight hours per day. Hours of operation may only occur between the hours of 9:00 AM and 10:00 PM.
  
- G. *Garbage, Waste & Recycling.* Tenant shall conduct the operation of the Premises in such a way as to prevent the escape of garbage and debris from the Premises. Tenant's employees and contractors shall source-separate recyclables and organic waste from other refuse generated on the property. Recyclables includes bottles and cans, paper, cardboard, rigid plastic, and other recyclable material. Organic waste includes all food waste, food-soiled paper (without a plastic lining), and landscaping waste. Recyclables shall be deposited only in the recycling container and organics waste shall be deposited only in the organic waste container. Garbage shall be placed in the garbage container. No person shall deposit any garbage or materials other than recyclables in the recycling container and organic waste in the organic waste container. Tenant shall tie all trash bags prior to placing trash bags in garbage receptacle(s). After placement of garbage in the receptacle, Tenant shall ensure that the lid on the garbage receptacle(s) into which Tenant's trash is placed is closed and locked. Tenant shall ensure that all boxes are broken down and placed inside of the recycle receptacles. Tenant acknowledges that the service court area is a shared space and Tenant shall be mindful of other tenants needing to use the garbage and recycle receptacles. Tenant shall implement waste management practices for its dumpsters and tallow bins to ensure that trash, waste, and grease are not washed into the storm drain system. Restaurants shall implement proper fats, oil and grease (FOG) control practices to prevent discharge of FOG to the City's sewer system per Sacramento City Code Chapters 13.08 and 13.16.
  
- H. *Customer Access.* There shall be no customer seating or other customer accommodations inside the Steamers Building, and customers shall not be permitted inside the Steamers Building.

**7. COMPLIANCE WITH LAWS.**

- A. Tenant shall, at its sole cost and expense, comply (and require its contractors, agents, employees, and invitees to comply) with all applicable federal, state, and local laws, regulations, and requirements pertaining to the occupancy or use of the Premises, including without limitation compliance with the following:
- (1) The California Building Standards Code (Title 24 of the California Code of Regulations).
  - (2) Federal and state disability laws, including the Americans with Disabilities Act.
  - (3) Applicable state and federal occupational safety and health acts and regulations. Further, Tenant shall, at its own expense, maintain the Premises in a safe, clean, wholesome, and sanitary condition, including management of pests, in accordance with applicable federal, state, and local laws, regulations, and requirements.
  - (4) All applicable federal, state and local laws, ordinances and regulations (including consent decrees and administrative orders) relating to public health and safety and protection of the environment (“Environmental Laws”). Tenant will not permit to occur any release, generation, storage, disposal or treatment of any hazardous material as that term is defined in any of the Environmental Laws. Tenant shall immediately notify City of any such release, generation, storage, disposal or treatment and Tenant shall take such necessary remediation measures at Tenant’s sole cost and expense to remedy the situation to the complete satisfaction of City. Tenant shall immediately notify City of any complaints, citations, inquires or notices from any governmental entity relating to compliance with Environmental Laws. Tenant represents, warrants and covenants that all governmental permits relating to the use or operation of the Premises required by applicable Environmental Laws are and will remain in effect, and Tenant will comply with them.
- B. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether City be a party thereto or not, that Tenant has violated any such ordinance or statute in the use of the Premises shall be conclusive of the fact as between City and Tenant. If any failure by Tenant to comply with any such laws, regulations, and rules shall result in any fine, penalty, cost or charge being assessed, imposed or charged against City, Tenant shall reimburse and indemnify City for any such fine, penalty, cost or charge, including without limitation, attorney’s fees, court costs, and expenses.

