

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

APPROVING A PURCHASE AND SALE AGREEMENT OF BUILDING 40, LOCATED AT 800 WEST TOWER AVENUE AT ALAMEDA POINT, WITH BLADIUM, INC, A CALIFORNIA CORPORATION.

WHEREAS, Bladium, Inc. ("Bladium") entered into a lease agreement to occupy Building 40 on February 1, 2000 with the City of Alameda (the "Bladium Lease"); and

WHEREAS, Bladium is a sports and fitness club operating out Building 40 which consists of approximately 104,000 square feet of rentable space; and

WHEREAS, the Bladium lease, which included an exclusive use clause, will expire on June 30, 2035; and

WHEREAS, The City officially gained title to the property on July 10, 2017 and Bladium subsequently exercised its purchase option for Building 40 for a total purchase price of \$7,900,000; and

WHEREAS, after purchasing the property, Bladium will continue to operate it as a sports and recreational facility, but has requested a reduced exclusive use covenant; and

WHEREAS, after purchasing the property Bladium must comply the Master Infrastructure Plan (MIP) which was adopted on March 31, 2014; and

WHEREAS, the Transportation Demand Management Plan (TDM) was adopted on May 20, 2014 and Bladium, Inc will be required to comply with TDM Plan as required by the Mitigation Monitoring and Reporting Program (MMRP) from the Alameda Point EIR, and the Alameda Point Zoning District in Section 30-4.24; and

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Alameda that by four affirmative votes that:

Section 1. The City Manager of the City of Alameda or her designee is hereby authorized to negotiate, execute, for and on behalf of the City of Alameda, a purchase and sale agreement with Bladium, Inc., a California corporation, for Building 40 at Alameda Point in a form substantially the same as set forth in the draft purchase and sale agreement attached as Exhibit A, subject to such technical or clarifying revisions as are reasonably determined necessary by the City Manager and approved by the City Attorney, and the City Clerk is hereby authorized and directed to attest to the same.

Section 2. If any section, subsection, sentence, clause or phrase of this ordinance if, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council of the City of Alameda hereby declares that it would have passed this ordinance, and

AGREEMENT FOR PURCHASE AND SALE

THIS AGREEMENT FOR PURCHASE AND SALE ("**Agreement**") is made and entered into as of _____, __, 2017 (the "**Effective Date**") by and between the CITY OF ALAMEDA, a charter city and municipal corporation ("**Seller**" or "**City**"), and BLADIUM, INC., a California corporation or Permitted Assignee ("**Buyer**").

RECITALS

A. The Alameda Reuse and Redevelopment Authority ("**ARRA**"), Seller's predecessor-in-interest, and Buyer entered into that certain Agreement of Sublease dated as of February 1, 2000, as amended by that certain Addendum to Sublease of even date therewith (the "**Addendum to Sublease**") and as further amended by that certain Amendment to Sublease dated as of June 16, 2000 and as further amended by that Second Amendment to Sublease dated as of November 2015 (collectively the "**Lease**"), whereby Buyer leased from the ARRA certain premises located at the former Naval Air Station Alameda (the "**NASA**") which premises are located in Building 40, with an address of 800 W. Tower Avenue, Alameda, California (the "**Building**", together with appurtenant land (the "**Premises**").

B. At the time of execution of the Lease, that portion of the NASA upon which the Premises were located was owned by the United States of America acting by and through the Department of the Navy (the "**Government**"). The NASA was closed as a military installation and was subject to disposal pursuant to an accordance with the Defense Base Closure and Realignment Act of 1990 (P.L.101-510), as amended (the "**Act**"). Pursuant to the terms of the Act, the ARRA applied for a conveyance from the Government of a portion of the NASA to be used and developed in accordance with the "NAS Alameda Community Reuse Plan" dated as of January 1996 as amended in September 1997 prepared by the ARRA and approved by the Department of Housing and Urban Development on April 23, 1996.

C. The Government approved the ARRA's application covering portions of the NASA, including the land upon which the Premises was situated and agreed to convey the same pursuant to the Economic Development Conveyance Memorandum of Agreement dated June 6, 2000 (the "**ED MOA**"). Prior to such conveyance, immediate possession of the NASA was granted to the ARRA pursuant to the terms of that certain Large Parcel Lease, originally commencing on March 24, 1996 (the "**Large Parcel Lease**") to which the Lease was subordinate. Pursuant to an Agreement for the Conveyance of Real Property entered into as of June 6, 2000, as amended, between the Government and the ARRA, the Large Parcel Lease was superseded by that certain Lease in Furtherance of Conveyance dated as of June 6, 2000, as amended by that certain Amendment No. 1 dated as of November 28, 2000 and as further amended by that certain Amendment No. 2 dated March 30, 2009 between the Government and the ARRA (the "**LIFOC**").

D. On January 31, 2012, the Governing Board of the ARRA assigned its rights, assets, liabilities and obligations to the City of Alameda and, on February 7, 2012, the City Council accepted the assignment. On March 9, 2012, the U.S. Department of Defense, Office of Economic Adjustment acknowledged the City of Alameda as the Local Reuse Authority for the former Alameda Naval Air Station and on April 4, 2012, the Government acknowledged the City of Alameda as the Local Reuse Authority within the meaning of the Act.

E. The portion of the NASA upon which the Premises are located was conveyed to the City by the Government by a quitclaim deed dated June 4, 2013, recorded June 6, 2013 as Series No.: 2013-199812 of Official Records in the Office of the County Recorder, Alameda County, California (the "**Navy Quitclaim Deed**"). Upon conveyance of the Premises from the Government to the City, the City became both the landowner and the landlord under the Lease and the LIFOC terminated as to the Premises.

F. The Navy Quitclaim Deed conveyed the Premises to the City subject to certain covenants, conditions, restrictions, easements and encumbrances as set forth therein. The Premises were further encumbered by those certain restrictions set forth in the Declaration of Restrictions (former Naval Air Station Alameda) dated June 4, 2013 and recorded June 6, 2013 as Series No.: 2013-199782 in the Office of the County Recorder of Alameda County ("**Declaration of Restrictions**"), and the Covenant to Restrict Use of Property also dated June 4, 2013 as recorded June 6, 2013 as Series No.: 2013-199838 (the "**CRUP**"). Copies of the foregoing documents were delivered to Buyer in connection with the execution of the Second Amendment to Sublease.

G. The Addendum to Sublease included an option to purchase the Premises, which option was to become effective only upon acquisition of fee title to the Premises by the City pursuant to a conveyance from the Government and after restrictions on the use and ownership of the Premises imposed by the State of California Lands Commission on Tidelands Trust property were removed (the "**Purchase Option**").

H. The land upon which the Premises are located was conveyed by the Government in 2013, as set forth in Recital F above. Pursuant to a Naval Air Station Alameda Title Settlement and Exchange Agreement, dated February 18, 2014, and recorded on June 30, 2014 in the Office of the County Recorder of Alameda County as Series No.: 2014154593 (the "**Exchange Agreement**") the public trust on certain lands within the NASA, including the property subject to this transaction, was terminated.

I. At the time the Purchase Option was granted, the property upon which the Premises was situated had not been surveyed, subdivided or assigned an Assessor Parcel Number. The City has therefore prepared a Tentative Parcel Map (the "**Tentative Map**") a copy of which is attached hereto as **Exhibit A**, and draft conditions of approval (the "**Draft Conditions**") attached hereto as **Exhibit A-1**. The Tentative Map includes the reservation of public right of ways for Saratoga Street to the west of the Premises and Seaplane North, crossing the southern 76 feet of the Premises. Accordingly, the boundaries of the parcel that would be created by the Tentative Map (the "**Tentative Parcel**") do not match the boundaries of the Premises, but the Tentative Parcel includes approximately the same area as the Premises.

J. For the purpose of improving access to the Parcel from West Tower Avenue, the City will grant Buyer the use of a strip of land, approximately 0.11 acres in size, depicted on the survey ("**Survey**") attached hereto as **Exhibit A-2** as the Future Transfer Area (the "**Future Transfer Land**"). Buyer acknowledges that the Future Transfer Land is under the City's possession and control pursuant to the LIFOC, but that the Government still owns fee simple title to the Future Transfer Land. As set forth herein below, at such time as that land is conveyed to the City by the Government, the City will convey the same to Buyer. The Parcel and the Future Transfer Land are sometimes collectively referred to herein as the "**Property**".

K. Buyer has exercised its Purchase Option and Buyer and Seller have agreed upon a Purchase Price and, by this Agreement, wish to more clearly specify the terms and conditions upon which Seller has agreed to sell and Buyer has agreed to buy the Property.

L. Pursuant to Section 3-10 of the Charter of the City of Alameda, the City Council adopted Ordinance ____ authorizing the sale of the Property upon the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, including the mutual covenants and promises of the parties, the parties hereto agree as follows:

1. Recitals. The recitals set forth above are incorporated herein and made a part of this Agreement as though set forth in full herein.

2. The Property. Seller hereby agrees to sell, assign and convey to Buyer, and Buyer hereby agrees to purchase from Seller, all of Seller's right, title and interest in and to the Property, upon all of the terms, covenants and conditions set forth in this Agreement.

3. [Intentionally Omitted]

4. Purchase Price. The Purchase Price for the Property is Seven Million, Nine Hundred Thousand and 00/100 Dollars (\$7,900,000.00) (the "**Purchase Price**") and shall be paid by Buyer to Escrow Holder (as defined at Section 6.1 below) in good, same day funds, on or before the Closing Date.

5. Condition of Property and Risk of Loss.

5.1 Risk of Loss. Until the Close of Escrow, the risk of any loss or damage to the Parcel shall be governed by the terms and conditions of the Lease. The risk of loss or damage to the Parcel shall pass to Buyer upon the recordation of the Quitclaim Deed on the Closing Date.

5.2 Property Sold in an "As-Is" Condition "With All Faults". Seller and Buyer mutually acknowledge and agree that the Property is being sold in an "As-Is" condition "with all faults" known or unknown, contingent or existing, and without any representation or warranty by Seller as to its fitness for any purpose. Buyer has the sole responsibility to fully inspect the Property, to investigate all matters relevant thereto and to reach its own independent evaluation of the risks (environmental or otherwise) or rewards associated with the ownership of the Property. Effective as of the Closing Date, except as otherwise expressly set forth herein, Buyer hereby waives and releases Seller and its successors and assigns from and against any claims, obligations or liabilities arising out of or in connection with the physical condition of the Property.

5.3 Waiver of Environmental Conditions. To the fullest extent permitted by law, and except as expressly set forth in this Agreement, Buyer does hereby unconditionally waive and release the Seller from any present or future claims and liabilities of any nature arising from or relating to the presence or alleged presence of hazardous materials in, on, at, from, under, or about the Property including, without limitation, any claims under or on account of any hazardous materials laws regardless if other such hazardous materials are located in, on, at, from, under, or about the Property prior to or after the date hereof.

5.4 Waiver of Energy Consumption Disclosure. Buyer acknowledges that it will have been in possession of most of the Parcel and will have contracted directly with the providers of any utilities prior to the Effective Date of this Agreement and, to the extent that Seller may have any energy use disclosure requirements under state or federal law implementing regulations promulgated pursuant thereto, Buyer does hereby unconditionally waive and release Seller from any such disclosure requirements.

5.5 Title. Upon and subject to Close of Escrow, Seller shall convey title to the Parcel to Buyer by quitclaim deed, free of monetary encumbrances other than non-delinquent taxes or assessments, and otherwise subject only to the matters described in the following sentence. Buyer acknowledges that the Parcel will be conveyed subject only to all of the Restrictions as described in Recital F, such public and private easements as described in **Exhibit A**, the Reciprocal Easement Agreement described in Section 6, the Declaration of Covenants Conditions and Restrictions Providing for Reciprocal Easements, Joint Use and Maintenance, recorded on July 3, 2017 in the Official Records of Alameda County as Instrument No. 2017144870 (the "CC&Rs") and such laws, ordinances and regulations are referred to in Section 13.14 below.

5.6 Water Infrastructure. Seller represents to Buyer that water at Alameda Point has been supplied by East Bay Municipal Utility District ("EBMUD") but the water system itself was designed, installed and historically operated by the Navy. The water system infrastructure at Alameda Point was neither built, nor maintained to the standards of EBMUD, and does not current meet EBMUD standards. Seller hereby agrees that, until the water supply system is improved to EBMUD standards, Buyer cannot become an EBMUD customer. Until EBMUD is prepared to contract directly with Buyer, water will continue to be provided by means of the current water supply system. The City will charge and bill Buyer for water usage at a rate no greater than the rate paid by the City to EBMUD, and may bill Buyer at a lower rate. The City intends to replace the water infrastructure at Alameda Point and, to that end, has entered into a phased water system infrastructure agreement with EBMUD. At such time as the water system is improved to meet the requirements set forth in EBMUD's Regulations Governing Water Service, the City will cease providing water to the Property and Buyer will be required to contract directly with EBMUD. Buyer may be required to satisfy certain EBMUD requirements which may include the establishment of proper frontage on an EBMUD water main, compliance with all water efficiency requirements, and payment of certain fees. The City will be responsible for an amount not to exceed \$526,000 for System Capacity Charges ("SCC") and an amount not to exceed \$124,000 for Wastewater Capacity Fees ("WCF") assessed by EBMUD necessary for establishing initial EBMUD water services to the Property at the time the SCC and WCF are due to EBMUD. Buyer shall be responsible for the payment of any other fees and costs which may be assessed by EBMUD, including any SCC or WCF in excess of the above-referenced amounts. Before Closing, Seller will deliver a letter to Buyer substantially in the form of **Exhibit D** and Buyer shall sign the acknowledgment and return the same to Seller, either outside of or by deposit with Escrow Holder.

