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Mayor's Office of Housing and Community Development
City and County of San Francisco
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Request For Proposals (RFP)
For Interim Uses at
730 Stanyan Street (formerly McDonald's)

Issued by:
San Francisco Real Estate Division
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**Request for Proposals for Interim Uses at
730 Stanyan Street**

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- A. Site Map
(TO BE ADDED TO RFP AFTER DEMOLITION OF MCDONALD'S FACILITY)

I. The Opportunity

The City and County of San Francisco (“City”), through its Real Estate Division (“RED”), is seeking proposals from qualified respondents for interim uses on 730 Stanyan Street, a vacant lot in the Haight Ashbury neighborhood that was previously occupied by a McDonald’s restaurant.

In April 2018, the San Francisco Mayor’s Office of Housing and Community Development (“MOHCD”) purchased the site from McDonald’s for future development of affordable housing. Since the development process will take several years, the City plans to create a temporary use for the site until the affordable housing can be built.

This Request for Proposals (“RFP”) invites you to submit proposals for temporary uses that will be in place on the site for 3-5 years, while due diligence work is completed on the affordable housing development. The City envisions interim uses that will provide a mix of amenities to the public, is financially self-sufficient and will largely serve or employ low to moderate income persons.

A. The Parcel

700-730 Stanyan is a 37,813 square foot parcel, Lot 024 Block 1249, with Waller Avenue to the south, and Haight Street to the east.

Interim uses will be in place from early 2019 until at least 2022. During this time, operators of the approved uses will be responsible for terms negotiated within the lease agreement.

B. Background

MOHCD convened two public meetings, on April 26, 2018 and May 17, 2018, to gather input on desired interim uses. Over 200 people participated in the meetings. In addition, MOHCD received multiple emails, proposals, and telephone calls from interested citizens expressing opinions about the desired interim uses.

Based upon extensive community input received, and in pursuit of Community Development Block Grant (“CDBG”) goals and requirements, MOHCD and RED have determined that the best interim use for 730 Stanyan is a flexible space that incorporates a variety of uses intended to serve a broad audience and confer broad community benefits. The uses may include art, culture, music, health, food and beverage services, and/or other components. Responses to this RFP should also include an operations component(s) that meets the CDBG and additional City Requirements described below.

CDBG Requirements.

At both public meetings and in response to many inquiries, MOHCD articulated constraints imposed upon the interim use because of the federal funds used to acquire the site. The requirements for use under CDBG are:

- A commercial use that will create jobs for at least 51% of low and moderate income persons; or
- A public service for which at least 51% of the clientele is low and moderate income persons, such as child care, health care, recreation programs, education programs, public safety services, senior services, and homeless services, among others; or
- Microenterprise establishments owned by a low- and/or moderate-income person. (Note that respondents may propose a combination of eligible uses for the site, combining multiple means of meeting CDBG objectives.)

Additional City Requirements

- Financial Self-Sustainability.
While the City is currently paying for security and other holding costs until construction commencement of affordable housing, the proposed interim use must be fully self-supporting once the interim operations commence. MOHCD cannot use its housing funding sources for non-housing interim uses.
- Health and Safety.
The interim use should pose no health or safety risk to the community.
- No Unintended Adverse Consequences.
The interim use should not create adverse consequences for existing neighbors or commercial establishments, e.g., drawing customers away from existing businesses to such an extent that it harms existing businesses.
- Termination.
The interim use must be of such a nature that it can be easily dismantled when the housing development is ready to commence construction of affordable housing.

C. Submissions

In a narrative format, Respondent should provide details about the proposed interim use with respect to how the proposed use satisfies the 5 required interim use conditions described below:

- 1) CDBG. Please provide a detailed description of the way the project will serve low/moderate-income households, including:
 - a. Outreach: describe how the interim use will identify the proposed low/mod service recipients and/or clientele.