8. **RECORDS.** Tenant shall, at all times during the term of this Lease and for a period of 3 years thereafter, keep true, accurate, and complete financial records and accounts of its operations under this Lease and such other financial or business records as may be required by City. City shall have the right at all reasonable times to examine and audit these records and accounts. In maintaining records, Tenant must comply with the following:
- A. *Gross Receipts Report.* Tenant agrees to furnish to City no later than 10 days after the end of each calendar month, a report showing all Gross Receipts derived from the operation of the Premises for that month.
  - B. *Sales Tax Returns.* Tenant shall furnish to City a copy of each and every sales tax return submitted to the State Board of Equalization during the entire term of this Lease, no later than 15 days after the filing dates established by the State.
  - C. *Annual Financial Statement.* An annual financial statement in accordance with Generally Accepted Accounting Principles (GAAP), including the computation of Gross Receipts, prepared by Tenant and reviewed by an Independent Accountant must be submitted to City no later than sixty (60) days after the end of the first full calendar year of the Lease and each subsequent calendar year during the Lease.
  - D. *City Audit.* If City is not satisfied with the records or statements submitted by Tenant, City shall have the right to make a special audit by auditors selected by City of the books and records required to be made and prepared by Tenant. If this special audit shows a deficiency in Base Rent or Waste Charges, or an understatement of Gross Receipts for any period covered in excess of 1%, the amount thereof plus interest and the cost of the audit shall be paid promptly to City by Tenant. If the audit discloses an overpayment of Base Rent or Waste Charges, or an overstatement of Gross Receipts in excess of 1%, City shall reimburse Tenant accordingly.
  - E. *Accounting Equipment.* Tenant shall obtain and install electronic cash registers or other accounting equipment acceptable to City through which Tenant shall record all gross sales from the operation of the Premises. Such equipment shall be non-resettable and shall supply an accurate recording of all sales on tape and a receipt for each transaction. Tenant shall not purchase or install the equipment before obtaining City's written approval of the specific equipment to be purchased. All such equipment shall have a customer display which is visible to the public. Tenant shall maintain cash register tapes during the term of this Lease and for a period of 3 years thereafter and shall make such cash register tapes available to City upon request. In addition, Tenant shall provide City, upon request, with any other records bearing in any way upon the operation of the Premises or to assist City in determining the amount of Gross Receipts.

- F. *County Records.* Tenant shall keep County of Sacramento, Environmental Management Department, Food Facility permits and inspection records on the Premises. City shall have the right at all reasonable times to examine these records.

**9. UTILITIES AND OTHER OPERATING COSTS.**

- A. *Phone and internet.* Tenant shall obtain and pay for any telephone and internet service and related equipment on the Premises.
- B. *Security.* Tenant may provide, at its own expense, any legal devices, installations, or equipment designed for the purpose of protecting the Premises from theft, burglary, or vandalism provided, however, that prior written approval for any such installation be first obtained from the City.
- C. *Electricity, water, and sewer.* Tenant shall pay for all electricity, water, and sewer charges associated with the Premises. Electricity and water is separately metered.
- D. *Garbage, Waste & Recycling.* Tenant shall open and pay for a solid waste collection account with Republic Services, and any successive solid waste hauler contracted by the City to service the City's shared trash compactor area (the "Compactor Area") and have access to the Compactor Area, located directly behind the South Public Markets, which includes a trash compactor and bins for food waste, recycling, and garbage. The City shall not be responsible for any contamination fees or similar charges that are charged by a contracted waste hauler servicing the Compactor Area. If the City is billed for such contamination or similar charges, City shall reasonably divide the amount of any such bill among Tenant and other City-authorized users of the Compactor Area. City shall notice Tenant its portion of such bill (the "Waste Charge"), which shall be due and payable as described in Section 3.

**10. TENANT ALTERATIONS TO PREMISES.**

- A. *City Approval.* Tenant shall not make any alterations or modifications to the Premises without obtaining written consent of the City, which shall not be unreasonably withheld, and any required building and other permits or approvals. Tenant acknowledges that pursuant to the Primary Lease, State approval of this Lease is required prior to Tenant making any improvements to the Premises. Tenant further acknowledges that the building is in a historic district and intended to be a replica of a historic building, and City's approval of any alterations or modifications will take historic aesthetics into consideration.