6. Reciprocal Easements.

6.1 Reciprocal Easement Agreement. That approximately 0.64 acre strip of the Premises that is not included in the Tentative Parcel and is designated on the Survey as future Seaplane North right of way (the "**Seaplane North Property**") is currently used by Buyer for ingress, egress and parking. That approximately 0.95 acre area to the west of the Premises which is included in the Tentative Parcel and is designated on the Survey as the "**Additional Land Area**" is currently used by the public as a drive aisle providing access to the Premises and

adjacent properties. Concurrently with the execution hereof, the parties shall execute a Reciprocal Easement Agreement in the form of **Exhibit B** whereby Seller grants to Buyer an easement over the Seaplane North Property for ingress, egress and parking and Buyer grants to the City an easement over the Additional Land Area to remain open as a drive aisle, available for public use. Said Reciprocal Easement Agreement shall terminate upon the development of Seaplane North and Saratoga Street, as set forth therein.

6.2 Driveways and Sidewalks. In connection with the construction of any site improvements on the Seaplane North Property or the Additional Land Area, Seller shall modify, at Seller's sole cost and expense, the three (3) existing driveways and adjacent sidewalks on the border of the Property adjacent to West Tower Avenue, as shown on **Exhibit A-2** attached hereto. In addition, Seller shall install, at Seller's sole cost and expense, three (3) additional driveways and adjacent sidewalks on the border of the Property, as shown on **Exhibit A-2** attached hereto, including one driveway on the north side of the Additional Land Area, one driveway on the south side of the Additional Land Area, and one driveway on the east side of the Seaplane North Property. The final locations of said driveways shall be as mutually agreed upon by Buyer and the City of Alameda Public Works Director and Civil Engineer.

6.3 West Tower Access. Seller shall grant to Buyer a nonexclusive right to use the driveway and drive aisle to the east of the Parcel in the area depicted on **Exhibit A-2** (the "**West Tower Access Drive**") Buyer understands and acknowledges that the West Tower Access Drive is currently under the City's possession and control pursuant to the LIFOC. At such time as fee title to that land is conveyed by the Government to the City, the City reserves the right, in its sole discretion, to terminate such access rights and include none, all or a portion of the current drive aisle in a newly created parcel.

6.4 Existing Parking Spaces. Seller agrees that until the site improvements on the Seaplane North Property and the Additional Land Area have been completed, Buyer shall retain the right to continue to use the existing parking spaces located on the Parcel but in no event shall Buyer be entitled to the use of more parking spaces than were afforded it under the Lease.

7. Use Restrictions. The Lease includes certain use restrictions on property located within the NSA and controlled by the City, whether as the fee owner or as the Tenant under the LIFOC (the "**Exclusive Use Provision**"). Seller has agreed to retain certain Exclusive Use Provisions after Closing through June 30, 2035, which would be the expiration of the Lease Term if Buyer were to exercise its final option for a Third Renewal Term, as defined in the Lease. In consideration thereof, Buyer has agreed to maintain, or cause to be maintained, the Building and the Property (including any in-line hockey, arena soccer, fitness, and rock climbing facilities, restrooms and commons use facilities, if any) in good condition and repair, subject only to normal wear and tear. Such maintenance obligations also include the surface of all parking areas and drive aisles, all surface and storm lateral drainage systems, sanitary sewer lateral connections and exterior lighting fixtures (collectively, the "**Maintenance Standards**"). Buyer's compliance with the Maintenance Standards shall be judged by a comparative standard with the custom and practice generally applicable to comparable high quality sports, recreational and fitness facilities with comparable prices for similar services in Alameda and Contra Costa Counties. Pursuant to the foregoing, concurrently with the execution of this Agreement, the parties shall also execute an Agreement Regarding Use Restrictions, substantially in the form of **Exhibit C**.

8. Compliance with CC&Rs. City acknowledges and agrees that as operated today, the Property satisfy the requirement set forth in Section 10.18 of the CC&Rs that the Property constitute a high quality commercial development consistent with other commercial centers in the Oakland metropolitan area.

9. Closing.

9.1 Establishment of Escrow. Concurrent with the execution of this Agreement, Seller shall establish an escrow with First American Title Company, 1850 Mt. Diablo Boulevard, Suite 300, Walnut Creek, California 94596 ("**Escrow Holder**" or "**Title Company**") and shall promptly give Buyer notice of the escrow number for this transaction.

9.2 Time. The "**Close of Escrow**" or "**Closing**" shall mean and refer to the payment of the Purchase Price to Seller and the concurrent recordation of the Quitclaim Deed, which shall occur through escrow with Escrow Holder, within thirty (30) days after Seller's execution and delivery of this Agreement, or such shorter time as the parties may agree. The "**Closing Date**" shall mean and refer to the date on which the Close of Escrow occurs. The foregoing notwithstanding, Buyer shall have three (3) options to extend the Closing Date in increments not to exceed thirty (30) days each, for a cumulative total of ninety (90) days. Buyer may exercise its extension options by delivering written notice to Seller and Escrow Holder not less than five (5) business days before the then currently scheduled Closing Date. In addition to the foregoing options to extend the Closing Date (which options to extend may be exercised before or after an extension of the Closing Date for Economic Force Majeure (as defined below), Buyer shall have the right to extend the Closing Date for up to an additional two (2) years as a result of Economic Force Majeure. Buyer shall notify Seller as soon as possible prior to the then scheduled Closing Date in the event that Buyer needs to postpone the Closing Date as a result of Economic Force Majeure, and Buyer shall give Seller at least thirty (30) days' prior notice of the new Closing Date. As used herein, "Economic Force Majeure" shall mean a major economic collapse in the United States. "Economic Force Majeure" shall not refer to a mere spike in interest rates or other change in the market that merely makes the economic terms of this Agreement less favorable to Buyer than on the date of Buyer's execution of this Agreement.

9.3 Deposit of Documents by Seller. On or before the Closing Date, Seller shall deposit with Escrow Holder:

- 9.3.1 the final Map, certified and acknowledged for recordation;
- 9.3.2 a duly executed and acknowledged quitclaim deed conveying the Parcel to Buyer;
- 9.3.3 a duly executed and acknowledged Agreement Regarding Use Restrictions;
- 9.3.4 Reciprocal Easement Agreement, with duplicate original signature pages, duly executed and acknowledged by Seller;
- 9.3.5 written instructions to Escrow Holder instructing the Escrow Holder to close the escrow in accordance with the terms of this Article;

9.3.6 any other documents as may be reasonably requested by Buyer or the Escrow Holder as may be necessary to consummate the transaction including, but not limited to, any statement of information requested by the Escrow Holder.

9.4 Deposit of Documents and Money by Buyer. On or before the Closing Date, Buyer shall deposit with Escrow Holder:

9.4.1 the Purchase Price in cash, increased or reduced, as the case may be, by Buyer's share of the closing costs and other prorations;

9.4.2 a duly executed and acknowledged Agreement Regarding Use Restrictions;

9.4.3 Reciprocal Easement Agreement with duplicate original signature pages, duly executed and acknowledged by Buyer;

9.4.4 written instructions to the Escrow Holder instructing the Escrow Holder to close the escrow in accordance with the terms of this Article; and

9.4.5 any other documents or money as may be reasonably requested by the Seller or the Escrow Holder as necessary to consummate the transaction.

9.5 Closing. Escrow shall close by Escrow Holder's performing of the following in the following order:

9.5.1 recording the final Map;

9.5.2 recording the Agreement Regarding Use Restrictions;

9.5.3 recording the Quitclaim Deed conveying the Parcel to Buyer;

9.5.4 recording the Reciprocal Easement Agreement;

9.5.5 payment of the Purchase Price to Seller, less Seller's share of closing costs and prorations as required by this Article; and

9.5.6 obtaining from the Title Company for delivery to Buyer an owner's policy of title insurance in form and with endorsements designated by Buyer in the amount of the Purchase Price showing title to the Parcel vested of record as of the Closing Date in Buyer.

9.6 Closing Costs and Prorations.

9.6.1 Closing Costs. Seller and Buyer shall each pay one half (1/2) of all escrow fees.

Buyer shall pay:

(a) All premium costs and expenses incurred in connection with any policy of title insurance obtained by or on behalf of Buyer;

(b) 50% of any real estate transfer tax;

- (c) Recording fees, if any; and
- (d) The expense of its own counsel.

Seller shall pay:

- (e) 50% of any real estate transfer tax.
- (f) The expense of its own counsel.

Any other closing costs not specified herein shall be divided equally between the parties.

9.7 Prorations and Adjustments. The following shall be prorated and adjusted between Seller and Buyer as of the Closing Date, except as otherwise specified:

9.7.1 It is acknowledged that prior to the Closing Date, the Parcel has not been subject to ad valorem taxes or assessments thus no proration of such taxes is required. The foregoing notwithstanding, Buyer shall remain solely responsible for payment of any Personal Property Taxes or possessory interest taxes for the period prior to Closing;

9.7.2 All maintenance and repair obligations and expenses of Seller pursuant to the Lease shall be prorated effective as of 11:59 p.m. on the day prior to the Closing Date. If the exact amount of any item to be prorated is not known as of the Closing Date, the proration shall be based upon a reasonable estimate thereof made by Seller and Buyer, and, as soon after the Closing as the exact amount of the item is known, the proration shall be adjusted.

9.7.3 There shall be credited against the Purchase Price the amount of any Base Rent paid and attributable to the period from and after the Closing as prorated based upon the number of days in the month in which the Closing occurs.

10. Conveyance of the Future Transfer Land. Seller shall use reasonable efforts to enforce its right to acquire the Future Transfer Land from the Government in accordance with the terms of the EDC MOA and this Agreement. Seller shall not amend the provisions of the EDC MOA that affects the Future Transfer Land without Buyer's prior written consent, which should not be unreasonably withheld, conditioned or delayed. Within twelve (12) months after the Government conveys land which includes the Future Transfer Land, Seller shall convey same to Buyer by means of a new quitclaim deed. It is agreed that the Purchase Price for the Property is adequate consideration for the future conveyance of the Future Transfer Land from Seller to Buyer. Within said twelve (12) month period, Seller and Buyer shall cooperate to effectuate a merger of the Future Transfer Land with the Parcel, by means of a lot line adjustment, or otherwise in accordance with the terms of the Subdivision Map Act (Government Code §§ 66410, et seq.) at Seller's expense.

11. General Provisions.

11.1 Capacities. Each individual and entity executing this Agreement hereby represents and warrants that he, she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to the terms hereof.

11.2 Binding on Successors. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. Buyer shall have the right to assign this Agreement to a newly formed limited liability company 800 West Tower Avenue, LLC, a Delaware limited liability company ("**Permitted Assignee**").

11.3 Entire Agreement. This Agreement including all exhibits hereto contains all of the covenants, conditions, and agreements between the parties and shall supersede all prior correspondence, agreements, and understandings both verbal and written. No addition or modification of any term or provision shall be effective unless set forth in writing and signed by both Seller and Buyer.

11.4 Attorney's Fees. In the event either party to this Agreement institutes an action to interpret or enforce the terms hereof, or to obtain money damages the prevailing party shall be entitled to recover from the other, in addition to costs and judgment as awarded by the court, its attorney's fees incurred therein. The prevailing party shall include, without limitation, a party who dismisses an action or proceeding for recovery hereunder in exchange for consideration substantially equal to the relief sought in the action or proceeding.

11.5 Brokers' Commission. Seller and Buyer each represent and warrant to the other that with the exception of Cushman and Wakefield, representing Seller ("**Seller's Broker**"), neither party has dealt with any other real estate brokers or finders with respect to the transaction contemplated hereby. Each party agrees to indemnify and hold harmless the other from any claim or claims, and costs and expenses, including attorneys' fees, incurred by the indemnified party in conjunction with any claim or claims of any other broker or brokers to a commission in connection with this transaction as a result of the actions of the indemnifying party. Seller shall pay any commission owing to Seller's Broker in connection with this transaction.

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

11.7 Captions. All captions and headings in this Agreement are for the purposes of reference and convenience and shall not limit or expand the provisions of this Agreement.

11.8 Time. Time is of essence of every provision herein contained in this Agreement.

11.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all counterparts shall constitute one agreement.