- b. Operations: describe in detail the roles and responsibilities of the parties responsible for implementing the services program, including:
 - i. Identification of lead staff
 - ii. Experience delivering similar services
 - iii. Capacity to successfully provide the service for the duration of the interim period
 - iv. Financial capacity to deliver services, including operating budgets, staffing budgets, and/or any relevant clientele payroll expenses, as may be applicable.
- 2) Financial Self-Sustainability. Please provide a 5-year operating budget for the totality of the interim use components, including:
 - i. Anticipated expenses and the basis for the projection (e.g., experience with similar operations at different sites in San Francisco and/or the Bay Area)
 - ii. Anticipated revenues or other secured and projected sources of operating funds and the basis for the projections
 - iii. Security budget to ensure safety of improvements.
- 3) Health and Safety. Describe in narrative form Respondent's plan to achieve and maintain safe and healthy site conditions for the duration of the interim period, including security, nuisance abatement, perimeter controls (if any), etc.
- 4) No Unintended Adverse Neighborhood Consequences. Describe steps Respondent has taken to ensure that the proposed interim use will have no adverse consequences to the neighborhood, whether from a commercial or social standpoint.
- 5) Termination. Describe in narrative form the ease by which the proposed use can be dismantled, a dismantling timeline, and any special conditions the Respondent would seek to attach to the termination of the interim use.

II. Key Lease Terms

Upon successful completion of negotiations with the selected Respondent, the City anticipates entering into a lease for the site. This Section briefly describes key lease terms required by the City. The actual terms of the lease will be negotiated with the City staff.

A. Rent

The lease will include a minimum base rent.

B. Term

Not to exceed three years in length with a possible lease extension options depending on specific circumstances regarding the proposed use and this specific parcel.

C. Maintenance/Repairs

Lessee shall keep the premises clean, neat, safe, sanitary and in good order at all times. Lessee agrees to remove all waste, trash, rubbish, papers, cartons and refuse from said

premises, to pick up trash and debris in the immediate vicinity of the premises and dispose of trash in containers provided by lessee that are large enough to adequately serve the needs of the facility.

D. Subordination

The City's fee ownership and rental income stream will not be subordinated.

E. Security Deposit and Performance Bond

In connection with the lease, the lessee, upon signing the lease, will be required to provide a security deposit equal to one month's rent.

F. Insurance Requirements

Lessee will be required to retain insurance policies as directed by the City.

G. City Contracting Requirements

1.1. Public Transit Information

Tenant, at Tenant's sole expense, will establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Tenant employed on the Premises, including, without limitation, the distribution of written materials to personnel explaining the convenience and availability of public transportation facilities adjacent or near the Building and encouraging use of them.

1.2. Taxes, Assessments, Licenses, Permit Fees and Liens

(a) Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and Tenant may be subject to the payment of property taxes levied on its possessory interest.

(b) Tenant will pay taxes of any kind, including possessory interest taxes, lawfully assessed on the leasehold interest created by this Lease and to pay all other taxes, excises, licenses, permit charges, and assessments based on Tenant's use of the Premises and imposed on Tenant by Legal Requirements, all of which must be paid when they become due and payable and before delinquency.

(c) Tenant will not allow or suffer a lien for any taxes to be imposed on the Premises or on any equipment or property located in the Premises without promptly discharging the lien, provided that Tenant, if it desires, may have reasonable opportunity to contest the validity of the same.

(d) San Francisco Administrative Code Sections 23.38 and 23.39 require that City report certain information relating to the creation, renewal, extension, assignment, sublease, or other transfer of this Lease to the County Assessor within sixty (60) days after the transaction, and that Tenant report certain information relating to those matters to City within thirty (30) days after the applicable transaction. Tenant will timely provide any information that City may request to enable it to comply with this requirement.

1.3. Non-Discrimination in City Contracts and Benefits Ordinance

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

(b) **Subleases and Other Subcontracts.** Tenant will include in all Subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to the Subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Tenant will incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and require all subtenants and other subcontractors to comply with those provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Lease.

(c) **Non-Discrimination in Benefits.** Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for City elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of the employees, where the domestic partnership has been registered with a governmental entity under the Legal Requirements authorizing that registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) **CMD Form.** As a condition to this Lease, Tenant must execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division. Tenant represents that before execution of this Lease, (i) Tenant executed and submitted to the CMD Form CMD-12B-101 with supporting documentation, and (ii) the CMD approved the form.

(e) **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Lease as though fully set forth in this Lease. Tenant will comply fully with and be bound by all of the provisions that apply to this Lease under those Chapters of the Administrative Code, including but not limited to the remedies provided in those Chapters. Without limiting the foregoing, Tenant understands that under Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which the person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

1.4. No Relocation Assistance; Waiver of Claims

Tenant acknowledges that it will not be a displaced person at the time this Lease is terminated or expires by its own terms, and Tenant fully RELEASES AND DISCHARGES forever any and all Claims against, and covenants not to sue, City, its departments, commissions, officers, directors, and employees, and all persons acting by, through or under each of them, under any Legal Requirements, including, without limitation, any and all claims for relocation benefits or assistance from City under federal and state relocation assistance Legal Requirements (including, but not limited to, California Government Code Section 7260 et seq.), except as otherwise specifically provided in this Lease with respect to a Taking.

