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Attorneys for Debtors

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN FRANCISCO DIVISION)**

In re)	Case No. 16-31253 HLB 11
)	
MELINDA BILGERA CORTEZ)	Chapter 11
ALEX C CORTEZ)	
)	
)	
Debtor(s).)	Date: July 15, 2017
)	Time: 10:00 a.m.
)	Place: 450 Golden Gate Ave., 16th Floor,
)	Courtroom 19
SSN XXX-XX-1387)	San Francisco, CA 94102
SSN XXX-XX-8787)	
)	Judge: Hon. Hannah L. Blumenstiel
)	
)	

**MOTION FOR ORDER APPROVING SALE OF REAL PROPERTY AND SALE FREE
AND CLEAR OF CERTAIN CLAIMS OF LIEN AND OTHER INTERESTS
("112 Russ Street, San Francisco, CA 94103")**

Case No. 16-31253 HLB 11: *In re Cortez*
Motion for Order Approving Sale Free and Clear of Liens; MPA in Support

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1 **TO: ALL CREDITORS; YEVA, INC., DBA SAXE MORTGAGE COMPANY**
2 **ATTN: GENE KRISTUL, REG. AGENT; ANN LA MORENA ROHLIN C/O MARTIN L.**
3 **PITHA, LILLIS PITHA LLP; BORIS GOVZMAN/SOFIA FRIDMAN/NATALIE GOVZMAN**
4 **C/O LAW OFFICES OF KEVIN S. SULLIVAN; ARCON CONSTRUCTION**
5 **CORPORATION C/O MILLER & TONG, LLP; STATE OF CALIFORNIA FRANCHISE**
6 **TAX BOARD; UNITED STATES TRUSTEE; ALL PARTIES WHO HAVE REQUESTED**
7 **NOTICE; AND ALL PARTIES IN INTEREST:**

8 **Yeva, Inc., dba Saxe Mortgage Company**
9 **Attn: Gene Kristul, Reg. Agent**
10 **c/o Law Offices of Martha J. Simon**
11 **22 Battery St., Suite 888**
12 **San Francisco CA 94111**

Ann La Morena Rohlin
 c/o Martin L. Pitha, Lillis Pitha LLP
 2 Park Plaza, Suite 480
 Irvine, CA 92614

12 **Boris Govzman, Sofia Fridman**
13 **and Natalie Govzman**
14 **c/o Law Office of Kevin S. Sullivan**
15 **3251 Steiner Street**
16 **San Francisco, CA 94123**

Arcon Construction Corporation
 c/o Michele Miller
 Miller & Tong, LLP
 44 Montgomery Street, Suite 1400
 San Francisco, CA 94104

16 **Franchise Tax Board**
17 **Chief Counsel**
18 **General Counsel Section MS A260**
19 **PO Box 1720**
20 **Rancho Cordova, CA 95741-1720**

Franchise Tax Board
 Bankruptcy Section, MS A-340
 Po Box 2952
 Sacramento CA 95812-2952

20 **Stanley Lo dba Greenbanker**
21 **398 Primrose Rd.**
22 **Burlingame, CA 94010**

21 MELINDA BILGERA CORTEZ and ALEX C CORTEZ, the above-captioned Debtors
22 and Debtors-in-Possession (the "DIP"), will move, and hereby do move the Court for an order
23 authorizing the DIP to sell the Debtor's REAL PROPERTY commonly known as Unit 112 Russ
24 Street, San Francisco, CA, identified as Lot 276; Block 3731 (the "SUBJECT PROPERTY") and
25 sell said assets Free and Clear of Certain Claims of Lien and Other Interests of: 1) Yeva, Inc. dba
26 Saxe Mortgage Company; 2) Ann La Morena Rohlin c/o Martin L. Pitha, Lillis Pitha LLP; and 3)
27 Boris Govsman, Sofia Fridman and Natalia Govsman c/o Law Offices of Kevin S. Sullivan; and 4)

1 Arcon Construction Corporation; 5) Franchise Tax Board and 6) Stanley Lo *dba* Greenbanker for
2 a total purchase of EIGHT-HUNDRED AND FIVE THOUSAND DOLLARS (\$805,000.00), to
3 MARK LEE (the “Nominee” and/or “Buyer”), with financing, “as-is”, with a deposit figure
4 already held in escrow in the amount of TEN-THOUSAND DOLLARS (\$10,000.00) and an
5 anticipated closing date by or before the end of July 2017.

6 The DIP will deposit all collective proceeds from the sale into an appropriate escrow
7 account and administer pursuant to the following two (2) provisions:

- 8 a. That the judgments, liens, claims and interests of the parties herein, attach to any
9 proceeds from the sale of these assets, to the same priority and extent that they
10 attach to the subject assets.
- 11 b. That the proceeds from the sale of the assets described above be held in an interest
12 bearing account until further order of this Court to determine the validity, priority
13 and extent of the judgments, liens, claims and interests of the parties herein.

14 Subject to subsequent Bankruptcy court approval, the DIP reasonably anticipates paying
15 out of escrow the five percent (5%) broker commissions, transfer taxes and certain
16 reimbursements for costs advanced by the broker to finalize the condo conversion, as well as the
17 payment any utility or local city taxes owed, to the extent said payments were not paid pre-
18 petition, in order to deliver clear title to the Nominee. A summary of all anticipated payments out
19 of escrow is included in the chart attached hereto as Exhibit A. The DIP proposes to apply the
20 proceeds, after closing costs, to pay down the senior lien held by Yeva, Inc. *dba* Saxe Mortgage
21 Company at the approximate figure of \$756,583.80.

22 The Buyer is purchasing the Subject Property “as-is” with no condition or warranties
23 except that DIP does not have any actual knowledge of any liens, security interests, or claims
24 against the DIP other than the liens identified in the preliminary title report attached as Exhibit B
25 to the Declaration of Tim Brown.

26 Although Bankruptcy Rule 6004(h) provides for a 14-day stay of a sale order unless the
27 Bankruptcy Court orders otherwise, the DIP requests that the Bankruptcy Court waive the stay

1 provisions of Bankruptcy Rule 6004(h) so that the sale may close as expeditiously as possible. The
2 DIP believes that the Buyers are buying the Subject Property in good faith and for fair and
3 adequate consideration and thus the DIP also requests that the Court make a good-faith finding.

4 Subject to subsequent Bankruptcy court approval, the DIP reasonably anticipates paying
5 out of escrow the five percent (5%) broker commissions, transfer taxes and certain
6 reimbursements for costs advanced by the broker to finalize the condo conversion, as well as the
7 payment any utility or local city taxes owed, to the extent said payments were not paid pre-
8 petition, in order to deliver clear title to the Nominee. A summary of all anticipated payments out
9 of escrow is included in the chart attached hereto as Exhibit A. The proposed net proceeds from
10 the transaction to the Estate are \$805,000.00 (the “net proceeds”), which net proceeds the DIP
11 proposes to pay to SAXE.

12 The Buyer is purchasing the Subject Property “as-is” with no condition or warranties
13 except that DIP does not have any actual knowledge of any liens, security interests, or claims
14 against the DIP other than the liens identified in the preliminary title report attached as Exhibit B
15 to the Declaration of Tim Brown.

16 The sale is subject to overbid as described hereinbelow.

17 The sale is subject to overbid.

18 Although Bankruptcy Rule 6004(h) provides for a 14-day stay of a sale order unless the
19 Bankruptcy Court orders otherwise, the DIP requests that the Bankruptcy Court waive the stay
20 provisions of Bankruptcy Rule 6004(h) so that the sale may close as expeditiously as possible. The
21 DIP believes that the Buyers are buying the Subject Property in good faith and for fair and
22 adequate consideration and thus the DIP also requests that the Court make a good-faith finding.

23 Pursuant to BLR 6004-1, BLR 9014-1, Rules 2002 and 6004 of the Federal Rules of
24 Bankruptcy Procedure, and 11 U.S.C. §§ 363(b)(1), and (f)(4) to sell the SUBJECT PROPERTY
25 FREE AND CLEAR of the following claims of lien:

26
27
28

Claimant	Recording No.	Amount
Yeva, Inc., dba Saxe Mortgage Company Attn: Gene Kristul, Reg. Agent c/o Law Offices of Martha J. Simon 22 Battery St., Suite 888 San Francisco CA 94111	2013-J645804	Est. \$1,498,679.79 (as of 3/7/17)
Yeva, Inc., dba Saxe Mortgage Company Attn: Gene Kristul, Reg. Agent c/o Law Offices of Martha J. Simon 22 Battery St., Suite 888 San Francisco CA 94111	2014-J894505	\$2,494,467.81 (as of 3/7/17)
Ann La Morena Rohlin c/o Martin L. Pitha, Lillis Pitha LLP 2 Park Plaza, Suite 480 Irvine, CA 92614	2015-K122503	\$74,958.76 Claim 4-1
Boris Govzman, Sofia Fridman and Natalie Govzman c/o Law Office of Kevin S. Sullivan 3251 Steiner Street San Francisco, CA 94123	2016-K184188	\$130,000.00
Arcon Construction Corporation c/o Michele Miller Miller & Tong, LLP 44 Montgomery Street, Suite 1400 San Francisco, CA 94104	2016-K222980	\$22,222.50
Franchise Tax Board Chief Counsel General Counsel Section MS A260 PO Box 1720 Rancho Cordova, CA 95741-1720	2016-K353319	\$4,486.19 Claim 6-1
Franchise Tax Board Bankruptcy Section, MS A-340 Po Box 2952 Sacramento CA 95812-2952		
Greenbanker-Stanley Lo 398 Primrose Rd. Burlingame, CA 94010	2017-K447905-00	\$5,075.00

The motion is based on the Notice of Hearing and Opportunity for Overbid, the accompanying Memorandum of Points and Authorities, the declaration of Tim Brown (“Brown Decl.”), the Declaration of Melinda Bilgera Cortez (“Cortez Decl.”), and the Declaration of Mark Lee (“Lee Decl.”), all of which are incorporated herein by reference, as well as the filings and

1 docket history of the above-captioned case. Any opposition shall be filed and served on the
2 initiating party pursuant to the schedule identified in the order shortening time and/or
3 corresponding notice.

4 **I. JURISDICTION AND VENUE**

5 This Court has jurisdiction to hear and determine this Motion pursuant to 28 U.S.C. §§ 1334
6 and 157. The Court’s consideration of this Motion is a core proceeding under 28 U.S.C. § 157(b).
7 Venue of this proceeding is proper in this district under 28 U.S.C. §§ 1408 and 1409. The
8 statutory authority for the Motion is Section 363 of the Bankruptcy Code.

9 **II. STATEMENT OF FACTS**

10 **A. Status of Operations – Completion of Condominium Conversion**

11 1. The Debtors filed the instant bankruptcy case to stop a foreclosure sale scheduled
12 on the real property of the estate commonly known as “112-114A Russ Street, San Francisco, CA
13 94103” (the “Subject Property”).

14 2. The DIP converted said Subject Property into a condominium building pre-petition;
15 the only work that remained outstanding on the condominium conversion project was the
16 finalization and recording of CC&Rs and related condo-map.

17 3. The CC&Rs and final condo map were recorded on or about February 22, 2017 in the
18 San Francisco Assessor-Recorder’s office as Doc 2017-K4111072-00.

19 2. As of the February 22, 2017 recording date, 112-114A Russ Street was subdivided
20 into the following four (4) separate Parcel ID/ Lot-Block numbers:

- 21 • Lot 276; Block 3731 (“112 Russ”)
- 22 • Lot 277; Block 3731 (“112-A Russ”)
- 23 • Lot 278; Block 3731 (“114 Russ”)
- 24 • Lot 279; Block 3731 (“114-A Russ”)

25 (collectively referred to as the “Russ Street Condominium Units”)
26
27

1 **B. Marketing Efforts and Fair Market Valuation**

2 3. Regarding the real property commonly known as Unit 112 Russ Street, San Francisco
3 (“112 Russ”), the total time on market was 151 days until we received the instant offer.

4 4. The average days on market for SOLD listings in the SOMA district in 2017 is
5 approximately 60 days.

6 5. For the three last weekends in May there was very little activity on this unit. The
7 open house on May 14 had no prospective Buyers turn up. This led the Debtors to reduce the price of
8 the unit, slightly by \$15,000 from \$840,000 to \$825,000 on 6/01/17.

9 6. As a result of the recent price decrease two offers were received from different
10 brokers. The first offer was for \$840,000 however it required the sale of the Buyer’s home in Oakland
11 as a contingency of the purchase. The other offer was for \$800,000 from a Buyer that had previously
12 written an offer back in March at a price of \$825,000 (when the list price was \$885,000).

13 7. The Sellers issued a Multiple Counter Offer to each Buyer. The Buyer with the higher
14 price had a contingency involving testing the parking spaces. The Buyer did this whilst the counter
15 offer was still active and unfortunately discovered his car would not fit in the available spaces. The
16 Buyer withdrew his offer, not wishing to park his Tesla on the street. This left the other Buyer – Mark
17 Lee (the “Nominee”) as the only contender. Mr. Lee increased his offer to \$805,000, and signed an
18 As-Is Addendum, which the Sellers accepted subject to Court approval under the guidance of their
19 broker.

20 8. Mark Lee, the Buyer/Nominee, is a single man and appears a solid Buyer, although he
21 has a normal set of contingencies, including finance and inspection. He has demonstrated a lengthy
22 interest in the property and we expect he will close the deal if the Court approves the sale.

23 9. Thus, for the foregoing reasons, it is the Broker’s professional opinion that the
24 proposed transaction represents fair market value and more time on the market would not guarantee a
25 higher price.

26 **C. The Proposed Transaction**

27 4. The proposed purchase price is \$805,000.00, with financing.

28 5. The anticipated settlement/close date is the end of July 2017.

1 6. From said proceeds, the DIP proposes to pay the brokers' commissions of five
2 percent (5%) split 50/50 between the buyers' broker and the sellers' broker

3 7. Additionally, as the Declaration of Melinda Cortez illustrates, there may exist
4 certain statutorily "super-priority" local utility and city tax liens, which liens, if not already paid,
5 would need to be paid out of escrow. Ms. Cortez estimates the total costs of said liens at
6 \$19,512.25 but maintains that said statutory liens were already paid in full pre-petition; indeed, the
7 estimated closing statement from Old Republic Title Company also appears to indicate the same.
8 However, to the extent any of said liens remain outstanding, said liens would need to be paid out
9 of escrow.

10 **D. Potential for Overbids**

11 8. Any and all parties are encouraged to overbid, pursuant to the schedule outlined in
12 the accompany Notice and Opportunity for Overbid.

13 9. It reasonable to anticipate overbids given the low level of comparable inventory in
14 the South of Market space in San Francisco.

15 **E. Arms' Length Negotiations with the Nominee**

16 10. As verified by the supporting declarations of Ms. Cortez and Mr. Lee, neither the
17 Debtor or the Joint Debtor have any past or present connections with the proposed buyer.

18 11. Mr. Lee first learned of the property via private showing.

19 12. Neither the Debtor nor Joint Debtor have any have any future plans with Mark Lee.

20 13. The negotiations have been at arms' length.

21 14. Both Buyer and Seller are represented by separate brokers; there is no dual agency.

22 15. There is no collusion on behalf of buyer on one hand, and any other entity.

23 **F. The Net Gain to the Estate**

24 16. The purchase price is \$805,000.00, with financing and an anticipated
25 settlement/close date by the end of July 2017.

26 17. The Estimated Seller's Statement anticipates proceeds of \$756,583.80 (the "net
27 proceeds") – payable to SAXE.

1 18. The DIP proposes to have all net proceeds remain in the appropriate escrow or trust
2 account, until the disputed lien controversies resolve, such that the DIP must obtain prior Court
3 approval before making any distributions outside of the items identified in the Seller’s Closing
4 Statement any other “ordinary course” related transactional costs necessary to close the
5 transaction.

6 **III. RELIEF REQUESTED**

7 By this Motion, the DIP seeks an order authorizing the sale of the REAL PROPERTY of
8 the estate commonly known as Unit 112 Russ Street, San Francisco, CA, identified as Lot 276;
9 Block 3731 (the “SUBJECT PROPERTY”) and sell said assets Free and Clear of Certain Claims
10 of Lien and Other Interests of: 1) Yeva, Inc. dba Saxe Mortgage Company; 2) Ann La Morena
11 Rohlin c/o Martin L. Pitha, Lillis Pitha LLP; and 3) Boris Govsman, Sofia Fridman and Natalia
12 Govsman c/o Law Offices of Kevin S. Sullivan; and 4) Arcon Construction Corporation;
13 5) Franchise Tax Board; and 6) Stanley Lo dba Greenbanker for a total purchase of EIGHT-
14 HUNDRED AND FIVE THOUSAND DOLLARS (\$805,000.00), to MARK LEE (the
15 “Nominee” and/or “Buyer”), with financing, “as-is”, with a deposit figure already held in escrow
16 in the amount of TEN-THOUSAND DOLLARS (\$10,000.00) and an anticipated closing date by
17 or before the end of July 2017.

18 After payment of the items identified in the Seller’s Estimated Closing Statement, the DIP
19 will deposit all collective proceeds from the sale, if any, into an appropriate escrow account and
20 administer pursuant to the following two (2) provisions:

- 21 a. That the judgments, liens, claims and interests of the parties herein, attach to any
22 proceeds from the sale of these assets, to the same priority and extent that they
23 attach to the subject assets.
- 24 b. That the proceeds from the sale of the assets described above be held in an interest
25 bearing account until further order of this Court to determine the validity, priority
26 and extent of the judgments, liens, claims and interests of the parties herein.