- B. *Performance of Work.* All work relating to any alterations to the Premises shall be done in a good and workmanlike manner, using new materials. All work shall be diligently prosecuted to completion.
- C. *Ownership of Alterations.* All alterations, improvements, additions, or fixtures, other than trade fixtures not permanently affixed to realty, that may be made or installed upon the Premises by either of the parties and that in any manner are attached to the floors, walls, or ceilings, shall be the property of City, and, at the termination of this Lease, shall remain upon and be surrendered with the Premises as a part of the Premises, without disturbance, molestation, or injury; provided, however, Tenant may remove trade fixtures with City's written consent if Tenant repairs any damage to the Premises caused by such removal.
- D. *No Liens.* Tenant shall pay, when, due, all sums of money that may become due or purportedly due for any labor, services, materials, supplies, or equipment alleged to have been furnished or to be furnished to or for Tenant in, at, upon or about the Premises and which may be secured by any mechanics', material men's or other lien against the Premises or City's interest in the Premises, and Tenant shall cause each such lien to be fully discharged and released at the time performance of the obligation secured matures or becomes due. Alternatively, Tenant shall have the right to contest the correctness of the validity of any such lien if, immediately on demand by Lessor, Tenant procures and records a lien release bond issued by a corporation authorized to issue surety bonds in California in an amount equal to one and one-half times the amount of the claim of lien. The bond shall meet the requirements of California Civil Code Section 3143 and shall provide for the payment of any sum that the claimant may recover on the claim (together with costs of suit, if it recovers in the action). City shall have the right to post and maintain on the Premises such notices of non-responsibility as are provided for under the mechanics' lien law of California.

**11. TAXES, LICENSES, AND PERMITS.**

- A. Prior to taking possession of the Premises, Tenant shall pay to the City's Revenue Division the business operations tax levied by City. The Business Operations Tax Certificate shall be provided by Tenant to the City's representative specified in Section 27 prior to taking possession of the Premises.
- B. Tenant shall secure all necessary licenses and permits for its operations including, but not limited to, health permits. Tenant shall pay before delinquency all taxes, fees or charges which at any time may be levied by the State of California, County of Sacramento, City or any tax-levying body on any interest in this Lease as well as all taxes, fees, licenses and charges on goods, merchandise, fixtures, appliances, or equipment owned or used by Tenant in or about the Premises. This Lease shall create a possessory interest subject to taxation by the County of

Sacramento. Tenant shall pay any possessory interest tax levied by the County of Sacramento on the Premises.

**12. ACCEPTANCE OF PREMISES.** Tenant accepts the Premises as being in good and sanitary order, condition and repair, and in the size and condition represented by City. Except as expressly set forth in this Lease, City makes no warranty, express or implied, including, without limitation, any warranty of the suitability of the Premises for Tenant's intended use. Tenant represents and warrants that it has independently made a full and thorough investigation and examination of the Premises, and that it is entering into this Lease relying only upon facts ascertained from its independent investigation.

**13. MAINTENANCE.**

- A. *Tenant Maintenance.* Tenant shall maintain the Premises at its sole cost and expense, except all structural portions that City is required to maintain as specified below, in the same order and condition as when received, wear and tear in the usual and ordinary operation of Tenant's business, and action of the elements, excepted. Any City Operator/311 work order requests submitted by Tenant that are deemed the responsibility of Tenant, will be billed back to Tenant. Tenant's maintenance shall include without limitation:
- (1) The exterior and interior of doors, windows, and plate glass located on the Premises, and all window glass, sashes, casements or frames, and door frames.
  - (2) The grease trap, exhaust, and fire suppression system serving the Premises. Tenant shall have the fire suppression system inspected annually and provide City with a copy of the inspection report and findings. Tenant is required to maintain any grease interceptors or grease traps.
  - (3) Interior walls, ceiling, flooring, sinks, plumbing within the Premises.
  - (4) Electrical outlets, breaker panel, conduits and electrical circuits from point of connection to the Premises.
  - (5) All fixtures including lighting and bulbs, and Tenant's signs.
  - (6) Locks and closing devices.
  - (7) HVAC.
  - (8) The exterior dining space.
- B. *City Maintenance of Premises.* City will maintain in good condition and repair, at City's cost, all "structural portions" of the Premises. The term "structural portions" as used in this paragraph shall mean the foundations, exterior walls, concrete slabs, the beams and columns bearing the main load on the roof, and exterior paint of the Premises. City shall also maintain in good condition and repair at its cost the domestic water supply, plumbing, electrical and sewer systems up to the points of connection to the Premises. Tenant shall give City

prompt notice of any deficient condition known to Tenant which City's responsibility is to repair. Tenant shall take all reasonable steps to maintain the Premises from further damage pending City's repair. Notwithstanding the foregoing, City shall not maintain and repair any damage caused by any negligent or intentional act or omission of Tenant or its employees, agents, invitees, licensees, or contractors.