1.5. MacBride Principles—Northern Ireland

The provisions of San Francisco Administrative Code section 12F are incorporated by this reference and made part of this Lease. By signing this Lease, Tenant confirms that Tenant has read and understood that City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

1.6. Tropical Hardwood and Virgin Redwood Ban; Preservative-Treated Wood Containing Arsenic

The City and County of San Francisco urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product. Except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Tenant will not provide any items to the construction of Tenant Improvements or the Alterations, or otherwise in the performance of this Lease that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products. If Tenant fails to comply with any of the provisions of Chapter 8 of the San Francisco Environment Code, Tenant will be liable for liquidated damages for each violation in any amount equal to Tenant's net profit on the contract, or five percent (5%) of the total amount of the contract dollars, whichever is greater. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Environment Code Chapter 13 is obtained from the Department of Environment.

1.7. Restrictions on the Use of Pesticides

(a) Chapter 3 of the San Francisco Environment Code (the Integrated Pest Management Program Ordinance or "**IPM Ordinance**") describes an integrated pest management ("**IPM**") policy to be implemented by all City departments. Tenant may not use or apply or allow the use or application of any pesticides on the Premises or contract with any party to provide pest abatement or control services to the Premises without first receiving City's written approval of an IPM plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the Term, (ii) describes the steps Tenant will take to meet City's IPM Policy described in Section 300 of the IPM Ordinance, and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Tenant's primary IPM contact person with City. Tenant will comply, and will require all of Tenant's contractors to comply, with the IPM plan approved by City and will comply with the requirements of Sections 300(d), 302, 304, 305(f), 305(g), and 306 of the IPM Ordinance, as if Tenant were a City department. Among other matters, the provisions of the IPM Ordinance:

(A) provide for the use of pesticides only as a last resort, (B) prohibit the use or application of pesticides on City property, except for pesticides granted an exemption under Section 303 of the IPM Ordinance (including pesticides included on the most current Reduced Risk Pesticide List compiled by City's Department of the Environment), (C) impose certain notice requirements, and (D) require Tenant to keep certain records and to report to City all pesticide use at the Premises by Tenant's staff or contractors.

(b) If Tenant or Tenant's contractor would apply pesticides to outdoor areas at the Premises, Tenant must first obtain a written recommendation from a person holding a valid Agricultural Pest Control Advisor license issued by the California Department of Pesticide Regulation ("CDPR") and the pesticide application must be made only by or under the supervision of a person holding a valid, CDPR-issued Qualified Applicator certificate or Qualified Applicator license. City's current Reduced Risk Pesticide List and additional details about pest management on City property can be found at the San Francisco Department of the Environment website, <http://sfenvironment.org/ipm>.

1.8. First Source Hiring Agreement

Tenant and City are parties to the First Source Agreement attached to this Lease as Exhibit G under San Francisco Administrative Code, Chapter 83 (the "First Source Agreement"). Any default by Tenant under the First Source Agreement will be a default under this Lease.

1.9. Sunshine Ordinance

In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public on request.

1.10. Conflicts of Interest

Through its execution of this Lease, Tenant acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and California Government Code Section 87100 et seq. and Section 1090 et seq., and certifies that it does not know of any facts that would constitute a violation of those provisions, and agrees that if Tenant becomes aware of any violation during the Term Tenant will immediately notify City.

1.11. Charter Provisions

This Lease is governed by and subject to the provisions of the Charter of the City and County of San Francisco.

1.12. Drug-Free Workplace

Tenant acknowledges that under the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession, or use of a controlled substance under federal Legal Requirements is prohibited on City premises. Tenant agrees that any violation of this prohibition by Tenant, its Agents, or assigns will be a material breach of this Lease.

1.13. Prohibition of Tobacco Sales and Advertising

Tenant acknowledges and agrees that no advertising or sale of cigarettes or tobacco products is allowed on the Premises. This advertising prohibition includes the placement of the name of a company producing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product.

[Section 1.14 enforced EXCEPT FOR PROPERTY USED FOR THE OPERATION OF A RESTAURANT, CONCERT OR SPORTS VENUE, OR OTHER FACILITY OR EVENT WHERE THE SALE, PRODUCTION OR CONSUMPTION OF ALCOHOL IS PERMITTED]**

1.14. Prohibition of Alcoholic Beverage Advertising

Tenant acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Premises. For purposes of this section, “alcoholic beverage” is defined as set forth in California Business and Professions Code Section 23004, and does not include cleaning solutions, medical supplies, and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product.

