



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

June 15, 2016

Linda Morad, President
New Bedford City Council
City of New Bedford
133 William Street
New Bedford, MA 02740

RE: 286 and 300 Herman Melville Boulevard

Dear Council President Morad and Members of the City Council:

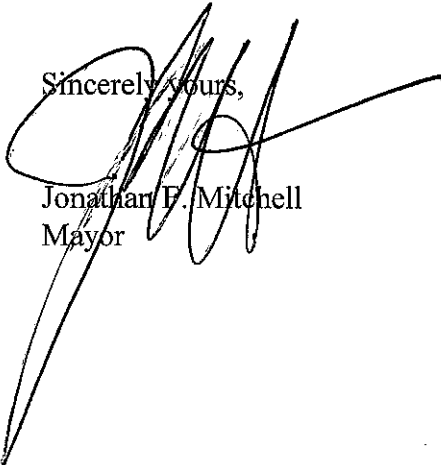
On behalf of the Department of New Bedford Harbor Development Commission, I respectfully request that the City Council vote to accept the Assignment of Leases and Subleases for the above referenced parcels and that the Mayor be authorized to execute, on behalf of the City of New Bedford, the Assignment of Leases and Subleases, the Settlement and Release Agreement, and the Estoppel Certificates, attached hereto.

The purpose of this transaction is to return the lease of the subject parcels to the City, through the New Bedford Harbor Development Commission, and to recoup \$80,000 in excess sublease payments.

A representative of the Harbor Development Commission will be in attendance at the June 23, 2016 City Council meeting.

Thank you for your consideration in this matter.

Sincerely yours,


Jonathan F. Mitchell
Mayor

JFM/jmf

cc: Pamela Lafreniere, Esq.
Mikaela A. McDermott, City Solicitor



CITY OF NEW BEDFORD

CITY COUNCIL

June 23, 2016

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ORDERED that, the City Council hereby accepts the Assignment of Leases and Subleases for the properties located at 286 and 300 Herman Melville Boulevard and that the Mayor is hereby authorized to execute, on behalf of the City of New Bedford, the Assignment of Leases and Subleases, the Settlement and Release Agreement, and the Estoppel Certificates, attached hereto.

ASSIGNMENT OF LEASES AND SUB-LEASES

This Assignment of Leases and Sub-Leases made as of the ____ day of _____, 2016 by and among **SANTANDER BANK, N.A., successor by merger with COMPASS BANK FOR SAVINGS, a Massachusetts banking corporation ("Assignor")** and the **CITY OF NEW BEDFORD, a municipal corporation established under the laws of the Commonwealth of Massachusetts, by and through its HARBOR DEVELOPMENT COMMISSION ("Assignee")**.

R E C I T A L S

WHEREAS, on or about March 31, 1986, the City of New Bedford, a municipal corporation established under the laws of the Commonwealth of Massachusetts, by and through its Harbor Development Commission (the "NBHDC"), as lessor, entered into a ground lease with Coastal Realty Corporation ("Coastal"), as lessee ("Ground Lease"), for property located in the City of New Bedford and fully described in Schedule A to the Ground Lease (the "Property");

WHEREAS, on January 12, 1987, Compass Bank for Savings ("Compass") extended a loan to Coastal secured by a mortgage on the Ground Lease;

WHEREAS, Coastal defaulted and Compass bought Coastal's interest in the Ground Lease at a foreclosure sale on May 14, 1991;

WHEREAS, Compass subdivided the Property into Lot A and Lot B and thereafter sublet both lots;

WHEREAS, on July 24, 1991, Compass sublet Lot A to Registered Holdings, Inc. ("Registered Holdings"), a Massachusetts corporation, and extended a loan to Registered Holdings secured by a mortgage on the leasehold interest in Lot A;

WHEREAS, Registered Holdings defaulted and on March 17, 1997, Compass foreclosed on the leasehold interest in Lot A;

WHEREAS, Robert C. Cook ("Cook") purchased the leasehold interest in Lot A at the foreclosure sale and entered into a sublease with Compass with respect to Lot A;

WHEREAS, on July 26, 1991, Compass sublet Lot B to Marvin L. Dolinsky ("Dolinsky") of New Bedford, Massachusetts;

WHEREAS, Cook subleased a portion of his interest in Lot A and Dolinsky subleased his interest in Lot B;

WHEREAS, by way of corporate merger, Assignor acquired Compass' interest in the Ground Lease and the Property;

WHEREAS, Dolinsky assigned his leasehold interest in Lot B to the Dolinsky Family Limited Partnership (“Dolinsky Partnership”);