1 By this Motion, the DIP is seeking express authority to pay all items identified in the
2 Seller's Estimated Closing Statement and any incidental ordinary costs necessary to close the
3 transaction. The DIP reasonably anticipates net proceeds to the Estate to be approximately
4 \$715,855.29, which net proceeds the DIP proposes to pay directly to SAXE to pay down SAXE's
5 senior and junior liens.

6 7 **IV. DISCUSSION**

8 **A. Bankruptcy Code Section 363 and Relevant Case Law Provide Authority for the** 9 **Court to Approve the Proposed Sale.**

10 After notice and a hearing, the DIP may sell property of the estate outside the ordinary
11 course of business. 11 U.S.C. § 363(b). Bankruptcy Code section 363 provides, in pertinent part:

12 (b)(1) The trustee, after notice and a hearing, may . . . sell . . .
13 other than in the ordinary course of business, property of the
14 estate.

15 11 U.S.C. § 363(b). Under applicable legal standards, approval of a sale is appropriate if the
16 court finds that the transaction represents a reasonable business judgment by the trustee. *Myers*
17 *v. Martin (In re Martin)*, 91 F.3d 389 (3d Cir. 1996); *In re Abbots Dairies of Pennsylvania, Inc*
18 *, 788 F.2d 143 (3d Cir. 1986); In re Wild Horse Enter., Inc.*, 136 B.R. 830, 841 (Bankr. C.D.
19 Cal. 1991).

20 In the Ninth Circuit, "cause" exists for authorizing a sale of estate assets if it is in the
21 best interest of the estate, and a business justification exists for authorizing the sale. *In re*
22 *Huntington, Ltd.*, 654 F.2d 578 (9th Cir. 1981); *In re Walter*, 83 B.R. 14, 19-20 (9th Cir. BAP
23 1988). In determining whether a sale satisfies the business judgment standard, courts have held:
24 (1) that there be a sound business reason for the sale; (2) that accurate and reasonable notice of
25 the sale be given to interested persons; (3) that the sale yield an adequate price (i.e., one that is
26 fair and reasonable); and (4) that the parties to the sale have acted in good faith. *Titusville*
27 *Country Club v. Pennbank (In re Titusville Country Club)*, 128 B.R. 396, 399 (Bankr. W.D. Pa.
28 1991); see also, *In re Walter*, 83 B.R. at 19-20.

1 The SUBJECT PROPERTY is property of the estate under § 541 of the Bankruptcy Code,
2 and the sale by the DIP is outside the ordinary course of business. The liquidation price will yield
3 a net gain payable to SAXE of approximately \$715,855.29.

4 The DIP is currently noticing the sale of the Real Property pursuant to Bankruptcy Rule
5 2002 and Rule 6004 and providing an opportunity for creditors, the United States Trustee, and
6 other parties in interest to object to the sale and/or appear at the hearing thereon. Also, the sale is
7 subject to overbid and in the Notice, the DIP has set forth an overbid procedure. If the DIP
8 receives an overbid, the DIP will conduct a bidding procedure among the Buyer and all
9 overbidders. Thereafter, the DIP will request that the Court approve the sale to the Buyer or any
10 overbidder submitting the highest and best offer. Given the marketing of the property, the DIP
11 believes the sale to the Buyer is fair and reasonable, and the liquidation of the SUBJECT
12 PROPERTY will benefit the affected secured creditors.

13 Moreover, the DIP respectfully submits that it is in the best interests of the estate to
14 encourage overbids as to the SUBJECT PROPERTY not at the cost of jeopardizing the sale of the
15 SUBJECT PROPERTY as a whole. “The purpose of procedural bidding orders is to facilitate an
16 open and fair public sale designed to maximize value for the estate. To accomplish that goal,
17 bankruptcy courts are necessarily given discretion and latitude in conducting the sale.” *In re*
18 *Edwards*, 228 B.R. 552, 561 (Bankr.E.D.Pa., 1998). The proposed bidding strategy is the best
19 strategy to maximize the return to the Estate with a possible overbid while ensuring the SUBJECT
20 PROPERTY can liquidate as quickly as possible, to help mitigate the accrual of hard-money
21 interest.

22 Bankruptcy Rule 6004(h) provides for a 14-day stay of a sale order, unless the Court
23 orders otherwise. The DIP does not believe that there is any reason for the sale of the DJ
24 SIMPSON REAL AND PERSONAL PROPERTY ASSETS to be stayed, and the DIP desires to
25 close the sale as soon as possible after Court approval. Thereafter, the DIP requests that the Court
26 waive the stay provisions of Bankruptcy rule 6004(h).

1 **B. The Sale Should be Free and Clear of the Claims of Lien**

2 To enable the proposed sale, the DIP seeks authorization to sell free and clear of the
3 disputed lien. Pursuant to Bankruptcy Code section 363(f), a DIP may sell property under
4 section 363 “free and clear of any interest in such property of an entity other than the estate” only
5 if one of the following conditions is satisfied:

- 6 (1) applicable non-bankruptcy law permits sale of such property
7 free and clear of such interest;
- 8 (2) such entity consents;
- 9 (3) such interest is a lien and the price at which such property is
10 to be sold is greater than the aggregate value of all liens on such property;
- 11 (4) such interest is in bona fide dispute; or
- 12 (5) such entity could be compelled, in a legal or equitable proceeding, to accept a
13 money satisfaction of such interest.

14 11 U.S.C. § 363(f); *In re General Bearing Corp.*, 136 B.R. 361, 363-64 (Bankr. S.D.N.Y. 1992)
15 (listing requirements). Here, as articulated herein below and in the supporting declaration of Ms.
16 Cortez, the DIP proposes to sell free and clear of the following claims of lien.

17 The DIP proposes to sell the SUBJECT PROPERTY free and clear of the foregoing liens,
18 with the understanding that all net proceeds will remain in the appropriate escrow account and will
19 be transferred to the net proceeds of the sale to the same extent, validity, priority and amount as such
20 alleged claims and interests would have attached – if at all – had the DIP not filed for chapter 11
21 protection 11 U.S.C. § 363(f)(2). Said disputed liens are identified hereinbelow:

22 Claimant	23 Recording No.	24 Amount
25 Yeva, Inc., dba Saxe Mortgage Company 26 Attn: Gene Kristul, Reg. Agent 27 c/o Law Offices of Martha J. Simon 28 22 Battery St., Suite 888 San Francisco CA 94111	2013-J645804	Est. \$1,498,679.79 (as of 3/7/17)
Yeva, Inc., dba Saxe Mortgage Company Attn: Gene Kristul, Reg. Agent c/o Law Offices of Martha J. Simon 22 Battery St., Suite 888 San Francisco CA 94111	2014-J894505	\$2,494,467.81 (as of 3/7/17)

1	<u>Ann La Morena Rohlin</u> c/o <u>Martin L. Pitha, Lillis Pitha LLP</u> 2 Park Plaza, Suite 480 Irvine, CA 92614 V.	2015-K122503	\$74,958.76 Claim 4-1
2	<u>Boris Govzman, Sofia Fridman</u> and <u>Natalie Govzman</u> c/o <u>Law Office of Kevin S. Sullivan</u> 3251 Steiner Street San Francisco, CA 94123 VI.	2016-K184188	\$130,000.00
3	<u>Arcon Construction Corporation</u> c/o <u>Michele Miller</u> <u>Miller & Tong, LLP</u> 44 Montgomery Street, Suite 1400 San Francisco, CA 94104	2016-K222980	\$22,222.50
4	<u>Franchise Tax Board</u> <u>Chief Counsel</u> <u>General Counsel Section MS A260</u> <u>PO Box 1720</u> <u>Rancho Cordova, CA 95741-1720</u>	2016-K353319	\$4,486.19 Claim 6-1
5	<u>Franchise Tax Board</u> <u>Bankruptcy Section, MS A-340</u> <u>Po Box 2952</u> <u>Sacramento CA 95812-2952</u>		
6	<u>Greenbanker-Stanley Lo</u> 398 Primrose Rd. Burlingame, CA 94010	2017-K447905- 00	\$5,075.00

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19

20 **1. The Sale Should Be Free and Clear of the Senior and Juniors Lien of Yeva, Inc. dba**
21 **Saxe Mortgage Company**

22 The DIP moves to sell free and clear due to a stipulation with the lienholder to allow
23 partial reconveyances that was previously approved by the Court. *See* Doc Nos. 85, 89; *see also*
24 11 U.S.C. § 363 (f)(2).

25 **2. The Sale Should Be Free and Clear of the Junior Judgment Lien of Anna La**
26 **Morena Rohlin c/o Lillis Pitha LLP**

1 The DIP moves to sell free and clear due to a bona fide dispute pursuant to 11 U.S.C. §
2 363 (f)(4). Said dispute is presently the subject of a lienstrip motion. Due to the fact that SAXE's
3 senior lien exceeds net sale proceeds from Unit 112-A, the DIP has filed a motion to lienstrip the
4 cross-collateralized lien of Anna La Morena Rohlin c/o Lillis Pitha LLP as 100% unsecured to be
5 allowed only as a general unsecured claim – as to Unit 112-A only.

6 **3. The Sale Should Be Free and Clear of the Mechanic's Lien Arcon Construction**
7 **Corporation**

8 The DIP moves to sell free and clear due to a bona fide dispute pursuant to 11 U.S.C. §
9 363 (f)(4). Said dispute is presently the subject of a lienstrip motion. Due to the fact that SAXE's
10 senior lien exceeds net sale proceeds from Unit 112-A, the DIP has filed a motion to lienstrip the
11 cross-collateralized lien of Arcon Construction Corporation as 100% unsecured to be allowed only as
12 a general unsecured claim – as to Unit 112-A only.

13 **4. The Sale Should Be Free and Clear of the Boris Govzman, Sofia Fridman, and**
14 **Natalie Govzman**

15 The DIP moves to sell free and clear due to a bona fide dispute pursuant to 11 U.S.C. §
16 363 (f)(4). Said dispute is presently the subject of a lienstrip motion. Due to the fact that SAXE's
17 senior lien exceeds net sale proceeds from Unit 112-A, the DIP has filed a motion to lienstrip the
18 cross-collateralized lien of Boris Govzman, Sofia Fridman, and Natalie Govzman as 100%
19 unsecured to be allowed only as a general unsecured claim – as to Unit 112-A only.

20 **5. The Sale Should Be Free and Clear of the Lien of the Franchise Tax Board**

21 The DIP moves to sell free and clear due to a bona fide dispute pursuant to 11 U.S.C. §
22 363 (f)(4). Said dispute is presently the subject of a lienstrip motion. Due to the fact that SAXE's
23 senior lien exceeds net sale proceeds from Unit 112-A, the DIP has filed a motion to lienstrip the
24 cross-collateralized lien of the Franchise Tax Board as 100% unsecured to be allowed only as a
25 general unsecured claim – as to Unit 112-A only.

26 **6. The Sale Should Be Free and Clear of the Lien of Stanley Lo dba Greenbanker**

1 The DIP and DIP's counsel recently learned that Stanley Lo *dba* Greenbanker filed a small
2 claims case on December 28, 2016 – after the November 20, 2016 petition date – and recorded an
3 abstract of judgment on May 8, 2017. Said Abstract of Judgment was record after the petition date
4 and is void. Thus, the DIP has a bona fide dispute pursuant to 11 U.S.C. § 363 (f)(4).

5 **VII. NOTICE**

6 Notice of Hearing on this Motion with opportunity for overbid (the “Notice”) has been
7 served on the United States Trustee, all parties requesting special notice, and the creditor matrix.
8 The Notice of Hearing document also invites interested parties to obtain copies of the sale
9 agreements from the DIP's counsel or from the documents on file with the Court. The Notice,
10 together with the motion and all supporting declarations were also all served on the affected
11 lienholders and all other interest holders pursuant to Bankruptcy Rule 7004(b).

12 **VIII. CONCLUSION**

13 WHEREFORE, the DIP respectfully requests that the Court enter an order as follows:

- 14 1. Approving the sale of the SUBJECT PROPERTY to the Buyer for the sum of
15 \$805,000.00, with financing, or to a qualified overbidder, in the event of an overbid, pursuant to
16 the terms of the Purchase Agreement, or, in the alternative, to such qualified overbidder
17 submitting a higher and better overbid pursuant to the overbid procedures being noticed by the
18 DIP;
- 19 2. Finding the Buyer to be purchasing the SUBJECT PROPERTY in good faith per 11
20 U.S.C. § 363(m);
- 21 3. Waiving the stay of the sale order provided by Bankruptcy Rule 6004(h);
- 22 4. Approving the sale of the SUBJECT PROPERTY free and clear of the claims of
23 senior lien of Yeva, Inc., dba Saxe Mortgage Company. 11 U.S.C. § 363(f)(4).
- 24 5. Approving the sale of the SUBJECT PROPERTY free and clear of the claims of
25 junior lien of Yeva, Inc., dba Saxe Mortgage Company. 11 U.S.C. § 363(f)(4).

1 MATTHEW D. METZGER (SBN 240437)
2 mmetzger@belvederelegal.com
3 BELVEDERE LEGAL PC
4 1777 Borel Place, Suite 314
5 San Mateo, CA 94402
6 Telephone: (415) 513-5980
7 Facsimile: (415) 513-5985

8 *Attorneys for Debtors*

9 **UNITED STATES BANKRUPTCY COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 **In re**) **Case No. 16-31253 HLB 11**
13)
14 **MELINDA BILGERA CORTEZ**) **Chapter 11**
15 **ALEX C CORTEZ**)
16)
17)
18 **Debtor(s).**) **Date:** July 13, 2017
19) **Time:** 10:00 a.m.
20) **Place:** 450 Golden Gate Ave., 16th Floor,
21) Courtroom 19
22) San Francisco, CA 94102
23) **SSN XXX-XX-1387**)
24) **SSN XXX-XX-8787**)
25) **Judge:** Hon. Hannah L. Blumenstiel
26)
27)

28 **DECLARATION OF TIM BROWN**
IN SUPPORT OF
IN SUPPORT OF
MOTION FOR ORDER APPROVING SALE OF REAL PROPERTY AND SALE FREE
AND CLEAR OF CERTAIN CLAIMS OF LIEN AND OTHER INTERESTS
("112 Russ Street, San Francisco, CA 94103")

1 I, Tim Brown, declare as follows:

2 1. I am the Broker employed by the Chapter 11 estate of the above-captioned Debtors
3 and Debtors-in-Possession and principle of the brokerage firm Brown & Co. I make this declaration
4 in support of the Debtors' Motion for Order Approving Sale of Real Property and Sale Free and clear
5 of Certain Claims of Lien and Other Interests. The matters stated below are made and based upon
6 my personal knowledge, except for those matters stated upon information and belief, and as to
7 those matters, I believe them to be true. If called as a witness, I could and would testify to the
8 matters as set forth below.

9 **A. Sale Activity and Fair Market Value**

10 2. Regarding the real property commonly known as Unit 112 Russ Street, San Francisco
11 ("112 Russ"), the total time on market was 151 days until we received the instant offer.

12 3. The average days on market for SOLD listings in the SOMA district in 2017 is
13 approximately 60 days.

14 4. For the three last weekends in May there was very little activity on this unit. The
15 open house on May 14 had no prospective Buyers turn up. This led us to reduce the price of the unit,
16 slightly by \$15,000 from \$840,000 to \$825,000 on 6/01/17.

17 5. As a result of the recent price decrease two offers were received from different
18 brokers. The first offer was for \$840,000 however it required the sale of the Buyer's home in Oakland
19 as a contingency of the purchase. The other offer was for \$800,000 from a Buyer that had previously
20 written an offer back in March at a price of \$825,000 (when the list price was \$885,000).

21 6. The Sellers issued a Multiple Counter Offer to each Buyer. The Buyer with the higher
22 price had a contingency involving testing the parking spaces. He did this whilst the counter offer was
23 still active and unfortunately discovered his car would not fit in the available spaces. He withdrew his
24 offer, not wishing to park his Tesla on the street. This left the other Buyer – Mark Lee (the
25 "Nominee") as the only contender. He increased his offer to \$805,000, and signed an As-Is
26 Addendum, which the Sellers accepted subject to Court approval under the guidance of their broker.
27
28

1 7. This Buyer is a single man and appears a solid Buyer, although he has a normal set of
2 contingencies, including finance and inspection. He has demonstrated a lengthy interest in the
3 property and we expect he will close the deal if the Court approves the sale.

4 8. Thus, for the foregoing reasons, it is my professional opinion that the proposed
5 transaction represents fair market value and more time on the market would not guarantee a higher
6 price.

7 **B. Proposed Closing Costs and Payment of Broker Commission from Sale**

8 9. Per the purchase agreement, the commission is five percent (5%) to be divided 50/50
9 between the Buyers' Broker and the Seller's Broker.

10 10. All proposed closing costs are listed in the Seller's Estimated Closing Statement, a
11 true and correct copy of which is attached hereto as Exhibit A.

12 11. A copy of the preliminary title report to Unit 112 Russ is attached hereto as Exhibit B

13 **C. Good Faith Transaction**

14 12. In the proposed transaction, there is no dual agency.

15 13. I represent exclusively the interests of the Debtor and the Estate.

16 14. The Buyer is represented separately by Bob Thacher of Highland Partners.

17 15. There is no collusion between myself – or any of my agents – on one hand, and any
18 other party, on the other.