1.15. Requiring Health Benefits for Covered Employees

(a) Unless exempt, Tenant will comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (“**HCAO**”), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as they may be amended from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Lease as though fully set forth. The text of the HCAO is available on the web at <http://www.sfgov.org/olse/hcao>. Capitalized terms used in this Section and not defined in this Lease have the meanings assigned to those terms in Chapter 12Q.

(b) For each Covered Employee, Tenant will provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, the health plan must meet the minimum standards set forth by the San Francisco Health Commission.

(c) Notwithstanding the above, if the Tenant is a small business as defined in Section 12Q.3(d) of the HCAO, it will have no obligation to comply with subsection (a) above.

(d) Tenant’s failure to comply with the HCAO will constitute a material breach of this Lease. City will notify Tenant if a breach has occurred. If, within thirty (30) days after receiving City’s written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure the breach or, if the breach cannot reasonably be cured within the thirty (30) days period, and Tenant fails to commence efforts to cure within that period, or fails diligently to pursue the cure to completion, then City will have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies will be exercisable individually or in combination with any other rights or remedies available to City.

(e) Any Subcontract entered into by Tenant must require the Subcontractor to comply with the requirements of the HCAO and contain contractual obligations substantially the same as those set forth in this Section. Tenant will notify City’s Purchasing Department when it enters into a Subcontract and will certify to the Purchasing Department that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the

HCAO on Subcontractor through the Subcontract. Each Tenant will be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, City may pursue the remedies set forth in this Section against Tenant based on the Subcontractor's failure to comply, provided that City has first provided Tenant with notice and an opportunity to cure the violation.

(f) Tenant may not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City regarding Tenant's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(g) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(h) Tenant will keep itself informed of the current requirements of the HCAO.

(i) Tenant will provide reports to City in accordance with any reporting standards promulgated by City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(j) Tenant will provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least five (5) business days to respond.

(k) City may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant will cooperate with City when it conducts the audits.

(l) If Tenant is exempt from the HCAO when this Lease is executed because its amount is less than Twenty-Five Thousand Dollars (\$25,000) Fifty Thousand Dollars (\$50,000) for nonprofits, but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with City to reach Seventy-Five Thousand Dollars (\$75,000), then all the agreements will be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and the Contracting Department to be equal to or greater than Seventy-Five Thousand Dollars (\$75,000) in the fiscal year.

1.16. Notification of Limitations on Contributions

Through its execution of this Lease, Tenant acknowledges that it is familiar with San Francisco Campaign and Governmental Conduct Code section 1.126, which prohibits any person who leases any City land or building whenever the lease requires approval by an elected City official, the board on which that elected official serves, or a board on which an appointee of that elected official serves, from making any campaign contribution to (a) the elected City official that must approve the lease, (b) a candidate for the office held by that individual, or (c) a committee controlled by that individual or candidate, at any time from the commencement of negotiations for the lease until the later of either the termination of negotiations for the lease or six months after the date the lease is approved. Tenant acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Tenant further acknowledges that the prohibition on contributions applies to each party comprising Tenant; each member of Tenant's board of directors, and Tenant's chief executive

officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Tenant; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Tenant. Additionally, Tenant acknowledges that Tenant must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Tenant will provide to City the name of each person, entity, or committee described above.

1.17. Resource-Efficient City Buildings

Tenant acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Sections 700 to 713 relating to green building requirements for the design, construction, and operation of buildings owned or leased by City. Tenant must comply with all applicable provisions of those code sections.

1.18. Food Service and Packaging Waste Reduction Ordinance

Tenant will comply with and is bound by all of the provisions of the Food Service and Packaging Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated into this Lease by reference and made a part of this Lease as though fully set forth. This provision is a material term of this Lease. By entering into this Lease, Tenant agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, Tenant agrees that the sum of One Hundred Dollars (\$100.00) for the first breach, Two Hundred Dollars (\$200.00) for the second breach in the same year, and Five Hundred Dollars (\$500.00) for subsequent breaches in the same year is a reasonable estimate of the damage that City may incur based on the violation, established in light of the circumstances existing at the time this Lease was made. These amounts will not be considered a penalty, and do not limit City's other rights and remedies available under this Lease, at law, or in equity.

