

**STAFF REPORT FOR CALENDAR ITEM NO.: 8.5  
FOR THE MEETING OF: December 8, 2022**

**TRANSBAY JOINT POWERS AUTHORITY**

**BRIEF DESCRIPTION:**

Authorize the Executive Director to execute a first amendment to the lease agreement with Barebottle Brewing Company, Inc., a California corporation, for an additional tenant improvement allowance of \$117,185 for commercial/retail space P-02 in TJPA's Salesforce Park.

**EXPLANATION:**

Original Lease

On October 14, 2021, the TJPA Board of Directors authorized the Interim Executive Director to complete negotiations and execute a lease agreement with Barebottle Brewing Company, Inc. ("Tenant") for approximately 1,320 square feet of commercial/retail space in Salesforce Park (Space P-02) for a 10-year term with one three-year option to renew at full market value. The lease was fully executed on October 14, 2021 ("Lease"). The rent structure per the lease is pure percentage at 10% of Gross Sales and the lease stipulated a Tenant Improvement Allowance of \$385,000. At the time the Lease was approved, no base building improvements were contemplated by the TJPA.

Tenant Request to Amend Original Lease

As part of the construction process, and given the unique nature of the space (exterior space on the park level) and build type (modular container), it became evident that Tenant would not be able to completely access all the necessary utilities. Upon evaluation of the circumstances, staff confirmed that access to such utilities would typically be part of landlord work at landlord cost. Tenant proposed that the TJPA grant an additional Tenant Improvement Allowance in the amount of \$117,185 to compensate Tenant for performing the work. Staff confirmed the reasonableness of the proposed additional allowance amount, and believe that the overall deal structure remains financially advantageous to the TJPA. Performing this work through the tenant's contractor is economical for both parties, as it saves both time (same construction schedule) and money (no additional mobilization costs); it also transfers construction risk to Tenant. The amount of the additional allowance can be accommodated in the TJPA's Tenant Improvement Budget.

TJPA and Tenant negotiated a proposed form of amendment to the Lease, describing the additional allowance and expectations for the Tenant Improvements (attached).

**RECOMMENDATION:**

Authorize the Executive Director to execute a lease amendment with Barebottle Brewing Company, Inc. in the form attached.

**ENCLOSURES:**

1. Resolution
2. Amendment to Lease

**TRANSBAY JOINT POWERS AUTHORITY  
BOARD OF DIRECTORS**

**Resolution No. \_\_\_\_\_**

WHEREAS, On October 14, 2021, the Transbay Joint Powers Authority (TJPA) Board of Directors authorized the TJPA's Executive Director to execute a lease agreement with Barebottle Brewing Company, Inc. ("Tenant") for approximately 1,320 square feet of commercial/retail space in Salesforce Park (Space P-02) for a 10-year term with one three-year option to renew at full market value. A lease was fully executed on October 14, 2021 ("Lease"); and

WHEREAS, The Lease contemplates a Tenant Improvement Allowance of \$385,000; and

WHEREAS, As part of the construction process, and given the unique nature of the space and build type, it became evident that an additional expenditure of \$117,185 would be required for Tenant to access all the necessary utilities; and

WHEREAS, TJPA and Tenant negotiated a proposed form of amendment to the Lease ("Amendment"), describing the agreement to provide an additional Tenant Improvement Allowance in the amount of \$117,185 to allow Tenant to complete the necessary work to access the utilities; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the Executive Director to execute the Amendment to the Lease with Barebottle Brewing Company, Inc. for an additional tenant improvement allowance of \$117,185 for commercial/retail space P-02 in TJPA's Salesforce Park, in the form presented herewith.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of December 8, 2022.

\_\_\_\_\_  
Secretary, Transbay Joint Powers Authority

## FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE (this “**Amendment**”) is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2022, by and among TRANSBAY JOINT POWERS AUTHORITY, a joint exercise of powers agency duly created and existing under the Joint Exercise of Powers Act of the State of California, California Government Code Sections 6500 et seq. (“**Landlord**”), and BAREBOTTLE BREWING COMPANY, INC., a California corporation (“**Tenant**”), with reference to the following facts and understandings.