WHEREAS, the Ground Lease permits sublease or assignment of the Property, but contains a limitation on the amount of rent that can be charged to any subtenant;

WHEREAS, Compass’ subleases with respect to Lot A and Lot B also contain a limitation on the amount of rent that can be charged to any subtenant;

WHEREAS, a dispute arose between NBHDC, Assignor, Cook, and Dolinsky regarding the amount of rent charged by Cook and the Dolinsky Partnership to their respective subtenants;

WHEREAS, Assignor, Cook, and Dolinsky deny any and all liability with respect to the amount of rent charged to the subtenants of Cook or Dolinsky Partnership;

WHEREAS, the Parties wish to resolve and settle any and all claims and disputes between them relating to the rent charged to subtenants of Cook or the Dolinsky Partnership for the time period up to and including the date of this Assignment;

NOW, THEREFORE, pursuant to a Settlement and Release Agreement attached hereto and made a part hereof, Assignor agrees to assign its entire interest in the Property and the Ground Lease and Sub-Leases to Assignee, and Assignee desires to accept the assignment thereof.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignor hereby assigns and transfers to Assignee all of its right, title and interest in and to the Leases and Sub-Leases.
2. Assignor represents and warrants to Assignee that: (a) there are no agreements with the tenants under the Leases and Sub-Leases with respect to the use and occupancy of the Premises other than the Leases and Sub-Leases; (b) Assignor has made no previous assignments of, or agreements to assign, the Leases and Sub-Leases to any other party; and (c) the information set forth on Exhibit A is true and accurate in all material respects.
3. Assignee hereby accepts the assignment of the Leases and Sub-Leases and hereby assumes all of landlord's or lessor's obligations under the Leases and Sub-Leases from and after the date hereof and agrees to indemnify Assignor against and hold Assignor harmless from and release Assignor from any and all costs, obligations, liabilities, losses, damages or expenses including, without limitation, reasonable attorneys' fees, with respect to all matters occurring from and after the date hereof in connection with the Leases and Sub-Leases.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment of Leases and Sub-Leases to be duly executed under seal as of the day and year first above written.

Assignor:

SANTANDER BANK, N.A.

By _____

Print Name _____

Title _____

Assignee:

CITY OF NEW BEDFORD, a municipal corporation established under the laws of the Commonwealth of Massachusetts, by and through its HARBOR DEVELOPMENT COMMISSION

By _____

Print Name _____

Title _____

EXHIBIT A

1. Lease Agreement dated March 31, 1986.
2. Sub-Lease Agreement dated July 24, 1991
3. Sub-Lease Agreement dated July 26, 1991

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (the "Agreement") is entered into by and between the City of New Bedford ("City"), the New Bedford Harbor Development Corporation ("NBHDC"), Santander Bank ("Santander"), the Dolinsky Family Limited Partnership, and Robert C. Cook (collectively the "Parties") as of this ____ day of June, 2016.

RECITALS

WHEREAS, on or about March 31, 1986, the City of New Bedford, by and through the NBHDC, as lessor, entered into a ground lease with Coastal Realty Corporation ("Coastal"), as lessee ("Ground Lease"), for property located in the City of New Bedford and fully described in Schedule A to the Ground Lease (the "Property");

WHEREAS, on January 12, 1987, Compass Bank for Savings ("Compass") extended a loan to Coastal secured by a leasehold mortgage on the Property;

WHEREAS, Coastal subdivided the Property into Lot A and Lot B by a plan of land recorded in the Bristol County (SD) Registry of Deeds in Plan Book 117, Page 67;

WHEREAS, Coastal defaulted and Compass purchased Coastal's interest in the Property at a foreclosure sale on July 25, 1991;

WHEREAS, on July 26, 1991, Compass sublet Lot A to Registered Holdings, Inc. ("Registered Holdings"), a Massachusetts corporation, and extended a loan to Registered Holdings secured by a mortgage on the leasehold interest in Lot A;

WHEREAS, Registered Holdings defaulted on the loan and on April 10, 1997, Compass foreclosed on the sub-leasehold interest in Lot A;

WHEREAS, Robert C. Cook ("Cook") purchased the sub-leasehold interest in Lot A at the foreclosure sale on April 10, 1997, by through a foreclosure deed recorded in the Bristol County (SD) Registry of Deeds at Book 3852, Page 38.;

WHEREAS, on July 26, 1991, Compass sublet Lot B to Marvin L. Dolinsky ("Dolinsky") of New Bedford, Massachusetts;

WHEREAS, Cook subleased Lot A and Dolinsky subleased Lot B;