19 16. The commission – once Court approved – will be split 50/50 between the buyer's
20 broker and the seller's broker.

21 I declare under penalty of perjury under the laws of the United States of America that the
22 foregoing is true and correct, and that this declaration was executed on June 15, 2017 at San
23 Francisco, California.

24 /s/ Tim Brown
25 Tim Brown

EXHIBIT A

EXHIBIT B

EXHIBIT A

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

A Condominium Comprised of:

PARCEL I:

Condominium Unit 112, Lot 276, as shown on the Declaration of Restrictions and Condominium Plan for 112- 114 Russ Street San Francisco, California, a Condominium Project (referred to herein as "the Plan"), Recorded February 22, 2017 in the Office of the Recorder of the City and County of San Francisco, State of California in Document No. 2017-K411072-00 and as further defined in Condominium Map entitled Parcel Map No. 5256, a Four Residential Unit Condominium Project (referred to herein as "the Map") which was filed for Record on October 21, 2016 in Condominium Map Book 130, at Pages 114 through 115, inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California.

EXCEPTING AND RESERVING THEREFROM any portion of the Common Area lying within said Unit.

ALSO EXCEPTING AND RESERVING THEREFROM:

(a) Easements through said Unit, appurtenant to the Common Area and all other Units, for support and repair of the Common Area and ail other Units.

(b) Easements, appurtenant to the Common Area for encroachment upon the air space of the Unit by those portions of the Common Area located within the Unit.

PARCEL II:

An undivided 14.65 % interest in and to the Common Area as shown and defined on the Plan, EXCEPTING AND RESERVING THEREFROM the following:

(a) Exclusive easements, other than Parcel III, as shown and reserved for use to Units in the Plan.

(b) Non-exclusive easements appurtenant to all Units for ingress and egress, support, repair and maintenance.

PARCEL III:

(a) The exclusive easement to use the Parking Areas designated _ on the Plan.

(b) The exclusive easement to use the Laundry Area designated L-112 on the Plan.

PARCEL IV:

A non-exclusive easement appurtenant to Parcel I above for support, repair and maintenance, and for ingress and egress through the Common Area in accordance with California Civil Code Section 4505.

PARCEL V:

Encroachment easements appurtenant to the Unit in accordance with the provisions of the Plan.

Assessor's Lot 276 (formerly a portion of Lot 076), Block 3731



OLD REPUBLIC
TITLE COMPANY

601 California Street, Suite 900
San Francisco, CA 94108
(415) 421-9770 Fax: (415) 788-4237

PRELIMINARY REPORT

BROWN AND CO. REAL ESTATE
775 Monterey Boulevard
San Francisco, CA 94127

Attention: MARK BROWN

FIRST UPDATED REPORT

Our Order Number 0224042144-NS

Customer Reference CORTEZ

When Replying Please Contact:

Nick Shanta
NShanta@ortc.com
(415) 421-9770

Buyer:

MARK LEE

Property Address:

112 Russ Street, San Francisco, CA 94103

In response to the above referenced application for a policy of title insurance, OLD REPUBLIC TITLE COMPANY, as issuing Agent of Old Republic National Title Insurance Company, hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Exhibit I attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the Homeowner's Policy of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit I. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit I of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

Dated as of May 31, 2017, at 7:30 AM

OLD REPUBLIC TITLE COMPANY
For Exceptions Shown or Referred to, See Attached

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The form of policy of title insurance contemplated by this report is:

Homeowners Policy of Title Insurance - 2013; and ALTA Loan Policy - 2006. A specific request should be made if another form or additional coverage is desired.

The estate or interest in the land hereinafter described or referred or covered by this Report is:

Condominium as defined in section 783 of the California Civil Code

Title to said estate or interest at the date hereof is vested in:

Alex C. Cortez and Melinda B. Cortez, husband and wife as joint tenants, subject to proceedings pending in U.S. Bankruptcy Court of the Northern District of California, entitled: U.S. Bankruptcy Court, Northern District of California (San Francisco), Bankruptcy Petition, Debtor, Case No 16-31253, wherein a petition for relief was filed on November 20, 2016 (Chapter 11)

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

A Condominium Comprised of:

PARCEL I:

Condominium Unit 112, Lot 276, as shown on the Declaration of Restrictions and Condominium Plan for 112-114 Russ Street San Francisco, California, a Condominium Project (referred to herein as "the Plan"), Recorded February 22, 2017 in the Office of the Recorder of the City and County of San Francisco, State of California in Document No. 2017-K411072-00 and as further defined in Condominium Map entitled Parcel Map No. 5256, a Four Residential Unit Condominium Project (referred to herein as "the Map") which was filed for Record on October 21, 2016 in [Condominium Map Book 130, at Pages 114 through 115](#), inclusive, in the Office of the Recorder of the City and County of San Francisco, State of California.

EXCEPTING AND RESERVING THEREFROM any portion of the Common Area lying within said Unit.

ALSO EXCEPTING AND RESERVING THEREFROM:

(a) Easements through said Unit, appurtenant to the Common Area and all other Units, for support and repair of the Common Area and all other Units.

(b) Easements, appurtenant to the Common Area for encroachment upon the air space of the Unit by those portions of the Common Area located within the Unit.

PARCEL II:

An undivided 14.65 % interest in and to the Common Area as shown and defined on the Plan, EXCEPTING AND RESERVING THEREFROM the following:

(a) Exclusive easements, other than Parcel III, as shown and reserved for use to Units in the Plan.

(b) Non-exclusive easements appurtenant to all Units for ingress and egress, support, repair and maintenance.

OLD REPUBLIC TITLE COMPANY
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PARCEL III:

- (a) The exclusive easement to use the Parking Areas designated _ on the Plan.
- (b) The exclusive easement to use the Laundry Area designated L-112 on the Plan.

PARCEL IV:

A non-exclusive easement appurtenant to Parcel I above for support, repair and maintenance, and for ingress and egress through the Common Area in accordance with California Civil Code Section 4505.

PARCEL V:

Encroachment easements appurtenant to the Unit in accordance with the provisions of the Plan.

Assessor's Lot 276 (formerly a portion of Lot 076), Block 3731

At the date hereof exceptions to coverage in addition to the Exceptions and Exclusions in said policy form would be as follows:

- 1. Taxes and assessments, general and special, for the fiscal year 2017 - 2018, a lien, but not yet due or payable.
- 2. Taxes and assessments, general and special, for the fiscal year 2016 - 2017, as follows:

Assessor's Parcel No	:	LOT 076; BLOCK 3731	
Bill No.	:	126868	
Code No.	:	001-008	
1st Installment	:	\$1,881.54	Marked Paid
2nd Installment	:	\$1,881.54	Marked Paid
Land Value	:	\$141,881.00	
Imp. Value	:	\$113,504.00	
Exemption	:	(\$7,000.00)	Homeowner's

Said Taxes and Assessments are assessed to all of the herein described land and other land not herein described.

OLD REPUBLIC TITLE COMPANY
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3. Supplemental taxes, general and special, for the fiscal year 2015 - 2016 (triggered by Supplemental Bill on March 8, 2016) as follows:

Assessor's Parcel No.	:	LOT 076; BLOCK 3731	
Bill No.	:	507782	
1st Installment	:	\$1,379.42	Marked Paid
2nd Installment	:	\$1,379.42	Marked Paid

Said Taxes and Assessments are assessed to all of the herein described land and other land not herein described.

4. Supplemental taxes, general and special, for the fiscal year 2016 - 2017 (triggered by Supplemental Bill on March 8, 2016) as follows:

Assessor's Parcel No.	:	LOT 076; BLOCK 3731	
Bill No.	:	601317	
1st Installment	:	\$5,501.85	Marked Paid
2nd Installment	:	\$5,501.85	Marked Paid

Said Taxes and Assessments are assessed to all of the herein described land and other land not herein described.

5. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq., of the Revenue and Taxation Code of the State of California.

6. Any special tax which is now a lien and that may be levied within the City of San Francisco Unified School District Community Facilities District No. 90-1, notice(s) for which having been recorded.

NOTE: Among other things, there are provisions in said notice(s) for a special tax to be levied annually, the amounts of which are to be added to and collected with the property taxes.

NOTE: The current annual amount levied against this land is \$72.16.

NOTE: Further information on said assessment or special tax can be obtained by contacting:

Name	:	San Francisco Unified School District
Telephone No.	:	(415) 241-6480

OLD REPUBLIC TITLE COMPANY
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7. Redevelopment Plan, as follows:

Entitled : Redevelopment Plan for the South of Market Redevelopment Project Area
Executed By : San Francisco Redevelopment Agency
Recorded : [December 11, 2006 in Reel J284 of Official Records, Image 0772 under Recorder's Serial Number 2006-1296007](#)
Returned to
Address : One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103

8. Covenants, Conditions and Restrictions which do not contain express provision for forfeiture or reversion of title in the event of violation, but omitting any covenants or restriction if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : Declaration of Restrictions and Statement Regarding Eminent Domain Limitations in the South of Market Redevelopment Project Area
Executed by : Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic
Dated : December 11, 2006
Recorded : [December 11, 2006 in Reel J284 of Official Records, Image 0773 under Recorder's Serial Number 2006-1296008](#)

Modification thereof, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

Executed By : Redevelopment Agency of the City and County of San Francisco, a public body, corporate and politic
Dated : December 11, 2006
Recorded : [December 31, 2007 in Reel J547 of Official Records, Image 0278 under Recorder's Serial Number 2007-1512984](#)

NOTE: "If this document contains any restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status."

OLD REPUBLIC TITLE COMPANY
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9. Abatement charges by the City of San Francisco as follows:

Assessor's :
Parcel No. : Lot 076; Block 3731
Amount : \$1,271.60
Recorded : August 5, 2011 in Reel K454 of Official Records, Image 0614
Under [Recorder's Serial Number 2011-J234141](#)

NOTE: Delinquent abatement charges may be included with the real property tax bill(s). Only a payoff demand from the City or the District shown above will clarify which is now payable to the City or the District and which has been or is payable now to the County Tax Collector as part of the tax bill(s).

10. Terms and provisions as contained in an instrument,

Entitled : Notice of Special Restrictions under the Planning Code
Executed By : Alex C. Cortez and Melinda B. Cortez
Dated : July 23, 2012
Recorded : [July 23, 2012 in Reel K694 of Official Records, Image 0323 under Recorder's Serial Number 2012-J453907](#)
Returned to
Address : 114-A Russ Street, San Francisco, CA 94103

11. Deed of Trust to secure an indebtedness of the amount stated below and any other amounts payable under the terms thereof,

Amount : \$1,200,000.00
Trustor/Borrower : Alex C. Cortez and Melinda B. Cortez, husband and wife as joint tenants
Trustee : Yeva, Inc. dba Saxe Mortgage Company
Beneficiary/Lender : Ron Jankov, trustee of Grace Czimarik 1998 Charitable Remainder Unitrust
Dated : April 22, 2013
Recorded : [April 26, 2013 in Reel K884 of Official Records, Image 0060 under Recorder's Serial Number 2013-J645804](#)
Loan No. : 20130452

Affects this and other property.

OLD REPUBLIC TITLE COMPANY
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12. Deed of Trust to secure an indebtedness of the amount stated below and any other amounts payable under the terms thereof,

Amount : \$1,000,000.00
Trustor/Borrower : Alex C. Cortez and Melinda B. Cortez, husband and wife as joint tenants
Trustee : Yeva, Inc. dba Saxe Mortgage Company
Beneficiary/Lender : Ron Jankov, trustee of Grace Czimarik 1998 Charitable Remainder Unitrust
Dated : May 15, 2013
Recorded : [May 17, 2013 in Reel K899 of Official Records, Image 0060 under Recorder's Serial Number 2013-J660529](#)
Loan No. : 20130580

Affects this and other property.

13. Terms and provisions as contained in an instrument,

Entitled : Declaration of Use
Executed By : County of San Francisco
Dated : October 21, 2013
Recorded : [October 21, 2013 in Reel L007 of Official Records, Image 0281 under Recorder's Serial Number 2013-J772295](#)
Returned to Address : 114-A Russ Street, San Francisco, CA 94103

OLD REPUBLIC TITLE COMPANY
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14. Deed of Trust to secure an indebtedness of the amount stated below and any other amounts payable under the terms thereof,

Amount : \$2,000,000.00
Trustor/Borrower : Alex C. Cortez and Melinda B. Cortez, husband and wife as joint tenants
Trustee : Yeva, Inc. dba Saxe Mortgage Company
Beneficiary/Lender : Grace Czimarik 1998 Charitable Remainder Unitrust, as to an undivided 50% interest; IRA Services Trust Company Custodian FBO Paul F. Accinelli, as to an undivided 18.75% interest; Harold Goldman and Zelda Goldman as Trustees of the Harold and Zelda Goldman Trust, as to an undivided 5.00% interest; Barrie D. Peters, an unmarried woman, as to an undivided 5.00% interest; Antonio Villasenor, a single man, as to an undivided 5.00% interest; Duane Goldman, a married man as his sole and separate property, as to an undivided 4.25% interest; Hans-Ueli Surber, a married man as his sole and separate property, as to an undivided 4.00% interest; Abraham Chador, as to an undivided 3.00% interest; Robert L. Caulfield, a married man as his sole and separate property, as to an undivided 2.5% interest; and Cheyl B. Cooper, a widow, as to an undivided 2.5% interest
Dated : June 5, 2014
Recorded : [June 13, 2014 in Official Records under Recorder's Serial Number 2014-J894505](#)
Loan No. : 20140612

Affects this and other property.

Substitution of Trustee under said Deed of Trust,

Executed By : Grace Czimarik 1998 Charitable Remainder Unitrust
New Trustee : Golden Wet Foreclosure Service, Inc.
Dated : July 19, 2016
Recorded : [July 26, 2016 in Official Records under Recorder's Serial Number 2016-K293889](#)
New Trustee's File No. : 7717
Returned to Address : 611 Veterans Boulevard, Suite 217, Redwood City, CA 94063

OLD REPUBLIC TITLE COMPANY
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Notice of Default under the terms of said Deed of Trust,

Executed By : Golden West Foreclosure Service, Inc.
Dated : July 25, 2016
Recorded : [July 26, 2016 in Official Records under Recorder's Serial Number 2016-K293890](#)

Trustee's File No.
or Foreclosure No. : 7717
Returned to
Address : 611 Veterans Boulevard, Suite 217, Redwood City, CA
94063

Notice of Trustee's Sale under said Deed of Trust,

Executed By : Golden West Foreclosure Service, Inc.
Dated : October 27, 2016
Recorded : [October 28, 2016 in Official Records under Recorder's Serial Number 2016-K351542](#)

Trustee's No. : 7717
Sale Date : November 22, 2016
Returned to
Address : 611 Veterans Boulevard, Suite 217, Redwood City, CA 94063

15. Notice of Lien as follows:

By : San Francisco Water, Power and Sewer
Against : Alex C. Cortez and Melinda B. Cortez
For : Delinquent Water, Utility Tax and Wastewater Charges
Amount : \$53.04
Recorded : [February 23, 2015 in Official Records under Recorder's Serial Number 2015-K022945](#)

Returned to
Address : 525 Golden Gate Avenue, 2nd Floor, San Francisco, CA 94102
Their Reference : Lot 076; Block 3731

Notice of Lien Transfer to Tax Collector for Delinquent Water, Utility Tax and Wastewater Charges executed by San Francisco Water, Power and Sewer recorded August 3, 2015, [Serial Number 2015-K104859-00](#) of Official Records.

OLD REPUBLIC TITLE COMPANY
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16. Notice of Lien as follows:

By : San Francisco Water, Power and Sewer
Against : Alex C. & Melinda B. Cortez
For : Delinquent Water, Utility Tax and Wastewater Charges
Amount : \$89.79
Recorded : [May 20, 2015 in Official Records under Recorder's Serial Number 2015-K064510-00](#)
Returned to
Address : 525 Golden Gate Avenue, 2nd Floor, San Francisco, CA 94102
Their Reference : Lot 076; Block 3731

Notice of Lien Transfer to Tax Collector for Delinquent Water, Utility Tax and Wastewater Charges executed by San Francisco Water, Power and Sewer recorded August 3, 2015, [Serial Number 2015-K104859-00](#) of Official Records.