### RECITALS

A. Landlord and Tenant entered into that certain “Salesforce Transit Center Lease” dated as of \_\_\_\_\_, 2021 (together with all exhibits and addenda attached thereto, the “**Existing Lease**”), whereby Tenant leased from Landlord approximately 1,320 usable square feet of retail space (the “**Existing Premises**”) known as Space P02 on the park level of the Salesforce Transit Center in San Francisco, California (the “**Center**”), together with the area surrounding the same identified as the “**Primary Premises**” in the location generally depicted on the Site Plan attached as Exhibit A to the Existing Lease.

B. Landlord and Tenant desire to amend the Existing Lease as more particularly set forth herein.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

### AGREEMENT

1. References. All references to the “Lease” or “lease” appearing in this Amendment or in the Existing Lease shall mean, collectively, this Amendment and the Existing Lease, as amended by this Amendment.

2. Additional Improvement Allowance.

(a) General. In addition to the Allowances provided to Tenant under Section 2.1 of the Work Letter attached as Exhibit B to the Existing Lease, Tenant shall be entitled to a one-time improvement allowance (the “**Additional Improvement Allowance**”) in amount not to exceed One Hundred Seventeen Thousand One Hundred Eighty-Five and No/100 Dollars (\$117,185.00) for the costs relating to the initial design and construction of the Tenant Improvements (excluding any Dedicated Restrooms, the cost of which, if applicable, is to paid for using the Dedicated Restrooms Allowance) and for the other Improvement Allowance Items relating to the same described in Section 2.2 of the Work Letter attached as Exhibit B to the Existing Lease.

(b) Disbursement of the Additional Improvement Allowance. Following Tenant’s delivery to Landlord of an Allowance Request Packet in accordance with Section 2.2.1 of the Work Letter attached as Exhibit B to the Existing Lease, provided that Tenant has opened for business in the Premises and is continuously operating its business at the Premises, subject to

the terms and provisions of the Lease, Landlord shall deliver a check to Tenant in payment of the lesser of (i) the amounts so requested by Tenant, and (ii) the remaining available portion of the Additional Improvement Allowance, provided that Landlord does not dispute any request for payment based on non-compliance of any work with the Approved Working Drawings, or due to any substandard work, or for any other reason. Landlord's payment of such amounts shall not be deemed Landlord's approval or acceptance of the work furnished or materials supplied as set forth in Tenant's payment request. Notwithstanding anything to the contrary contained in the Lease, Tenant shall look first to the Additional Improvement Allowance for reimbursement of Improvement Allowance Items relating to the initial design and construction of the Tenant Improvements (excluding any Dedicated Restrooms, the cost of which, if applicable, is to be paid for using the Dedicated Restrooms Allowance) and second to the Improvement Allowance provided under Section 2.1.2 of the Work Letter attached as Exhibit B to the Existing Lease for reimbursement of such Improvement Allowance Items in excess of the amount of the remaining available portion of the Additional Improvement Allowance, subject to the limitations on the same set forth in Section 2.1.2 of the Work Letter attached as Exhibit B to the Existing Lease. In no event shall Landlord be obligated to make actual disbursements or payments pursuant to this Amendment or any other provision of the Lease in a total amount which exceeds the Additional Improvement Allowance (it being acknowledged that the Allowances currently provided under Section 2.1 of the Work Letter attached as Exhibit B to the Existing Lease are paid, if at all, by virtue of the reduction in the Percentage Rate otherwise applicable under Lease as expressly provided in Section 2.2.1 of the Work Letter attached as Exhibit B to the Existing Lease) and in no event shall Tenant be entitled to any credit for any unused portion of the Additional Improvement Allowance not used by Tenant prior to the first (1<sup>st</sup>) anniversary of the Commencement Date (as evidenced by submission to Landlord of an Allowance Request Packet by such date).

3. Changes to Landlord Work. Landlord and Tenant acknowledge that, under the terms of the Existing Lease, pulling utilities to the park level of the Center (the "**Utility Connection Work**") was contemplated to be completed by Landlord as part of the Landlord Work. The Utility Connection Work is included as part of the scope of work described in the proposal from Foundry Construction attached hereto as Exhibit A and is more particularly described therein. Notwithstanding anything to the contrary contained in the Existing Lease, in consideration for Landlord's agreement to provide Tenant with the Additional Improvement Allowance pursuant to Section 2 above, Tenant shall be responsible for the completion of the Utility Connection Work as part of the Tenant Improvements to be performed by Tenant under the Lease.