WHEREAS, by way of corporate merger, Santander acquired Compass' interest in the Ground Lease and the Property;

WHEREAS, Dolinsky assigned his leasehold interest in Lot B to the Dolinsky Family Limited Partnership ("Dolinsky Partnership");

WHEREAS, the Ground Lease permits sublease or assignment of the Property, but contains a limitation on the amount of rent that can be charged to any subtenant;

WHEREAS, Compass' subleases with respect to Lot A and Lot B also contain a limitation on the amount of rent that can be charged to any subtenant;

WHEREAS, a dispute arose between NBHDC, Santander, Cook, and Dolinsky regarding the amount of rent charged by Cook and the Dolinsky Partnership to their respective subtenants;

WHEREAS, Santander, Cook, Dolinsky and Dolinsky Partnership deny any and all liability with respect to the amount of rent charged to the subtenants of Cook or Dolinsky or Dolinsky Partnership;

WHEREAS, the Parties wish to resolve and settle any and all claims and disputes between them relating to the rent charged to subtenants of Cook, Dolinsky or the Dolinsky Partnership for the time period up to and including the date of this Agreement;

NOW, THEREFORE, in consideration of the promises, agreements, covenants and representations contained in this Agreement, the Parties agree as follows:

1. Settlement Terms

(a) In consideration of the execution of this Agreement by NBHDC, Cook, and the Dolinsky Partnership, the undertakings herein, and their agreement to be legally bound, Santander agrees to assign its entire interest in the Property and the Ground Lease to NBHDC pursuant to the assignment attached hereto as Exhibit A.

(b) In consideration of the execution of this Agreement by NBHDC, Santander, and Cook, the Dolinsky Partnership agrees to pay to NBHDC the total sum of Eighty Thousand Dollars (\$80,000) (the "Payment"). The Dolinsky Partnership shall make the Payment by certified bank check within fourteen business days of the execution of this Agreement.

(b) In consideration of the execution of this Agreement by Santander, Cook, and the Dolinsky Partnership, the City and the NBHDC agree to the following terms:

- (1) Notwithstanding the terms and conditions of the Ground Lease and any subsequent sub-lease thereof, Cook may charge for any sub-lease of Lot A, or any portion thereof, to an entity not affiliated with Cook, in excess of the amount allowed in the Ground Lease and sublease provided that Cook pays the NBHDC an amount equal to 20% of the excess permitted of the Base Rent as defined in the leases between Cook and its sub-tenant. The NBHDC and Cook agree that any payments received by Cook from any subtenant for the operation and maintenance of the property shall not be considered Base Rent and

shall not be subject to the 20% of the excess amount charged referenced above.

- (2) Notwithstanding the terms and conditions of the Ground Lease and any subsequent sub-lease thereof, the Dolinsky Partnership, its partners, agents, successors and assigns may charge for any sub-lease of Lot B, or any portion thereof, to an entity not affiliated with the then sublessor in excess of the amount allowed in the Ground Lease and sublease provided that the then sublessor pays the NBHDC an amount equal to 20% of the excess amount of base rent charged to sublessee, not including taxes, insurance, utilities or maintenance charges.
- (3) Cook and the Dolinsky Partnership understand and agree that any sublease of all or any portion of Lot A or B shall be in writing. They shall provide the NBHDC with a copy of any sublease upon execution and on a yearly basis thereafter. Cook and the Dolinsky partnership shall, upon reasonable notice, provide the NBHDC with detailed records, using generally accepted accounting principals, indicating what operation and maintenance expenses have been deducted from the calculation of any rent charged to a subtenant pursuant to Sections 1 and 2 above.

(c) In consideration of the execution of this Agreement by the Dolinsky Partnership, Santander, and Cook, the City and the NBHDC agree to execute an estoppel certificate affirming the existence of the Ground Lease, the division of the Property into Lots A and B, and the existence of the Sub-leases covering Lots A and B. In addition, said certificate will acknowledge that a default by one sub-tenant shall not interfere with the rights of the other sub-tenant.

2. Release by City and NBHDC

(a) Except as otherwise stated in Paragraph 6 of this Agreement, NBHDC and the City, on their behalf, and all of their Commissioners, residents, directors, employees, agents, predecessors, successors, and assigns ("the NBHDC Releasers"), hereby releases and forever discharges Santander, and each of its parent, subsidiary, and affiliated entities as well as all of their past and present directors, officers, agents, employees, attorneys, assigns, shareholders, insurers, predecessors and successors ("the Santander Releasees"), from any and all manner of actions, causes of action, suits, debts, accounts, claims, contracts, demands, agreements, controversies, judgments, obligations, liens, damages and liabilities of any nature whatsoever, whether or not now known, unknown, suspected or claimed, which the NBHDC Releasers ever had, now have or hereafter may have or claim to have against the Santander Releasees by reason of any act, transaction, practice, conduct or omission of the Santander Releasees in any way related to the Ground Lease, the Property, or the amount of rent charged by Dolinsky, the Dolinsky Partnership, or Cook in connection with their subleasing of Lot A or Lot B of the Property.