- C. *Time for Completion.* Tenant shall complete all repairs for which it is responsible in a timely manner and commence such work no later than 10 days after discovery.
- D. *Plumbing Facilities.* The plumbing facilities serving the Premises shall not be used for any other purpose than that for which they are constructed. No foreign substance of any kind shall be thrown in the plumbing facilities. The expense of any breakage, stoppage, or damage resulting from a violation of this provision shall be borne by Tenant if Tenant or its employees, agents, contractors, or invitees causes it.
- E. *City Inspection.* The City may cause, at its expense, an inspector to inspect the Premises and prepare a report on the condition of the improvements, floors, walls, and such other elements of the Premises as the City requests.

**14. INDEMNITY.**

- A. *Indemnity.* Tenant shall defend, indemnify and hold harmless the State of California and the City, its officers, employees, and agents, and each and every one of them (individually, an "Indemnified Party", collectively the "Indemnified Parties"), from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, including but not limited to, any fees and/or costs reasonably incurred by the Indemnified Parties' staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereinafter collectively referred to as "Liabilities"), including but not limited to Liabilities arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with (a) any occurrence on the Premises related to the use or occupancy of the Premises by Tenant, its employees, invitees, subcontractors or agents, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, (b) any and all conditions of the Premises, or (c) performance of or failure to perform this Lease by Tenant, its employees, invitees, subcontractors or agents, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, whether or not (i) such Liabilities are caused in part by a party indemnified hereunder or (ii) such Liabilities are litigated, settled or reduced to

judgment; provided that the foregoing indemnity does not apply to liability for any damage or expense for death or bodily injury to persons or damage to property to the extent arising from the sole negligence or willful misconduct of an Indemnified Party or its independent contractors who are directly responsible to them, except when such independent contractors are under the direct supervision and control of Tenant.

- B. *Insurance Policies.* The existence or acceptance by City of any of the insurance policies or coverages described in this Lease shall not affect or limit any of City's rights under this Section 14, nor shall the limits of such insurance limit the liability of Tenant hereunder. The provisions of this Section 14 shall survive any expiration or termination of this Lease.

15. **INSURANCE REQUIREMENTS.** During the term of this Lease, and until final completion and acceptance of any work required by this Lease, Tenant shall maintain in full force and effect at its own cost and expense the following insurance coverage. By requiring the insurance herein, City does not represent that the coverage and limits will necessarily be adequate to protect Tenant. It is understood and agreed by Tenant that the required insurance coverage and limits shall not be deemed as a limitation on Tenant's liability under the indemnities granted to the City in this Lease.

Insurance requirements are subject to review and revision every five (5) years to assure that policy terms, conditions and limits are maintained in accordance with current insurance industry standards for comparable premises and buildings.

A. Minimum Scope & Limits of Insurance Coverage

- (1) Commercial General Liability Insurance providing coverage at least as broad as ISO CG Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, arising out of activities performed by or on behalf of Tenant, its sub-tenants, and premises leased or used by Tenant, its sub-tenants, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall include coverage for premises, operations, products and completed operations and contractual liability and liquor liability for the term of the policy. The policy shall include a fire legal liability limit of \$50,000. Contractor shall obtain and maintain a policy covering Liquor Liability with a limit no less than **\$2,000,000** per occurrence or claim.

Liquor liability insurance shall not be required if Tenant completes the following certification:

"I certify that alcohol will not be served on any premises leased under this Lease." \_\_\_\_\_ (Tenant initials)

- (2) Excess Insurance: The minimum limits of insurance required above may be satisfied by a combination of primary and umbrella or excess insurance coverage; provided that any umbrella or excess insurance shall contain, or be endorsed to contain, a provision that it shall apply on a primary basis for the benefit of the City , and any insurance or self-insurance maintained by City, its officials, employees, or volunteers shall be in excess of such umbrella or excess coverage and shall not contribute with it.
- (3) All Risk Property Insurance including coverage for special perils is required for all improvements, fixtures and equipment. All property insurance must be for replacement value and name the City as loss payee.
- (4) Workers' Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than one million dollars (\$1,000,000). The Worker's Compensation policy shall include a waiver of subrogation in favor of the City.

No Workers' Compensation insurance shall be required if Tenant completes the following certification:

"I certify that my business has no employees, and that I do not employ anyone. I am exempt from the legal requirements to provide Workers' Compensation insurance." \_\_\_\_\_ (Tenant initials)

- (5) Business Interruption Insurance: Tenant shall take out and keep in effect business interruption insurance insuring that Base Rent and all insurance premiums and taxes shall be paid for a period of at least six months.