4. Miscellaneous.

(a) Severability. If any provision of this Amendment or the application of any provision of this Amendment to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Amendment or the application of that provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each provision of this Amendment will be valid and be enforced to the fullest extent permitted by law.

(b) Entire Agreement/Modification. This Amendment contains all of the agreements of the parties hereto with respect to the matters contained herein, and no prior agreement, arrangement or understanding pertaining to any such matters shall be effective for any purpose. Except for any subsequent amendments or modifications to the Lease made in accordance with the terms thereof, any agreement made after the date of this Amendment is ineffective to modify or amend the terms of this Amendment, in whole or in part, unless that agreement is in writing, is signed by the parties to this Amendment, and specifically states that that agreement modifies this Amendment.

(c) Electronic Signatures; Counterparts. This Lease may be electronically signed pursuant to the terms of the ESIGN Act of 2000. The parties agree that any electronic signatures appearing on this Lease are the same as handwritten signatures for the purposes of validity, enforceability and admissibility and that such electronic signatures are legally binding. This Amendment may be executed in any number of counterparts and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any counterpart signature pages may be detached and assembled to form a single original document.

(d) Heirs and Successors. This Amendment shall be binding upon the heirs, legal representatives, successors and permitted assigns of the parties hereto.

(e) Authority. Each individual executing this Amendment on behalf of his or her respective party represents and warrants that he or she is duly authorized to execute and deliver this Amendment on behalf of said entity in accordance with the governing documents of such entity, and that upon full execution and delivery this Amendment is binding upon said entity in accordance with its terms.

(f) Drafting. In the event of a dispute between any of the parties hereto over the meaning of this Amendment, both parties shall be deemed to have been the drafter hereof, and any applicable law that states that contracts are construed against the drafter shall not apply.

(g) Headings. Captions used herein are for convenience and reference only, and shall in no way be deemed to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Amendment.

(h) Ratification. Except as modified by this Amendment, the Existing Lease shall continue in full force and effect and Landlord and Tenant do hereby ratify and confirm all of the terms and provisions of the Existing Lease, subject to the modifications contained herein.

*Remainder of page intentionally left blank.*

*Signatures on following page.*

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the dates below their respective signatures.

LANDLORD:

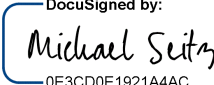
TRANSBAY JOINT POWERS AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_, 2022

TENANT:

BAREBOTTLE BREWING COMPANY, INC.,  
a California corporation

By:  \_\_\_\_\_  
Name: Michael Seitz  
Its: President/CEO

Date: 10/19, 2022

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the dates below their respective signatures.

LANDLORD:

TRANSBAY JOINT POWERS AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_, 2022

TENANT:

BAREBOTTLE BREWING COMPANY, INC.,  
a California corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_, 2022

APPROVED AS TO FORM.

By:   
\_\_\_\_\_  
Legal counsel, TJPA

Exhibit A

Proposal

[see attached]





Foundry Construction  
P.O. Box # 1903  
Martinez, CA 94553-9998

August 11, 2022

**Subject:** Salesforce Park – Barebottle TI Project REV #2

Barebottle Brewing Company  
**Attn:** Michael Seitz  
1525 Cortland Ave  
San Francisco, CA 94110

Dear Mr. Seitz

Thank you for allowing Foundry Construction to bid on your project. We are pleased to provide you with the enclosed proposal, and we are optimistic about the opportunity to move forward on this project.

Enclosed you will find our lump sum proposal for the **Barebottle TI project** located at 425 Mission Street, San Francisco.

As part of our provisions at Foundry Construction, we provide several protective and quality control measures to our clients that may not be available from other contractors such as:

- \$4,000,000.00 Aggregate General Liability
- Statutory Workers Compensation
- In-house Project Quality Inspection Program
- Project manager dedicated to your project from start to finish
- Safety, health, and quality trained employees
- Real-time updates from our project management platform

If you need any additional information, or you would like to learn more about our company, feel free to contact me by phone at (510) 703-1256 or by email at [asau@foundryconstructioninc.com](mailto:asau@foundryconstructioninc.com)

We look forward to earning your business.