(b) Except as otherwise stated in Paragraph 6 of this Agreement, NBHDC and the City, on their behalf, and all of their Commissioners, residents, directors, employees, agents, predecessors, successors, and assigns (“the NBHDC Releasers”), hereby releases and forever discharges Cook, and each of his agents, successors, and assigns (“the Cook Releasees”), from any and all manner of actions, causes of action, suits, debts, accounts, claims, contracts, demands, agreements, controversies, judgments, obligations, liens, damages and liabilities of any nature whatsoever, whether or not now known, unknown, suspected or claimed, which the NBHDC Releasers ever had, now have or hereafter may have or claim to have against the Cook Releasees by reason of any act, transaction, practice, conduct or omission of the Cook Releasees in any way related to the rent charged by Cook in connection with his subleasing of Lot A of the Property up to and including the date of the Execution of this Agreement.

(c) Except as otherwise stated in Paragraph 6 of this Agreement, NBHDC and the City, on their behalf, and all of their Commissioners, residents, directors, employees, agents, predecessors, successors, and assigns (“the NBHDC Releasers”), hereby releases and forever discharges Dolinsky and the Dolinsky Partnership, and each of their estates, partners, trustees, agents, successors, and assigns (“the Dolinsky Releasees”), from any and all manner of actions, causes of action, suits, debts, accounts, claims, contracts, demands, agreements, controversies, judgments, obligations, liens, damages and liabilities of any nature whatsoever, whether or not now known, unknown, suspected or claimed, which the NBHDC Releasers ever had, now have or hereafter may have or claim to have against the Dolinsky Releasees by reason of any act, transaction, practice, conduct or omission of the Dolinsky Releasees in any way related to the sublease of lot B and/ or the rent charged by Dolinsky or the Dolinsky Partnership in connection with their subleasing of Lot B of the Property up to and including the date of the Execution of this Agreement.

3. Release by Santander

(a) Except as otherwise stated in Paragraph 6 of this Agreement, Santander, and each of its parent, subsidiary, and affiliated entities, as well as all of their past and present directors, officers, agents, employees, attorneys, assigns, shareholders, insurers, predecessors, and successors (“the Santander Releasers”) hereby releases and forever discharges Dolinsky and the Dolinsky Partnership, and each of their estates, partners, trustees, agents, successors, and assigns (“the Dolinsky Releasees”), from any and all manner of actions, causes of action, suits, debts, accounts, claims, contracts, demands, agreements, controversies, judgments, obligations, liens, damages and liabilities of any nature whatsoever, whether or not now known, unknown, suspected or claimed, which the Santander Releasers ever had, now have or hereafter may have or claim to have against the Dolinsky Releasees by reason of any act, transaction, practice, conduct or omission of the Dolinsky Releasees related to the rent owed to Santander for Lot B or the rent charged by Dolinsky or the Dolinsky Partnership in connection with their subleasing of Lot B.

(b) Except as otherwise stated in Paragraph 6 of this Agreement, Santander, and each of its parent, subsidiary, and affiliated entities, as well as all of their past and present

directors, officers, agents, employees, attorneys, assigns, shareholders, insurers, predecessors, and successors ("the Santander Releasers") hereby releases and forever discharges Cook, and his agents, successors, and assigns ("the Cook Releasees"), from any and all manner of actions, causes of action, suits, debts, accounts, claims, contracts, demands, agreements, controversies, judgments, obligations, liens, damages and liabilities of any nature whatsoever, whether or not now known, unknown, suspected or claimed, which the Santander Releasers ever had, now have or hereafter may have or claim to have against the Cook Releasees by reason of any act, transaction, practice, conduct or omission of the Cook Releasees related to the rent owed to Santander for Lot A or the rent charged by Cook in connection with his subleasing of Lot A.