17. Any claims of lien that may be recorded against said land by reason of an improvement thereon or design services provided, as disclosed by Notice of Completion

Dated : March 18, 2016
Recorded : [March 18, 2016 in Official Records under Recorder's Serial Number 2016-K218397](#)

18. Claim of Lien for labor materials and/or services furnished as follows:

By : Arcon Construction Corporation
Amount : \$22,222.50
For : Construction services, labor, materials and equipment
At request of or
contract with : Alex Cortez and Melinda Cortez
Dated : March 28, 2016
Recorded : [March 29, 2016 in Official Records under Recorder's Serial Number 2016-K222980](#)
Returned to
Address : 44 Montgomery Street, Suite 2405, San Francisco, CA 94104

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0224042144-NS
FIRST UPDATED REPORT

Note: An action to foreclose said lien as follows:

Court : Superior Court of the State of California, County of San Francisco, Unlimited Jurisdiction
Case No. : CGC 16-552594

As Disclosed by or Notice of Which was

Dated : June 23, 2016
Recorded : [June 27, 2016 in Official Records under Recorder's Serial Number 2016-K279850](#)
Attorney : Miller & Tong, LLP
For : Arcon Construction Corporation

19. Abstract of Judgment for the amount herein stated and any other amounts due.

Creditor : Ann La Morena Rohlin c/o Lillis Pitha LLP
Debtor : Alex C. Cortez
Entered : August 25, 2015
Court : Superior Court of California, County of San Francisco
Case No. : CGC-15-545432
Amount : \$74,888.91
Dated : August 27, 2015
Recorded : [August 27, 2015 in Official Records under Recorder's Serial Number 2015-K122503](#)
Creditor Address & Phone : 115 Sansome Street, Suite 1005 San Francisco, CA 94104

20. Abstract of Judgment for the amount herein stated and any other amounts due.

Creditor : Boris Govzman c/o Kevin S. Sullivan
Debtor : Alex Cortez
Entered : December 17, 2015
Court : Superior Court of California, County of San Francisco
Case No. : CGC-15-547173
Amount : \$130,000.00
Dated : January 4, 2016
Recorded : [January 5, 2016 in Official Records under Recorder's Serial Number 2016-K184188](#)
Creditor Address & Phone : 3251 Steiner Street, San Francisco, CA 94123

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0224042144-NS
FIRST UPDATED REPORT

21. Provisions of the Bankruptcy Reform Act of 1978, as amended, and of the terms, conditions and provisions of any Order which may be entered in the following:

Case No. : 16-31253
District : Northern District of California (San Francisco)
Debtor : Melinda Bilgera Cortez and Alex C. Cortez
Chapter : 11

22. Easements for ingress, egress, private rights and/or utilities and incidental purposes, as disclosed by instruments of record affecting the "Common Elements".

23. Recitals as shown or noted on the filed map.

24. Covenants, Conditions, Restrictions, Limitations, Easements, Assessments, Reservations, Exceptions, Terms, Liens or Charges, but omitting any covenants or restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that said covenant (a) is exempt under Title 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as provided in an instrument.

Entitled : Declaration of Restrictions and Condominium, Plan for 112-114 Russ Street, San Francisco, California, a Condominium Project
Executed By : Alex C. Cortez and Melinda B. Cortez
Dated : February 17, 2017
Recorded : [February 22, 2017 in Official Records under Recorder's Serial Number 2017-K411072](#)

Said Covenants, Conditions and Restrictions provide that a violation thereof shall not defeat or render invalid the lien of any Mortgage or Deed of Trust made in good faith and for value.

NOTE: "If this document contains any restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status."

25. Liens and charges for upkeep and maintenance as provided in the above mentioned Covenants, Conditions and Restrictions, if any, where no notice thereof appears on record.

OLD REPUBLIC TITLE COMPANY
ORDER NO. 0224042144-NS
FIRST UPDATED REPORT

Notwithstanding the Mortgagee protection clause contained in the above mentioned covenants, conditions and restrictions, they provide that the liens and charges for upkeep and maintenance are subordinate only to a first mortgage.

For information regarding the current status of said liens and/ or assessments
Contact : 112-114 Russ Street Homeowner's Association, an
unincorporated association

26. Abstract of Judgment for the amount herein stated and any other amounts due.

Creditor : Stanley Lo DBA Greenbanker
Debtor : Alex C. Cortez and Melinda B. Cortez
Entered : February 24, 2017
Court : San Francisco Superior Court
Case No. : 16-854170
Amount : \$5,075.00
Dated : April 3, 2017
Recorded : [May 8, 2017 in Official Records under Recorder's Serial Number 2017-K447905](#)

Creditor Address &
Phone : 398 Primrose Rd
Burlingame, Ca 94010
650-373-0007

27. Any defect or invalidity in the title to said land arising out of or occasioned by any claim of a violation of the provisions of the "residence in foreclosure" or "foreclosure consultant" laws (California Civil Code Sections 1695 et. seq. and/or 2945 et. seq.).

28. The requirement that this company be provided with a suitable Owner's Declaration from the Seller (form ORT 174). The Company reserves the right to make additional exceptions and/or requirements upon review of the Owner's Declaration.

29. The Homeowner's Policy applies only if each insured named in Schedule A is a Natural Person (as Natural Person is defined in said policy). If each insured to be named in Schedule A is not such a Natural Person, contact the Title Department immediately.

----- Informational Notes -----

A. The applicable rate(s) for the policy(s) being offered by this report or commitment appears to be section(s) 1.1 & 2.3.

B. The above numbered report (including any supplements or amendments thereto) is hereby modified and/or supplemented to reflect the following additional items relating to the issuance of an American Land Title Association loan form policy:

NONE

NOTE: Our investigation has been completed and there is located on said land a condominium known as 112 Russ Street, San Francisco, CA 94103.

The ALTA loan policy, when issued, will contain the CLTA 100 Endorsement and 116 series Endorsement.

Unless shown elsewhere in the body of this report, there appear of record no transfers or agreements to transfer the land described herein within the last three years prior to the date hereof, except as follows:

Grant Deed executed by Alex C. Cortez and Melinda B. Cortez, husband and wife as joint tenants to Alex C. Cortez and Melinda B. Cortez, husband and wife as joint tenants recorded [May 18, 2017 in Official Records under Recorder's Serial Number 2017-K452312-00](#).

C. NOTE: The last recorded transfer or agreement to transfer the land described herein is as follows:

Instrument

Entitled : Grant Deed
By/From : Alex C. Cortez and Melinda B. Cortez, husband and wife as joint tenants, who acquired title as Melinda B. Cortez and Alex C. Cortez
To : Alex C. Cortez and Melinda B. Cortez, husband and wife as joint tenants
Dated : December 20, 2005
Recorded : [December 28, 2005 in Reel J045 of Official Records, Image 0226 under Recorder's Serial Number 2005-1101017](#)

OLD REPUBLIC TITLE COMPANY
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FIRST UPDATED REPORT

D. NOTE: The following provision should be placed in the first sale out deed of each "unit:"

"This deed is made and accepted upon the Covenants, Conditions and Restrictions and other matters set forth in that certain Declaration of Restrictions recorded 02/22/2017 as Instrument No. 2017-K411072-00, Official Records of said county, all of which Covenants, Conditions and Restrictions and other matters are incorporated herein by reference to said Declaration of Restrictions with the same force and effect as though fully set forth herein."

E. NOTE: The requirement that a listing showing the Unit numbers and their corresponding "assigned" parking spaces, as said spaces are shown upon the recorded condominium plan, be furnished to this company.
We will need this prior to issuing individual Unit Preliminary Reports and Lenders' Supplemental Reports.
Such a listing may be obtained from the developer.

F. NOTICE: FinCEN COMPLIANCE

Closing the residential purchase and/or issuing title insurance contemplated by this Preliminary Report may be subject to compliance with the recently issued Geographic Targeting Order (GTO) from the US Treasury's Financial Crimes Enforcement Network (FinCEN) requiring Old Republic National Title Insurance Company to report information about certain transactions involving residential property in the counties of Los Angeles, San Diego, San Francisco, San Mateo and Santa Clara.

FinCEN has the authority to compel this reporting under the USA PATRIOT Act. The reporting requirement only applies to so-called "Covered Transactions." Click on link to view the entire GTO promulgated by FinCEN.

https://www.fincen.gov/news_room/nr/files/Title_Ins_GTO_Sample_072716.pdf

The failure and/or refusal of a party to provide information for a "covered transaction" will preclude Old Republic from closing the transaction and/or issuing title insurance.

G. All transactions that close on or after March 1, 2015 will include a \$20.00 minimum recording service fee, plus actual charges required by the County Recorder.

O.N.

**CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (12/02/13)
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE
EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
 - a. building;
 - b. zoning;
 - c. land use;
 - d. improvements on the Land;
 - e. land division; and
 - f. environmental protection.

This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.

2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.

5. Failure to pay value for Your Title.

6. Lack of a right:
 - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 21.

7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.
8. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake or subsidence.
9. Negligence by a person or an Entity exercising a right to extract or develop minerals, water, or any other substances.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

For Covered Risk 16, 18, 19, and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 18:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 19:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00
Covered Risk 21:	1.00% of Policy Amount or \$5,000.00 (whichever is less)	\$25,000.00

**AMERICAN LAND TITLE ASSOCIATION
LOAN POLICY OF TITLE INSURANCE - 2006
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations.This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

EXCEPTIONS FROM COVERAGE – SCHEDULE B, PART 1, SECTION ONE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.



**WHAT DOES OLD REPUBLIC TITLE
DO WITH YOUR PERSONAL INFORMATION?**

Why?	Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
What?	The types of personal information we collect and share depend on the product or service you have with us. This information can include: <ul style="list-style-type: none"> • Social Security number and employment information • Mortgage rates and payments and account balances • Checking account information and wire transfer instructions When you are no longer our customer, we continue to share your information as described in this notice.
How?	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons Old Republic Title chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does Old Republic Title share?	Can you limit this sharing?
For our everyday business purposes — such as to process your transactions, maintain your account(s), or respond to court orders and legal investigations, or report to credit bureaus	Yes	No
For our marketing purposes — to offer our products and services to you	No	We don't share
For joint marketing with other financial companies	No	We don't share
For our affiliates' everyday business purposes — information about your transactions and experiences	Yes	No
For our affiliates' everyday business purposes — information about your creditworthiness	No	We don't share
For our affiliates to market to you	No	We don't share
For non-affiliates to market to you	No	We don't share

Go to www.oldrepublictitle.com (Contact Us)

Who we are	
Who is providing this notice?	Companies with an Old Republic Title name and other affiliates. Please see below for a list of affiliates.

What we do	
How does Old Republic Title protect my personal information?	To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. For more information, visit http://www.OldRepublicTitle.com/newnational/Contact/privacy .
How does Old Republic Title collect my personal information?	<p>We collect your personal information, for example, when you:</p> <ul style="list-style-type: none"> • Give us your contact information or show your driver's license • Show your government-issued ID or provide your mortgage information • Make a wire transfer <p>We also collect your personal information from others, such as credit bureaus, affiliates, or other companies.</p>
Why can't I limit all sharing?	<p>Federal law gives you the right to limit only:</p> <ul style="list-style-type: none"> • Sharing for affiliates' everyday business purposes - information about your creditworthiness • Affiliates from using your information to market to you • Sharing for non-affiliates to market to you <p>State laws and individual companies may give you additional rights to limit sharing. See the "Other important information" section below for your rights under state law.</p>

Definitions	
Affiliates	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> • Our affiliates include companies with an Old Republic Title name, and financial companies such as Attorneys' Title Fund Services, LLC, Lex Terrae National Title Services, Inc., Mississippi Valley Title Services Company, and The Title Company of North Carolina.
Non-affiliates	<p>Companies not related by common ownership or control. They can be financial and non-financial companies.</p> <ul style="list-style-type: none"> • Old Republic Title does not share with non-affiliates so they can market to you
Joint marketing	<p>A formal agreement between non-affiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> • Old Republic Title doesn't jointly market.

Other Important Information

Oregon residents only: We are providing you this notice under state law. We may share your personal information (described on page one) obtained from you or others with non-affiliate service providers with whom we contract, such as notaries and delivery services, in order to process your transactions. You may see what personal information we have collected about you in connection with your transaction (other than personal information related to a claim or legal proceeding). To see your information, please click on "Contact Us" at www.oldrepublictitle.com and submit your written request to the Legal Department. You may see and copy the information at our office or ask us to mail you a copy for a reasonable fee. If you think any information is wrong, you may submit a written request online to correct or delete it. We will let you know what actions we take. If you do not agree with our actions, you may send us a statement.

Affiliates Who May be Delivering This Notice

American First Abstract, LLC	American First Title & Trust Company	American Guaranty Title Insurance Company	Attorneys' Title Fund Services, LLC	Compass Abstract, Inc.
eRecording Partners Network, LLC	Genesis Abstract, LLC	Kansas City Management Group, LLC	L.T. Service Corp.	Lenders Inspection Company
Lex Terrae National Title Services, Inc.	Lex Terrae, Ltd.	Mara Escrow Company	Mississippi Valley Title Services Company	National Title Agent's Services Company
Old Republic Branch Information Services, Inc.	Old Republic Diversified Services, Inc.	Old Republic Exchange Company	Old Republic National Title Insurance Company	Old Republic Title and Escrow of Hawaii, Ltd.
Old Republic Title Co.	Old Republic Title Company of Conroe	Old Republic Title Company of Indiana	Old Republic Title Company of Nevada	Old Republic Title Company of Oklahoma
Old Republic Title Company of Oregon	Old Republic Title Company of St. Louis	Old Republic Title Company of Tennessee	Old Republic Title Information Concepts	Old Republic Title Insurance Agency, Inc.
Old Republic Title, Ltd.	Republic Abstract & Settlement, LLC	Sentry Abstract Company	The Title Company of North Carolina	Title Services, LLC
Trident Land Transfer Company, LLC				

lots 255 & 2 into lots 154 & 155 for 1997 roll
 lot 155 into lots 156 to 159 for 1997 roll
 lot 42 into lots 123 & 149 for 1998 roll
 lot 15 into lots 171 & 183 for 2002 roll
 lot 183 into lots 184 & 185 for 2002 roll
 lot 103 into lots 170 & 171 for 2000 roll
 lot 186 into lots 160 & 161 for 2002 roll
 lot 189 into lots 184 & 185 for 2004 roll
 lot 184 into lots 186 to 201 for 2004 roll
 lot 185 into lots 202 to 217 for 2004 roll
 lot 157 into lots 218 to 220 for 2007 roll
 lots 124 & 154 into lot 235 for 2009 roll
 lot 235 into lots 240 to 242 for 2009 roll
 lot 39 into lots 221 to 234 for 2010 roll
 lot 166 into lots 236 to 239 for 2009 roll
 lots 101 & 102 into lot 243 for 2012 roll

Lots 5-112 merged into Lot A "43"
 "15-14" merged into Lot E "198"
 "16-14" merged into Lot E "198"
 "17" merged into Lot E "198"
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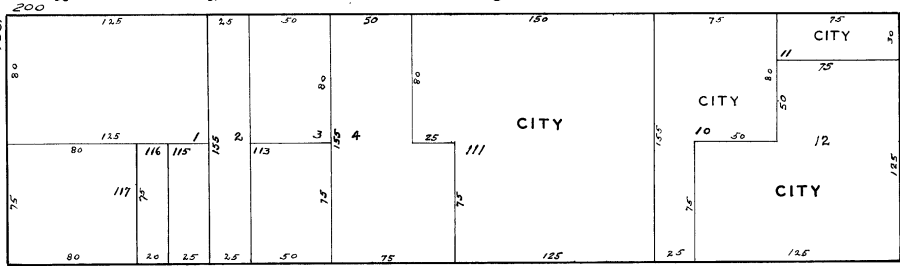
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3731
 100 VARA BLK. 395

- REVISED '57
- REVISED '58
- " '61
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- Revised '97
- Revised '98
- Revised 2002
- Revised 2004
- Revised 2007
- Revised 2010
- Revised 2012

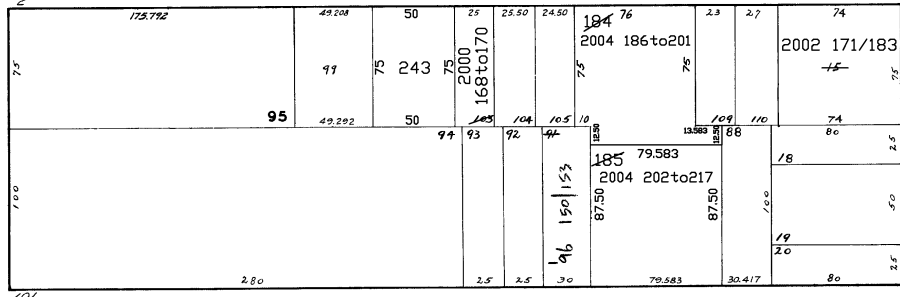


LIGHTHOUSE LOFTS
 A CONDOMINIUM

LOT	UNIT	% COMM. AREA
128	1	4.5454...
129	2	4.5454...
130	3	4.5454...
131	4	4.5454...
132	5	4.5454...
133	6	4.5454...
134	7	4.5454...
135	8	4.5454...
136	9	4.5454...
137	10	4.5454...
138	11	4.5454...
139	12	4.5454...
140	13	4.5454...
141	14	4.5454...
142	15	4.5454...
143	16	4.5454...
144	17	4.5454...
145	18	4.5454...
146	19	4.5454...
147	20	4.5454...
148	21	4.5454...
149	22	4.5454...