Sincerely,

Alan Sau



FOUNDRY CONSTRUCTION  
4100 ALHAMBRA AVE  
P.O BOX #1903  
MARTINEZ, CA 94553

**Project Name:** Transbay Terminal  
**Location:** 425 Mission Street - San Francisco  
**Architect:** Guerrero Design  
**Plans Dated:** 'Permit Set' Dated 06.20.2022

**Estimate No.:** 3  
**Estimate Date:** 8/10/2022  
**Sq. Ft.:** 1,225

CSI	Description	Previous Budget	Current Budget	Cost/SF	Δ
010500	Supervision & General Conditions	37,375	37,375	30.51	-
017423	Final Cleaning	-	-	-	-
024113	Demolition	20,520	20,520	16.75	-
033000	Concrete	15,900	15,900	12.98	-
050000	Structural Steel	21,088	21,088	17.21	-
061000	Rough Carpentry	16,500	-	-	(16,500)
062000	Millwork	-	-	-	-
070100	Roofing	6,500	6,500	5.31	-
072100	Insulation	-	-	-	-
081000	Doors & Hardware	-	-	-	-
088000	Glass & Glazing	-	-	-	-
092500	Drywall & Framing	-	-	-	-
093000	Ceramic Tile	-	-	-	-
095100	Acoustical Ceiling	15,250	15,250	12.45	-
096800	Flooring	-	-	-	-
097000	Wall Finishes	-	-	-	-
099000	Painting	-	-	-	-
100000	Specialties	-	-	-	-
122100	Window Treatment	-	-	-	-
129300	Site Furnishing	-	-	-	-
211300	Fire Protection	14,225	12,725	10.39	(1,500)
220000	Plumbing	30,222	39,284	32.07	9,062
230000	HVAC	21,930	32,300	26.37	10,370
260000	Electrical	155,650	148,463	121.19	(7,188)
270000	Low Voltage & Data	-	-	-	-
280000	Fire Life Safety	-	-	-	-
310000	Earthwork	-	-	-	-
320000	Exterior Site Improvements	5,500	-	-	(5,500)
330000	Site Utilities	-	-	-	-
	<b>Subtotal</b>	\$ 360,660	\$ 349,404	\$ 285.23	\$ (11,256)
	Insurance	2,705	14,406	11.76	11,701
	Fee	27,049	26,205	21.39	(844)
	<b>TOTAL COST</b>	\$ 390,414	\$ 390,015	\$ 318.38	\$ (399)

#	ALTERNATES	COST
1	Allowance to install owner provided awning supports & outriggers	\$ 12,500.00
2	Allowance to repair existing metal decking and pour concrete after completion of our work (pending final structural design)	\$ 50,000.00
3	Allowance to provide MEP design drawings	\$ 15,000.00
4	Provide 6" Wide 8,000 PSI Grout leveling pad	\$ 20,000.00
5	Allowance to provide smarts & parts for the Life Safety & Mass Notifier System	\$ 45,615.00
6	Allowance to core through existing concrete slab if we are unable to make grade with any sewer lines	\$ 40,000.00




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## Salesforce Park – Barebottle

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### General Pricing Notes

This proposal is based on the 'Permit Set' plans dated 06.20.22 by Guerrero Design  
 Project management and scope coordination  
 Proper debris disposal and documentation per City of San Francisco construction waste management plan  
 Temporary fencing around our project perimeter is included  
 We include supervision during the craning of the containers by Sheedy

### Demolition

Demo existing paver units and mortar set as required to set new container on existing concrete topping slab  
 Salvage pavers as required for infill after installation of containers

### Concrete

Patch concrete topping slab at (16) locations after completion of our work  
 Chip out existing topping slab around (16) locations

### Misc. Metals

Provide new L6x4x5/16 steel angle brackets per structural plans  
 Provide new 2" steel tube per Detail 2/S101 at (2) locations  
 Angle brackets to be epoxied anchored into the concrete

### Roofing

Allowance to waterproof new anchor penetrations at (16) locations per waterproofing detail  
*We have been unable to get a proposal from Best Contracting. We have assumed this cost should cover the scope based on conversations with other contractors, however, we may need to contract Best Contracting if we want to maintain the warranty.*

### Acoustical Ceiling

Remove and re-install metal ceiling panels as required for our work  
***Cost Breakout - POC to Interstitial space - \$15,250.00***