B. Additional Insured Coverage

- (1) Commercial General Liability Insurance The State of California and the City, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insured as respects general liability arising out of: activities performed by or on behalf of the Tenant, its sub-tenants, including products and completed operations of Tenant, its sub-tenants, and premises owned, leased or used by Tenant, and its sub-tenants.

C. Other Insurance Provisions. The policies are to contain or be endorsed to contain the following provisions.

- (1) Tenant's insurance coverage, including excess insurance, shall be primary as respects the State of California and the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers shall be in excess of Tenant's insurance and shall not contribute with it.
- (2) Tenant hereby grants to the State of California and City a waiver of any right to subrogation which any insurer of said Tenant may acquire against the State or City by virtue of the payment of any loss under such insurance. Tenant 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 State or City has received a waiver of subrogation endorsement from the insurer.
- (3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the State or City, its officials, employees and volunteers.
- (4) Coverage shall state that Tenant's insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.
- (5) The City will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms.

D. Acceptability of Insurers. Insurance shall be placed with insurers with a Bests' rating of not less than A:VI. Self-insured retentions, policy terms or other variations that do not comply with the requirements of this section must be declared and approved by the City Risk Management Division in writing prior to execution of this Lease.

E. Verification of Coverage

- (1) Tenant shall furnish City with certificates and endorsements evidencing the required insurance prior to execution of the final agreement. Copies of policies shall be delivered to the City on demand. Certificate of insurance shall be signed by an authorized representative of the insurance carrier.
- (2) For all insurance policy renewals during the term of this Lease, Tenant shall send insurance certificates and endorsements reflecting the policy renewals directly to:

City of Sacramento  
c/o EXIGIS LLC  
P.O. Box 4668 ECM - #35050  
New York, NY 10168-4668  
FAX: (888) 355-3559  
EMAIL: certificates-sacramento@riskworks.com

- (3) The City may withdraw its offer or cancel this Lease if the required certificates of insurance and endorsements have not been provided prior to execution of this Lease. Failure to provide insurance certificates and endorsements and keep such certificates and endorsements current will be considered a material breach by Tenant of this Lease.

F. Contractors. Tenant shall require and verify that all contractors and subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subsections A, B, C and D above.

16. SIGNS. Tenant shall not place or permit to be placed upon any wall, sidewall, rear wall, or roof, any sign, advertisement, decoration, marquee, or notice without the prior written consent of City. All signage shall be agreed to between City and Tenant; however, City shall not unreasonably withhold said approval. If signage is permitted, Tenant's signage must meet all applicable governmental codes and regulations, including without limitation the Old Sacramento Historic District Sign Ordinance. If signage is permitted, Tenant shall have the right, at its own cost, to change or alter such signage at any time during the term of this Lease provided such signage is in compliance with all applicable governmental codes and regulations and such change or alteration is approved by City in writing. Signage must reflect the current business stated in this Lease.
17. ENTRY BY OWNER. Tenant shall permit City and its agents to enter the Premises at all reasonable times upon a minimum of 24 hours' notice from City (except in the case of emergency, in which case City may enter as reasonably necessary) for the purposes of: inspecting the Premises; making repairs, alterations, or additions to any portion of the Steamers Building and Embarcadero, including the erection and maintenance of such scaffolding, canopies, fences and props as may be required; posting notices of non-liability for alterations, additions or repairs; and enforcing the provisions of Section 16 of this Lease. Such entry by City shall not entitle Tenant to any rebate of Rent or any damages for loss of occupation or quiet enjoyment of the Premises. Provided, however, that if City's repairs or alterations fully interrupt Tenant's operations for longer than 5 business days, Rent shall abate until repairs are completed. Tenant shall permit City, at any time within 60 days prior to the expiration of this Lease, to place upon the Premises any usual or ordinary "to let" or "to lease" signs. City shall use its best efforts to limit interference with Tenant's operations.