1.19. San Francisco Packaged Water Ordinance

Tenant will comply with San Francisco Environment Code Chapter 24 ("**Chapter 24**"). Tenant may not sell, provide, or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Lease or on City property unless Tenant obtains a waiver from City's Department of the Environment. If Tenant violates this requirement, City may exercise all remedies in this Lease and the Director of City's Department of the Environment may impose administrative fines as set forth in Chapter 24.

1.20. Criminal History in Hiring and Employment Decisions

(a) Unless exempt, Tenant will comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions), as amended from time to time ("**Chapter 12T**"), which are incorporated into this Lease as if fully set forth, with respect to applicants and employees of Tenant who would be or are performing work at the Premises.

(b) Tenant must incorporate by reference the provisions of Chapter 12T in all subleases of some or all of the Premises, and require all subtenants to comply with those provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Lease.

(c) Tenant and subtenants may not inquire about, require disclosure of, or if the information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

(d) Tenant and subtenants may not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (c) above. Tenant and subtenants may not require that disclosure or make any inquiry until either after the first live interview with the person, or after a conditional offer of employment.

(e) Tenant and subtenants will state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Premises, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(f) Tenant and subtenants will post the notice prepared by the Office of Labor Standards Enforcement ("OLSE"), available on OLSE's website, in a conspicuous place at the Premises and at other workplaces within San Francisco where interviews for job opportunities at the Premises occur. The notice must be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Premises or other workplace at which it is posted.

(g) Tenant and subtenants understand and agree that on any failure to comply with the requirements of Chapter 12T, City will have the right to pursue any rights or remedies available under Chapter 12T or this Lease, including, but not limited to a, penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant, or other person as to whom a violation occurred or continued, or termination of this Lease in whole or in part.

(h) If Tenant has any questions about the applicability of Chapter 12T, it may contact City's Real Estate Division for additional information. City's Real Estate Division may consult with the Director of City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

1.21. Vending Machines; Nutritional Standards

Tenant may not install or permit any vending machine on the Premises without the prior written consent of the Director of Property. Any permitted vending machine must comply with the food and beverage nutritional standards and calorie labeling requirements set forth in San Francisco Administrative Code section 4.9-1(c), as may be amended from time to time (the "**Nutritional Standards Requirements**"). Tenant will incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section 28.48 will be a material breach of this Lease. Without limiting Landlord's other rights and remedies under this Lease, Landlord will

have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements. In addition, any restaurant located on the Premises is encouraged to ensure that at least 25% of Meals offered on the menu meet the nutritional standards set forth in San Francisco Administrative Code section 4.9-1(e), as may be amended.

1.22. All-Gender Toilet Facilities

If applicable, Tenant will comply with San Francisco Administrative Code section 4.1-3 requiring at least one all-gender toilet facility on each floor of the Building where extensive renovations are made. An “all-gender toilet facility” means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and “extensive renovations” means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by Administrative Code section 4.1-3. If Tenant has any question about applicability or compliance, Tenant should contact the Director of Property for guidance.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, TENANT ACKNOWLEDGES AND AGREES THAT NO CITY OFFICER OR EMPLOYEE HAS AUTHORITY TO COMMIT CITY TO THIS LEASE UNLESS AND UNTIL CITY’S BOARD OF SUPERVISORS HAS DULY ADOPTED A RESOLUTION OR ENACTED AN ORDINANCE APPROVING THIS LEASE AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY CITY OBLIGATIONS OR LIABILITIES UNDER THIS LEASE ARE CONTINGENT ON ADOPTION OF A RESOLUTION OR ORDINANCE, AND THIS LEASE WILL BE NULL AND VOID IF CITY’S MAYOR AND THE BOARD OF SUPERVISORS DO NOT APPROVE THIS LEASE, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF THIS LEASE BY ANY CITY DEPARTMENT, COMMISSION, OR AGENCY WILL NOT BE DEEMED TO IMPLY THAT A RESOLUTION OR ORDINANCE WILL BE ENACTED, AND NO APPROVAL WILL CREATE ANY BINDING CITY OBLIGATIONS.

III. RFP Schedule and Selection Process

A. Schedule

RFP Issued	December 14, 2018
Information Session	January 31, 2019
RFP Closes	February 28, 2019
Review of Proposals	March 2019
Announcement of Recommended Proposal	April 2019
Lease Negotiation	April – May 2019
Interim Use Begins	Summer 2019

B. Pre-Submittal Questions

Any requests for information or clarification of this RFP must be submitted in writing by email to John Gavin at John.Gavin@sfgov.org. No oral inquiries will be answered.