(c) Except as otherwise stated in Paragraph 6 of this Agreement, Santander, and each of its parent, subsidiary, and affiliated entities, as well as all of their past and present directors, officers, agents, employees, attorneys, assigns, shareholders, insurers, predecessors, and successors ("the Santander Releasers") hereby releases and forever discharges the City, NBHDC, and their agents, successors, and assigns ("the City Releasees"), from any and all manner of actions, causes of action, suits, debts, accounts, claims, contracts, demands, agreements, controversies, judgments, obligations, liens, damages and liabilities of any nature whatsoever, whether or not now known, unknown, suspected or claimed, which the Santander Releasers ever had, now have or hereafter may have or claim to have against the City Releasees by reason of any act, transaction, practice, conduct or omission in any way related to the Ground Lease, the Property, or the amount of rent charged by Dolinsky, the Dolinsky Partnership, or Cook in connection with their subleasing of Lot A or Lot B of the Property.

4. Release by Cook

(a) Except as otherwise stated in Paragraph 6 of this Agreement, Cook, and each of his agents, successors, and assigns ("the Cook Releasers") hereby releases and forever discharges Santander, and each of its parent, subsidiary, and affiliated entities, as well as all of their past and present directors, officers, agents, employees, attorneys, assigns, shareholders, insurers, predecessors, and successors ("the Santander Releasees") from any and all manner of actions, causes of action, suits, debts, accounts, claims, contracts, demands, agreements, controversies, judgments, obligations, liens, damages and liabilities of any nature whatsoever, whether or not now known, unknown, suspected or claimed, which the Cook Releasers ever had, now have or hereafter may have or claim to have against the Santander Releasees with respect to his subleasing of Lot A of the Property.

(b) Except as otherwise stated in Paragraph 6 of this Agreement, Cook, and each of his agents, successors, and assigns ("the Cook Releasers") hereby releases and forever discharges the City, NBHDC, their agents, successors, and assigns ("the City Releasees"), from any and all manner of actions, causes of action, suits, debts, accounts, claims, contracts, demands, agreements, controversies, judgments, obligations, liens, damages and liabilities of any nature whatsoever, whether or not now known, unknown, suspected or claimed, which the Cook Releasers ever had, now have or hereafter may have or claim to have against the City Releasees in any way related to the sublease of Lot A and/or rent charged by Cook in connection with his

subleasing of Lot A of the Property up to and including the date of the Execution of this Agreement.

5. Release by Dolinsky and the Dolinsky Partnership

(a) Except as otherwise stated in Paragraph 6 of this Agreement, Dolinsky and the Dolinsky Partnership, and each of their trustees, estates, partners, agents, successors, and assigns ("the Dolinsky Releasers") hereby release and forever discharge Santander, and each of its parent, subsidiary, and affiliated entities, as well as all of their past and present directors, officers, agents, employees, attorneys, assigns, shareholders, insurers, predecessors, and successors ("the Santander Releasees") from any and all manner of actions, causes of action, suits, debts, accounts, claims, contracts, demands, agreements, controversies, judgments, obligations, liens, damages and liabilities of any nature whatsoever, whether or not now known, unknown, suspected or claimed, which the Dolinsky Releasers ever had, now have or hereafter may have or claim to have against the Santander Releasees with respect to their subleasing of Lot B.

(b) Except as otherwise stated in Paragraph 6 of this Agreement, Dolinsky and the Dolinsky Partnership, and each of their trustees, estates, partners, agents, successors, and assigns ("the Dolinsky Releasers") hereby release and forever discharge the City, NBHDC, their agents, successors, and assigns ("the City Releasees"), from any and all manner of actions, causes of action, suits, debts, accounts, claims, contracts, demands, agreements, controversies, judgments, obligations, liens, damages and liabilities of any nature whatsoever, whether or not now known, unknown, suspected or claimed, which the Dolinsky Releasers ever had, now have or hereafter may have or claim to have against the City Releasees in any way related to the sublease of Lot B, and/or rent charged by Dolinsky or the Dolinsky Partnership in connection with their subleasing of Lot B up to and including the date of the Execution of this Agreement.

6. The Parties to this Agreement agree that the releases set forth in Paragraphs 2 through 5 of this Agreement shall not release any claims, including any claims for contribution, that they may have or later have against any of the other Parties relating to any suit, claim, action, demand, or proceeding initiated by a state or federal government agency, or any other third party, regarding any alleged environmental issue relating to the Property or the Ground Lease. The Parties hereto each hereby warrant and represent that they are aware of no such claim or proceeding currently pending or threatened or of any facts or circumstances which could result in such claim or proceeding.

7. No Admission of Liability/Wrongdoing

This Settlement Agreement is being entered into by the Parties in compromise of their disputes, without any admission or acknowledgement by either Party as to the merit or lack of merit of the claims asserted in the Lawsuit.