18. **DESTRUCTION OF PREMISES.** In the event of a partial destruction of the Premises during the term of this Lease, from any cause for which City is responsible for repair according to the terms and conditions of this Lease, City shall forthwith repair the same, provided such repairs can be made within 120 days of the destruction under the laws and regulations of state, federal, or municipal authorities, but such partial destruction shall in no way annul or void this Lease, except that Tenant shall be entitled to a proportionate reduction in Rent based upon the extent to which the making of such repairs shall interfere with the occupancy of the Premises by Tenant. In the event that City cannot make repairs in 120 days, or such repairs cannot be made under such laws or regulations, this Lease may be terminated at the option of either party upon 30 days' notice to other party. In respect to any partial destruction which City is obligated to repair or may elect to repair under the terms of this paragraph, the provisions of California Civil Code sections 1932(2) and 1933(4) are waived by Tenant. A total destruction of the building in which the Premises are situated shall terminate this Lease.
19. **ASSIGNMENT OR SUBLETTING.** 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 (the agents, employees and invitees of Tenant excepted) to occupy or use the Premises, or any portion thereof, without the prior written consent of City. A consent to one assignment, subletting, occupation or use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person. Any such assignment or subletting without written City consent shall be void, and shall at the option of City, terminate this Lease. This Lease shall not, nor shall any interest therein, be assignable, as to the interest of Tenant, by operation of law, without the prior written consent of City.
20. **INSOLVENCY; RECEIVER.** Either (a) the appointment of a receiver to take possession of all or substantially all of the assets of Tenant, (b) a general assignment by Tenant for the benefit of creditors, or (c) any action taken or suffered by Tenant under any insolvency or bankruptcy act, shall constitute a breach of this Lease by Tenant. Should such action occur against Tenant, Tenant shall have 30 days to cure the action or suit prior to being considered in default of this Lease.
21. **REMEDIES OF CITY.** The following rights and remedies shall be available to City in the event Tenant commits any act of breach or default under this Lease. Unless a different time period is set forth elsewhere in this Lease, Tenant shall be deemed to be in default only after receipt of written notice from City specifying the nature of the violation and failure to cure said violation within 30 days after receipt of the notice. These rights and remedies shall not be exclusive, and in addition to any and all rights and remedies of City now or hereafter allowed by law. The City's rights and remedies include without limitation the following:

- A. Even though Tenant breaches this Lease, or abandons the Premises, this Lease shall continue in full force and effect for so long as City does not terminate Tenant's right to possession of the Premises; and City shall be entitled to enforce all its rights and remedies under this Lease, including the right to collect Rent as it becomes due. It is hereby specifically agreed between the parties that acts of maintenance or efforts to re-let the Premises, and/or the appointment of a receiver on initiative of City to protect City's interest under this Lease, will not constitute a termination of Tenant's right to possession. City shall not be deemed to have elected to terminate Tenant's right to possession of the Premises unless City gives written notice of such election to terminate.
- B. City may elect, by written notice to Tenant, to terminate Tenant's right to possession of the Premises at any time after the occurrence of any act of monetary default by Tenant, if said default is not cured within 30 days of written notice of said default, and in such event City may, at City's option, declare this Lease and Tenant's right to possession terminated. It is hereby specifically agreed between the parties that acts of maintenance or efforts to re-let the Premises, and/or the appointment of a receiver on initiative of City to protect City's interest under this Lease will not constitute a termination of Tenant's right to possession. In the event City elects to terminate this Lease and Tenant's right to possession as aforesaid, City may recover as damages from Tenant the following:
- (1) The worth at the time of award of the unpaid Rent which has been earned at the time of termination of the Lease; and
  - (2) The worth at the time of award of the amount by which the unpaid Rent which would have been earned after the date of termination of this Lease until the time of award exceeds the amount of such loss of Rent that Tenant proves City could have reasonably avoided; and
  - (3) The worth at the time of the award of the amount by which the unpaid Rent for the balance of the term after the time of award exceeds the amount of the loss of such Rent that Tenant proves City could have reasonably avoided; and
  - (4) Any other amount necessary to compensate City for all detriment proximately caused by Tenant's act or default, or which in the ordinary course of things would be likely to result therefrom. The phrase "the worth at the time of the award" as referred to in this section is to be computed by the allowing interest at the rate of 10 percent annually. The phrase "the worth at the time of the award" as referred to in this section shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus 1%.

- C. Efforts by City to mitigate the damages caused by Tenant's breach of this Lease shall not waive City's right to recover damages under this section.
- D. Nothing in this section shall affect the right of City to indemnification against liability arising from or related to acts or events occurring prior to the termination of this Lease for personal injuries or property damage, or against mechanic's liens or other liens, claims or expenses.