68 HARRIET ST.
 A CONDOMINIUM

LOT	UNIT	% COMM. AREA
186	1	4.05
187	2	4.34
188	3	5.08
189	4	5.12
190	5	5.08
191	6	5.12
192	7	5.40
193	8	4.42
194	9	6.69
195	10	6.53
196	11	8.57
197	12	7.54
198	13	8.57
199	14	8.85
200	15	7.95
201	16	6.65

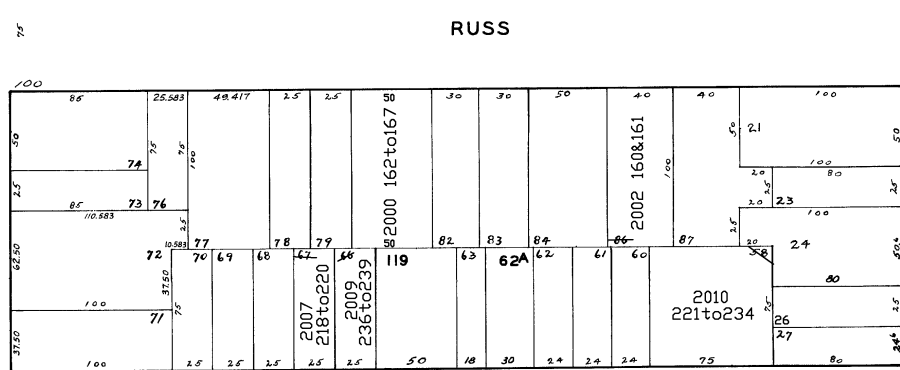


1026 FOLSOM ST.
 A CONDOMINIUM

LOT	UNIT	% COMM. AREA
171	1026	2.42
172	1	5.29
173	2	6.63
174	3	6.63
175	4	9.62
176	5	10.14
177	6	8.60
178	7	5.39
179	8	6.63
180	9	6.63
181	10	6.37
182	11	12.43
183	12	13.22

175 RUSS ST.
 A CONDOMINIUM

LOT	UNIT	% COMM. AREA
202	1	3.98
203	2	4.50
204	3	5.00
205	4	4.89
206	5	4.84
207	6	4.89
208	7	4.92
209	8	3.97
210	9	7.26
211	10	7.95
212	11	8.30
213	12	8.41
214	13	8.30
215	14	8.41
216	15	8.43
217	16	5.95

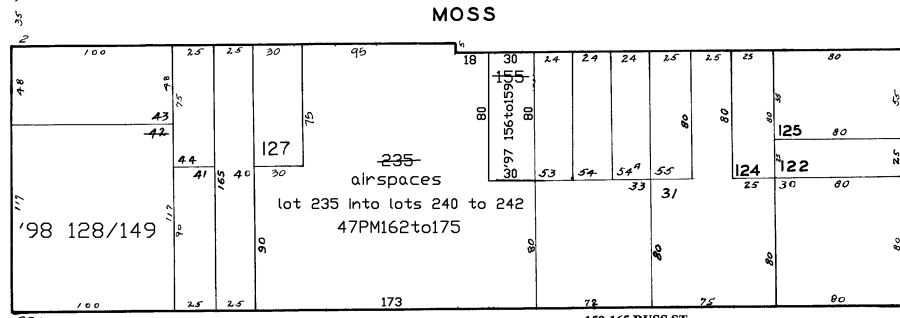


170-172 RUSS ST.
 A CONDOMINIUM

LOT	UNIT	% COMM. AREA
160	172	52.00
161	170	48.00

33-35 MOSS ST.
 A CONDOMINIUM

LOT	UNIT	% COMM. AREA
218	1	33.83
219	2	33.54
220	3	33.63



142 RUSS ST.
 A CONDOMINIUM

LOT	UNIT	% COMM. AREA
162	1	11.76
163	2	11.42
164	3	18.38
165	4	20.24
166	5	19.10
167	6	19.10

54-56 HARRIET ST.
 A CONDOMINIUM

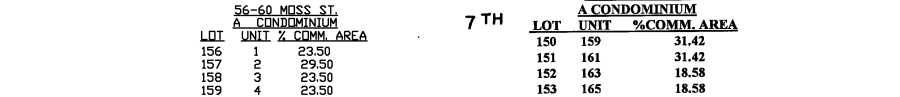
LOT	UNIT	% COMM. AREA
169	2	35.06
170	3	25.76

56-60 MOSS ST.
 A CONDOMINIUM

LOT	UNIT	% COMM. AREA
156	1	23.50
157	2	29.50
158	3	23.50
159	4	23.50

159-165 RUSS ST.
 A CONDOMINIUM

LOT	UNIT	% COMM. AREA
150	159	31.42
151	161	31.42
152	163	18.58
153	165	18.58



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4 Facsimile: (415) 513-5985

5 *Attorneys for Debtors*

6
7 **UNITED STATES BANKRUPTCY COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN FRANCISCO DIVISION**

10 **In re**) **Case No. 16-31253 HLB 11**
11)
12 **MELINDA BILGERA CORTEZ**) **Chapter 11**
13 **ALEX C CORTEZ**)
14 **Debtor(s).**) **Date:**
15) **Time:**
16) **Place:** 450 Golden Gate Ave., 16th Floor,
17) Courtroom 19
18) San Francisco, CA 94102
19) **Judge:** Hon. Hannah L. Blumenstiel
20)
21)
22)
23)
24)
25)
26)
27)
28)

18
19 **DECLARATION OF MARK LEE**
20 **IN SUPPORT OF**
21 **MOTION FOR ORDER APPROVING SALE OF REAL PROPERTY AND SALE FREE**
22 **AND CLEAR OF CERTAIN CLAIMS OF LIEN AND OTHER INTERESTS**
23 **("112 Russ Street, San Francisco, CA 94103")**

24 I, Mark Lee, declare as follows:

25 1. I am a proposed buyer of the real property commonly known as "112 Russ Street, San
26 Francisco, CA 94103-4010") ("Unit 112"). I make this declaration in support of the Motion for
27 Order Approving Sale of Real Property and Sale Free and Clear of Certain Claims of Lien and Other
28 Interests. The matters stated below are made and based upon my personal knowledge, except for
those matters stated upon information and belief, and as to those matters, I believe them to be true. If
called as a witness, I could and would testify to the matters as set forth below.

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A. Offer Terms

2. On or about June 5, 2017, I made a written offer to purchase Unit 112, subject to Court approval, for \$800,000.00. On or about June 9, 2017, following counter offers from each of sellers and buyer, Melinda Cortez and Alex C Cortez accepted said offer, which had been increased to \$805,000.00, subject to Court Approval. Attached as Exhibit A is a true and correct copy of the proposed purchase agreement and related counteroffers.

3. The proposed, all-cash purchase agreement details are as follows:

- a. Initial Deposit: \$10,000.00
- b. Financing of New First Loan: \$636,150.00
- c. Cash Balance payable prior to close of escrow: \$158,850.00
- d. Total Purchase Price: \$805,000.00.

B. Arms' Length Transaction

4. I have no connection with the Debtors, other than what is disclosed herein.

5. I have no future plans with the Debtors, other than the purchase of the Unit 112.

6. The proposed agreement is a bona-fide arms' length transaction.


7. My negotiations with the Debtors have been at arms' length.

8. Outside the proposed transaction, I have no connection with the Debtors, any of their creditors, any other parties in interest, their respective attorneys or accountants, the United States Trustee, or any person employed in the Office of the United States Trustee, outside of what has been disclosed in this declaration.

9. There has been no collusion in the proposed sale between myself, on one hand, and any other party, on the other hand.

10. I first learned of Unit 112 via online searches using Redfin.com and/or other related resources. I then contacted my real estate agent and arranged to see Unit 112.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on June 15, 2017 at San Francisco, California.



 Mark Lee

EXHIBIT A



SAN FRANCISCO ASSOCIATION of REALTORS®

SAN FRANCISCO PURCHASE AGREEMENT

SAN FRANCISCO ASSOCIATION OF REALTORS® STANDARD FORM

This is intended to be a legally binding contract for the purchase of real property in San Francisco

June 4, 2017 (Date Prepared)

Mark Lee ("Buyer")

offers to purchase the real property known as 112 Russ Street, San Francisco, CA 94103 or (if checked) this is a purchase of a % undivided interest in the entire Tenants-in-Common (TIC) property above pursuant to the attached TIC Purchase Addendum (the "Property") for the Purchase Price of Eight Hundred Thousand Dollars (\$800,000.00) and upon the following TERMS and CONDITIONS.

1. FINANCIAL TERMS:

- A. \$ 10,000.00 INITIAL DEPOSIT by electronic funds transfer or check payable to Escrow Holder or to (Payee), which Buyer or Buyer's Broker/Agent shall deposit with Payee within 2 or business days of Acceptance of this Contract.
B. \$ ADDITIONAL DEPOSIT to be deposited with Escrow Holder within days after Acceptance or on or before
C. \$ 636,150.00 NEW FIRST LOAN: This Contract is contingent upon Buyer obtaining a new conventional or FHA VA other first loan for a term of 30 or years at an initial annual rate of interest not to exceed 4.500 % for a loan which is fixed for the entire term or fixed for an initial period of year(s) or month(s) and thereafter adjustable according to the lender's predetermined schedule, secured by a first deed of trust on the Property, with a loan fee of zero or not more than points and on other terms and conditions satisfactory to Buyer. For an FHA/VA loan, an Amendatory Clause Addendum is attached.
D. \$ OTHER FINANCING: This Contract is contingent upon Buyer obtaining a new second loan or other additional financing on the following terms: Assumed Financing Addendum and/or Seller Financing Addendum are attached if checked.
E. \$ NON-CONTINGENT FINANCING: Buyer intends to obtain new financing in the amount specified. Buyer acknowledges that the full amount may not be obtainable and that the terms and availability of loans are subject to change. Buyer acknowledges that obtaining financing is not a contingency of this Contract.
F. \$ 153,850.00 CASH BALANCE which shall be deposited by Buyer with Escrow Holder prior to Close of Escrow ("COE").
G. \$ 800,000.00 PURCHASE PRICE, EXCLUDING CLOSING COSTS (Total of A through F).

2. ESCROW: Escrow shall close on (date) or (if checked) 24 days after Acceptance. If COE falls on a weekend or legal holiday, it shall be extended to the next business day. This Contract, including any addenda and counter offers, shall constitute escrow instructions of Buyer and Seller (the "Parties"). The Parties shall execute additional instructions consistent with this Contract and deliver them to Old Republic ("Escrow Holder").

3. FINANCING PROVISIONS: Buyer affirms that only the loan(s) specified in Paragraph 1 are needed to complete this purchase and shall act diligently and in good faith to obtain them. If Buyer does not remove this financing contingency within 21 or 14 days after Acceptance, either Party may terminate this Contract. Brokers/Agents urge Buyer to personally confirm loan(s) will fund before removing the financing contingency. Buyer further represents that the funds required for the Deposits, Cash Balance and Closing Costs are available at Buyer's disposal, and that obtaining these funds is not a contingency of this Contract. Any credits to Buyer from any source shall be disclosed to Buyer's lenders. If the total credits exceed the lenders' limits then they shall be reduced accordingly with no adjustment in Purchase Price to make up the difference. Seller agrees to provide prompt access to the Property for appraisal purposes, but has no obligation to cooperate with Buyer's efforts to obtain any financing other than as specified herein.

4. APPRAISAL: This Contract is (if checked) subject to written appraisal at no less than the Purchase Price or \$ If Buyer does not remove this contingency within 15 or 10 days after Acceptance, either Party may terminate this Contract.

5. AGENCY RELATIONSHIPS CONFIRMATION: The following agency relationships are hereby confirmed for this transaction: Listing Agent (Brown and Company) Selling Agent (BHG Highland Partners) is the agent of (check one) (if not the same as Listing Agent) is the agent of (check one) [X] the Seller exclusively; or [X] the Buyer exclusively; or both the Buyer and Seller.

DUAL AGENCY: The Parties understand that if the same Brokerage company is designated as the Listing Agent and the Selling Agent, then that Brokerage is representing both Parties as a Dual Agent, to which the Parties consent.

6. PHYSICAL POSSESSION: Physical possession of the Property shall be delivered to Buyer upon recordation of the deed or (if checked) by 10 a.m. or (time) on (date). (If checked) An Addendum setting forth terms upon which Seller may continue to use the Property after COE is attached to and made a part of this Contract.

7. OCCUPANCY: Buyer intends (or does not intend) to occupy the Property as Buyer's residence.

Buyer's Initials

ML

Seller's Initials

A / mpc



Property: 112 Russ Street, San Francisco Date: June 4, 2017

8. **TITLE REVIEW:** Within 3 days after Acceptance, Buyer, at Buyer's expense, shall order a Preliminary Report ("Prelim") from Escrow Holder. A Prelim is only an offer to issue a policy of title insurance and may not contain every item affecting title. Buyer shall take title to the Property subject to all encumbrances, easements, rights, covenants, conditions, restrictions and other matters, whether of record or not, as of the day of Acceptance except: (1) monetary liens which, unless otherwise agreed in writing, Seller will pay off from Seller's proceeds at COE; and (2) any matters which Seller has agreed in writing to remove prior to COE. Within 3 days after Acceptance, Seller shall disclose to Buyer all matters known to Seller affecting title, whether those matters are of record or not. Buyer's review and approval of the Prelim, and of all matters affecting title, is a contingency of this Contract. If Buyer does not remove this contingency within 5 or 3 days after receipt of the Prelim, either Party may terminate this Contract. At COE Buyer shall receive a grant deed conveying title including any associated rights owned by Seller. (If the Property is a cooperative apartment Buyer shall receive a pledge or assignment of the stock and an assignment of the leasehold interest.) Title shall vest as specified by Buyer. **The manner of taking title may have significant legal and tax consequences. Buyer should consult with their legal and tax advisors.** Buyer should direct all questions regarding title insurance coverage, its cost, and the availability of enhanced coverages, such as those offered by an ALTA policy, to the Escrow Holder or Title Company.

9. **ITEMS INCLUDED IN THE SALE:** To the extent owned by Seller, unless excluded in Paragraph 10 below, all existing fixtures and fittings attached to the Property and major appliances for which custom openings or encasements have been made are included, free of liens, in the Purchase Price, including electrical, lighting, plumbing and heating fixtures, hardware, solar systems, screens, awnings, shutters, window coverings, attached floor coverings, television antennas/satellite dishes and related equipment, water softening systems, air coolers or conditioners, pool and spa equipment, mailbox, garage door openers and transmitters, trees, shrubs and outdoor plants planted in the ground, private telephone systems, security systems and home automation systems, together with any dedicated hardware and/or applicable software and passwords needed to operate them.

A. PERSONAL PROPERTY ITEMS INCLUDED: Items listed in the MLS, disclosures or marketing materials, are not included in the sale unless specified in this Contract. The personal property checked below, on the Property at Acceptance, is included in the sale, free of liens, but with no warranty of condition:

<input checked="" type="checkbox"/> All refrigerators	<input checked="" type="checkbox"/> Washers and dryers	<input type="checkbox"/> Microwave	
<input checked="" type="checkbox"/> All ranges/stoves	<input type="checkbox"/> Wine cooler	<input type="checkbox"/> Freezer	<input type="checkbox"/> See Additional Terms

B. LEASED OR LIENED ITEMS: If any included items are leased or liened, Seller shall identify them within 3 days of Acceptance and deliver to Buyer all leases, contracts, terms of use, and warranties, which shall be subject to Buyer's reasonable approval. If Buyer does not remove this contingency within 12 or ___ days after receipt of documents, either party may terminate this Contract.

10. **ITEMS EXCLUDED FROM THE SALE:** All items owned by the staging company, which may include window coverings and mirrors; furniture attached only for earthquake safety; externally mounted audio-visual equipment (e.g. flat panel screens) and brackets (when removed, holes shall be repaired but not painted); and these additional exclusions: _____

11. **PRORATIONS AND EXPENSES:** The following shall be paid current and then prorated between Buyer and Seller as of COE: real property taxes (based upon the latest information available regarding the assessed value of the Property and the applicable tax rate); bonds and assessments; Homeowners' Association ("HOA") dues and assessments; interest on any loan(s) secured by the Property assumed by Buyer; premiums for any insurance on the Property assumed by Buyer; rents; and operating expenses. Buyer shall pay the escrow fee, title insurance premiums, any community enhancement fee, and any HOA transfer, certification and move-in fees. Seller shall pay the City and County transfer tax, any HOA move-out fee, and any prepayment penalty or other fees or charges imposed by lenders for loans being paid off through escrow. Unless specified in this Contract, all other prorations and expenses shall be paid by either Buyer or Seller in accordance with local custom. Buyer and Seller understand that the Property will be reassessed upon change of ownership. Supplemental tax bills will be sent to Buyer which will reflect a change in property taxes based on the Purchase Price becoming the new assessed value. Any tax bills issued after COE, for periods of time before COE, shall be paid by Seller.

12. **BUYER'S DUE DILIGENCE: Brokers/Agents strongly recommend that Buyer obtain the inspection reports provided by Paragraph A and any further inspections recommended in those reports.**

A. PROPERTY INSPECTIONS: Buyer's obligations under this Contract are contingent upon Buyer's written approval, at Buyer's sole discretion, of the physical condition of the Property, including parking and storage availability, neighborhood issues, and any other matter reasonably affecting the Property. Within the time specified below, Buyer shall have the right to conduct inspections of the Property by contractors, engineers, architects, and/or other experts retained by Buyer, which inspections may include, but are not limited to, a general property inspection, a structural pest control inspection, the foundation, framing, roof, plumbing, sewer lines, heating, air conditioning, electrical and mechanical systems, built-in appliances, retaining walls, geologic conditions, pool/spa and related equipment, environmental hazards (such as asbestos, mold, electromagnetic fields, radon gas, lead-based paint or lead hazards, fuel or chemical storage tanks, and other materials or products), noise transmission, water/utility use restrictions, and location of property lines. **Brokers/Agents do not certify or verify lot size, boundary lines or interior square footage, information contained in inspection reports, advertising, or representations of others.** Seller shall permit the inspections upon receiving reasonable advance notice from Buyer. Buyer shall provide Seller with copies of all written reports received. During the due diligence period, Buyer may request that Seller make repairs or credit Buyer for the estimated costs of identified repair work, but Seller shall not be obligated to agree to any such request. **If Buyer does not remove this contingency within 15 or 10 days after Acceptance, either Party may terminate this Contract.**

Buyer's Initials

Seller's Initials

MJ

Property: 112 Russ Street, San Francisco Date: June 4, 2017

B. WAIVER OF PROPERTY INSPECTIONS: If initialed below, Buyer waives the contingency established in Paragraph 12A above. Buyer is aware that all real property and improvements contain defects and conditions which are not readily apparent and which may affect the value and/or desirability of the Property. Buyer and Seller acknowledge that Broker/Agents do not guarantee and in no way assume responsibility for the condition of the Property. Buyer also is aware of Buyer's own affirmative duty to exercise due diligence in observing the condition of and inspecting the Property to protect Buyer's interests. **Buyer understands, acknowledges and agrees that any reports Buyer may have received from any source do not constitute representations or warranties by either Seller or Brokers/Agents as to the past, present or future condition, use or development potential of the Property. Brokers/Agents strongly recommend that Buyer retain Buyer's own contractors and other appropriate experts to investigate the condition and suitability of all aspects of the Property including, but not limited to, all matters affecting its use, value and desirability for the purposes intended by Buyer. If Buyer waives any or all rights to perform the inspections as specified in Paragraph 12A above, then Buyer is proceeding against the advice of Brokers/Agents, and Buyer agrees to release Seller and Brokers/Agents from all claims, demands, and liabilities which in any way relate to or arise from any issue which might have been disclosed, detected and/or evaluated by such inspections.**

Buyer's Initials / Buyer hereby waives the inspection contingency established by Paragraph 12A above.