8. Governing Law

This Agreement shall be governed and construed under the laws of the Commonwealth of Massachusetts without giving effect to its conflict of laws provisions or principles.

9. Voluntary Action

Each Party declares that it has read and understood the terms of this Agreement; has reviewed its terms with an attorney; and that the Agreement is being executed voluntarily.

10. Counterparts and Facsimile/Electronic Signatures

This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. For the purposes of this Agreement, a signature transmitted by facsimile or e-mail shall be deemed an original signature.

11. Construction

This Settlement Agreement shall not be construed more strictly against one Party than against another by virtue of the fact that this Settlement Agreement may have been initially prepared by counsel for one or more of the Parties.

12. Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of the Lawsuit, and supersedes all prior negotiations, communications, and agreements of any type between the Parties relating to the subject matter of the Lawsuit. This Agreement cannot be modified or amended except by a written instrument signed by both Parties. No party is entering into this Agreement in reliance upon any representations, warranties or inducements other than the representations and covenants expressly contained in this Agreement.

13. Headings

The headings in this Agreement are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.

14. Successors and Assigns

This Agreement and the terms and conditions thereof shall apply to all parties and their heirs, successors, and assigns.

CITY OF NEW BEDFORD

By: _____
Its: _____

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF BRISTOL

On the ____ day of June, 2016, before me personally appeared _____ on behalf of the City of New Bedford, to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed.

Notary Public
My Commission Expires: _____

NEW BEDFORD HARBOR DEVELOPMENT COMMISSION

By: _____
Its: _____

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF BRISTOL

On the ____ day of June, 2016, before me personally appeared _____ on behalf of the New Bedford Harbor Development Commission, to me known and known by me to be the person executing the foregoing instrument, and he acknowledged said instrument by him executed to be his free act and deed.

Notary Public
My Commission Expires: _____

SANTANDER BANK

By: _____
Its: _____

STATE OF _____
COUNTY OF _____

On the ____ day of June, 2016, before me personally appeared _____, of Santander Bank, to me known and known by me to be the person executing the foregoing instrument, and he/she acknowledged said instrument by him/her executed to be his/her free act and deed.

Notary Public
My Commission Expires: _____

DOLINSKY FAMILY LIMITED PARTNERSHIP

By: _____
Its: _____

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF BRISTOL

On the ____ day of June, 2016, before me personally appeared _____, of the Dolinsky Family Limited Partnership, to me known and known by me to be the person executing the foregoing instrument, and he/she acknowledged said instrument by him/her executed to be his/her free act and deed.

Notary Public
My Commission Expires: _____

ROBERT COOK

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF BRISTOL

On the ____ day of June, 2016, before me personally appeared Robert Cook, to me known and known by me to be the person executing the foregoing instrument, and he/she acknowledged said instrument by him/her executed to be his/her free act and deed.

Notary Public
My Commission Expires: _____

ESTOPPEL CERTIFICATE

Date: _____, 2016

RE: A certain parcel of land consisting of 42,100 square feet, more or less, presently known and numbered as 286 Herman Melville Boulevard, New Bedford, Massachusetts, being shown as Lot "A" on Plan of Land entitled "Plan of Land in New Bedford, MA Drawn for Coastal Realty", prepared by Seacoast Construction Corp., scale: 1" = 50', dated April 14, 1987 and recorded in the Bristol County (SD) Registry of Deeds in Plan Book 117, Page 67 (the "Premises").

To Whom It May Concern:

The undersigned as Lessor of the above referenced Premises, under a certain Ground Lease dated March 31, 1986, (the "Lease") by and between the City of New Bedford, a municipal corporation established under the laws of the Commonwealth of Massachusetts, by and through it Harbor Development Commission (hereinafter the "Lessor") and Coastal Realty Corporation, and as the Lessor under a sub-lease dated July 26, 1991, by and between Compass Bank and Registered Holdings, Inc., (the "Sub-Lease"), the interest in said Sub-Lease as acquired in an Assignment of Leasehold Interest dated _____ from Santander Bank, as successor to Compass Bank, to the Lessor. The current holder of the leasehold interest in the Sub-Lease is Robert C. Cook ("Cook") (hereinafter "Lessee") by virtue of a Foreclosure Deed from Compass Bank to Cook recorded in the Bristol County (S.D.) Registry of Deeds at Book 3852, Page 38. Lessor hereby certifies as of the date of this certificate the following:

1. The Lessor is vested with title in fee simple to the Premises;
2. In executing the within certificate, Lessor acknowledges and assents to the above-referenced subdivision plan dated April 14, 1987 and recorded in the Bristol County (SD) Registry of Deeds in Plan Book 117, Page 67. Lessor agrees and represents that it will not terminate the Sub-lease as a result of any default by the sub-lessee of Lot "B" on said plan.
3. The Lease and Sub-Lease are in full force and effect and have been modified solely by a Settlement and Release Agreement dated ____ by and between the City of New Bedford, the New Bedford Harbor Development Commission, Santander Bank, Robert C. Cook, and the Dolinsky Family Limited Partnership

4. Apart from any amendment noted herein, the Lease and Sub-Lease have not been amended, modified or supplemented in any way and they represent the entire agreement between the Lessor and Lessee with respect to the Lease, Sub-Lease and the Premises;
5. The term of the Lease commenced on March 31, 1986 and the Sub-Lease on July 24, 1991 and all rent and all other sums due thereunder to date have been paid in full;
6. The term of the Lease is for ninety-nine (99) years such that it is set to expire on March 31, 2085;
7. Lessee did not exercise the right to terminate the Lease upon the first nor upon the twenty-fifth (25th) anniversary of such commencement date under Article II of the Lease and therefore the Lease remains in force and effect;
6. Lessor is not currently aware of the existence of any default and has not notified Lessee of the existence of a default under any terms or provisions of the Lease or Sub-lease to be performed by the Lessee.
8. The current rent under the Sub-Lease is \$3,110.88 per year payable in equal monthly installments of \$259.24;
9. To the best of Lessor's knowledge, Lessor has no defenses or offsets against Lessee with respect to the enforcement of the Lease or Sub-Lease.
10. Subject and Pursuant to the terms of the Lease and Sub-Lease, Lessee has the full right to use, occupy and to otherwise possess the leased Premises.

The statements in this Certificate are to the best of Lessor's knowledge as of the date hereof and are made without any duty of independent inquiry. The within representations shall not serve to amend the Lease, impose new obligations or duties on the Lessor, increase any obligations or duties of the Lessor, or decrease any of Lessor's rights under the lease.

In no event shall the issuance of the within Certificate subject the Lessor to any liability whatsoever, including in the event of any negligent or otherwise inadvertent failure of Lessor to disclose relevant information. In the event that any provision herein purports to state or re-state a term in the Lease and/or Sub-Lease, the language of the Lease and/or Sub-Lease shall prevail.

WITNESS the execution hereof under seal this ____ day of _____, 2016, this Estoppel Certificate and the execution thereof being duly authorized by order of the City Council of the City of New Bedford, Massachusetts and approval of the Mayor and Resolution of the Harbor Development Commission of the City of New Bedford, Massachusetts, certified copies of such Order, approval and Resolution being attached hereto and made a part hereof.

APPROVED as to form and
Legality

City of New Bedford - Lessor

Mikaela A. McDermott, City Solicitor

By: _____
Jonathan F. Mitchell, Mayor

New Bedford Harbor
Development Commission

By: _____
Edward Washburn, Executive
Director

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

On this _____ day of _____, 2016, before me, the undersigned notary public, personally appeared JONATHAN F. MITCHELL, as the Chairman of the Harbor Development Commission and Mayor of the City of New Bedford, whose identity was proved to me through [] personal knowledge [] oath or affirmation of _____ who personally knows the signatory [] viewing of the signatory's valid driver's license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that the signatory signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

On this _____ day of _____, 2016, before me, the undersigned notary public, personally appeared EDWARD WASHBURN, as the Executive Director of the Harbor Development Commission, whose identity was proved to me through [] personal knowledge [] oath or affirmation of _____ who personally knows the signatory [] viewing of the signatory's valid driver's license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that the signatory signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

ESTOPPEL CERTIFICATE

Date: _____, 2016

RE: A certain parcel of land consisting of 30,200 square feet, more or less, presently known and numbered as 300 Herman Melville Boulevard, New Bedford, Massachusetts, being shown as Lot "B" on Plan of Land entitled "Plan of Land in New Bedford, MA Drawn for Coastal Realty", prepared by Seacoast Construction Corp., scale: 1" = 50', dated April 14, 1987 and recorded in the Bristol County (SD) Registry of Deeds in Plan Book 117, Page 67 (the "Premises").