11.10 Notices. All notices, requests or other communications required or permitted to be given in connection with this Agreement shall be in writing and shall be personally delivered (with prompt confirmation by registered or certified mail, postage prepaid), or by commercial courier service, or by registered or certified mail, postage pre-paid, or transmitted by electronic mail addressed to the party whom it is directed at the following addresses, or at such other addresses as may be designated by notice from such party in the manner provided herein:

To Seller: City of Alameda
Alameda City Hall
2263 Santa Clara Ave.
Alameda, CA 94501
Tel: (510) 748-4509
Attn: City Manager

with a copy to: Miller Starr Regalia
351 California Street, Suite 1110
San Francisco, CA 94104
Attn: F. Gale Connor
Email: gale.connor@msrlegal.com

To Buyer: Bladium, Inc.
800 W. Tower Ave.
Alameda, CA 94501
Attn: Brad Shook
Email: brad@bladium.com

With a Copy to: Allen Matkins
3 Embarcadero Center, 12th Floor
San Francisco, CA 94111
Attn: Nancy Lundeen
Email: nlundeen@allenmatkins.com

Notices which are delivered by hand, deposited in the United States Mail in accordance with the terms of this Section or delivered by a commercial courier service shall be deemed received upon actual receipt (unless receipt occurs on a weekend or holiday, in which case notice will be deemed given on the next-succeeding business day) or refusal of receipt during normal business hours. Notices which are delivered by electronic mail shall be deemed to have been delivered on the date sent if sent by 5:00 P.M. Pacific time on any business day, with delivery made after such hours to be deemed delivered on the following business day, provided that the sender does not receive any failure of delivery notice. The foregoing addresses may be changed by notice to the other party as herein provided.

11.11 Escrow Instructions. The parties agree to execute such instructions to Escrow Holder and such other instruments and do such other and further acts as may be reasonably necessary to carry out any of the provisions of this Agreement.

11.12 Construction. The language in all parts of this Agreement shall in all cases be construed simply according to its fair meaning and not strictly for or against any of the parties hereto. Section headings of this Agreement are solely for convenience of reference and shall not govern the interpretation of any of the provisions of this Agreement. References to "sections" are the Sections of this Agreement, unless otherwise specifically provided.

11.13 Default. In the event of default by either party hereunder, such party shall have the right to cure such defaults within thirty (30) days after receipt of notice of such default from the other party. In the event the sale of the Property does not close as provided herein because of a default of Buyer that is not cured within the foregoing cure period. Seller may by the giving of written notice to Buyer, terminate all rights of Buyer to purchase the Property. In the event of such termination, Buyer shall be solely responsible for any fees or costs payable to

Escrow Holder or the Title Company. In the event of default by Seller that is not cured within the foregoing thirty (30) day cure period, Buyer may elect one of the following remedies: (a) to terminate this Agreement, in which event (i) Buyer shall be entitled to the return by the Escrow Holder to Buyer of any funds then held by Escrow Holder, (ii) Seller shall be solely responsible for any fees or costs payable to Escrow Holder or the Title Company, and (iii) neither party shall have any further rights or obligations under this Agreement, or (b) to bring a suit for specific performance. Under no circumstances shall Buyer be entitled to actual, special, or consequential damages, including, but not limited to, anticipated profits.

11.14 Laws, Ordinances and Regulations. Buyer shall take title to the Property subject to all laws, ordinances, rules, regulations and codes of all City, county, state and federal authorities relating thereto, including, but not limited to, the restrictions imposed by the Navy Quitclaim Deed, the Declaration of Restrictions, the CRUP, the Alameda Point Master Infrastructure Plan, the Alameda Point Town Center and Waterfront Precise Plan, the Alameda Point Transportation Demand Management Plan and the Environmental Impact Report for Alameda Point and the Mitigation Monitoring and Reporting Program adopted pursuant thereto.

11.15 Authority. Buyer and Seller represent that the person executing this Agreement on their behalf is fully authorized to do so and to bind the respective party to the terms herein.

11.16 Incorporation of Exhibits. **Exhibits A** through **D**, inclusive, attached hereto, are incorporated herein by this reference.

Signatures on following page

IN WITNESS WHEREOF, Seller and Buyer have duly executed this Agreement as of the Effective Date set forth above.

SELLER:

CITY OF ALAMEDA,
a charter city and municipal corporation

By: _____

Jill Keimach
City Manager

Date: _____

BUYER:

BLADIUM, INC.,
a California corporation

By: _____

Name: _____

Date: _____

Approved as to Form

By: _____

Janet Kern
City Attorney

EXHIBIT A

Tentative Parcel Map

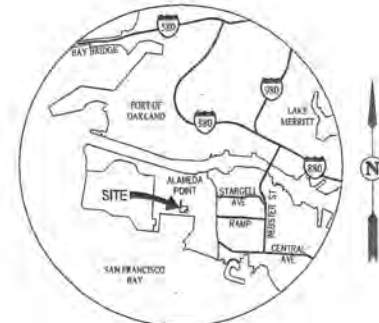
PARCEL MAP 10600 BUILDING 40

CONSISTING OF 3 SHEETS
BEING A SUBDIVISION OF
PHASE I AGREED TRUST LANDS PARCEL EIGHT
INSTRUMENT NO. 2014154596, ALAMEDA COUNTY OFFICIAL RECORDS
AND DESIGNATED REMAINDER PER TRACT 8315, FILED AUGUST 23, 2016
IN BOOK 341 OF MAPS, PAGE 82, ALAMEDA COUNTY RECORDS
CITY OF ALAMEDA, ALAMEDA COUNTY, CALIFORNIA

Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

MAY 2017



VICINITY MAP
NOT TO SCALE

OWNER'S STATEMENT

THE UNDERSIGNED HEREBY STATES THAT IT IS THE OWNER OF OR HAS SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THIS MAP; THAT IT IS THE ONLY ENTITY WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; AND THAT IT HEREBY CONSENTS TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE; AND HEREBY CONSENTS TO ALL DEDICATIONS AND OFFERS OF DEDICATION THEREIN.

THE UNDERSIGNED ALSO HEREBY STATES THAT THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED IN FEE FOR PUBLIC PURPOSES: SARATOGA STREET AND SEAPLANE (NORTH) FOR PUBLIC ROADWAY AND PUBLIC UTILITY PURPOSES.

THE UNDERSIGNED ALSO HEREBY STATES THAT THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES: FOR PUBLIC UTILITIES AND THEIR APPURTENANCES AND THE RIGHT TO CONSTRUCT, INSTALL, MAINTAIN AND REPLACE SUCH UTILITIES AND THEIR APPURTENANCES UNDER, ON, OVER THE STRIPS OF LAND DESIGNATED "PUBLIC UTILITY EASEMENT" (PUE) ON SAID MAP. SAID PUBLIC UTILITY EASEMENT SHALL BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT LAWFUL FENCES, SURFACE PAVEMENT, LAWFUL UNSUPPORTED ROOF OVERHANGS, LANDSCAPING, IRRIGATION SYSTEMS, UTILITY COMPANY STRUCTURES AND APPURTENANCES THEREOF.

THE AREA MARKED EBMUD IS DEDICATED TO EAST BAY MUNICIPAL UTILITY DISTRICT AS A PERPETUAL EASEMENT FOR THE PURPOSE OF CONSTRUCTING, INSTALLING, REPLACING, MAINTAINING, OPERATING AND USING FOR THE TRANSMISSION AND DISTRIBUTION OF WATER, A PIPE OR PIPELINES AND ALL NECESSARY FIXTURES INCLUDING UNDERGROUND TELEMETRY AND ELECTRICAL CABLES OR APPURTENANCES THEREOF, IN, UNDER, ALONG AND ACROSS SAID EASEMENT, TOGETHER WITH THE RIGHT OF INGRESS TO AND EGRESS FROM SAID EASEMENT AND THE RIGHT AT ALL TIMES TO ENTER IN, OVER AND UPON SAID EASEMENT AND EVERY PART THEREOF. SAID EBMUD EASEMENT AREA MAY BE LANDSCAPED IN A MANNER CONSISTENT WITH EAST BAY MUNICIPAL UTILITY DISTRICT'S USE; HOWEVER, NO BUILDING OR STRUCTURE MAY BE PLACED ON SAID EASEMENT, NO TREES MAY BE PLANTED WITHIN THE EASEMENT AREA AND NO CHANGES MAY BE MADE TO THE EXISTING SURFACE ELEVATION (GRADE) OF THE EASEMENT AREA BY MORE THAN ONE (1) FOOT, NOR SHALL ANYTHING BE DONE THEREON WHICH MAY INTERFERE WITH EAST BAY MUNICIPAL UTILITY DISTRICT'S FULL ENJOYMENT OF SAID EASEMENT. EAST BAY MUNICIPAL UTILITY DISTRICT WILL ACCEPT SAID EASEMENT BY SEPARATE INSTRUMENT.

THIS MAP SHOWS ALL THE EASEMENTS OF RECORD ON THE PREMISES.

AS OWNER: CITY OF ALAMEDA, A CALIFORNIA MUNICIPAL CORPORATION

BY: _____
NAME: _____
TITLE: _____

OWNER'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF _____ SS:
COUNTY OF _____

ON _____, BEFORE ME, _____, A NOTARY PUBLIC, PERSONALLY APPEARED _____, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

SIGNATURE: _____

NAME (PRINT): _____

PRINCIPAL PLACE OR COUNTY OF BUSINESS: _____

MY COMMISSION NUMBER: _____

MY COMMISSION EXPIRES: _____

CLERK OF THE BOARD OF SUPERVISORS' CERTIFICATE

I, ANIKA CAMPBELL-BELTON, CLERK OF THE BOARD OF SUPERVISORS FOR THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE, AS CHECKED BELOW:

AN APPROVED BOND HAS BEEN FILED WITH SAID BOARD IN THE AMOUNT OF \$ _____ CONDITIONED FOR THE PAYMENT OF ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES WHICH ARE NOW A LIEN AGAINST SAID LAND OR ANY PART THEREOF, BUT NOT YET PAYABLE AND WAS DULY APPROVED BY SAID BOARD IN SAID AMOUNT.

ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES HAVE BEEN PAID, AS STATED BY THE TREASURER-TAX COLLECTOR OF THE COUNTY OF ALAMEDA.

IN WITNESS WHEREOF, I HAVE HERETO SET MY HAND THIS _____ DAY OF _____ 20____.

ANIKA CAMPBELL-BELTON
CLERK OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

BY: _____
DEPUTY COUNTY CLERK

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 2017, AT _____ M. IN BOOK _____ OF MAPS, AT _____ PAGES _____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AT THE REQUEST OF FIRST AMERICAN TITLE COMPANY.

FEE: _____

SERIES NO: _____

STEVE MANNING,
COUNTY RECORDER
COUNTY OF ALAMEDA, CALIFORNIA

BY: _____
DEPUTY

PARCEL MAP 10600 BUILDING 40

CONSISTING OF 3 SHEETS
BEING A SUBDIVISION OF
PHASE I AGREED TRUST LANDS PARCEL EIGHT
INSTRUMENT NO. 2014154596, ALAMEDA COUNTY OFFICIAL RECORDS
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Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

MAY 2017

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF THE CITY OF ALAMEDA IN AUGUST 2014. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY AND THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN SUCH POSITIONS ON OR BEFORE DECEMBER 2019, AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED AND THE SURVEY IS TRUE AND COMPLETE AS SHOWN.

SABRINA KYLE PACK, P.L.S.
L.S. NO. 8164



DATE _____

CITY ENGINEER'S STATEMENT

I, SHAHRAM AGHAMIR, CITY ENGINEER OF THE CITY OF ALAMEDA, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT I HAVE EXAMINED THE HEREIN EMBODIED PARCEL MAP ENTITLED "PARCEL MAP 10600, BUILDING 40, CITY OF ALAMEDA, ALAMEDA COUNTY, CALIFORNIA", CONSISTING OF 3 SHEETS, THIS STATEMENT BEING UPON SHEET TWO (2) THEREOF, AND THAT THE SUBDIVISION AS SHOWN ON SAID PARCEL MAP IS SUBSTANTIALLY THE SAME AS SAID SUBDIVISION APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL THE PROVISIONS OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA AND AMENDMENTS THERETO AND ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS _____ DAY
OF _____, 20__.

SHAHRAM AGHAMIR, R.C.E. 049025
CITY ENGINEER, CITY OF ALAMEDA
COUNTY OF ALAMEDA, CALIFORNIA

ACTING CITY SURVEYOR'S STATEMENT

I, ALVIN LEUNG, ACTING CITY SURVEYOR FOR THE CITY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT I HAVE EXAMINED THE HEREIN EMBODIED PARCEL MAP ENTITLED "PARCEL MAP 10600, BUILDING 40, CITY OF ALAMEDA, ALAMEDA COUNTY, CALIFORNIA," AND FOUND THE PARCEL MAP TO BE TECHNICALLY CORRECT.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS _____ DAY
OF _____, 20__.

ALVIN LEUNG, L.S. 6630
ACTING CITY SURVEYOR, CITY OF ALAMEDA
COUNTY OF ALAMEDA, CALIFORNIA



CITY CLERK'S STATEMENT

I, LARA WEISIGER, CITY CLERK OF THE COUNCIL OF THE CITY OF ALAMEDA, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT THE HEREIN EMBODIED PARCEL MAP ENTITLED, "PARCEL MAP 10600, BUILDING 40, ALAMEDA, CALIFORNIA", CONSISTING OF 3 SHEETS, THIS STATEMENT BEING UPON SHEET TWO (2) THEREOF, WAS PRESENTED TO SAID COUNCIL OF THE CITY OF ALAMEDA AS PROVIDED BY LAW AT A REGULAR MEETING HELD ON THE _____ DAY OF _____, 20__, AND THAT SAID COUNCIL OF THE CITY OF ALAMEDA DID THEREON BY RESOLUTION NO. _____, DULY PASSED AND ADOPTED AT SAID MEETING, APPROVE SAID MAP AND ACCEPT ON BEHALF OF THE CITY OF ALAMEDA AND THE PUBLIC, ALL PARCELS OF LAND OFFERED FOR FEE, SUBJECT TO IMPROVEMENT, AND ALL EASEMENTS AS OFFERED FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF THE OFFERS OF DEDICATION.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL
THIS _____ DAY OF _____, 20__.