Written responses to all questions directed to City staff will be posted on the City's web page for this RFP (<https://sfmohcd.org/730-stanyan>). Therefore, the City strongly recommends that interested parties consult the website frequently to determine if new information regarding the RFP is available.

C. Submittal Contents

1. Proposals submitted in response to this RFP must meet the specifications and guidelines as set forth below. Any major deviation from these specifications will be cause for rejection of the proposal at the City's discretion. The content and sequence of the proposals are to be as follows:

- i. **Cover Letter**

A cover letter should be provided describing the respondent, the name and address of the entity submitting the proposal, the date the entity was established, and the name, address, and telephone number of the person or persons who will serve as the entity's principal contact person with the City and be authorized to make representations on behalf of the entity. The letter must bear the original signature of the person having proper authority to make the proposal for the entity.

- ii. **Proposal Summary**

A brief synopsis of the highlights of the proposal should be presented which summarizes the key benefits of the proposal to the City.

- iii. **Statement of Qualifications**

A description of history, principal ownership structure, and staff of respondent. Experience and abilities in developing and managing similar facilities.

Written references from relevant professionals or companies with whom respondent has worked.

iv. Proposed Use/Concept Plan

Description of respondent's plans for developing and operating the facility should be included, including any proposed improvements to the site. At a minimum, the plan should describe:

- How respondent plans to operate the venture proposed.
- Identified partners for the project, if any.
- A description of any improvements to the property with estimated cost and value and renderings/drawings, if appropriate.
- The market for the services proposed including identifying competitors and unique features of the proposed project that will meet the market demands.
- A description/drawing of proposed improvements on the site.

In a narrative format, respondent should provide details about the proposed interim use with respect to how the proposed use satisfies the 5 required interim use conditions described below:

- CDBG. Please provide a detailed description of the way the project will serve low/moderate-income households, including:
 - a. Outreach: describe how the interim use will identify the proposed low/mod service recipients and/or clientele.
 - b. Operations: describe in detail the roles and responsibilities of the parties responsible for implementing the services program, including:
 - 1. Identification of lead staff
 - 2. Experience delivering similar services
 - 3. Capacity to successfully provide the service for the duration of the interim period
 - 4. Financial capacity to deliver services, including operating budgets, staffing budgets, and/or any relevant clientele payroll expenses, as may be applicable.
- Financial Self-Sustainability. Please provide a 5-year operating budget for the totality of the interim use components, including:
 - c. Anticipated expenses and the basis for the projection (e.g., experience with similar operations at different sites in San Francisco and/or the Bay Area)
 - d. Anticipated revenues or other secured and projected sources of operating funds and the basis for the projections
 - e. Security budget to ensure safety of improvements.
- Health and Safety. Describe in narrative form Respondent's plan to achieve and maintain safe and healthy site conditions for the duration of the interim period, including security, nuisance abatement, perimeter controls (if any), etc.

- No Unintended Adverse Neighborhood Consequences. Describe steps Respondent has taken to ensure that the proposed interim use will have no adverse consequences to the neighborhood, whether from a commercial or social standpoint.
- Termination. Describe in narrative form the ease by which the proposed use can be dismantled, a dismantling timeline, and any special conditions the Respondent would seek to attach to the termination of the interim use.

D. Proposed Financial Terms

At a minimum, the proposed financial terms should state the base rent to be paid to the City, and all other proposed financial terms so the City fully understands the intent and basis of the proposal.

E. Submittal Deadline

Submittal deadline **February 28, 2019**
Email address for submittal John.Gavin@sfgov.org

In order to reduce the amount of paper and other resources used in generating RFP proposals, the City will only accept proposals submitted electronically. Proposals should be limited to no more than 50 pages.

IV. Evaluation of Proposals and Award

A. Selection Process Generally

All proposals will be evaluated by the City in accordance with the criteria and procedures identified in this RFP. Without limiting any of its rights described in Section VII below, the City reserves the right at its discretion to make a selection based directly on the proposals submitted or to negotiate further with one or more of the respondents. The respondent selected under this RFP will be chosen on the basis of its apparent ability to best meet the overall objectives of the City, in its sole and absolute discretion.

A selection panel shall assist with this review and shall score the proposals according to the point system and criteria listed in this RFP. Interviews with individual respondents may be required. In addition, staff may, at its sole discretion, independently investigate the qualifications of certain respondents and/or conduct interviews with members of certain respondents' team. The City reserves the right to request clarification or additional information from a respondent.