### Fire Sprinklers

Extend existing fire sprinkler piping to tenant space and connect at POC  
 Design drawings / Engineering  
***Cost Breakout – Design Drawings, Engineering / Permit Fees \$4,000.00***  
***Cost Breakout – Field Work \$8,725.00***

### Plumbing

Extend existing 4" waste line from the POC within the interstitial space to the tenant space  
 Provide final connection to (5) floor sinks  
 Furnish new 2" isolation valve at domestic water line with costs to freeze pipe at the interstitial space  
 Provide indirect drain with a trap primer for fire sprinkler drain line at the building containers  
 Install owner provided AO Smith (DEN-66) electric water heater  
 Provide water lines to (4) sinks & (1) ice maker per Urban Bloc plumbing plans  
 Extend all vent lines 12" above container per code  
 We assume all water vent & waste lines are already stubbed out of the container per D2/A5.1 on Urban Bloc's drawings  
 We assume the existing 4" waste line riser POC is approx. 15 LF away

***Cost Breakout – POC to Interstitial Space: \$17,244***  
***Cost Breakout – Interstitial Space to Project Site: \$22,040***



### **Mechanical**

Install (1) Aura Attic Fan (AF-6-C4-CMF) on existing roof curb  
Set condenser for Mini-split system and Walk-in Cooler  
Install tenant provided line sets from indoor fan unit to outside condenser, charge & test  
Machine Startup  
**We exclude any work for the beer chiller / glycol system**

### **Electrical / Low Voltage / Life Safety**

Provide and install new **200 AMP** feeder from RMS-B1-C to Park level using the existing 2-1/2" conduit  
Replace existing 200 AMP breaker with 150 AMP breaker at the switchboard  
Provide new 75 KVA transformer at Park level to connect to UB installed panel  
Install the final connection for the following items: Condenser Unit (E.6b), Ductless System (AC.5), beer Chiller System (UE.21) Aura Attic Fan (MF-9A) and water heater (UPE.3d)  
Extend existing 2" conduit for voice/data cabling from the interstitial space to a j-box adjacent to the transformer  
Extend existing 1" conduit for fire alarm and mass notification wiring from interstitial space to a j-box adjacent to the transformer  
*Per Barebottle's request, Foundry has removed all costs associated with life safety & the mass notifier system. Barebottle will contract directly with these vendors, Sabah & PCD*

*Cost Breakout – POC to Interstitial Space: \$92,401.50  
Cost Breakout – Interstitial Space to Project Site: \$56,061*

### **Exclusions**

Any permit fees, architectural drawings, MEP drawings, etc.  
Meeting any ADA requirements such as the countertop heights or any clearance requirements  
**We have assumed all plumbing, mechanical, or electrical design drawings are to be by others**  
We exclude any special inspection fees – assumed to be provided by owner or tenant  
**Our cost assumes that there is enough room to install piping with grade outside trailer**  
Any scanning or x-ray of the existing slab  
Any coring or chipping out of concrete topping slab for installation of new MEP  
**Any concrete leveling pad or grout pad per plans – excluded per owner's request**  
Any modifications to UB's electrical panel, any branch wiring, or providing any circuit breakers  
**Any low voltage, voice / data work – assumed to be owner provided**  
Any T-24 commissioning  
We exclude any final trim out within the container - assumed to be provided by Urban Bloc (UB)  
Any installation / relocation of fire sprinkler branch lines or fire sprinkler heads within the shipping containers  
Condensate drain lines for HVAC system – assumed to be completed by UB  
**Any installation of misc. food service equipment listed to be installed by 'Client' under Urban Bloc's set of drawings**  
**Any structural design / structural work outside of the installation of the L6 x 4 x 5/16 brackets and Detail 2**  
**Any final clean or painting – owner has elected to perform this scope in-house**  
**Any installation of owner furnished acoustic ceiling tile – owner provided**  
**Any rough carpentry (building the deck or covering the hole with plywood)**  
**Per Barebottle's request, we exclude any waterproofing outside of patching the penetrations per Detail 3/A1.**  
**Any scope provided by Sabah or PCD for the LS & Mass Notifier System – see electrical notes above**  
**Any restoration or re-installation of the pavers – Owner has elected to perform this scope in-house**