LARA WEISIGER, CITY CLERK AND CLERK OF THE
CITY COUNCIL, CITY OF ALAMEDA
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

SOILS AND GEOLOGICAL REPORT

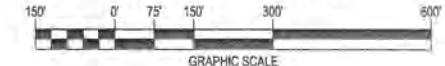
A PRELIMINARY GEOTECHNICAL EXPLORATION REPORT ON THIS PROPERTY HAS BEEN PREPARED BY ENGCO, INC., PROJECT NO 5497.100.102, DATED APRIL 8, 2003, COPIES OF WHICH HAVE BEEN FILED WITH THE CITY CLERK OF THE CITY OF ALAMEDA

PARCEL MAP 10600 BUILDING 40

CONSISTING OF 3 SHEETS
BEING A SUBDIVISION OF
PHASE I AGREED TRUST LANDS PARCEL EIGHT
INSTRUMENT NO. 2014154596, ALAMEDA COUNTY OFFICIAL RECORDS
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Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

SCALE: 1" = 150' MAY 2017



BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS MAP WAS DETERMINED BY FOUND MONUMENTS PT. 207 "MAIN-SMC" AND PT. 204 "MAIN-ATL" AS SAID POINTS ARE SHOWN AND SO DESIGNATED ON RECORD OF SURVEY NO. 1816 (28 RS 14). THE BEARING BEING N0028'45"E (CALCULATED).

LEGEND

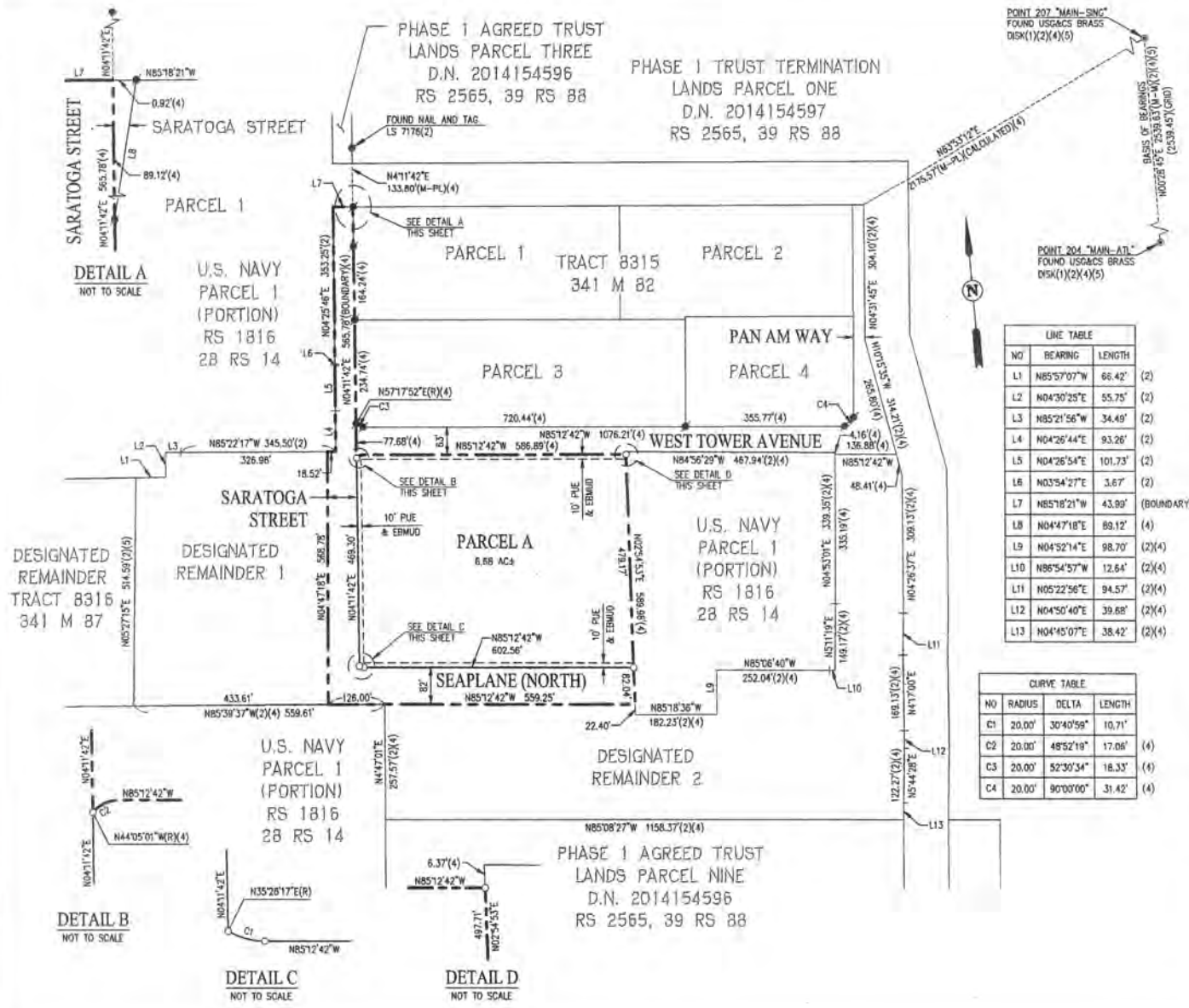
- BOUNDARY LINE
- RIGHT OF WAY LINE
- LOT LINE
- EASEMENT LINE
- TIE LINE
- (R) RADIAL
- (M-M) MONUMENT TO MONUMENT
- (M-PL) MONUMENT TO PROPERTY LINE
- FOUND STANDARD STREET MONUMENT
- SET 5/8" REBAR AND CAP OR NAIL AND TAG, LS 8164
- 5/8" REBAR AND CAP OR NAIL AND TAG, LS 8164, PER (4)
- EBMD EAST BAY MUNICIPAL UTILITIES DISTRICT
- PUE PUBLIC UTILITY EASEMENT

REFERENCES:

- (#) INDICATES REFERENCE NUMBER
- (1) RECORD OF SURVEY 1816 (28 RS 14)
- (2) RECORD OF SURVEY 2565 (39 RS 88)
- (3) DEED (D.N. 2014154597)
- (4) TRACT 8315 (341 M 82)
- (5) TRACT 8316 (341 M 87)

NOTES:

1. THE REAL PROPERTY INCLUDED WITHIN THIS SUBDIVISION IS SUBJECT TO TERMS, PROVISIONS AND ACCESS EASEMENTS IN FAVOR OF THE UNITED STATES OF AMERICA FOR ENVIRONMENTAL REMEDIAL ACTION AND MONITORING AS RESERVED IN D.N. 2013199807 AND D.N. 2013199812.
2. THE REAL PROPERTY INCLUDED WITHIN THIS SUBDIVISION IS SUBJECT TO THE TERMS, PROVISIONS, COVENANTS, CONDITIONS AND RESTRICTIONS STATED IN D.N. 2013199838.
3. SUBDIVISION AREA = 9.29 AC±



NO	BEARING	LENGTH
L1	N85°57'07"W	66.42' (2)
L2	N04°30'25"E	55.75' (2)
L3	N85°21'56"W	34.49' (2)
L4	N04°26'44"E	93.26' (2)
L5	N04°26'54"E	101.73' (2)
L6	N03°54'27"E	3.67' (2)
L7	N85°18'21"W	43.98' (BOUNDARY)(2)
L8	N04°47'18"E	89.12' (4)
L9	N04°52'14"E	98.70' (2)(4)
L10	N86°54'57"W	12.64' (2)(4)
L11	N05°22'56"E	94.57' (2)(4)
L12	N04°50'40"E	39.88' (2)(4)
L13	N04°45'07"E	38.42' (2)(4)

NO	RADIUS	DELTA	LENGTH
C1	20.00'	30°40'59"	10.71' (4)
C2	20.00'	48°52'19"	17.06' (4)
C3	20.00'	52°30'34"	18.33' (4)
C4	20.00'	90°00'00"	31.42' (4)



DETAIL A
NOT TO SCALE

U.S. NAVY
PARCEL 1
(PORTION)
RS 1816
28 RS 14

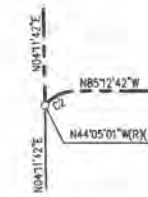
DESIGNATED
REMAINDER
TRACT 8316
341 M 87

DESIGNATED
REMAINDER 1

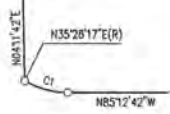
U.S. NAVY
PARCEL 1
(PORTION)
RS 1816
28 RS 14

DESIGNATED
REMAINDER 2

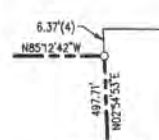
PHASE I AGREED TRUST
LANDS PARCEL NINE
D.N. 2014154596
RS 2565, 39 RS 88



DETAIL B
NOT TO SCALE



DETAIL C
NOT TO SCALE



DETAIL D
NOT TO SCALE

EXHIBIT A-1

Draft Conditions of Approval

CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. PB-17-02

RECOMMENDING THAT THE CITY COUNCIL APPROVE TENTATIVE
PARCEL MAP 10600 (PLN16-0544)

WHEREAS, the City of Alameda submitted an application to create one parcel for an existing building, public right-of-way, and a remainder parcel on the southern side of West Tower Avenue at Alameda Point; and

WHEREAS, the General Plan designation for the property is Alameda Point Mixed Use; and

WHEREAS, the property is located within the Alameda Point Waterfront Town Center Sub-district and Waterfront Town Center Precise Plan (Town Center Plan) area; and

WHEREAS, the General Plan, Zoning District, and Town Center Plan regulations encourage adaptive reuse of the buildings in the Naval Air Station Alameda Historic District (Historic District); and

WHEREAS, creation of a parcel map for the property for conveyance purposes will facilitate adaptive reuse and reinvestment in the property and the Historic District; and

WHEREAS, the Planning Board held a noticed public hearing and examined all pertinent materials on January 23, 2017 and made the following findings relative to the proposed tentative parcel map application:

- A. **The proposed tentative parcel map is in conformance with the General Plan and Zoning for this site.** The proposed tentative map is consistent with the Mixed Use General Plan and Town Center Plan and zoning designations for the property.
- B. **The site is physically suitable for the proposed development.** The proposed tentative parcel map is for conveyance purposes only and facilitates the adaptive reuse and reinvestment in the building on the property which is contributor to the Historic District. All future development or rehabilitation of these buildings will be subject to the Waterfront Town Center Specific Plan, Waterfront Town Center Zoning Sub-district and the Secretary of Interior Standards.
- C. **The site is physically suitable for the density of the development.** The proposed tentative parcel map will not increase the density of the existing development on the site, as no new development is proposed or approved by this Resolution. Any future development of the properties will be subject to review under the Town Center Plan and Waterfront Town Center Zoning Sub-district to ensure that the proposed

development is suitable for the site, compatible with the biological regulations and consistent with the Historic District designation.

- D. **The proposed design of the tentative parcel map and improvements, as conditioned, will not cause environmental damage or substantially and avoidably injure fish or wildlife or their habitat.** This parcel map is for conveyance purposes only and will not cause any environmental damage or affect the property's physical surroundings. All future improvements on the site will be subject to applicable existing regulations, permits, and deed restrictions designed to protect wildlife on the adjacent federal property.
- E. **The design of the tentative parcel map will not conflict with easements acquired by the public at large for access through or use of property within the parcel map area.** This parcel map is for conveyance purposes only and will not conflict with any public easements. All future improvements on the site will be subject, where applicable, to compliance with the Alameda Point Master Infrastructure Plan, which ensures that all necessary easements and public rights-of-way are preserved.
- F. **The design of the tentative parcel map and its improvements, if any, will not cause serious public health problems.** This parcel map is for conveyance purposes only and will not cause any public health problems. Creation of the parcel map for the property will facilitate re-investment in the existing properties, which is necessary for any future upgrades to the existing substandard infrastructure and preserve public health; and

WHEREAS, the Planning Board finds that the potential environmental impacts of the parcel map have been evaluated and disclosed pursuant to the California Environmental Quality Act (CEQA). On February 4, 2014, the City of Alameda certified the Alameda Point Final Environmental Impact Report (FEIR) in compliance with the California Environmental Quality Act. The FEIR evaluated the environmental impacts of redevelopment and reuse of the lands within the Alameda Point zoning district and Town Center Plan, which includes the Bladium Parcel Map Area. Consistent with the February 2014 action, the draft conditions of approval of the Tentative Map Application require that property owners comply with, and implement, all the relevant mitigations measures adopted by the City Council in February 2014. No further CEQA review is required for this action.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Alameda recommends that the City Council approve Tentative Map 10600 subject to the following conditions:

Final Map

1/23/2017

Planning Board Meeting

Page 2 of 9

1. All maps filed pursuant to this approval shall be in substantial compliance with the map titled, "Alameda Point – Parcel Map 10600 Tentative Map Bladium" prepared by Carlson, Barbee & Gibson, Inc. dated November 15, 2016, (Exhibit 2 to the January 23, 2017 Staff Report), and on file in the office of the Alameda Community Development Department.
2. The Final Map shall be in substantial compliance with the Tentative Map.
3. The subdivider shall record the Final Map within twenty-four (24) months of approval, or conditional approval of the Tentative Map by the City Council. An extension of time, not to exceed and additional twelve (12) months, for the filing of the Final Map may be granted by expiration of the approved or conditionally approved Tentative Map.
4. Prior to the City Council approval of the Final Map, the Applicant shall submit a Mylar copy and a CAD file of the Final Map.
5. Final Maps shall show all existing and proposed easement locations, uses and recording information, including any reciprocal use and access easements necessary to allow the City to maintain existing access and use along the western side of proposed Bladium property and Bladium to maintain existing access and use along City's proposed Seaplane North public right-of-way until such time as Saratoga Avenue and Seaplane North are constructed, as depicted on Exhibit B. The Owner's Statement shall list all easements to be dedicated and the Certificate of City Clerk shall list all public easements to be abandoned (with recording information) as part of the Final Map.
6. Concurrent with the transfer of property, the City shall retain a utility easement to allow the City to access and maintain existing utilities within the property that have common benefit to surrounding areas.

