

AGREEMENT AND GENERAL RELEASE

This Agreement ("Agreement") is entered into among the City and County of San Francisco and the People of the State of California (the "City"), McDonald's Corporation ("McDonald's"), and Betty Lin, CC Yin and Yin McDonald's (collectively "Lin"). All parties shall be referred to collectively as the "Parties" and individually as a "Party."

In consideration of the promises and covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

I.

RECITALS

McDonald's owns real property located at 730 Stanyan Street in San Francisco, California, Assessor's Block 1249, Lot 024 (the "Property"). Lin owns and operates a franchise for a McDonald's restaurant at the Property. The Property includes both the McDonald's restaurant ("Restaurant") and a large parking lot.

On May 12, 2015, the City posted and sent McDonald's and Lin a draft complaint ("Complaint"), attached here as Exhibit B, naming McDonald's and its subsidiary, Franchise Realty Interstate Corp., and Lin as defendants, and alleging that certain drug sales are occurring in and around the Restaurant and elsewhere on the Property, creating a public nuisance.

McDonald's and Lin deny they were sent a copy of Complaint, claim they only learned of the Complaint from media stories and also deny the underlying allegations.

The Parties have agreed to resolve any and all claims that the City has asserted or could have asserted in the Complaint regarding the alleged drug sales at the Property.

II.

TERMS OF AGREEMENT

- A. **Recitals.** The terms of the Recitals are incorporated herein by reference.
- B. **Acknowledgments.** The Parties hereby acknowledge that this Agreement settles and compromises disputes and claims made and denied, and that by entering into this Agreement, no party is admitting the validity of any claim.
- C. **The Complaint.** The City agrees to forego the filing of the Complaint in this matter and further agrees it will not initiate any action against any of the Parties to this Agreement or their subsidiaries or affiliates without first following the dispute resolution procedures set forth in Paragraph E herein.
- D. **Remedial Measures.** Lin shall or has complied with each requirement identified in Exhibit A to this Agreement.
- E. **Dispute Resolution Procedures.** In the event the City believes that a Party to this Agreement has breached this Agreement and/or otherwise desires to take legal action against any of the Parties to this Agreement concerning alleged drug activity at the Property, the City shall first provide five (5) business days written notice to that Party with sufficient detail regarding the alleged breach or concerns and shall thereafter meet with that Party within seven (7) business days in good faith to attempt to resolve the dispute or concerns before it files any litigation against that Party.
- F. **Settlement.** As a material term of this Agreement, no later than thirty (30) days following the execution of this Agreement by all Parties, Lin shall pay the City the amount of \$40,000.00 as full and final payment for all claims asserted in the Complaint. The payment shall be made by cashier's check payable to the San Francisco City Attorney's Office, and delivered to Deputy City Attorney Megan Cesare-Eastman at the address set forth below in Paragraph III.K.

III.

GENERAL PROVISIONS

- A. **Drafting.** This Agreement was negotiated at arm's-length, mutually-drafted and entered into freely by the Parties with the advice of counsel. In the event an ambiguity exists in any provision of this Agreement, such ambiguity is not to be construed by reference to any doctrine or statute calling for ambiguities to be construed against the drafter of the document.
- B. **Captions.** The captions or headings of the Sections or Paragraphs of this Agreement are for convenience of reference only and in no way define, limit or affect the scope or substance of any Section or Paragraph of this Agreement.
- C. **Scope of Promises, Representations, and Inducements.** The Parties acknowledge, warrant and represent that no promises, representations or inducements, except as herein set forth, have been offered or made by any of the Parties to secure the execution of this Agreement, and this Agreement is executed without reliance on any statements or any representations not contained herein. Each of the Parties knowingly waives (1) any claim that this Agreement was induced by any misrepresentation or nondisclosure, and (2) any right to rescind or avoid this Agreement based upon presently existing facts, known or unknown.
- D. **Voluntary Agreement.** Each Party certifies that it is voluntarily entering into this Agreement in good faith based solely and completely upon its own judgment and upon the advice and counsel of its own attorneys following its good-faith assessment of the Complaint. Each Party acknowledges that it has executed this Agreement without fraud, duress, or undue influence. Each Party acknowledges that this Agreement has been fully read, reviewed, and understood by its authorized signatory.
- E. **Survival.** The Parties hereby agree that the provisions of this Agreement, including, without limitation, the representations, warranties, covenants and releases made

herein, shall survive the execution of this Agreement and the performance by the Parties of their respective obligations under this Agreement.