To Whom It May Concern:

The undersigned as Lessor of the above referenced Premises, under a certain Ground Lease dated March 31, 1986, (the "Lease") by and between the City of New Bedford, a municipal corporation established under the laws of the Commonwealth of Massachusetts, by and through it Harbor Development Commission (hereinafter the "Lessor") and Coastal Realty Corporation, notice of which is recorded in the Bristol County (S.D.) Registry of Deeds in Book 1983 Page 847, and as the Lessor under a sub-lease dated July 26, 1991, by and between Compass Bank and Marvin L. Dolinsky, notice of which is recorded in the Bristol County Registry of Deeds in Book 2672, Page 281 (the "Sub-Lease"), the interest in said Sub-Lease as acquired in an Assignment of Leasehold Interest dated _____ from Santander Bank, as successor to Compass Bank, to the Lessor. The current holder of the leasehold interest in the Sub-Lease is The Dolinsky Family Limited Partnership ("Dolinsky") (hereinafter "Lessee") by virtue of an assignment from Marvin Dolinsky to Dolinsky dated December 30, 2011, and recorded in said Registry in Book 10273, Page 138. Lessor hereby certifies as of the date of this certificate the following:

1. The Lessor is vested with title in fee simple to the Premises;
2. In executing the within certificate, Lessor acknowledges and assents to the above-referenced subdivision plan dated April 14, 1987 and recorded in the Bristol County (SD) Registry of Deeds in Plan Book 117, Page 67. Lessor agrees and represents that it will not terminate the Sub-lease as a result of any default by the sub-lessee of Lot "A" on said plan.

3. The Lease and Sub-Lease are in full force and effect and have been modified solely by a Settlement and Release Agreement dated ____ by and between the City of New Bedford, the New Bedford Harbor Development Commission, Santander Bank, Robert C. Cook, and the Dolinsky Family Limited Partnership
4. Apart from any amendment noted herein, the Lease and Sub-Lease have not been amended, modified or supplemented in any way and they represent the entire agreement between the Lessor and Lessee with respect to the Lease, Sub-Lease and the Premises;
5. The term of the Lease commenced on March 31, 1986 and the Sub-Lease on July 26, 1991 and all rent and all other sums due thereunder to date have been paid in full;
6. The term of the Lease is for ninety-nine (99) years such that it is set to expire on March 31, 2085;
7. Lessee did not exercise the right to terminate the Lease upon the first nor upon the twenty-fifth (25th) anniversary of such commencement date under Article II of the Lease and therefore the Lease remains in force and effect;
6. Lessor is not currently aware of the existence of any default and has not notified Lessee of the existence of a default under any terms or provisions of the Lease or Sub-lease to be performed by the Lessee.
8. The current rent under the Sub-Lease is \$2,232.36 per year payable in equal monthly installments of \$186.03 ;
9. To the best of Lessor's knowledge, Lessor has no defenses or offsets against Lessee with respect to the enforcement of the Lease or Sub-Lease.
10. Subject and Pursuant to the terms of the Lease and Sub-Lease, Lessee has the full right to use, occupy and to otherwise possess the leased Premises.

The statements in this Certificate are to the best of Lessor's knowledge as of the date hereof and are made without any duty of independent inquiry. The within representations shall not serve to amend the Lease, impose new obligations or duties on the Lessor, increase any obligations or duties of the Lessor, or decrease any of Lessor's rights under the lease.

In no event shall the issuance of the within Certificate subject the Lessor to any liability whatsoever, including in the event of any negligent or otherwise inadvertent failure of Lessor to disclose relevant information. In the event that any provision herein purports to state or re-state a term in the Lease and/or Sub-Lease, the language of the Lease and/or Sub-Lease shall prevail.

WITNESS the execution hereof under seal this ____ day of _____, 2016, this Estoppel Certificate and the execution thereof being duly authorized by order of the City Council of the City of New Bedford, Massachusetts and approval of the Mayor and Resolution of the Harbor Development Commission of the City of New Bedford, Massachusetts, certified copies of such Order, approval and Resolution being attached hereto and made a part hereof.

APPROVED as to form and
Legality

City of New Bedford - Lessor

Mikaela A. McDermott, City Solicitor

By: _____
Jonathan F. Mitchell, Mayor

New Bedford Harbor
Development Commission

By: _____
Edward Washburn, Executive
Director

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

On this _____ day of _____, 2016, before me, the undersigned notary public, personally appeared JONATHAN F. MITCHELL, as the Chairman of the Harbor Development Commission and Mayor of the City of New Bedford, whose identity was proved to me through personal knowledge oath or affirmation of _____ who personally knows the signatory viewing of the signatory's valid driver's license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that the signatory signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

On this _____ day of _____, 2016, before me, the undersigned notary public, personally appeared EDWARD WASHBURN, as the Executive Director of the Harbor Development Commission, whose identity was proved to me through personal knowledge oath or affirmation of _____ who personally knows the signatory viewing of the signatory's valid driver's license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that the signatory signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____