Land Use and Redevelopment

7. CEQA: Prior to issuance of a Building Permit or Site Improvement Permit, the applicant shall submit a Mitigation Measure Compliance Checklist confirming compliance with all required environmental mitigation measures contained in the MMRP adopted by the Alameda City Council on February 4, 2014, for the redevelopment and reuse of Alameda Point.
8. Alameda Point Waterfront and Town Center Plan Consistency. Any future design review and development applications for this property will be subject to consistency with the adopted Alameda Point Waterfront and Town Center Plan, where appropriate.
9. Infrastructure Improvement Plans: Prior to issuance of a Building Permit or Site Improvement Permit, the applicant shall submit an Infrastructure Improvement Plan

for the improvement of the on-site and adjacent off-site streets, open space, waste water, storm water, potable water, recycled water, power, natural gas, and communications facilities for each phase of development, if applicable. The improvement plans shall be reviewed for consistency with the Town Center Plan, MIP, and the AMC requirements. The plans shall be prepared, signed and stamped as approved by a registered civil engineer licensed in the State of California. The engineer shall also assume responsibility for inspection of the on-site construction work, including but not limited to parking lots, pathways, storm facilities and, sewer facilities, and shall certify to the City, prior to acceptance of the work or issuance of any occupancy permit, including a temporary occupancy permit, whichever comes first, that the installation of the on-site work (excluding the building and foundation) was constructed in accordance with the approved plans. All required public frontage and street improvements shall be designed, built, and dedicated to the City in accordance with City ordinances, and Public Works Department standards with respect to such improvements and shall include curbs, gutters, sidewalks, street trees, storm water treatment controls, landscaping and irrigation, streetlights, etc.

10. Design Review Approval: Prior to issuance of any Building Permit or Site Improvement Permit in preparation of exterior changes to existing buildings or new vertical development, the applicant shall submit an application for Design Review and approval by the Planning Board. The Design Review application shall include any buildings, landscape improvements, open spaces and parks, and/or parking lots proposed for the area to be improved. All Building Plans and Site Improvement Plans submitted for permits shall be reviewed for compliance with the Design Review findings of AMC Section 30-36 and 37 by the City of Alameda Planning Board.
11. NAS Alameda Historic District Certificate of Approval: Prior to issuance of a Building Permit or Site Improvement Permit in preparation of exterior changes to existing buildings or new vertical development, the applicant shall submit all final proposed changes to the cultural landscape to the Historical Advisory Board for review and approval. All Building Plans and Site Improvement Plans submitted for permits within the Historic District shall be reviewed for compliance with the Historic District and Cultural Landscape Guidelines, the Secretary of Interior Standards for the Rehabilitation of Historic Structures, and AMC Section 13-21 Preservation of Historical and Cultural Resources by the City of Alameda Historical Advisory Board.
12. Biological Regulations and On-Site Lighting: Prior to Design Review approval, and issuance of a Building or Site Improvement Permit, the applicant shall submit a Biological Opinion Compliance Checklist confirming compliance with all required conditions set forth in the Declaration of Restrictions for the Former Naval Air Station Alameda (Declaration) consistent with the Biological Opinion issued by the U.S. Department of Fish and Wildlife, and Exhibit C of the Memorandum of Agreement between the City of Alameda and Department of Veteran's Affairs (Alameda Point Lighting Mitigation Measures).

13. Transportation Demand Management Plan Compliance Strategy: Prior to issuance of a Building or Site Improvement Permit, the applicant shall submit a Transportation Demand Management Plan Compliance Strategy to ensure compliance with the Alameda Point Transportation Demand Management Plan.
14. Public Trust Exchange Act and Agreements: All use of land and buildings and new construction on Public Trust Lands shall be subject to the public trust for commerce, navigation and fisheries and shall be reviewed for consistency with the Naval Air Station Alameda Public Trust Exchange Act, Chapter 734, Statutes of 2000, as amended by Chapter 429, Statutes of 2011 and the Naval Air Station Alameda Exchange Agreement regarding Public Trust Lands at Alameda Point.
15. Parking Management Plan: Unless completed as part of the TDM Compliance Strategy, prior to issuance of the first Occupancy Permit, the project applicant and/or property owner shall submit a Parking Management Plan. The plan will address the management and pricing of public and private on-site spaces and public on-street parking and public parking lots and structures.
16. Other Agency Approvals: Prior to issuance of building permit(s) for work within jurisdictional lands, the applicant shall provide evidence that all required approvals, permits, or waivers from Bay Conservation and Development Commission (BCDC), Regional Water Quality Control Board (RWQCB), including compliance with the existing 401 Certification for the construction of a stormwater outfall, and/or the Army Corp. of Engineers. The final Improvement Plans shall incorporate all other agency comments.

Improvement Plans

16. Potable Water: The developer/applicant shall be responsible for potable water infrastructure consistent with the MIP to serve the project, whose design shall be shown on the Improvement Plans to the satisfaction of EBMUD, the Public Works Director, and the Fire Chief.
17. Storm Water Quality: The developer/applicant shall incorporate permanent storm water treatment controls and/or design techniques to manage the quantity and quality of storm water runoff from a planned development to prevent and minimize impacts to water quality and be consistent with the MIP and the conditions of the 401 certification for Alameda Point (401 Certification Conditions). Efforts shall be taken to minimize impervious surface areas, especially directly connected impervious surface areas. Roof drains shall discharge and drain to an unpaved area wherever practicable. Design techniques may include green roofs, rainwater harvesting, vegetated swales, vegetated buffer zones, bio retention units, retention/detention basins and ponds, tree well systems, and the incorporation of pervious surface areas and Low Impact Development (LID) measures. Storm water treatment measures shall be constructed

consistent with the latest version of the Alameda County Clean Water Program's Provision C3 Technical Guidance Manual. Applicants may also refer to the Bay Area Storm water Management Agencies Association (BASMAA) *Start at the Source Manual* for technical guidance.

18. Landscape Plans: Prior to the issuance of a Building or Site Improvement Permit, the developer/applicant shall include landscape and irrigation plans for both on-site and off-site improvements consistent with the Town Center Plan and MIP, if applicable. The plans shall be prepared, signed, and stamped by a licensed landscape architect and shall be in accordance with the AMC and other regional jurisdictional requirements. The landscape architect shall also assume responsibility for inspection of the work and shall certify to the City, prior to acceptance of the work, that the installation of landscaping and irrigation in the public right-of-way was constructed in accordance with the approved plans.
19. Waste Water: A sanitary sewage flow analysis, identifying the total peak sanitary sewage flow quantities generated by the proposed development shall be prepared by a registered civil engineer licensed in the State of California and submitted as part of the construction Improvement Plans and/or Building Permit Plans. The City will provide the analysis to an independent consultant who will assess the impact of the proposed development on the City's sanitary sewer system and determine if any improvements to the City's system are required to ensure sufficient sewage capacity for this project and any anticipated growth within the associated sewer sub-area. The applicant/developer will pay for the cost of the modeling study. The applicant/developer will incorporate any recommended improvements from the sewer study into the project's improvements plans and be consistent with the MIP.
20. Private Sewer Lateral Program: Upon transfer or ownership, consistent with the City's private sewer lateral replacement ordinance, the property owner shall comply with the provisions of the EBMUD Regional Private Sewer Lateral Program (which the City is a participant of). Compliance requires that each parcel be issued a Compliance Certificate by EBMUD for the upper lateral. The applicant/developer shall schedule verification testing directly with EBMUD. The Public Works Department will inspect and perform verification testing for the public and private sewer mains, manholes, and other appurtenances in the public or private streets within the parcel, including lower laterals. The City will provide their acquired test results for sewer infrastructure that is privately-owned to EBMUD so Compliance Certificated can be issued for those parcels. Review the program requirements and cost for Compliance Certificates at <http://www.eastbaypsl.com/>.
21. Storm Drainage: A storm drainage hydrology analysis identifying the total peak drainage flow quantities to be generated by a proposed development shall be prepared by a registered civil engineer licensed in the State of California and submitted as part of the Construction Improvement Plans and/or Building Permit

Plans. The improvements plans will include any recommended improvements and be consistent with the MIP.

22. Fire Water: The Improvement Plans and Building Permit Plans for the project site shall include a Fire Water System consistent with the MIP. The system shall be designed to the satisfaction of EBMUD and the Alameda Fire Department. The Applicant shall be responsible for the placement of on-site hydrants. The location and number of hydrants shall be established in improvements plans. Placement shall be shown on the Improvement Plans and shall be to the satisfaction EBMUD, the City Fire Chief and the City Engineer.
23. Fire Safety: Prior to approval of the Improvement Plans, and/or Building Permit Plans, the applicant shall submit plans for review and approval by the Public Works Director and the Fire Chief, that:
- a Provide fire hydrants spaced throughout the project as required in California Fire Code Appendix C. Ensure sufficient fire flow for the development compliant with California Fire Code Appendix B and AMC 15-1.2 where a maximum reduction of the fire flow can be reduced by 50% for fire sprinklered buildings.
 - b Fire hydrant flows shall be a minimum of 1,500 G.P.M. from any one hydrant;
 - c Provide adequate turn around space or acceptable emergency vehicle through access for any street greater than 150 feet in length;
 - d Ensure that all roads that are required to be fire access roads have an adequate turning radii for fire apparatus (inside turning radius of 28' and outside turning radius of 44'8"); and
 - e For all roads designated as fire access roads shall have a minimum fire lane width of 20' or 26' unobstructed. Should parking within the fire lane be required, the fire lane width is to be increased to an additional 8' per side for vehicle parking.
24. Utilities: The Improvement Plans and Building Permit Plans shall include facilities and improvements to ensure that utility services are maintained for existing users throughout the construction process and the access to such service for maintenance purposes is preserved throughout the construction process for new utilities.
25. Easements: Prior to approval of the Improvement Plans, and/or Building Permit, the applicant shall provide offers of dedication for any public utility, emergency access or public access easements associated with the proposed utilities or fire safety requirements.

Solid Waste

25. Waste Management Plan: The applicant/developer shall submit a Waste Management Plan (WMP) to the Public Works Environmental Services Division for approval, if

applicable. The plan shall describe how the trash and debris will be handled. The WMP shall be submitted by the developer to Environmental Services prior to start of the demolition, remodeling, or construction work. The Public Works Environmental Services Division will review the WMP, and will provide comments that shall be incorporated into the plans for the project. The project is subject to the WMP requirement of section 21-24 of the AMC, and must recycle at least 50% of total debris hauled from the project.

26. External Enclosures: Design of all external enclosures for solid waste, recycling, and organics shall be approved by the Public Works Director prior to approval of the improvements plans, or the building permit, whichever comes first. These facilities are to be designed to prevent water run-on to the area, runoff from the area, and to contain litter, trash, and other pollutants, so that these materials are not dispersed by the wind or discharged to the storm drain system. External enclosures are to be roofed and/or enclosed. Any enclosures containing food waste shall have floor drains connected to the sanitary sewer system. If the enclosures are attached to buildings they shall have fire sprinklers. Internal collection and storage area(s) and the individual bins and containers provided, shall be adequate in capacity, number, and distribution to serve the anticipated demand for trash, recycling, and organics as determined by the Public Works Director.
27. Collection: Internal collection and storage area(s) and the individual bins and containers provided, shall be adequate in capacity, number, and distribution to serve the anticipated demand for trash, recycling, and organics as determined by the Public Works Department. The trash collection areas shall be accessible to residents and employees. Each storage area shall be no more than 250 feet from any dwelling unit, or in the garage. Trash enclosures and/or recycling area shall be covered; no other area shall drain onto these areas. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. The applicant shall contact the City and East Bay Municipal Utility District (EBMUD) for specific connection and discharge requirements prior to building permit issuance. Discharges to the sanitary sewer are subject to the review, approval, and conditions of the City and EBMUD.
28. Fitted Lids: All solid waste containers, including dumpsters and individual cans or carts, must have fitted lids which shall remain closed at all times when the container is not being used

Construction Conditions

29. Hazardous Materials. The applicant/developer shall provide documentation from a qualified professional to the City of Alameda stating that adequate soils and ground water investigations and, where warranted, remediation, have been conducted to ensure that there will be no significant hazard related risks to future site users. The

project sponsor shall ensure that all proposed areas for demolition and abatement shall be assessed by qualified licensed contractors for the potential presence of lead based paint or coatings, asbestos containing materials, and PCB-containing equipment prior to issuance of a demolition permit. During Construction the developer/applicant shall ensure that all construction crews are properly trained and made aware of any site contamination issues consistent with the Alameda Point Site Management Plan (SMP) and MMRP.