B. Selection Criteria

1. Minimum Qualifications

Each respondent must individually or collectively, in the case of an entity or joint venture, possess the following minimum experience to be considered as a possible candidate for this opportunity:

- 5 years' experience in the proposed business.
- Sufficient financial capacity to undertake the proposal.
- The ability to obtain all required insurance policies required and all necessary leases and licenses required by the City.

Any proposal that does not demonstrate that the proposer meets these minimum requirements by the deadline for submittal of proposals will be considered non-responsive and will not be eligible for award of the contract.

2. Evaluation Criteria

A selection committee will use the following criteria in evaluation the responses to the RFP:

	Evaluation Criteria	Points
a.	Experience, Qualifications, and Financial Capability: <ul style="list-style-type: none"> • Experience in developing, managing and operating projects of comparable size, visibility and expense. Experience and qualifications of respondent and key personnel related to consistent quality management, maintenance, and operation of other business enterprises.	40
b.	Use/Concept Plan <ul style="list-style-type: none"> • Consistency of the proposed project with the goals and objectives of the City, as outlined in the RFP. • Viability of proposed use plan. • Project’s ability to enhance the surrounding neighborhood. • Respondent’s plan and capacity to market and promote the facility. 	40
c.	Proposed Financial Terms: <ul style="list-style-type: none"> • The proposed annual rent. • Amount of total projected revenue to the City and the reasonableness of respondent’s underlying assumptions. 	20
	Total points	100

C. Selection Committee

Following the City’s receipt of submittals, the City will implement the following evaluation process of timely, complete and responsive submittals from qualified respondents. A selection committee consisting of City staff and other appropriate parties will evaluate the submittals of each respondent based on the minimum qualifications and selection criteria outlined above. Selected respondents may be interviewed by the selection committee. Those submittals meeting the minimum qualifications will be scored and ranked by the selection committee.

The City reserves the right to request clarification or additional information from individual respondents and to request that some or all respondents make presentations to the City staff, community groups and/or others. The City further reserves the right to make an award without further clarification of proposals received.

D. Lease Negotiations

For an exclusive negotiating period of 60 days, after the Committee finalizes its selection or selections, selected respondent or respondents must submit a \$5,000 good faith deposit while the City negotiates with the selected respondent, a lease that is consistent with the terms of this RFP and the successful respondent’s proposal. Upon successful agreement to all terms of

the lease, the proposed lease will be taken to the Board of Supervisors for approval.

In the event the City Administrator (or their designee) determines that such negotiations are not proceeding satisfactorily, the City may, terminate negotiations with the selected respondent and commence negotiations with another respondent.

V. Terms and Conditions for Receipt of RFP

A. Errors and Omissions in RFP

Proposers are responsible for reviewing all portions of this RFP. Proposers are to promptly notify the City, in writing, if the proposer discovers any ambiguity, discrepancy, omission, or other error in the RFP. Any such notification should be directed to the City promptly after discovery, but in no event later than five working days prior to the date for receipt of proposals. Modifications and clarifications will be made by addenda as provided below.

B. Inquiries Regarding RFP

Inquiries regarding the RFP and all questions or clarification of the RFP, must be directed via email to:

John.Gavin@sfgov.org

C. Objections to RFP Terms

Should a proposer object on any ground to any provision or legal requirement set forth in this RFP, the proposer must, not more than ten calendar days after the RFP is issued, provide written notice to the City setting forth with specificity the grounds for the objection. The failure of a proposer to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

D. Change Notices

The City may modify the RFP, prior to the proposal due date, by issuing Change Notices, which will be posted on the website. The proposer shall be responsible for ensuring that its proposal reflects any and all Change Notices issued by the City prior to the proposal due date regardless of when the proposal is submitted. Therefore, the City recommends that the proposer consult the website frequently, including shortly before the proposal due date, to determine if the proposer has downloaded all Change Notices.

E. Term of Proposal

Submission of a proposal signifies that the proposed services and prices are valid for 120 calendar days from the proposal due date and that the quoted prices are genuine and not the result of collusion or any other anti-competitive activity.

F. Revision of Proposal

A proposer may revise a proposal on the proposer's own initiative at any time before the deadline for submission of proposals. The proposer must submit the revised proposal in the

same manner as the original. A revised proposal must be received on or before the proposal due date.

In no case will a statement of intent to submit a revised proposal, or commencement of a revision process, extend the proposal due date for any proposer.