13. CONDOMINIUM / COOPERATIVE APARTMENT DISCLOSURE: If the Property is a condominium or cooperative apartment, this Contract is contingent upon Buyer's review and approval of the documents described below. Within **10 or** days after Acceptance, Seller, at Seller's expense, shall furnish Buyer with copies of the Property's legal description (including parking and storage spaces, if any), covenants, conditions and restrictions, articles of incorporation, bylaws, rules and regulations currently in force, the most recent financial statements of the HOA, a current operating budget, 1 year's minutes of HOA meetings, a Condominium Financial Disclosure Statement prepared by the HOA or its management company, and any other documents required by law. Seller shall also advise Buyer within this time of any delinquent or special but uncollected assessments, any anticipated extraordinary maintenance or repair expenses and any pending or anticipated litigation affecting the Property. **Seller shall promptly notify Buyer of any new or revised HOA documents received by Seller prior to COE.** If Buyer does not deliver written approval to Seller of the initial or any new or revised documents, within **5 or** days after Buyer's receipt, either Party may terminate this Contract. Approval of the documents shall be at Buyer's reasonable discretion. Buyer is hereby advised that any structural pest control or other inspections of common areas maybe subject to the approval of, and limited in scope by, the HOA. If the Property is new construction or newly converted to condominiums, and this is the first sale of this unit, Buyer shall pay a pro-rata share of any new insurance policy placed on the entire building; otherwise Seller will not receive any credit for insurance, other than through a proration of the established periodic HOA fee for this unit as of COE.

(If checked) The attached Cooperative Apartment Purchase Addendum is made a part of this Contract and the time frames specified in this Paragraph shall apply to that Addendum.

14. RENTAL PROPERTY: Buyer purchases the Property subject to existing leases and the rights of parties in possession. If it is intended that one or more tenant-occupied units be delivered vacant, the Parties should consult with a qualified San Francisco landlord-tenant attorney. Prior to COE, Seller agrees that no new (or changes to those existing) leases or rental agreements shall be entered into without Buyer's prior written consent, which consent shall not be unreasonably withheld. Within **3 days** after Acceptance, Seller shall deliver all tenants written Rental Information Questionnaires, requesting from each tenant acknowledgment of the terms and conditions of the tenant's rental. Protected Tenant Status Information forms shall also be delivered by Seller to all eligible tenants. Within **7 or** days after Acceptance, Seller shall deliver to Buyer copies of all leases, rental agreements, applications and §6.14 notices as well as copies of all outstanding notices sent to tenants and Seller shall complete a Rental Property Statement which shall include: (1) any and all oral agreements with tenants; (2) uncured defaults by Seller or tenants; (3) claims made by Seller against tenants or by tenants against Seller in any court of law or to the San Francisco Rent Board or other government agencies, whether pending, threatened or resolved; (4) all tenants' deposits held by Seller, including any claimed offsets against those deposits; (5) any pass-throughs which constitute part of the existing rent, including the nature of the pass-through, the amount, and the period of time for which it is in effect; (6) which units include parking or storage spaces as part of the rent, whether any parking or storage spaces are rented to non-tenants, the amount received for each space, and the terms of any rental agreement or lease for the space; (7) each unit's rental status, with a disclosure and information on any buyouts if vacant or, from the start of the current tenant's occupancy, notices of rent increases, reductions, and/or changes to the terms of the tenancy; (8) any Default or Termination Notices served on tenants and, if the notices have been filed with the San Francisco Rent Board, proof of such filing; and (9) any requests from tenants for repairs, defective conditions, concessions or rent reductions, new services, or substitution of roommates. No later than **10 or** 7 days after Acceptance, Seller shall deliver to Buyer all completed Rental Information Questionnaires and Protected Tenant Status Information forms returned by tenants to Seller. If any forms are returned after that day, Seller agrees to provide them to Buyer within **2 days** of Seller's receipt. If Buyer does not deliver to Seller, within **7 or** 3 days after receipt of the documents, notice approving them, either Party may terminate this Contract. Approval of the documents shall be at Buyer's sole discretion. Seller shall deliver to Escrow Holder prior to COE: (1) any and all tenants' deposits, including security deposits, last month's rents, cleaning, key or other deposits, and any required interest accrued thereon through COE, which deposits and interest shall be disbursed to Buyer at COE; and (2) copies of any notice(s) of the transfer of deposits given by Seller to tenants.

Buyer's Initials

Seller's Initials

Page 3 of 7
(Rev. 12/16)

ML /

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A / mae (Contract)

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Property: 112 Russ Street, San Francisco Date: June 4, 2017

- 15. **RENTAL PERSONAL PROPERTY:** (If checked) All personal property on the Property at Acceptance owned by Seller and used in operation of the Property is included. Seller shall provide, within 7 or ___ days after Acceptance, an inventory of the personal property.
- 16. **INCOME AND EXPENSE STATEMENT:** (If checked) Within 7 or ___ days after Acceptance, Seller shall deliver to Buyer a true and complete statement of the income and expenses of the Property for calendar years _____ and the current year to date. If Buyer does not deliver to Seller, within 7 or ___ days after receipt of the statement, notice approving it, either Party may terminate this Contract. Approval of the statement shall be at Buyer's sole discretion.
- 17. **INTENT TO EXCHANGE PROPERTY:** Buyer and/or Seller intends to include this Property in an IRC §1031 exchange, subject to the terms of the attached Addendum. Any exchange is **not** a contingency of this Contract unless specified as such in the Addendum or elsewhere. The other Party consents to an exchange on the condition that they incur no additional expense or liability.
- 18. **SALE OF BUYER'S PROPERTY:** This Contract is contingent upon the sale of another property owned by Buyer, as stated in the attached Addendum.
- 19. **SELLER'S MANDATED AND CONTRACTUAL DISCLOSURES:** The following disclosures shall be delivered to Buyer within 3 days of Acceptance. This Contract is contingent upon Buyer's review and approval of these disclosures. If Buyer does not deliver approval to Seller of these disclosures, or any amendment, within 5 or 3 days after Buyer's receipt, either Party may terminate this Contract. Buyer shall return to Seller signed copies of all documents within 7 or 5 days of receipt. If prior to COE, Seller becomes aware of any inaccurate or undisclosed material facts, Seller shall amend Seller's disclosure accordingly. No amendment is required for any conditions of which Buyer is or becomes otherwise aware, or which are contained in reports given to or ordered by Buyer.
 - A. **REAL ESTATE TRANSFER DISCLOSURE STATEMENT ("TDS"):** (Applies to properties with 1 to 4 residential units.) Unless exempt, Seller shall complete and deliver to Buyer a statutory TDS (Civil Code §1102), which shall be deemed complete when Seller has answered all questions and signed Section II and the listing Broker/Agent has completed and signed Section III. If the TDS is provided to Buyer prior to Acceptance, there are no termination rights based on items disclosed.
 - B. **SAN FRANCISCO SELLER DISCLOSURE:** (Applies to all properties.) Even if exempt from delivery of a TDS, Seller shall complete and deliver to Buyer the San Francisco Seller Disclosure, which shall be deemed complete when Seller has answered all applicable questions and initialed/signed each page.
 - C. **NATURAL HAZARDS DISCLOSURE ("NHD"):** (Applies to all properties.) Seller shall provide an NHD report disclosing if the Property is located in a flood, fire, seismic hazard or other zone for which disclosure is required by law. If a TDS is required, the NHD report shall also disclose if the Property is in a special tax district or area.
 - D. **EARTHQUAKE HAZARDS DISCLOSURE:** (Applies only to properties with 1 to 4 residential units built prior to 1960.) Seller shall deliver to Buyer the "Homeowner's Guide to Earthquake Safety" and complete a disclosure in compliance with Gov. Code §8897.
 - E. **LEAD-BASED PAINT HAZARDS DISCLOSURE:** (Applies to all properties with residential units built prior to 1978.) Seller shall complete and deliver to Buyer a Lead-Based Paint Hazards Disclosure and Addendum in compliance with 42 U.S.C. 4852d.
 - F. **BUILDING PERMIT HISTORY:** (Applies to all properties with residential units, except new construction.) Seller shall provide to Buyer a current Report of Residential Building Record ("3R"). Brokers/Agents do not investigate or verify the accuracy of the information contained in a 3R. Buyer is advised to investigate to Buyer's own satisfaction the status of zoning, permits or code compliance with the local planning department and not rely on the 3R to determine if the Property meets Buyer's intended uses.
 - G. **OTHER DISCLOSURES:** Seller shall provide Buyer with all documents in Seller's possession needed to complete Seller's disclosure obligation.
- 20. **COMPLIANCE WITH OTHER LOCAL, STATE AND FEDERAL LAWS:** Buyer is advised to consult with the appropriate authorities to determine the extent to which other local, State and federal laws may affect the ownership and use of the Property.
 - A. **SMOKE AND CARBON MONOXIDE DETECTORS:** Unless an exemption applies, State and local law requires that every residential property be properly equipped with approved and functioning smoke (or heat) and carbon monoxide detectors. If such detectors are not installed on the Property in accordance with applicable law, Seller shall install and pay for the detectors prior to COE.
 - B. **WATER HEATERS:** California law requires water heaters to be strapped, braced or anchored to resist falling or displacement. The State Uniform Plumbing Code also requires that new or replacement water heaters located in a garage area be installed such that their ignition point is at least 18 inches above the floor. Different local authorities may have more stringent requirements. Seller shall bring water heaters into compliance prior to COE.
 - C. **UNDERGROUND STORAGE TANKS ("USTs"):** The Parties acknowledge that Article 21 of the San Francisco Health Code requires owners of real property in San Francisco with USTs located on or immediately adjacent to the Property to file a plan for their closure within 30 days of discovery. If Seller has not provided Buyer with a written report by a licensed contractor specializing in USTs stating that no such tanks can be located, then Buyer is advised to conduct Buyer's own professional inspection, which Seller shall permit. If the inspection reveals the existence of USTs, then Seller shall, at Seller's expense, remove them and complete any necessary remedial work to the Property prior to COE. Buyer may be responsible for USTs found after COE.
 - D. **ENERGY AND WATER CONSERVATION:** Unless exempt, Seller shall order an energy and/or water conservation inspection. Seller shall pay for all requisite energy/water remediation work, not to exceed the maximum amount set by local law. Seller shall complete the work by COE and comply with all filing, recordation and other requirements.

Buyer's Initials

Seller's Initials

MJ / _____

A / Joe (Contract)

Property: 112 Russ Street, San Francisco Date: June 4, 2017

- 21. **ILLEGAL UNITS OR ROOMS:** Buyer understands that units, rooms, or additions to the Property may not have been legally permitted. They may violate zoning ordinances, may have been built without building permits, and a certificate of final completion and occupancy may not have been issued. Buyer may be required to bring them into compliance or to remove kitchens or other facilities at Buyer's expense. A substantial fine may be imposed and Buyer may be prevented from renting any illegal units. **Buyer is advised to obtain legal advice from a qualified San Francisco real estate attorney with respect to potential claims tenants renting illegal units may have.**
- 22. **RESIDENTIAL RENT CONTROL ORDINANCE:** If the Property is located in San Francisco, Buyer is advised that there is in effect a Residential Rent Stabilization and Arbitration Ordinance, amended from time to time, which may severely affect Buyer's rights of ownership and right to move into the Property. **Buyer is advised to research documents filed with the San Francisco Rent Board pertaining to the Property and to obtain legal advice from a qualified San Francisco landlord-tenant attorney.**
- 23. **MEGAN'S LAW:** Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at <http://www.meganslaw.ca.gov>. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides.
- 24. **NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES:** This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at <http://www.npms.phmsa.dot.gov>. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.
- 25. **RISK OF LOSS:** (Civil Code §1662) If the Property is materially destroyed prior to the transfer of title or delivery of possession to Buyer, Seller cannot enforce this Contract and Buyer is entitled to recover deposits already made.
- 26. **CONDITION OF PROPERTY:** Seller shall maintain this Property in the same general condition as when this Contract was signed by both Parties until possession is delivered to Buyer. Seller shall deliver the Property free of debris and in broom-clean condition and provide Buyer, at possession, with keys to all locks, mail boxes, alarms and garage doors; garage door remote controls and any codes or passwords. Buyer and Seller agree that Broker/Agents shall not be responsible for Seller's performance under this Paragraph.
- 27. **WALK-THROUGH:** Buyer shall have the right to make a final inspection of the Property within **5 or ____ days** prior to COE, not as a condition of the sale but solely to confirm that: (a) the Property is in substantially the same condition as on the Date of Acceptance, unless otherwise agreed to in writing; and (b) Seller has complied with all additional written obligations regarding the condition of the Property.
- 28. **HOME WARRANTY PLANS:** Buyer and Seller acknowledge they are aware of the availability of home warranty plans which provide limited coverage against system and appliance failures, but have not relied upon any representation by Brokers/Agents regarding the extent of coverage of any such plan. (If checked) A 1-year home warranty plan shall be purchased at a cost not to exceed \$ _____, to be paid by _____, with the cost of any additional coverage to be borne by Buyer. Or A home warranty plan is declined by Buyer.
- 29. **BROKERS/AGENTS:** No Brokers or Agents are parties to this Contract between Buyer and Seller. The term "Brokers/Agents" as used in this Contract shall mean the licensees who have served as real estate brokers or agents for either the Buyer or the Seller in the preparation, negotiation and review of this Contract.
- 30. **TAX WITHHOLDING:** The California Revenue and Taxation Code §18662 requires Buyer to withhold from Seller's proceeds 3 1/3% of the gross sale price, unless Seller signs an affidavit stating that the Property has been Seller's principal residence as defined in IRC §121, or another exemption applies. Further, if Seller is a foreign person or corporation, as defined in the Foreign Investment in Real Property Tax Act (FIRPTA), Buyer must, unless an exemption applies, withhold from Seller's proceeds up to 15% of the gross sale price of the Property. At least **7 or 5 days** prior to COE, the Parties shall deliver to Escrow Holder, acting as a Qualified Substitute under IRC §1445 and a State REEP, all documentation necessary to carry out the provisions of these laws. The Parties instruct Escrow Holder to deduct from Seller's proceeds any amounts required. If Escrow Holder receives a Non-Foreign affidavit from Seller, they shall give Buyer a Qualified Substitute Statement attesting to that, under penalty of perjury, prior to COE.
- 31. **NON-CONFIDENTIALITY OF OFFERS:** Buyer is advised that Seller or Seller's representatives may not treat the existence, terms or conditions of offers as confidential unless such is required by law, regulation or a pre-existing agreement between the Parties.
- 32. **TIME:** Time is of the essence. All references to "days" shall mean calendar days, unless otherwise specified.
- 33. **DELIVERY OF DOCUMENTS:** All documents to be delivered by a Party under this Contract, including but not limited to the Acceptance, contingency removals, and/or any termination notice issued by Buyer or Seller, shall be in writing and effective only upon personal receipt by the other Party or that Party's Broker/Agent. Delivery by any method (e.g. personal, mail, fax, e-mail, etc.) is effective.
- 34. **MULTIPLE LISTING SERVICE:** The Parties hereby grant to the San Francisco Association of REALTORS® Multiple Listing Service ("MLS") the right to publish and disseminate the sales price, terms of this Contract and other information about the Property and authorize their respective Brokers/Agents to submit such information under the applicable MLS rules.

Page 5 of 7
(Rev. 12/16)

Buyer's Initials
ML / _____

Seller's Initials
A / JSC (Contract)
Russ

Property: 112 Russ Street, San Francisco Date: June 4, 2017

35. **MEDIATION OF DISPUTES:** If a dispute arises regarding this Contract, Buyer and Seller agree to first attempt in good faith to settle the dispute by non-binding mediation before resorting to court action or binding arbitration. In mediation, a mutually acceptable resolution is sought rather than a settlement being imposed on the Parties. Mediation fees shall be paid equally by Buyer and Seller. The C.A.R. Real Estate Mediation Center for Consumers (www.consumermediation.org) shall be used, unless another mediation provider is mutually agreed to by the Parties. This Paragraph shall not apply to any disputes within the jurisdictional limits of Small Claims Court. Any Party who fails or refuses to mediate as required by this Paragraph, shall not be entitled to any attorney's fees award under this Contract. A court action to obtain a provisional remedy shall not be a violation of this Paragraph provided the Party commencing the action agrees, pending mediation, to an immediate stay of the court action after obtaining the provisional remedy or lis pendens. This Paragraph shall apply regardless of whether the Parties also agree to arbitration.