30. Utilities: If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Community Development Department, and carry out any necessary corrective action to their satisfaction.


Alameda Municipal Power (AMP)

31. The applicant shall comply to AMP's Rules and Regulations as stated in Article X and AMP's "Material and Installation Criteria for Underground Electrical Systems" (both available at www.alamedamp.com) and provide completed "Service Planning Sheets" for AMP's review prior to submitting plans for building permits.
32. The applicant shall provide information on the location of transformers and total load in kilowatts or kilowatt/volts (KVA) to AMP for approval prior to building permit issuance. If necessary, the applicant shall provide (at no charge to AMP) an easement and access to all AMP facilities on the property prior to issuance of building permits.

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 23rd day of January, 2017, by the following vote to wit:

AYES: (6) Köster, Burton, Curtis, Knox White, Sullivan and Zuppan
NOES: (0)
ABSENT: (1) Mitchell

ATTEST:

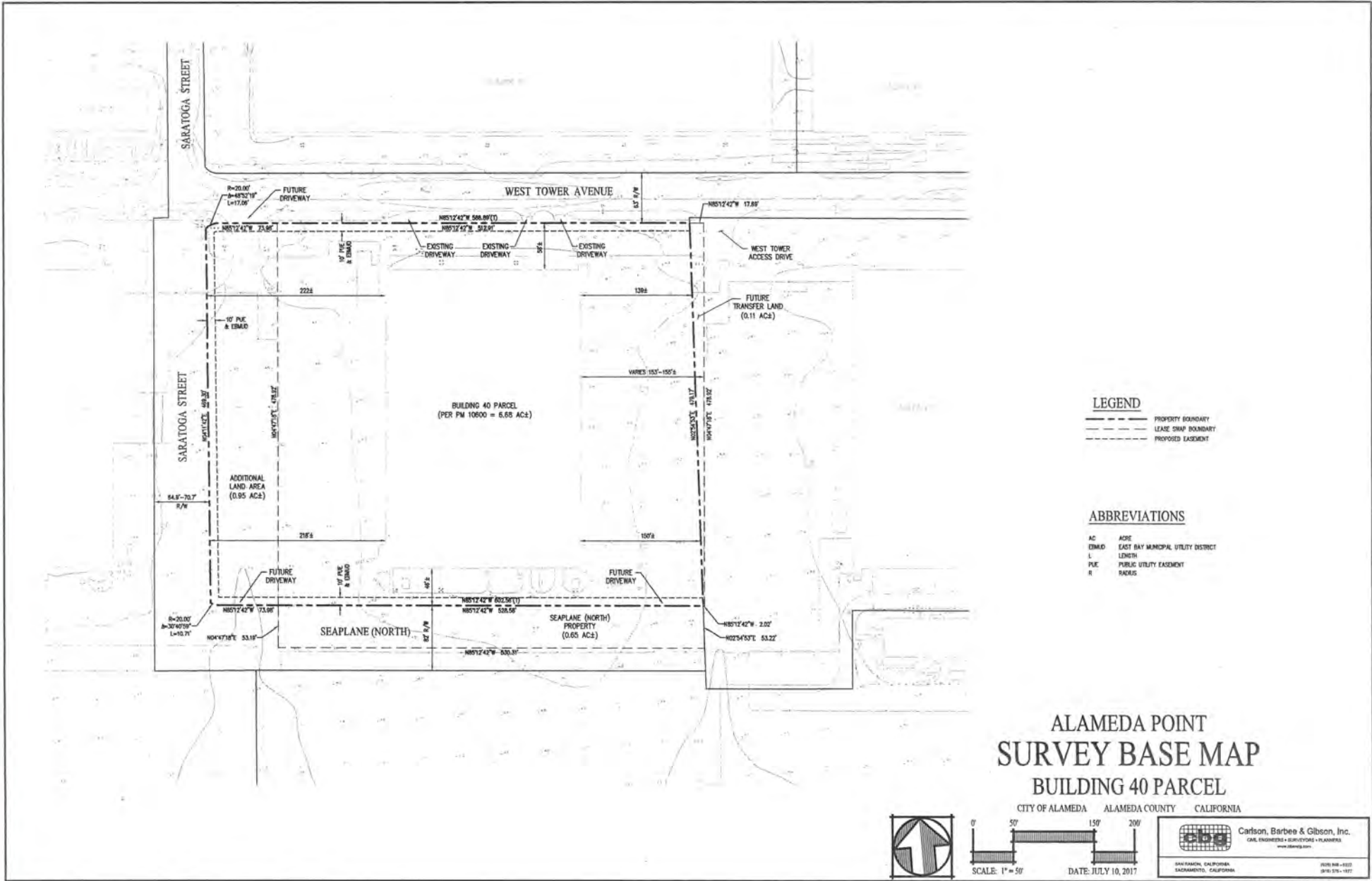


Andrew Thomas, Secretary
City of Alameda Planning Board

* * * * *

EXHIBIT A-2

Survey



LEGEND

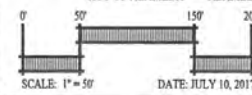
- PROPERTY BOUNDARY
- LEASE SWAP BOUNDARY
- PROPOSED EASEMENT

ABBREVIATIONS

- AC ACRES
- EMD EAST BAY MUNICIPAL UTILITY DISTRICT
- L LENGTH
- PUE PUBLIC UTILITY EASEMENT
- R FEET

ALAMEDA POINT SURVEY BASE MAP BUILDING 40 PARCEL

CITY OF ALAMEDA ALAMEDA COUNTY CALIFORNIA



DATE: JULY 10, 2017



Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS & PLANNERS

SAN FRANCISCO, CALIFORNIA

SACRAMENTO, CALIFORNIA

9275 9th - 2022

9215 27th - 1977

REVISIONS TO CONTRACT WORK SHALL BE MADE BY ADDITIONAL SHEETS TO THIS SET.

EXHIBIT B

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

800 West Tower Avenue, LLC
c/o Bladium, Inc.
800 W. Tower Ave.
Alameda, CA 94501

Attn: Brad Shook

SPACE ABOVE THIS LINE FOR RECORDER'S USE

RECIPROCAL EASEMENT AGREEMENT

THIS RECIPROCAL EASEMENT AGREEMENT, entered into as of this ___ day of _____ 2017 ("**Agreement**"), by and between the **CITY OF ALAMEDA**, a charter city and municipal corporation (hereinafter referred to as "**City**") and **800 WEST TOWER AVENUE, LLC**, a Delaware limited liability company, (hereinafter referred to as "**Owner**") is made with reference to the following:

RECITALS:

A. Pursuant to that certain Agreement for Purchase and Sale by and between the City as seller, and Bladium, Inc., a California corporation ("**Bladium**"), as buyer with an effective date of _____, 2017 (the "**PSA**") as assigned by Bladium to Owner, the City has agreed to sell to Owner a certain parcel of real property located at Alameda Point, commonly known as 800 West Tower Avenue, Alameda, California. To create a legal parcel to convey to Owner, the City will file and record a parcel map. In furtherance thereof, the City has prepared parcel map #10600 (the "**Parcel Map**"), a copy of which is attached hereto as **Exhibit A**. The property to be conveyed to Owner at Closing of the PSA is identified on the Parcel Map as Parcel A ("**Owner Parcel**").

B. The Parcel Map includes the reservation of public right of ways for Saratoga Street abutting the western edge of the Owner Parcel and Seaplane North, abutting the southern edge of the Owner Parcel. That approximately 0.64 acre strip identified on the survey (the "**Survey**") attached hereto as **Exhibit B** as the future Seaplane North right of way ("**Seaplane North Property**") is currently used by Bladium for ingress, egress and parking under a lease agreement with the City, dated as of June 16, 2000, as amended (the "**Lease**"), which Lease, as between City and Bladium, was terminated upon closing of the PSA (the "**Closing**"). That approximately 0.95 acre portion of the Owner Parcel abutting Saratoga Street, identified on the Survey as the "**Additional Land Area**" is currently used by the public as a drive aisle, providing access to various properties.

C. It is the intent of the parties hereto that Owner may use the Seaplane North Property for ingress, egress and parking and the Additional Land Area shall remain a drive aisle, available for public use, all as set forth herein below.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. RECITALS. The recitals set forth above are true and correct and are incorporated herein by this reference.

2. RECIPROCAL GRANT OF EASEMENTS. The City hereby grants to Owner and Owner's respective employees, agents, representatives, consultants, contractors, customers and invitees (collectively the "**Owner Grantees**") a non-exclusive easement over the Seaplane North Property for ingress, egress and parking, consistent with its historical uses under the Lease. Owner hereby grants to the City, for the benefit of and use by the public (collectively the "**City Grantees**") a non-exclusive easement over the Additional Land Area as a drive aisle, open to the public (each of the easements described in this Section 2 is referred to herein individually as "**Temporary Easement**" and collectively as the "**Temporary Easements**"). The Seaplane North Property and the Additional Land Area are sometimes collectively referred to herein as the "**Temporary Easement**" Areas.

3. TERM OF TEMPORARY EASEMENTS. The term of the Temporary Easements ("**Term**") granted hereby shall commence as of the Closing and shall remain in effect until the earlier of (a) the date upon which the parties agree to terminate the Temporary Easements or (b) the day that is ninety (90) days after that day upon which the City provides a written notice to Owner that the Temporary Easement Areas are required for development of the Saratoga Street and Seaplane North right of ways. It is the intent of the parties that the Temporary Easements reciprocally granted hereby terminate simultaneously.

4. CONSIDERATION. The Temporary Easement granted by the City for use of the Seaplane North Property and the Temporary Easement granted by Owner for use of the Additional Land Area is each deemed to be adequate consideration for the other.

5. RESTRICTIONS. The Temporary Easement Areas are located on property known as the former Naval Air Station Alameda, which was conveyed to the City by the United States of America, acting by and through the Department of the Navy by a quitclaim deed dated June 4, 2013, recorded June 6, 2013 as Series No. 2013-199812 of Official Records in the Office of the County Recorder, Alameda County, California ("**Quitclaim Deed**"). Said Quitclaim Deed conveyed the Temporary Easement Areas subject to certain covenants, conditions, restrictions, easements, and encumbrances as set forth therein. The Temporary Easement Areas are further encumbered by those certain restrictions set forth in the Declaration of Restrictions (Former Naval Air Station Alameda) dated June 4, 2013 and recorded June 6, 2013 as Series No.: 2013-199782 in the Office of the County Recorder of Alameda County ("**Declaration of Restrictions**"). Each party acknowledges receipt of copies of the Quitclaim Deed and Declaration of Restrictions. Use of the Temporary Easement Areas is further restricted by the National Environmental Protection Act Record of Decision ("**ROD**") for the disposal and reuse of the former Naval Air Station Alameda, and all conditions contained therein. The covenants, conditions, restrictions, easements, rights-of-way, reservations, rights, agreements, and encumbrances set forth in the Quitclaim Deed, Declaration of Restrictions and the ROD, as they affect the Temporary Easement Areas, are collectively referred to herein as the "**Restrictions**." Any use of the Temporary Easement Areas shall comply with the Restrictions and a failure to so comply shall constitute a default under this Agreement.

6. COMPLIANCE WITH LAWS. The use by Owner of the Seaplane North Property and the City's use of the Additional Land Area shall be in accordance with all applicable laws, ordinances, rules, regulations and codes of the City, county, state and federal authorities, including the Restrictions.

7. HOLD HARMLESS. Owner shall indemnify, defend and hold harmless the City, and its City Council members, officers and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses, including reasonable attorneys' fees, regardless of the merits or outcome of any claim or suits in any manner connected to use by the Owner Grantees of the Seaplane North Property except if and to the extent caused by the gross negligence or willful misconduct of the City Grantees. The City will indemnify and hold harmless Owner and its officers and employees from and against any and all loss, damages, liability, claims, suits, costs and expenses, including reasonable attorneys' fees, regardless of the merits or outcome of any claims or suits in any manner connected with the use by the City Grantees of the Additional Land Area except if and to the extent caused by the gross negligence or willful misconduct of Owner or its officers and employees.

8. INSURANCE. Owner shall maintain in full force throughout the Term, commercial general liability insurance providing coverage on an occurrence form basis with limits of not less than Two Million Dollars (\$2,000,000.00) each occurrence for bodily injury and property damage combined, covering bodily injury and property damage liability. The policy of liability insurance required by this Section shall: (i) contain a cross liability endorsement or separation of insureds clause; (ii) provide that any waiver of subrogation rights or release prior to a loss does not void coverage; (iii) provide that it is primary to and not contributing with, any policy of insurance carried by the City covering the same loss; (iv) provide that any failure to comply with the reporting provisions shall not affect coverage provided to the City, its partners and property managers; and (v) name the City, RiverRock Real Estate Group and such other parties in interest as the City may from time to time reasonably designate to Owner in writing, as additional insureds in an Additional Insured Endorsement. Such additional insureds shall be provided at least the same extent of coverage as is provided to Owner under such policies. The additional insured endorsement shall be in a form at least as broad as endorsement form number CG 20 11 01 96 promulgated by the Insurance Services Office. On or before Closing, Owner shall furnish to the City a certificate of insurance reflecting that the insurance required by this Article is in force, accompanied by an endorsement(s) showing the required additional insureds satisfactory to City in substance and form. Owner shall, from time to time throughout the Term, provide evidence to the City that such insurance requirements remain in effect.