At any time during the proposal evaluation process, the City may require a proposer to provide oral or written clarification of its proposal. The City reserves the right to make an award without further clarifications of proposals received.

G. Errors and Omissions in Proposal

Failure by the City to object to an error, omission, or deviation in the proposal will in no way modify the RFP or excuse the vendor from full compliance with the specifications of the RFP or any contract awarded pursuant to the RFP.

H. Financial Responsibility

The City accepts no financial responsibility for any costs incurred by a firm in responding to this RFP. Submissions of the RFP will become the property of the City and may be used by the City in any way deemed appropriate.

I. Proposer's Obligations under the Campaign Reform Ordinance

Proposers must comply with Section 1.126 of the S.F. Campaign and Governmental Conduct Code, which states:

No person who contracts with the City and County of San Francisco for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or candidates for such an office, or committee controlled by such officer or candidate at any time between commencement of negotiations and the later of either (1) the termination of negotiations for such contract, or (2) three months have elapsed from the date the contract is approved by the City elective officer or the board on which that City elective officer serves.

If a proposer is negotiating for a contract that must be approved by an elected local officer or the board on which that officer serves, during the negotiation period the proposer is prohibited from making contributions to:

- the officer's re-election campaign
- a candidate for that officer's office
- a committee controlled by the officer or candidate.

The negotiation period begins with the first point of contact, either by telephone, in person,

or in writing, when a contractor approaches any city officer or employee about a particular contract, or a city officer or employee initiates communication with a potential contractor about a contract. The negotiation period ends when a contract is awarded or not awarded to the contractor. Examples of initial contacts include: (1) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (2) a city officer or employee contacts a contractor to propose that the contractor apply for a contract. Inquiries for information about a particular contract, requests for documents relating to a Request for Proposal, and requests to be placed on a mailing list do not constitute negotiations.

Violation of Section 1.126 may result in the following criminal, civil, or administrative penalties:

1. Criminal. Any person who knowingly or willfully violates section 1.126 is subject to a fine of up to \$5,000 and a jail term of not more than six months, or both.
2. Civil. Any person who intentionally or negligently violates section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to \$5,000.
3. Administrative. Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to \$5,000 for each violation.

For further information, proposers should contact the San Francisco Ethics Commission at (415) 581-2300.

J. Sunshine Ordinance

In accordance with S.F. Administrative Code Section 67.24(e), contractors' bids, responses to RFPs and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

K. Public Access to Meetings and Records

If a proposer is a non-profit entity that receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the S.F. Administrative Code, the proposer must comply with Chapter 12L. The proposer must include in its proposal (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to proposer's meetings and records, and (2) a summary of all complaints concerning the proposer's compliance with Chapter 12L that were filed with the City in the last two years and deemed by the City to be substantiated. The summary shall also describe the disposition of each complaint. If no such

complaints were filed, the proposer shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in proposer's Chapter 12L submissions shall be grounds for rejection of the proposal and/or termination of any subsequent Agreement reached on the basis of the proposal.

L. Reservations of Rights by the City

The issuance of this RFP does not constitute an agreement by the City that any contract will actually be entered into by the City. The City expressly reserves the right at any time to:

1. Waive or correct any defect or informality in any response, proposal, or proposal procedure;
2. Reject any or all proposals;
3. Reissue a Request for Proposals;
4. Prior to submission deadline for proposals, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the proposals;
5. Procure any materials, equipment or services specified in this RFP by any other means; or
6. Determine that no project will be pursued.

M. No Waiver

No waiver by the City of any provision of this RFP shall be implied from any failure by the City to recognize or take action on account of any failure by a proposer to observe any provision of this RFP.

N. Protests.

Within five working days of the City's issuance of a notice of non-responsiveness, any firm that has submitted a proposal and believes that the City has incorrectly determined that its proposal is non-responsive may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth working day following the City's issuance of the notice of non-responsiveness. The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

• **Protest of Contract Award**

Within five working days of the City's issuance of a notice of intent to award the contract, any firm that has submitted a responsive proposal and believes that the City has incorrectly selected another proposer for award may submit a written notice of protest. Such notice of

protest must be received by the City on or before the fifth working day after the City's issuance of the notice of intent to award.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

- **Delivery of Protests**

All protests must be received by the due date. If a protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein. Protests should be transmitted by a means that will objectively establish the date the City received the protest. Protests or notice of protests made orally (e.g., by telephone) will not be considered. Protests must be delivered to:

Claudia Gorham and John Gavin
San Francisco Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102