- F. **Severability.** Any part, provision, representation or warranty of this Agreement that is prohibited or unenforceable, or is held by a court of competent jurisdiction to be void or unenforceable, in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining parts, provisions, representations or warranties herein, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the Parties hereby knowingly, voluntarily and intelligently waive any provision of law that prohibits or renders void or unenforceable any part, provision, representation or warranty hereof.
- G. **Entire Agreement.** This Agreement (including Exhibit A) constitutes the entire Agreement of the Parties hereto with respect to the settlement of the Complaint and supersedes all prior and contemporaneous agreements and understandings relating to the subject matter hereof and any and all prior correspondence, conversations, or memoranda are merged herein and are replaced hereby.
- H. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assigns.
- I. **Waiver and Amendment.** No part or provision of this Agreement may be changed, modified, waived, discharged or terminated except by an instrument in writing signed by the Party against whom enforcement of such change, modification, waiver, discharge or termination is sought. The failure of a Party to seek redress for violation of, or to insist upon strict performance of, any provision of this Agreement shall not be a waiver of that provision by that Party or estop that Party from asserting fully any and all of its rights under this Agreement.
- J. **Further Assurances.** Each of the Parties hereby agrees to execute such other and

further documents, and to take such other and further actions, as may be reasonably requested by any of the Parties for the sole purpose of effectuating this Agreement herein within ten (10) business days following written request.

- K. **Notices.** Notices or requests required or permitted to be given hereunder shall be deemed given three (3) business days after being sent via both (a) certified or registered United States mail, postage prepaid, or personal delivery and (b) facsimile, as follows:

If to McDonald's :

McDonald's Corporation
Legal Department
Litigation Practice Group
2915 Jorie Blvd.
Oak Brook, IL 60523

Attn: Pauline Levy, Esq.
Fax No. (630) 623-7370

If to Lin:

Betty Lin
Yin McDonald's
185 Butcher Road
Vacaville, CA 95687
Fax No: (707) 451-0131

James A. Lassart, Esq.
Murphy, Pearson, Bradley & Feeney
88 Kearny Street, 10th Floor
San Francisco, CA 94108
Fax No: (415) 393-8087

If to the City Attorney:

Megan Cesare-Eastman
San Francisco City Attorney's Office
1390 Market Street, 7th Floor
San Francisco, CA 94102
Fax. No.: (415) 437-4644

- L. **Authorization to Sign.** Each of the Parties hereby represents and warrants that the individual signing this Agreement on his or its behalf is competent, and is duly authorized to

enter into this Agreement and to execute and legally bind such party to it. Each Party signing this Agreement also represents and warrants that no other person's signature is needed in order to bind the Party to this Agreement or to release the claims and demands that such Party is purporting to release.

M. **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original and all of which when taken together shall constitute one and the same instrument. The City shall maintain the original signatures executing the Agreement for five (5) years after the Agreement terminates. The City shall ensure that all parties are provided copies of all signatures to this Agreement.

N. **Termination.** This Agreement shall terminate on the earlier of: 1) two years from the date of execution of this Agreement; 2) McDonald's sale of the Property to a bona fide third-party that is not an affiliate or a party to this Agreement, or in any way related to or affiliated with McDonald's or Lin; 3) McDonald's closure of the Property; or 4) Lin's transfer of the franchise in question to a bona fide third-party that is not an affiliate or a party to this Agreement, or in any way related to or affiliated with Lin.

O. **Governing Law:** This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of California.

P. **Venue:** The Parties agree that any lawsuit to enforce this Agreement shall be filed in the Superior Court of the State of California for the City and County of San Francisco.

Q. **Release**

- a. **Mutual Release:** Except as provided below in Section Q(b), the City shall and does fully, irrevocably and unconditionally release, relinquish, abandon and waive all claims, whether known or unknown, that it has or had and/or might have had against McDonald's and Lin (including their respective officers, employees, attorneys, agents, consultants, representatives, affiliates, predecessors, successors, assigns and heirs) that arise from, relate to, or are based upon the disputes that are the subject of the Complaint, including without limiting the generality of the

foregoing, all such claims, demands, causes of action, obligations or liability that in any way relate to or arise out of any action, omission, representation, or proceeding with respect to the matters that were raised, or that could have been raised in the Complaint.