9. PROHIBITION AGAINST TRANSFERS. Except as otherwise set forth in Section 11 below, Owner shall not assign, sublicense, hypothecate, or transfer its Temporary Easement for the use of Seaplane North or any interest therein directly or indirectly, by operation of law or otherwise, except in connection with a sale or conveyance of the Owner Parcel. Any attempt to do so shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. Notwithstanding the foregoing, Bladium or any affiliate of Owner may use the Temporary Easement in connection with Bladium's or such affiliate's operation of its business on the Owner Parcel.

10. MAINTENANCE AND ALTERATIONS. During the Term of this Agreement, the City shall maintain the Additional Land Area in its current condition and Owner shall maintain the Seaplane North Property in its current condition. No material changes or alteration shall be made to either the Additional Land Area or Seaplane North Property.

11. LIENS. Except as otherwise expressly set forth herein below, neither party shall permit any mechanic liens or any other liens against the Temporary Easement Areas or any of Owner's interests under this Agreement. Each party shall indemnify, hold harmless and defend the other from any liens and encumbrances arising out of any work performed or materials

furnished by or at the direction of said party. In the event that said party shall not, within ten (10) days following the imposition of any such lien, cause such lien to be released of record by payment or posting of a proper bond, the other party shall have, in addition to all other remedies provided herein or by law, the right, but not the obligation, to cause the same to be released by such means as it may deem proper, including payment of the claim giving rise to such lien. All such sums paid and expenses reasonably incurred in connection therewith, including attorneys' fees and costs, shall be payable by the other party on demand. This Section 11 shall not prohibit Owner from recording against the Additional Land Area any deed of trust in connection with any financing obtained by Owner.

12. NOTICES. All notices, demands, requests, consents, or approvals which may or are required to be given by either party to the other shall be in writing and shall be deemed given upon actual delivery (unless delivery occurs on a Sunday or holiday, in which case notice will be deemed given on the next-succeeding business day) or refusal of delivery during normal business hours when sent by United States Certified or Registered Mail, postage prepaid, or by reputable overnight delivery service or personal delivery as follows:

12.1 If to City:

City Manager
City of Alameda
Alameda City Hall
2263 Santa Clara Avenue
Alameda, CA 94501-4566
Telephone: (510) 747-4700

12.2 If to Owner:

800 West Tower Avenue, LLC
c/o Bladium, Inc.
800 W. Tower Ave.
Alameda, CA 9501
Attn: Brad Shook
Telephone: (510) 814-4999 ext. 104

12.3 Notwithstanding the addresses provided in subsections 12.1 and 12.2 of this section, any party may from time to time designate an alternate and/or additional address by notice.

13. CONDITION OF TEMPORARY EASEMENT AREAS. The Temporary Easement Areas are delivered in "as is, where is," condition and configuration without any representations or warranties, and subject to all matters of record and all applicable laws, ordinances, rules and regulations.

14. ATTORNEYS' FEES. The prevailing party in any action or proceeding against the other party by reason of a claimed default or otherwise arising out of a party's performance or alleged non-performance under this Agreement, shall be entitled to recover from the other party its costs and expenses of suit, including, but not limited to, reasonable attorneys' fees, which fees shall be payable whether or not such action is prosecuted to judgment.

15. AUTHORITY. Each person who signs this Agreement on behalf of a party represents and warrants that he or she has full and complete authority to execute this Agreement and to thereby bind said party to the terms and conditions of this Agreement.

16. NO DEDICATION. Section 2 above notwithstanding, nothing herein contained shall be deemed to be a gift or dedication of the Additional Land Area to the general public or for the general public, it being the intention and understanding of the parties that this Agreement be strictly limited to and for the purposes herein expressed and that any rights the afforded the general public are by and through the authority of the City and shall terminate upon the expiration or earlier termination of the Temporary Easement over the Additional Land Area

17. SEVERABILITY. If any provision of this Agreement or application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement (including the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable) shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

18. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties with respect to the subject matter and, except as otherwise provided for in this Agreement, may be terminated prior to its automatic expiration or amended only in a writing signed by both parties.

19. SUCCESSORS AND ASSIGNS. Except as otherwise expressly provided herein, this Agreement, and all of the easements, licenses, rights, duties, powers, covenants, conditions, restrictions and obligations contained in this Agreement shall run with the Owner Parcel and Temporary Easement Areas and shall be binding upon the parties and their respective heirs, successors (by merger, consolidation or otherwise), and assigns, and all other persons or entities acquiring any interest in the Owner Parcel or the Temporary Easement Areas, or portion thereof or interest therein, whether by operation of law or in any manner whatsoever.

20. COUNTERPARTS. This Agreement and any amendments hereto may be executed in counterparts, each of which is deemed an original and all of which, when taken together constitute one and the same instrument.

IN WITNESS WHEREOF, the City and Owner have respectively signed and sealed this Agreement as of the day and year first above written.

OWNER:

800 West Tower Avenue, LLC
a Delaware limited liability company

By _____

Name: _____

Title: _____

CITY:

CITY OF ALAMEDA, a charter city and
municipal corporation

By _____

Jill Keimach
City Manager

Approved as to form:

By _____
Janet Kern
City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Francisco)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT A

Parcel Map

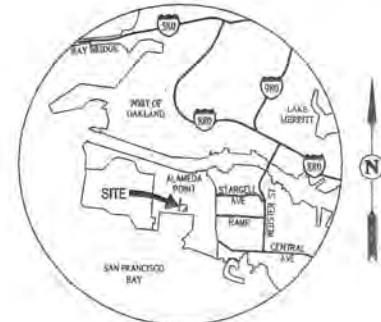
PARCEL MAP 10600 BUILDING 40

CONSISTING OF 3 SHEETS
BEING A SUBDIVISION OF
PHASE I AGREED TRUST LANDS PARCEL EIGHT
INSTRUMENT NO. 2014154596, ALAMEDA COUNTY OFFICIAL RECORDS
AND DESIGNATED REMAINDER PER TRACT 8315, FILED AUGUST 23, 2016
IN BOOK 341 OF MAPS, PAGE 82, ALAMEDA COUNTY RECORDS
CITY OF ALAMEDA, ALAMEDA COUNTY, CALIFORNIA

Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

MAY 2017



VICINITY MAP
NOT TO SCALE

OWNER'S STATEMENT

THE UNDERSIGNED HEREBY STATES THAT IT IS THE OWNER OF OR HAS SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THIS MAP; THAT IT IS THE ONLY ENTITY WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; AND THAT IT HEREBY CONSENTS TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE; AND HEREBY CONSENTS TO ALL DEDICATIONS AND OFFERS OF DEDICATION THEREIN.

THE UNDERSIGNED ALSO HEREBY STATES THAT THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED IN FEE FOR PUBLIC PURPOSES: SARATOGA STREET AND SEAPLANE (NORTH) FOR PUBLIC ROADWAY AND PUBLIC UTILITY PURPOSES.

THE UNDERSIGNED ALSO HEREBY STATES THAT THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS AN EASEMENT FOR PUBLIC PURPOSES: FOR PUBLIC UTILITIES AND THEIR APPURTENANCES AND THE RIGHT TO CONSTRUCT, INSTALL, MAINTAIN AND REPLACE SUCH UTILITIES AND THEIR APPURTENANCES UNDER, ON, OVER THE STRIPS OF LAND DESIGNATED "PUBLIC UTILITY EASEMENT" (PUE) ON SAID MAP. SAID PUBLIC UTILITY EASEMENT SHALL BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT LAWFUL FENCES, SURFACE PAVEMENT, LAWFUL UNSUPPORTED ROOF OVERHANGS, LANDSCAPING, IRRIGATION SYSTEMS, UTILITY COMPANY STRUCTURES AND APPURTENANCES THEREOF.

THE AREA MARKED EBMDJ IS DEDICATED TO EAST BAY MUNICIPAL UTILITY DISTRICT AS A PERPETUAL EASEMENT FOR THE PURPOSE OF CONSTRUCTING, INSTALLING, REPLACING, MAINTAINING, OPERATING AND USING FOR THE TRANSMISSION AND DISTRIBUTION OF WATER, A PIPE OR PIPELINES AND ALL NECESSARY FIXTURES INCLUDING UNDERGROUND TELEMETRY AND ELECTRICAL CABLES OR APPURTENANCES THEREON, IN, UNDER, ALONG AND ACROSS SAID EASEMENT. TOGETHER WITH THE RIGHT OF INGRESS TO AND EGRESS FROM SAID EASEMENT AND THE RIGHT AT ALL TIMES TO ENTER IN, OVER AND UPON SAID EASEMENT AND EVERY PART THEREOF. SAID EBMDJ EASEMENT AREA MAY BE LANDSCAPED IN A MANNER CONSISTENT WITH EAST BAY MUNICIPAL UTILITY DISTRICT'S USE; HOWEVER, NO BUILDING OR STRUCTURE MAY BE PLACED ON SAID EASEMENT; NO TREES MAY BE PLANTED WITHIN THE EASEMENT AREA AND NO CHANGES MAY BE MADE TO THE EXISTING SURFACE ELEVATION (GRADE) OF THE EASEMENT AREA BY MORE THAN ONE (1) FOOT, NOR SHALL ANYTHING BE DONE THEREON WHICH MAY INTERFERE WITH EAST BAY MUNICIPAL UTILITY DISTRICT'S FULL ENJOYMENT OF SAID EASEMENT. EAST BAY MUNICIPAL UTILITY DISTRICT WILL ACCEPT SAID EASEMENT BY SEPARATE INSTRUMENT.

THIS MAP SHOWS ALL THE EASEMENTS OF RECORD ON THE PREMISES.

AS OWNER: CITY OF ALAMEDA, A CALIFORNIA MUNICIPAL CORPORATION

BY: _____

NAME: _____

TITLE: _____

OWNER'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF _____, SS.
COUNTY OF _____

ON _____, BEFORE ME, _____, A
NOTARY PUBLIC, PERSONALLY APPEARED _____, WHO
PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE
NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT
HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT
BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON
BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT
THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

SIGNATURE: _____

NAME (PRINT): _____

PRINCIPAL PLACE OR COUNTY OF BUSINESS: _____

MY COMMISSION NUMBER: _____

MY COMMISSION EXPIRES: _____

CLERK OF THE BOARD OF SUPERVISORS' CERTIFICATE

I, ANIKA CAMPBELL-BELTON, CLERK OF THE BOARD OF SUPERVISORS FOR THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE, AS CHECKED BELOW:

- [] AN APPROVED BOND HAS BEEN FILED WITH SAID BOARD IN THE AMOUNT OF \$ _____
CONDITIONED FOR THE PAYMENT OF ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES
WHICH ARE NOW A LIEN AGAINST SAID LAND OR ANY PART THEREOF, BUT NOT YET PAYABLE AND
WAS DULY APPROVED BY SAID BOARD IN SAID AMOUNT.
- [] ALL TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES HAVE BEEN PAID, AS STATED BY THE
TREASURER-TAX COLLECTOR OF THE COUNTY OF ALAMEDA.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS _____ DAY OF _____
20____.

ANIKA CAMPBELL-BELTON
CLERK OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

BY: _____
DEPUTY COUNTY CLERK

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 2017, AT _____ M. IN BOOK _____ OF MAPS, AT
PAGES _____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA,
STATE OF CALIFORNIA, AT THE REQUEST OF FIRST AMERICAN TITLE COMPANY.

FEES: _____

SERIES NO.: _____

STEVE MANNING,
COUNTY RECORDER
COUNTY OF ALAMEDA, CALIFORNIA

BY: _____
DEPUTY

PARCEL MAP 10600

BUILDING 40

CONSISTING OF 3 SHEETS
BEING A SUBDIVISION OF
PHASE 1 AGREED TRUST LANDS PARCEL EIGHT
INSTRUMENT NO. 2014154596, ALAMEDA COUNTY OFFICIAL RECORDS
AND DESIGNATED REMAINDER PER TRACT 8315, FILED AUGUST 23, 2016
IN BOOK 341 OF MAPS, PAGE 82, ALAMEDA COUNTY RECORDS
CITY OF ALAMEDA, ALAMEDA COUNTY, CALIFORNIA

Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

MAY 2017

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF THE CITY OF ALAMEDA IN AUGUST 2014. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY AND THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED, OR THAT THEY WILL BE SET IN SUCH POSITIONS ON OR BEFORE DECEMBER 2019, AND THAT THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED AND THE SURVEY IS TRUE AND COMPLETE AS SHOWN.

SABRINA KYLE FACK, P.L.S.
L.S. NO. 8164

DATE _____



CITY ENGINEER'S STATEMENT

I, SHAHRAM AGHAMIR, CITY ENGINEER OF THE CITY OF ALAMEDA, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT I HAVE EXAMINED THE HEREIN EMBODIED PARCEL MAP ENTITLED "PARCEL MAP 10600, BUILDING 40, CITY OF ALAMEDA, ALAMEDA COUNTY, CALIFORNIA", CONSISTING OF 3 SHEETS, THIS STATEMENT BEING UPON SHEET TWO (2) THEREOF, AND THAT THE SUBDIVISION AS SHOWN ON SAID PARCEL MAP IS SUBSTANTIALLY THE SAME AS SAID SUBDIVISION APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL THE PROVISIONS OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA AND AMENDMENTS THERE TO AND ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS _____ DAY
OF _____, 20__.