**22. DEFAULT AND TERMINATION**

- A. The following events are, without limitation, specific examples of defaults under this Lease:
  - (1) The failure of Tenant to punctually pay Rent, insurance, assessments, or make any other payments required under this Lease.
  - (2) The failure of Tenant to maintain the quality and number of services as required in this Lease or to follow any rules or regulations subsequently provided by City.
  - (3) The failure of Tenant to keep, perform, and observe any and all promises covenants, conditions, obligations, and agreements set forth in this Lease.
  - (4) The abandonment, vacation, or discontinuance of Tenant's operations on the Premises without the prior written consent of City.
- B. Upon the occurrence of any breach or default by Tenant, City shall have the right to terminate this Lease. Upon such termination, Tenant's right to possession of the Premises shall terminate and Tenant shall surrender possession thereof immediately. In such event, Tenant hereby authorizes City to enter upon the Premises or any part thereof immediately and to take possession of said Premises and all improvements, equipment, and inventory. If City removes belongings from the Premises, City shall provide written notice to Tenant of where and when to claim any equipment, belongings, or inventory. Tenant may be responsible to pay any moving, transportation, or storage costs incurred by the City. Election by City to terminate this Lease shall not prejudice any rights or claims City may have for sums remaining due it or for damages or pursuing such other remedies as may be available to City by law or equity; all remedies of the City are cumulative and not alternative.

- 23. ABANDONMENT OF PREMISES.** Tenant shall not vacate or abandon the Premises at any time during the term of the Lease. If Tenant does abandon, vacate, or surrender said Premises, or be dispossessed by process of law, or otherwise, any personal property

belonging to Tenant left on the Premises shall be deemed to be abandoned at the option of City, subject to Tenant's mortgage company security interest. City reserves the right to collect from the Security Deposit pursuant to Section 5 to mitigate any damage due to abandonment or loss.

24. **SURRENDER OF PREMISES.** Upon the expiration or termination of this Lease, Tenant shall peaceably vacate the Premises and any and all improvements located thereon and deliver up such Premises to City in its original condition, ordinary wear and tear excepted. Within 15 days of any expiration or termination of this Lease, Tenant shall remove, at its own expense, its own furniture, furnishings, equipment, inventory, and trade fixtures, provided Tenant has written consent from City pursuant to Section 10(C) as it concerns the removal of any improvements and fixtures as discussed therein. Said removal shall be conducted in an expeditious and orderly manner and shall be accomplished in such a way as to minimize the nature and the extent of any disruption of service to the public contracted for herein and the premises shall be restored to its original condition, ordinary wear and tear excepted. Should Tenant fail to remove said items within the 15-day period, Tenant shall lose all right, title and interest in and to said items, and City may elect to keep same upon the Premises or to sell, remove or demolish them. In the event of such sale, removal or demolition, Tenant shall reimburse City for any cost in excess of any consideration received by City as a result of said sale, removal or demolition.
25. **SURRENDER OF LEASE NOT MERGER.** The voluntary or other surrender of this Lease by Tenant, or mutual cancellation thereof, shall not work a merger, and shall, at the option of City, terminate all or any existing subleases or subtenancies, or may, at the option of City, operate as an assignment to it of any or all such subleases or subtenancies.
26. **JOINT & SEVERAL OBLIGATIONS.** If more than one individual or entity comprises Tenant, the obligations imposed on each individual or entity that comprises Tenant under this Lease shall be joint and several.
27. **NOTICES.** Any and all notices or demands related to this Lease shall be in writing and served either personally or by mail. If served personally, service shall be conclusively deemed made at the time of service. If served by mail, service of notices or demands shall be conclusively deemed made as of the time of deposit in the United States mail, postage paid, certified mail, return receipt requested. Notices shall be sent to the following representatives:

*If to the City:*

City of Sacramento  
Office of Innovation and Economic Development  
915 I Street, 3<sup>rd</sup> Floor  
Sacramento, CA 95814  
Attention: Valerie Mamone-Werder

*If to the Tenant:*

River City Entertainment a Limited Liability Corporation *dba* Der Biergarten Waterfront  
4145 Main Street  
Fair Oaks, CA 95628  
Attention: Sean Derfield

Any party hereto shall change the address for notice by giving written notice to the other party according to this section.