36. **ARBITRATION OF DISPUTES:** Any dispute or claim in law or equity arising out of this Contract or any resulting transaction shall be decided by neutral binding arbitration in accordance with the rules of JAMS and not by court action, except as provided by California law for judicial review of arbitration proceedings. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. Arbitrators can award compensatory damages, punitive damages, and/or order specific performance, injunctive relief and declaratory relief. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The following matters are excluded from arbitration hereunder: (a) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or real property sales contract as defined in Civil Code §2985; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court or a Small Claims Court; or (e) an action for bodily injury or wrongful death. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to arbitrate under this provision.

"NOTICE: BY INITIALLING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALLING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials
ML

Seller's Initials
A / MSC

37. **LIQUIDATED DAMAGES:** If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than 3% of the Purchase Price. Any excess shall be returned to Buyer. Release of funds will require mutual, signed release instructions from both Buyer and Seller, judicial decision or arbitration award. **BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES AGREEMENT FOR ANY INCREASED DEPOSIT.**

Buyer's Initials
ML

Seller's Initials
A / MSC

38. **LEGAL ADVICE ON ARBITRATION AND LIQUIDATED DAMAGES:** Buyer and Seller acknowledge that they have not received or relied upon any representation by Brokers/Agents regarding Arbitration and Liquidated Damages and that they have been advised by Brokers/Agents to seek legal advice from a qualified real estate attorney. In the event only one Party initials either clause (Arbitration or Liquidated Damages), that clause shall not be part of this Contract as formed.

39. **ATTORNEYS' FEES:** In any action, proceeding or arbitration between Buyer and Seller arising out of this Contract, the prevailing Party shall be entitled to reasonable attorney fees and costs from the non-prevailing Party.

40. **ACCEPTANCE:** Under this Contract, Acceptance occurs only when Seller signs Buyer's original offer and Addenda without any changes and a signed copy is delivered to Buyer or Buyer's Broker/Agent, OR when the last of any counter offers has been signed by the receiving Party without any changes and a signed copy of that counter offer is delivered to the issuing Party. Signed means by application of a written signature or, to the fullest extent allowed by California law, an electronic signature on an original document, counterpart, photocopy or electronic copy. The Parties agree that electronic means will not be used by either of them to alter the content or integrity of the Contract.

Page 6 of 7
(Rev. 12/16) Buyer's Initials
ML

Seller's Initials
A / MSC (Contract)
Russ

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Property: 112 Russ Street, San Francisco Date: June 4, 2017

- 41. **TERMINATION:** The following provisions apply except for a good faith exercise by either Party of a contractual contingency or a statutory right to terminate which can be done unilaterally by notice by a Party. Termination of this Contract by Seller shall be effected only after delivery of a Notice to Perform to Buyer which provides at least 2 days to perform contractual terms or remove contingencies. In the event that Buyer does not perform as noticed, Seller may terminate this Contract. Termination of this contract due to Seller's failure to perform contractual terms or remove contingencies, including Seller's failure to provide documents or reports mandated by this Contract or otherwise required by law, or Seller's failure to remove a Seller contingency, shall be effected only after delivery of a Notice to Perform to Seller which provides at least 2 days to perform as noticed. In the event that Seller does not perform as noticed, Buyer may terminate this Contract. Either Party may issue a Notice to Perform no sooner than 2 days prior to the contractual deadline. The obligation to close escrow as provided in paragraph 2 above is a contractual term requiring a Notice to Perform. Release of funds from escrow will require mutually consistent signed instructions from both Buyer and Seller, or the rendering of a judicial decision or arbitration award authorizing the release.
- 42. **BROKERS' COMPENSATION:** The Parties irrevocably instruct Escrow Holder to disburse to Brokers at COE compensation from funds in escrow in accordance with the terms set forth in the listing agreement for the Property or other compensation agreement. Compensation instructions can be amended or revoked only with the written consent of Listing and Selling Brokers.
- 43. **GENERAL PROVISIONS:** This Contract contains the entire agreement of the Parties. Any purported or prior agreement or representation respecting the Property or the duties of Buyer and Seller in relation thereto which is not expressly set forth herein is null and void. No amendment to or modification of this Contract shall be valid or enforceable unless in writing and signed by Buyer and Seller. This Contract shall be binding upon, and inure to the benefit of, the Parties' respective heirs, successors and assigns.
- 44. **REPRESENTATIVE CAPACITY:** The Parties acknowledge and accept that a Buyer and/or a Seller is signing this Agreement and the related transaction disclosures and documents as a representative, not as an individual, and agrees to provide a Representative Capacity Signature Disclosure form, with evidence of the authority to so act, to the other Party within 3 days of Acceptance.
- 45. **ACKNOWLEDGMENT OF RECEIPT:** The Parties hereby acknowledge receipt of a copy of this Contract and represent that they have read, and that they understand, its provisions.
- 46. **ADDITIONAL TERMS AND CONDITIONS** including all attached Addenda signed by Buyer and Seller shall be deemed a part of this Contract. Contract timelines do not begin until offer is accepted by the bankruptcy court

47. **EXPIRATION:** This offer shall be deemed revoked unless a copy of this Contract with Seller's signature accepting it is delivered to Buyer or Buyer's Broker/Agent within 24 or 48 hours of presentation to Seller, or (if checked) not later than _____ (time) on _____ (date).

NO REPRESENTATION IS MADE AS TO THE LEGAL SUFFICIENCY OR VALIDITY OF ANY PROVISION OF THIS CONTRACT FOR ANY SPECIFIC TRANSACTION. BROKERS/AGENTS CAN ADVISE ON REAL ESTATE TRANSACTIONS ONLY. FOR LEGAL OR TAX ADVICE, CONSULT A QUALIFIED ATTORNEY OR CPA.

Buyer Mark Lee Date 6/5/2017 Buyer _____ Date _____
Mark Lee 7E750DBC32FF47F...

ACCEPTANCE

The undersigned Seller hereby accepts the foregoing offer and agrees to sell the Property on the terms and conditions set forth herein, **OR** (if checked) accepts on the above terms and conditions as amended by Seller's Counter Offer.

Seller Alex C. Cortez Date 6/6/17 Seller Marinda B. Ostig Date June 6, 2017

BROKER/AGENT COMPENSATION AGREEMENT AND ACKNOWLEDGMENT OF AGENCY RELATIONSHIPS

Listing Broker agrees to assign and pay to Selling Broker from the commission as set forth in a separate written listing agreement between Seller and Listing Broker, the amount specified in the MLS, or (if checked) in a separate written agreement between the Brokers. Any percentages shown shall be based upon the Purchase Price, unless otherwise specified. Broker(s) hereby agree to the terms and conditions for compensation stated above and acknowledge the agency relationships confirmed in this Contract.

Selling Broker BHG Highland Partners CalBRE License # 00834597

By (Broker/Agent for Buyer) Bob Thacher Date 6/4/2017 CalBRE License # 01445321
Bob Thacher DocuSigned By: Bob Thacher

Listing Broker Brown and Company CalBRE License # _____

By (Broker/Agent for Seller) Mark Brown Date 6/6/2017 CalBRE License # 01850707
Mark Brown DocuSigned by: Mark Brown

Reviewed by Managing Broker _____ Date _____



SELLER MULTIPLE COUNTER OFFER No. 1

(C.A.R. Form SMCO, Revised 12/15)

Date 06/06/2017

This is a counter offer to the: [X] Purchase Agreement, [] Other
dated 06/04/2017, on property known as 112 Russ St, San Francisco, CA 94103
between Mark Lee and Alex C. Cortez, Melinda B. Cortez

- 1. TERMS: The terms and conditions of the above referenced document are accepted subject to the following:
A. Paragraphs in the Offer that require initials by all parties, but are not initialed by all parties, are excluded from the final agreement unless specifically referenced for inclusion in paragraph 1C of this or another Counter Offer.
B. Unless otherwise agreed in writing, down payment and loan amount(s) will be adjusted in the same proportion as in the original Offer.
C. OTHER TERMS: 1. Purchase Price to be \$825,000.
2. Expiration of original offer is extended through date of receipt by Buyer of this Counter Offer.
3. Buyer to sign attached As-Is Addendum.
4. Close of escrow to be within 18 days of Court approval of sale.
5. Buyer agrees that Paragraph 14 of Purchase Agreement does not apply to this sale as property is not tenant-occupied.
6. All other terms remain unchanged.

D. The following attached addenda are incorporated into this Multiple Counter Offer: [] Addendum No.
[X] AS-IS Addendum

2. BINDING EFFECT: Seller is making Multiple Counter Offers to other prospective Buyers on terms that may or may not be the same as in this Multiple Counter Offer. This Multiple Counter Offer does not bind Seller and Buyer unless all of the following occur in the times specified below: Seller signs in paragraph 5, Buyer signs in paragraph 7, Seller signs in paragraph 8, and Buyer receives a copy of the Multiple Counter Offer with all of the signatures. (Note: Prior to the completion of all of the foregoing, Buyer and Seller shall have no duties or obligations for the purchase or sale of the Property.)

3. EXPIRATION OF SELLER MULTIPLE COUNTER OFFER: This Multiple Counter Offer shall be deemed revoked and the deposits, if any, shall be returned to Buyer unless by 5:00PM on the third Day After the date Seller signs in paragraph 5 (if more than one Seller, then the last date) (or by 6:00 AM [] PM on 06/07/2017 (Date)), (i) it is signed in paragraph 7 by Buyer, and (ii) a copy of the Multiple Counter Offer signed by Buyer is personally received by Seller or Mark Brown, Seller's Agent, who is authorized to receive it;

4. MARKETING TO OTHER BUYERS: Seller has the right to continue to offer the Property for sale. Seller has the right to accept any other offer received, prior to Seller selection of this Multiple Counter Offer.

5. SELLER MAKES THIS MULTIPLE COUNTER OFFER ON THE TERMS ABOVE AND ACKNOWLEDGES RECEIPT OF A COPY.
Alex C. Cortez DocuSigned by: Alex C. Cortez Date 6/6/2017
Melinda B. Cortez DocuSigned by: Melinda B. Cortez Date 6/6/2017

6. ACCEPTANCE OF SELLER MULTIPLE COUNTER OFFER: Buyer's acceptance of this Seller Multiple Counter Offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless by 5:00PM on the fourth Day After the date Seller signs in paragraph 5 (if more than one Seller, then the last date) (or by AM PM on (Date) (i) it is signed in paragraph 8 by Seller, and (ii) a copy of this Seller Multiple Counter Offer signed by Seller in paragraph 8 is personally received by Buyer or who is authorized to receive it.

7. ACCEPTANCE: Buyer accepts the above Multiple Counter Offer (If checked [] SUBJECT TO THE ATTACHED COUNTER OFFER #) and acknowledges receipt of a Copy.
Mark Lee DocuSigned by: Mark Lee Date 6/7/2017 Time AM PM
Date Time AM PM

8. SELECTION OF ACCEPTED MULTIPLE COUNTER OFFER: By signing below, Seller accepts this Multiple Counter Offer. NOTE TO SELLER: Do NOT sign in this box until after Buyer signs in paragraph 7.
Alex C. Cortez DocuSigned by: Alex C. Cortez Date 6/9/2017 Time AM PM
Melinda B. Cortez DocuSigned by: Melinda B. Cortez Date 6/8/2017 Time AM PM

(/) (Initials) Confirmation of Acceptance: A Copy of the Signed Seller Selection was personally received by Buyer or Buyer's authorized agent on (date) at AM PM. A binding Agreement is created when a Copy of the Signed Seller Selection is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document.

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portion thereof, by photocopy machine or any other means, including facsimile or computerized formats.
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Reviewed by Date





SAN FRANCISCO ASSOCIATION of REALTORS®

"AS-IS" ADDENDUM
SAN FRANCISCO ASSOCIATION OF REALTORS® STANDARD FORM
This form is intended for use in San Francisco

The following terms and conditions are hereby incorporated in and made a part of the San Francisco Purchase Agreement, or Counter Offer No. 1, or other _____ dated 06/06/2017 for the Property known as 112 Russ St, San Francisco, CA 94103 between Mark Lee, ("Buyer") and Alex C. Cortez, Melinda B. Cortez ("Seller").

1. **Buyer is buying the Property in its present "AS-IS" condition,** unless otherwise agreed in writing:
 - A. This Addendum supersedes any provision in the Contract requiring Seller to repair or make operable any appliance, component or system.
 - B. Seller is not relieved from compliance with any statutory obligations related to the sale of the Property, including without limitation, those regarding the Transfer Disclosure Statement (TDS).
 - C. Seller will not investigate public records for the Property (e.g., zoning, permits or code compliance).
 - D. Buyer has not relied and will not rely on any oral representations or warranties from Seller or Brokers/Agents with respect to the condition of the Property. Buyer is relying upon Buyer's independent investigation of the Property.
 - E. Seller will not agree to any requests for credits or reductions in the Purchase Price regarding any matter that may be revealed by Buyer's independent investigation of the Property, or otherwise.
2. Buyer acknowledges Civil Code §2079.5, which provides that: **"Nothing in this article relieves a buyer or prospective buyer of the duty to exercise reasonable care to protect himself or herself, including those facts which are known to or within the diligent attention and observation of the buyer or prospective buyer."**
3. California law requires a seller to disclose all material facts he or she actually knows relating to the value or desirability of the Property. However, what may be perceived as "material" may vary from person to person. Therefore, in executing this Addendum, Buyer acknowledges that:
 - A. The Property and its components, appliances, fixtures, systems and materials have varying remaining useful lives.
 - B. Not all components, improvements or fixtures on the Property may comply with current code, zoning or setback requirements.
 - C. Square footage and lot dimensions, if given, are approximate only and should not be relied upon.
 - D. Lot lines cannot be reliably determined by existing fences, landscaping, retaining walls, or the like.
 - E. Neighborhood nuisance issues (including noise) can be subjective, depending on varying personal sensitivities.
 - F. Future or ongoing construction at surrounding properties can obstruct view corridors.
4. If any of the above items, or other factors affecting the Property, are important to Buyer, then Buyer is urged to conduct inspections utilizing appropriate professionals other than Brokers/Agents. No independent investigation of the above items will be conducted by Seller.
5. If provided for in the Agreement, Buyer may have all inspections that Buyer desires with respect to the Property. In removing the inspection conditions in this Addendum, it will be conclusively presumed that Buyer is fully satisfied with respect to the items which are the subject of that condition (e.g., physical condition of the Property). If Buyer does not have a particular inspection of the Property, or any portion of it, it will be conclusively presumed that Buyer has waived that inspection and waived any claims with respect to items that would have been disclosed by such an inspection, to the fullest extent allowed by law.

DocuSigned by: Mark Lee Date 6/7/2017 Buyer _____ Date _____
 DocuSigned by: Mark Lee 7F750D8C32FF47F...
 DocuSigned by: Alex C. Cortez Date 6/6/2017 Seller _____ Date 6/6/2017
 DocuSigned by: Melinda B. Cortez AC7472899A04E...
 DocuSigned by: Alex C. Cortez 1A7AF74209904E...

BROKERS/AGENTS CAN ADVISE ON REAL ESTATE TRANSACTIONS ONLY. FOR LEGAL OR TAX ADVICE, CONSULT A QUALIFIED ATTORNEY OR CPA.





BUYER COUNTER OFFER No. 1
(C.A.R. Form BCO, 11/14)

This is a counter offer to the: Seller Counter Offer No. _____, Seller Multiple Counter Offer No. 1, or Other _____ ("Offer"), dated _____, on property known as 112 Russ Street, San Francisco, CA 94103 ("Property"), between Mark Lee ("Buyer") and _____ ("Seller").

Date June 7, 2017

- 1. **TERMS:** The terms and conditions of the above referenced document are accepted subject to the following:
 - A. Paragraphs in the Offer that require initials by all parties, but are not initialed by all parties, are excluded from the final agreement unless specifically referenced for inclusion in paragraph 1C of this or another Counter Offer or an addendum.
 - B. Unless otherwise agreed in writing, down payment and loan amount(s) will be adjusted in the same proportion as in the original Offer.
 - C. **OTHER TERMS:** 1. Purchase price to be \$805,000
2. All other terms and conditions to remain unchanged.

D. The following attached addenda are incorporated into this Buyer Counter offer: Addendum No. _____

- 2. **EXPIRATION:** This Buyer Counter Offer shall be deemed revoked and the deposits, if any, shall be returned:
 - A. Unless by 5:00pm on the third Day After the date it is signed in paragraph 3 (if more than one signature then, the last signature date)(or by 6:00 AM PM on 06/09/2017 (date)) (i) it is signed in paragraph 4 by Seller and (ii) a copy of the signed Buyer Counter Offer is personally received by Buyer or Bob Thacher, who is authorized to receive it.
 - OR B. If Buyer withdraws it in writing (CAR Form WOO) anytime prior to Acceptance.