- b. Civil Code Section 1542: Civil Code Section 1542 provides: "A general release does not extend to claims a creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known, may have materially affected his or her settlement with debtor." The Parties acknowledge that the protections of Civil Code Section 1542 are waived to the extent they concern any conduct or claim that arise from, relate to, or are based upon the disputes that were raised, or that could have been raised, in the Complaint. Otherwise, the protections of Civil Code section 1542 are not being waived.
- c. Other Limitations: Notwithstanding any term of this Agreement, the City specifically does not release Lin or McDonald's from the following:
 - i. Any municipal or state tax claim or liabilities;
 - ii. Any criminal liability;
 - iii. Any state or municipal administrative, civil, or government claim or liability not related to the specific conduct and causes of action alleged in the Complaint, and
 - iv. Any violation of state or municipal law occurring or continuing after execution of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

McDONALD'S CORPORATION

By: _____

Its: _____

McDONALD'S CORPORATION

By:

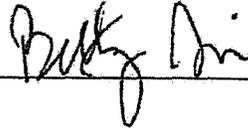
A handwritten signature in black ink, appearing to read "Dan Ahert", written over a horizontal line.

Its: U.S. Vice President

BETTY LIN, Individually, and on behalf of Yin
McDonald's and CC Yin

DENNIS HERRERA, City Attorney of San
Francisco

BETTY LIN, Individually, and on behalf of Yin
McDonald's and CC Yin

A handwritten signature in cursive script, appearing to read "Betty Lin", positioned above a horizontal line.

DENNIS HERRERA, City Attorney of San
Francisco

A handwritten signature in cursive script, appearing to read "Dennis Herrera", positioned above a horizontal line.

EXHIBIT A

Lin, McDonald's and the City covenant and agree as follows:

1. **Security Guard:** Lin is and will remain in contract with an independent third-party licensed and bonded security firm for the services of a security guard to be present at the Property during all of its hours of operation for a period of 12 months from the date of May 15, 2015. After 12 months, Lin will continue to contract with an independent third-party licensed and bonded security firm for the services of a security guard to be present at the Property but may reduce the hours of security services based upon Lin's review of the information collected in the first 12 months and after obtaining the written agreement of the City Attorney's Office.
2. The City agrees that currently Lin has adequately updated the video surveillance, fencing, lighting on the Property as detailed in subsections (3)-(5) below, and currently closes off two of the three entrances to the Property each evening.
3. **Video Surveillance:** Seven additional security cameras directed toward the parking lot for footage have been installed. These cameras are in addition to the already existing 16 cameras in the video surveillance system in operation at the Property. The cameras provide visibility to all areas of the parking lot. Lin will maintain the video surveillance system in good working order at all times. Lin will maintain footage recorded for 30 days following any recording. Upon request, Lin will provide copies of any particular available footage to the San Francisco Police Department ("SFPD") within 14 days of receiving a request. Notices that state "THIS PREMISE IS UNDER VIDEO SURVEILLANCE" have been posted in prominent places at the Property and will remain posted for the duration of this Agreement.

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4. **Fencing:** A fence approximately 10 feet high has been installed to secure the landscaped portion of the property at the northeast corner between the driveway and the adjacent building and will be maintained at all times for the duration of this Agreement. Lin will ensure that individuals do not loiter in the fenced area or store personal belongings or animals anywhere at the Property.
 5. **Lighting:** Wattage of the already existing lighting at the Property has been increased. In addition, two additional light fixtures have been installed in the parking lot. The lighting illuminates the exterior of the Property. Lin shall ensure the lighting is properly maintained at all times.
 6. **Parking Access:** Lin has closed two of the three driveway entrances to the Property each evening during the time the Restaurant is closed, and will continue to do so for the duration of this Agreement.
 7. **Loitering:** Lin will take reasonable measures to prohibit persons from remaining at the Property for unreasonable periods of time if they have no apparent legitimate business purpose for being there.
 8. **Consultation with SFPD:** Each month for the first six months following execution of this Agreement, Lin will schedule a meeting with SFPD representatives, based on the SFPD's schedule, to review safety and security issues, staff training, as well as discuss any comments, questions or concerns they may have about the protocols. Following these six months, Lin will meet with SFPD representatives as reasonably necessary to discuss the same matters or anytime SFPD or the San Francisco City Attorney's Office requests a meeting regarding the Property, provided that the City Attorney's Office must make their request through contact with Lin's attorney.

9. **Reporting:** All employees, agents, and/or assigns of Lin shall report the observed storage or sale of any illegal narcotics at the Property, and make reasonable efforts to remove all persons engaged in the use or possession of any illegal narcotics on the Property; if compliance with the reasonable efforts is not achieved then a report of the transgression shall be made to SFPD.