28. **WAIVER.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of any delinquent Rent payment by City shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of City's knowledge of such preceding breach at the time of acceptance of such Rent. No waiver will be effective unless it is in writing and signed by the waiving party.
29. **BINDING ON SUCCESSORS.** The covenants and conditions herein contained shall, subject to the provisions as to assignment contained in Section 19, apply to and bind the heirs, successors, executors, administrators and assigns of all of the parties hereto.
30. **TIME.** Time is of the essence in this Lease.
31. **CONDEMNATION.** In the event any entity with the power of eminent domain shall take the Premises, or any part thereof, actually using the power of eminent domain or negotiating under the threat of the use of the power of eminent domain, then:
  - A. In the event of taking of the entire Premises, this Lease shall be terminated when title passes to the condemner or when possession is obtained by the condemner, whichever shall first occur; or
  - B. In the event of a taking of any area of the Premises less than the entire Premises, the Rent shall be reduced in the same proportion as the area taken bears to the remainder and the Lease shall continue in full force and effect, unless within 10

days of the date the condemner takes possession or legal title vests in the condemner, Tenant shall give written notice of termination, which assigns and transfers to the City any right to compensation or damages to which the Tenant may become entitled during the term hereof by reason of the condemnation of all, or a part of the Premises. Tenant shall have the right to petition the condemning authority for Tenant's relocation costs.

32. **CAPTIONS.** The title or headings to the paragraphs of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part of this Lease.
33. [reserved]
34. **NON-DISCRIMINATION IN EMPLOYEE BENEFITS.** This Lease is subject to the requirements of Sacramento City Code Chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors (also referred to as the "Equal Benefits Ordinance"). By signing this Lease, Tenant acknowledges and represents that Tenant has read and understands these requirements and agrees to fully comply with all applicable requirements of Sacramento City Code Chapter 3.54. If requested by City, Tenant agrees to promptly provide such documents and information as may be required by City to verify Tenant's compliance. Any violation by Tenant of Sacramento City Code Chapter 3.54 constitutes a material breach of this Lease, for which City may terminate the Lease and pursue all available legal and equitable remedies.
35. **NO JOINT VENTURE.** It is understood and agreed that each party is an independent entity and that this Lease shall not create a relationship between City and Tenant or its individual members of employer-employee, joint venture, partnership, or any other relationship of association. Except as expressly provided in this Lease or as the parties may specify in writing, neither party shall have authority, express or implied, to act on behalf of the other party in any capacity whatsoever as an agent.
36. **ATTORNEY FEES.** Except as required by Section 14, the parties shall bear their own costs and attorneys' fees incurred in connection with this Lease.
37. **ENFORCEMENT OF LEASE.** This Lease shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Lease shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.
38. **ENTIRE AGREEMENT.** This Lease, which includes all attachments and all documents that are incorporated by reference, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the

execution of this Lease. No alteration to the terms of this Lease shall be valid unless approved in writing by Tenant, and by City, in accordance with applicable provisions of the Sacramento City Code. The City Manager is hereby authorized to enter into "minor lease amendments," as that term is interpreted by the City Attorney's Office. Where City's consent is required under this Lease, such consent may be granted by the City Manager or their designee.

39. **SEVERABILITY**. If any portion of this Lease or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Lease shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
40. **AUTHORITY**. The person signing this Lease for Tenant represents and warrants that he or she is fully authorized to sign this Lease on behalf of Tenant and to bind Tenant to the performance of its obligations hereunder.

[Signature Page Follows]

**IN WITNESS WHEREOF**, City and Tenant have executed this Lease on the date herein above first written.

TENANT:

CITY:

RIVERCITY ENTERTAINMENT,  
A LIMITED LIABILITY corporation  
DBA, SACRAMENTO DER BIERGARTEN  
WATERFRONT

CITY OF SACRAMENTO  
A Municipal Corporation

BY: Sean Derfield  
Sean Derfield (Feb 20, 2026 14:49:50 PST)

BY: \_\_\_\_\_

Name: Sean Derfield

Name: Michael Jasso

Title: CEO

Title: Assistant City Manager

26-3664496  
State ID No. (if applicable)

APPROVED AS TO FORM:

BY:   
Ryan Meyerhoff (Feb 24, 2026 12:50:14 PST)

CITY ATTORNEY

\_\_\_\_\_  
City Business Op. Tax Cert. No.

ATTEST:

Exhibits:  
Exhibit A – Location of Premises

BY: \_\_\_\_\_

CITY CLERK

# EXHIBIT A

## Location of Premises