3. **OFFER: BUYER MAKES THIS COUNTER OFFER ON THE TERMS ABOVE AND ACKNOWLEDGES RECEIPT OF A COPY.**
Buyer Mark Lee Date 6/7/2017
Buyer _____ Date _____

4. **ACCEPTANCE: I/WE** accept the above Buyer Counter Offer (if checked **SUBJECT TO THE ATTACHED COUNTER OFFER**) and acknowledge receipt of a Copy.
Seller Melinda B. Cortez Signed by: Melinda B. Cortez Date 6/8/2017 Time AM/ PM
Seller Alex C. Cortez Date 6/9/2017 Time AM/ PM

CONFIRMATION OF ACCEPTANCE.
(_____ / _____) (Initials) **Confirmation of Acceptance:** A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent as specified in paragraph 2A on (date) _____ at _____ AM/ PM. **A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document.**

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Reviewed by _____ Date _____



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1777 Borel Place, Suite 314
3 San Mateo, CA 94402
Telephone: (415) 513-5980
4 Facsimile: (415) 513-5985

5 *Attorneys for Debtors*

6 **UNITED STATES BANKRUPTCY COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN FRANCISCO DIVISION**

9 **In re**) **Case No. 16-31253 HLB 11**
10 **MELINDA BILGERA CORTEZ**) **Chapter 11**
11 **ALEX C CORTEZ**)
12)
13 **Debtor(s).**) **Date:** July 15, 2017
14) **Time:** 10:00 a.m.
15) **Place:** 450 Golden Gate Ave., 16th Floor,
16) Courtroom 19
17) San Francisco, CA 94102
18) **Judge:** Hon. Hannah L. Blumenstiel
19)
20)

21 **DECLARATION OF MELINDA BILGERA CORTEZ**
22 **IN SUPPORT OF**
23 **MOTION FOR ORDER APPROVING SALE OF REAL PROPERTY AND SALE FREE AND**
24 **CLEAR OF CERTAIN CLAIMS OF LIEN AND OTHER INTERESTS**
25 **("112 Russ Street, San Francisco, CA 94103")**
26
27
28

1 I, Melinda Bilgera Cortez declare as follows:

2 1. I am the above-captioned Debtor and Debtor-in-possession. I make this declaration in
3 support of the Motion for Order Approving Sale of Real Property and Sale Free and Clear of Certain
4 Claims of Lien and Other Interests. The matters stated below are made and based upon my personal
5 knowledge, except for those matters stated upon information and belief, and as to those matters, I
6 believe them to be true. If called as a witness, I could and would testify to the matters as set forth
7 below.

8 **A. The Proposed Transaction**

9 2. The condo-conversion on the real property commonly known as 112-114A Russ Street,
10 San Francisco (“112-114A Russ Street”) was commenced pre-petition and concluded post-petition; the
11 CC&Rs and final condo map were recorded on or about February 22, 2017 in the San Francisco
12 Assessor-Recorder’s office as Doc 2017-K4111072-00.

13 3. As of the February 22, 2017 recording date, 112-114A Russ Street was subdivided into
14 the following four (4) separate Parcel ID/ Lot-Block numbers:

- 15 • Lot 276; Block 3731 (“112 Russ”)
- 16 • Lot 277; Block 3731 (“112-A Russ”)
- 17 • Lot 278; Block 3731 (“114 Russ”)
- 18 • Lot 279; Block 3731 (“114-A Russ”)

19 (collectively referred to as the “Russ Street Condominium Units”)

20 4. Due to the fact that the condo-conversion was not completed until approximately
21 February 22, 2017 (post-petition), all liens that recorded pre-petition were recorded against a single
22 APN/Parcel ID that referred to the entire Russ Street Property—/Parcel ID: Lot 076; Block 3731.

23 5. As a result of the successful condo-conversation, all liens are now effectively cross-
24 collateralized against each of the four (4) condominium units, as summarized in the chart hereinbelow:

25 ***Table A – Mortgage and Other Liens***

Party	Lien Type	Recording Date	Recording No.	Lien Amount
-------	-----------	-------------------	------------------	-------------

1	Yeva, Inc. dba Saxe Mortgage Company	Senior Lien	4/26/2013	2013- J645804	Est. \$1,498,679.79 (as of 3/7/17)
2					
3	Yeva, Inc. dba Saxe Mortgage Company	Junior Lien	6/13/2014	2014- J894505	\$2,494,467.81 (as of 3/7/17)
4					
5	Ann La Morena Rohlin c/o Lillis Pitha LLP	Abstract of Judgment Lien	8/27/2015	2015- K122503	\$74,958.76 Claim 4-1
6					
7	Boris Govzman/Sofia Fridman	Abstract of Judgment Lien	1/5/2016	2016- K184188	\$130,000.00
8					
9	Arcon Construction Corporation	Mechanic's Lien	3/29/2016	2016- K222980	\$22,222.50
10					
11	State of California, Franchise Tax Board	Tax Lien	11/2/2016	2016- K353319	\$4,486.19 Claim 6-1
12					
13		Total Lien Value			\$4,224,815.05

6. The instant motion concerns only the 112 Russ Street condominium unit.

7. On June 8, 2017, I executed – subject to Bankruptcy Court approval – a purchase agreement with Mark Lee the (the “Nominee”) on the 112 Russ Street condominium unit for a total price of \$805,000.00.

8. Saxe has agreed via stipulation to a partial reconveyance on Unit 112.

9. Concurrently herewith, I have a filed a motion to value Unit 112 and bifurcate the Saxe senior lien into a partially secured claim and general unsecured claim as well as lienstrip as 100% unsecured all liens junior to the Saxe senior lien.

10. Accordingly, for the reasons discussed hereinbelow, we are now seeking to sell Unit 112- Russ Street free and clear of all liens, with the understanding that all proceeds from the sale – less payment of the five percent (5%) broker commission and closing costs – will remain in in an appropriate escrow account and be administered subject to Court approval pursuant to the following two (2) provisions:

- 1 a. That the judgments, liens, claims and interests of the parties herein, attach to any
 2 proceeds from the sale of these assets, to the same priority and extent that they attach
 3 to the subject assets.
- 4 b. That the proceeds from the sale of the assets described above be held in an interest
 5 bearing account until further order of this Court to determine the validity, priority and
 6 extent of the judgments, liens, claims and interests of the parties herein.

7 11. I reserve all rights regarding my dispute with Yeva, Inc. dba Saxe Mortgage Company
 8 (“SAXE”) regarding the final payoff figure for amounts due and owing as stated in prior, verified
 9 filings.

10 12. The above chart also does not include the disputed property tax liens, city utility liens,
 11 and/or city tax liens (“local statutory liens”). As a general matter, said local statutory liens would need be
 12 paid first as part of any sale – and the prior sales that the Court has approved. However, here, on
 13 information and belief, all liens identified hereinbelow were paid and cleared pre-petition. For said
 14 reason, I have identified said liens as “disputed” on Schedule D. If, after further investigation, one or
 15 more liens were not paid pre-petition, I agree to pay said liens as part of a Court-approved sale on Unit
 16 112. A true and correct summary of the disputed local statutory liens recorded against the Russ Street
 17 Property is as follows:

18 **Table B - Local Statutory Liens**

19 Party	Lien Type	Recording Date	Recording No.	Lien Amount
20 City of San Francisco Clerk of the Board, Room 244 Attn: Operations Division, San 21 Francisco, CA 94102	Abatement charge	8/5/2011	DOC 2011- J234141-00	\$1,271.60
22 San Francisco Water, Power and Sewer 23 525 Golden Gate, 2nd Floor San Francisco, CA 24 94102	Utility lien	2/23/2014	DOC 2015- K022945	\$53.04
25 San Francisco Water, Power and Sewer 26	Utility lien	5/20/2015	DOC 2015- K064510-00	\$89.79

1	525 Golden Gate, 2nd Floor San Francisco, CA 94102				
2					
3	City and County of San Francisco Water Dept. 425 Mason Street San Francisco, CA 94105-2000	Utility lien	7/22/2016	DOC 2016- 5279850-00	\$573.20
4					
5					
6	Office of the Treasurer & Tax Collector PO Box 7426 Sacramento, CA 94120-7426	Supplemental tax assessment	2016-2017 tax year	Account No. 507782	\$2,758.84
7					
8					
9	Office of the Treasurer & Tax Collector PO Box 7426 Sacramento, CA 94120-7426	Supplemental tax assessment	2016-2017 tax year	Account No. 126868	\$3,763.08
10					
11	Office of the Treasurer & Tax Collector PO Box 7426 Sacramento, CA 94120-7426	Supplemental tax assessment	2016-2017 tax year	Account No. 601317	\$11,003.70
12					
13					
14				Total	\$19,512.25

15 13. The Seller's Estimated Closing Statement attached as Exhibit A to the declaration of Tim
16 Brown filed concurrently herewith projects – after payment of broker commissions, broker expense
17 reimbursements, transfer taxes, and related closing costs – an estimated net proceed payable to Saxe
18 Mortgage Company in the amount of \$756,583.80.

19 **B. Fair Market Valuation**

20 14. Based on my experience and knowledge of the local area, it is my opinion that
21 \$805,000.00 represents the fair market value of Unit 112.

22 15. Said offer also represents the best and highest offer we obtained (as higher offers were
23 withdrawn).

24 **C. Good Faith Finding**

- 25 16. Neither I nor Mr. Alex Cortez have any previous connection with the proposed buyer.
26 17. I first learned of the proposed buyer through the Estate's broker, Brown & Co.
27 18. Our negotiations with the proposed buyers have been at arms' length.

1 19. There has been no collusion in the proposed sale between the Joint Debtor, Mr. Alex
2 Cortez, and the Debtor, myself, on one hand, and any other party, on the other hand.

3 20. We are selling Russ Street Unit 112 in good faith.

4 21. I have no present or future plans with this the proposed purchaser.

5 22. For the above reasons, I respectively submit that the sale is in good faith.

6 **D. The Sale Should Be Free and Clear of the Senior Lien of Yeva, Inc. dba Saxe Mortgage**
7 **Company**

8 23. For the reasons identified hereinabove and in a prior stipulation approved by the Court
9 (Doc Nos 85,89) , Saxe has consented to a sale free and clear of SAXE's liens, provided SAXE receive
10 the proceeds from said closing, after payment of all ordinary and necessary closing costs, including any
11 remaining utility liens.

12 **F. The Sale Should Be Free and Clear of the Junior Judgment Lien of Anna La Morena**
13 **Rohlin c/o Lillis Pitha LLP**

14 24. Due to the fact that SAXE's senior lien exceeds net sale proceeds from Unit 112, we
15 have filed a motion to lienstrip the cross-collateralized lien of Anna La Morena Rohlin c/o Lillis Pitha
16 LLP as 100% unsecured to be allowed only as a general unsecured claim – as to Unit 112-A only.

17 25. For said reason, we have a bona fide dispute with said lien.

18 **G. The Sale Should Be Free and Clear of the Mechanic's Lien Arcon Construction**
19 **Corporation**

20 26. Due to the fact that SAXE's senior lien exceeds net sale proceeds from Unit 112, we have
21 filed a motion to lienstrip the cross-collateralized lien of Arcon Construction Corporation as 100%
22 unsecured to be allowed only as a general unsecured claim - as to Unit 112-A only.

23 27. For said reason, we have a bona fide dispute with said lien.

24
25 ///

H. The Sale Should be Free and Clear of the Lien of Boris Govzman, Sofia Fridman and

Natalie Govzman (the “Govzmans”)

28. Due to the fact that SAXE's senior lien exceeds net sale proceeds from Unit 112, we have filed concurrently herewith a motion to lienstrip the cross-collateralized lien of the Govsmans - as to Unit 112 only.

29. For said reason, we have a bona fide dispute with said lien.

I. The Sale Should Be Free and Clear of the Lien of the Franchise Tax Board

30. Due to the fact that SAXE's senior lien exceeds net sale proceeds from Unit 112, we have filed a motion to lienstrip the cross-collateralized lien of the Franchise Tax Board as 100% unsecured to be allowed only as a general unsecured claim - as to Unit 112 only.

31. Additionally, as noted by Proof of Claim 6-1, said lien was based on the 2014 tax year, which tax return was unfiled as of the petition. We have since filed the 2014 return, demonstrating that nothing was owed to the Franchise Tax Board. For said reason, we also a reasonably optimistic that the Franchise Tax Board should consent to the sale free and clear of said lien. Finally, the Franchise Tax Board amended Claim 6-1 on March 30, 2017 confirming no balance is due and owing.

32. For said reason, we have a bona fide dispute with said lien.

J. The Sale Should Be Free and Clear of the Post-Pettion Lien of the Stanley Lo dba

Greenbanker

33. I recently learned that Stanley Lo *dba* Greenbanker filed a small claims case on December 28, 2016 – after the November 20, 2016 petition date – and recorded an abstract of judgment on May 8, 2017. A true and correct copy of said Abstract of Judgment is attached hereto as Exhibit A.

34. Said Abstract of Judgment was record after the petition date and is void.

35. For said reason, we have a bona fide dispute with said lien.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on June 15, 2017 at San Francisco, California.

/s/ Melinda Bilgera Cortez
Melinda Bilgera Cortez

EXHIBIT A

EJ-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, address, and State Bar number):
 After recording, return to:
Greenbanker-Stanley Lo
 398 Primrose Rd.
 Burlingame, Ca 94010

TEL NO.: 650-373-0007 FAX NO. (optional):
 E-MAIL ADDRESS (Optional):

ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco
 STREET ADDRESS: 400 Mcallister Street Room 103
 MAILING ADDRESS:
 CITY AND ZIP CODE: San Francisco, Ca 94102
 BRANCH NAME: Small Claims Division



San Francisco Assessor-Recorder
Carmen Chu, Assessor-Recorder
DOC- 2017-K447905-00

Monday, MAY 08, 2017 09:16:21
Ttl Pd \$24.00 Rcpt # 0005599376
oJ1/JL/1-2

FOR RECORDER'S USE ONLY

PLAINTIFF: Stanley Lo DBA Greenbanker
 DEFENDANT: Alex C. Cortez and Melinda B. Cortez

CASE NUMBER:
16-854170

ABSTRACT OF JUDGMENT—CIVIL AND SMALL CLAIMS

Amended

FOR COURT USE ONLY

1. The judgment creditor assignee of record applies for an abstract of judgment and represents the following:

a. Judgment debtor's

Name and last known address

Alex C. Cortez and Melinda B. Cortez
114 Russ Street
San Francisco, Ca 94103

b. Driver's license no. [last 4 digits] and state:

Unknown

c. Social security no. [last 4 digits]:

Unknown

d. Summons or notice of entry of sister-state judgment was personally served or mailed to (name and address):
Alex C. Cortez and Melinda B. Cortez, 114 Russ Street San Francisco, Ca 94103

2. Information on additional judgment debtors is shown on page 2.

4. Information on additional judgment creditors is shown on page 2.

3. Judgment creditor (name and address):

Stanley Lo DBA Greenbanker
398 Primrose Rd

5. Original abstract recorded in this county:

a. Date:

b. Instrument No.:

Date: 4/3/2017

Stanley Lo

(TYPE OR PRINT NAME)

(SIGNATURE OF APPLICANT OR ATTORNEY)

6. Total amount of judgment as entered or last renewed:
\$ 5075.00

10. An execution lien attachment lien is endorsed on the judgment as follows:

7. All judgment creditors and debtors are listed on this abstract.

a. Amount: \$

8. a. Judgment entered on (date): 2/24/2017

b. In favor of (name and address):

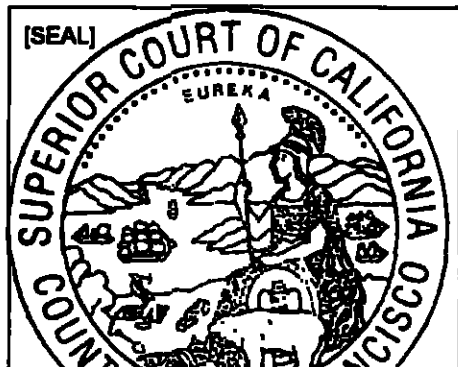
b. Renewal entered on (date):

9. This judgment is an installment judgment.

11. A stay of enforcement has

a. not been ordered by the court.

b. been ordered by the court effective until (date):



CLERK OF THE COURT

This abstract issued on (date):

MAY 08 2017

12. a. I certify that this is a true and correct abstract of the judgment entered in this action.

b. A certified copy of the judgment is attached.

Clerk, by

, Deputy

ABSTRACT OF JUDGMENT—CIVIL AND SMALL CLAIMS

William Trupek

PLAINTIFF: Stanley Lo DBA Green Banker	COURT CASE NO.: CSM 16-894170
DEFENDANT: Alex C. Cortez & Melinda B. Cortez	

NAMES AND ADDRESSES OF ADDITIONAL JUDGMENT CREDITORS:

13. Judgment creditor (name and address):

14. Judgment creditor (name and address):

15. Continued on Attachment 15.

INFORMATION ON ADDITIONAL JUDGMENT DEBTORS:

16. Name and last known address

Driver's license no. [last 4 digits] and state: Unknown

Social security no. [last 4 digits]: Unknown

Summons was personally served at or mailed to (address):

17. Name and last known address

Driver's license no. [last 4 digits] and state: Unknown

Social security no. [last 4 digits]: Unknown

Summons was personally served at or mailed to (address):

18. Name and last known address

Driver's license no. [last 4 digits] and state: Unknown

Social security no. [last 4 digits]: Unknown

Summons was personally served at or mailed to (address):

19. Name and last known address

Driver's license no. [last 4 digits] and state: Unknown

Social security no. [last 4 digits]: Unknown

Summons was personally served at or mailed to (address):

20. Continued on Attachment 20.