SHAHRAM AGHAMIR, R.C.E. 048093
CITY ENGINEER, CITY OF ALAMEDA
COUNTY OF ALAMEDA, CALIFORNIA

ACTING CITY SURVEYOR'S STATEMENT

I, ALVIN LEUNG, ACTING CITY SURVEYOR FOR THE CITY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT I HAVE EXAMINED THE HEREIN EMBODIED PARCEL MAP ENTITLED "PARCEL MAP 10600, BUILDING 40, CITY OF ALAMEDA, ALAMEDA COUNTY, CALIFORNIA," AND FOUND THE PARCEL MAP TO BE TECHNICALLY CORRECT.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS _____ DAY
OF _____, 20__.

ALVIN LEUNG, L.S. 6630
ACTING CITY SURVEYOR, CITY OF ALAMEDA
COUNTY OF ALAMEDA, CALIFORNIA



CITY CLERK'S STATEMENT

I, LARA WEISIGER, CITY CLERK OF THE COUNCIL OF THE CITY OF ALAMEDA, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DO HEREBY STATE THAT THE HEREIN EMBODIED PARCEL MAP ENTITLED, "PARCEL MAP 10600, BUILDING 40, ALAMEDA, CALIFORNIA", CONSISTING OF 3 SHEETS, THIS STATEMENT BEING UPON SHEET TWO (2) THEREOF, WAS PRESENTED TO SAID COUNCIL OF THE CITY OF ALAMEDA AS PROVIDED BY LAW AT A REGULAR MEETING HELD ON THE _____ DAY OF _____, 20__ AND THAT SAID COUNCIL OF THE CITY OF ALAMEDA DID THEREON BY RESOLUTION NO. _____, DULY PASSED AND ADOPTED AT SAID MEETING, APPROVE SAID MAP AND ACCEPT ON BEHALF OF THE CITY OF ALAMEDA AND THE PUBLIC, ALL PARCELS OF LAND OFFERED FOR FEE, SUBJECT TO IMPROVEMENT, AND ALL EASEMENTS AS OFFERED FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF THE OFFERS OF DEDICATION.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL
THIS _____ DAY OF _____, 20__.

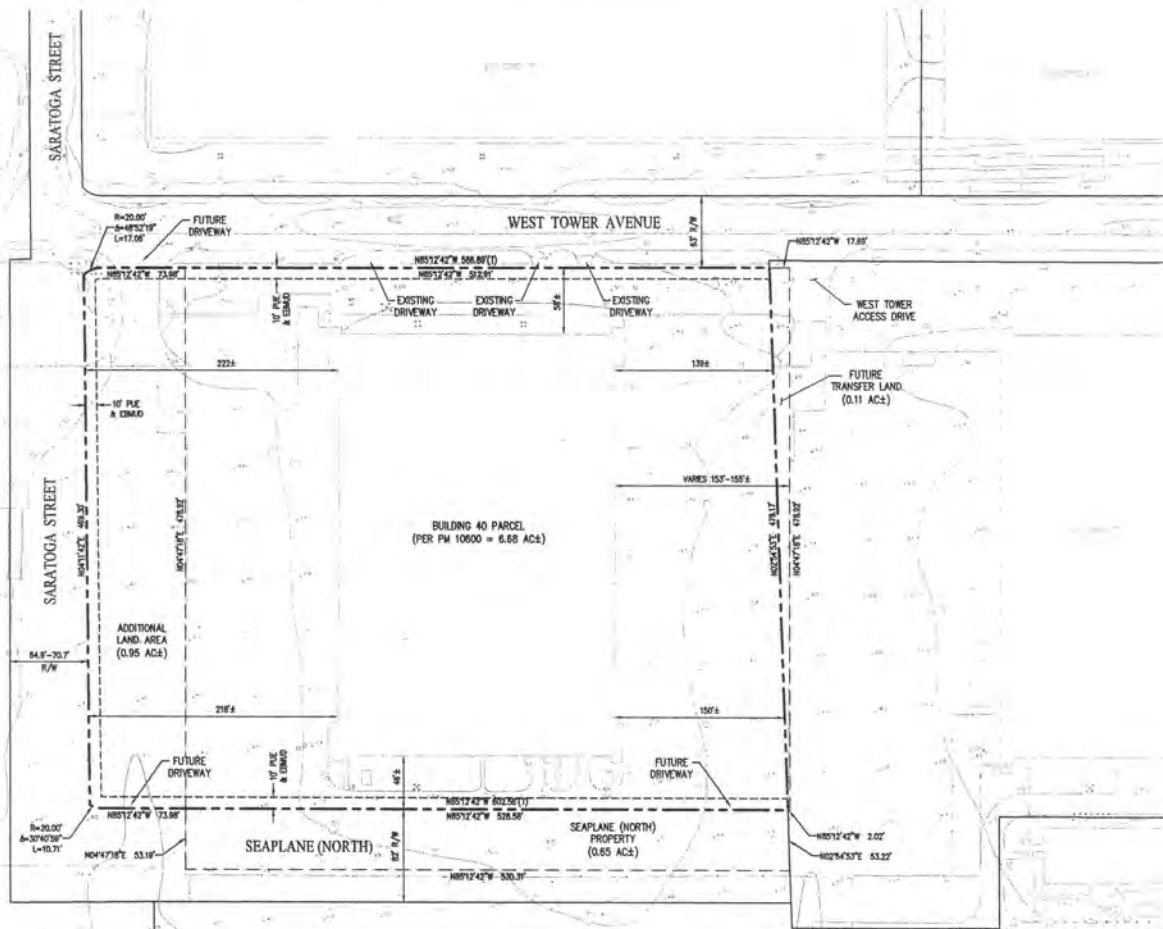
LARA WEISIGER, CITY CLERK AND CLERK OF THE
CITY COUNCIL, CITY OF ALAMEDA
COUNTY OF ALAMEDA, STATE OF CALIFORNIA

SOILS AND GEOLOGICAL REPORT

A PRELIMINARY GEOTECHNICAL EXPLORATION REPORT ON THIS PROPERTY HAS BEEN PREPARED BY ENCO, INC., PROJECT NO 5492.100.102, DATED APRIL 8, 2003, COPIES OF WHICH HAVE BEEN FILED WITH THE CITY CLERK OF THE CITY OF ALAMEDA.

EXHIBIT B

Survey



LEGEND

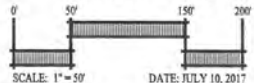
- PROPERTY BOUNDARY
- - - LEASE SHAP BOUNDARY
- - - PROPOSED EASEMENT

ABBREVIATIONS

- AC ACRE
- EBMUD EAST BAY MUNICIPAL UTILITY DISTRICT
- L LENGTH
- PUE PUBLIC UTILITY EASEMENT
- R RADIUS

**ALAMEDA POINT
SURVEY BASE MAP
BUILDING 40 PARCEL**

CITY OF ALAMEDA ALAMEDA COUNTY CALIFORNIA



DATE: JULY 10, 2017

cbg Carlson, Barbee & Gibson, Inc.
 CEA, ENGINEERS • SURVEYORS • PLANNERS
 www.carlsoncbg.com

SAN RAMON, CALIFORNIA
 SACRAMENTO, CALIFORNIA

(925) 948-1882
 (916) 371-1987

REVISION: 01-2017-ALAMEDA POINT SURVEY BASE MAP FOR BUILDING 40 PARCEL, 01-2017-ALAMEDA POINT SURVEY BASE MAP

EXHIBIT C

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

800 West Tower Avenue, LLC
c/o Bladium, Inc.
800 W. Tower Ave.
Alameda, CA 94501
Attention: Brad Shook

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AGREEMENT REGARDING USE RESTRICTIONS

THIS AGREEMENT REGARDING USE RESTRICTIONS ("**Agreement**") is dated as of _____, 2017, by and between CITY OF ALAMEDA, a charter city and municipal corporation ("**City**"), and 800 WEST TOWER AVENUE, LLC, a Delaware limited liability company ("**Owner**").

RECITALS:

A. The City is the owner of certain improved real property located at 800 W. Tower Avenue as more particularly described and depicted on **Exhibit A** attached hereto and made a part hereof (the "**Parcel**").

B. Concurrently herewith, the City is conveying the Parcel to Owner in accordance with the terms of that certain Purchase and Sale Agreement by and between the City, as seller, and Bladium, Inc. ("**Bladium**"), as buyer, with an effective date of _____, 2017 (the "**PSA**"), as assigned by Bladium to Owner. Owner's fee simple interest in the Parcel is referred to herein as the "**Benefitted Property**".

C. Pursuant to the terms of the PSA, for good and valuable consideration, the City has agreed and does impose upon that certain real property commonly known as Alameda Point, as more particularly described in **Exhibit B** attached hereto and made a part hereof (the "**Burdened Property**") certain use restrictions.

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

1. Maintenance Standards. As consideration for the granting of the Use Restrictions (as defined below), Owner agrees to maintain, or cause to be maintained, the Building and the Property (including any in-line hockey, arena soccer, fitness center and rock climbing facilities, restrooms and commons use facilities, if any) in good condition and repair, subject only to normal wear and tear. Such maintenance obligations also include the surface of all parking areas and drive aisles, all surface and storm lateral drainage systems, sanitary sewer lateral connections and exterior lighting fixtures (collectively, the "**Maintenance Standards**"). Owner's compliance with the Maintenance Standards shall be judged by a comparative standard with the custom and practice generally applicable to comparable high quality sports, recreational and fitness facilities with comparable prices for similar services in Alameda and Contra Costa Counties.

2. Use Restrictions. The Burdened Property shall not be used for the operation of a facility or business that includes any of the following activities: in-line hockey, arena soccer, fitness center and/or rock climbing (collectively the "**Use Restrictions**").

3. Exceptions. The Use Restrictions shall not apply to: (i) a fitness center in a hotel that is exclusively for the use of its guests; (ii) a fitness center in an apartment or condominium building or complex that is exclusively for the use of its residents and guests; (iii) a fitness center in premises owned or leased by a single company that is exclusively for the use of such company's employees and guests, including residents of assisted living facilities and employees of physical therapy facilities; (iv) a fitness center operated by a tenant not to exceed 2,000 usable square feet with respect to such tenant and its affiliates in a commercial building or complex for a not to exceed cumulative amount of 6,000 square feet within said building or complex with respect to all tenants that operate a fitness center; (v) public parks, including the 44-acre sports and recreational complex to be constructed on the Public Benefit Conveyance parcel of Alameda Point, whether operated by the City or a private party; or (vi) facilities owned and operated by the City of Alameda or by public or nonprofit schools (excluding any predominately sports training academies, sports camps or similar sports-oriented facilities); or (vii) hospitals, assisted living facilities, physical therapy or other physical rehabilitation facilities, owned or operated by other institutional governmental entities.

4. Restrictions Run with the Land. The Use Restrictions contained in this Agreement shall run with the Burdened Property and shall inure to the benefit of the Benefitted Property.

5. Breach. In the event of a breach or threatened breach of any of the terms, covenants, restrictions or conditions hereof, the non-breaching party shall be entitled forthwith to full and adequate relief by injunction and/or all such other available equitable remedies from the consequences of such breach.

6. Term. All of the Use Restrictions imposed by, and the rights granted Owner in this Agreement shall expire on the earlier of (a) the date Owner conveys, transfers, or alienates (whether voluntarily or involuntarily) its fee simple interest in the Benefitted Property, other than to a trustee under a deed of trust to secure a loan, except in the event of a foreclosure which shall terminate such Use Restrictions, or (b) June 30, 2035. Upon the request of the City, or any successor(s) in interest, Owner, or any successor in interest, shall execute, in a recordable format, such instrument(s) as may reasonably be requested for purposes of confirming the removal of the Use Restrictions from the Burdened Property, or any part(s) or parcel(s) thereof.

7. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the City and Owner.

8. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which, together, shall constitute one and the same instrument.

CITY:

CITY OF ALAMEDA,
a charter city and municipal corporation

By: _____
Jill Keimach
City Manager

Approved as to Form

By: _____
Janet Kern
City Attorney

OWNER:

800 West Tower Avenue, LLC
a Delaware company

By: _____
Name: _____
Date: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT A

Description of Benefitted Property

AUGUST 30, 2017
JOB NO.: 1087-010

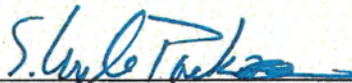
LEGAL DESCRIPTION
PARCEL A, PARCEL MAP 10600 (___ PM ___)
ALAMEDA, CALIFORNIA

REAL PROPERTY, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF
ALAMEDA, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING ALL OF PARCEL A, AS SAID PARCEL A IS SHOWN AND SO DESIGNATED ON
THAT CERTAIN PARCEL MAP 10600, FILED _____, IN BOOK
___ OF PARCEL MAPS, AT PAGE _____, IN THE OFFICE OF THE COUNTY
RECORDER OF ALAMEDA COUNTY.

END OF DESCRIPTION

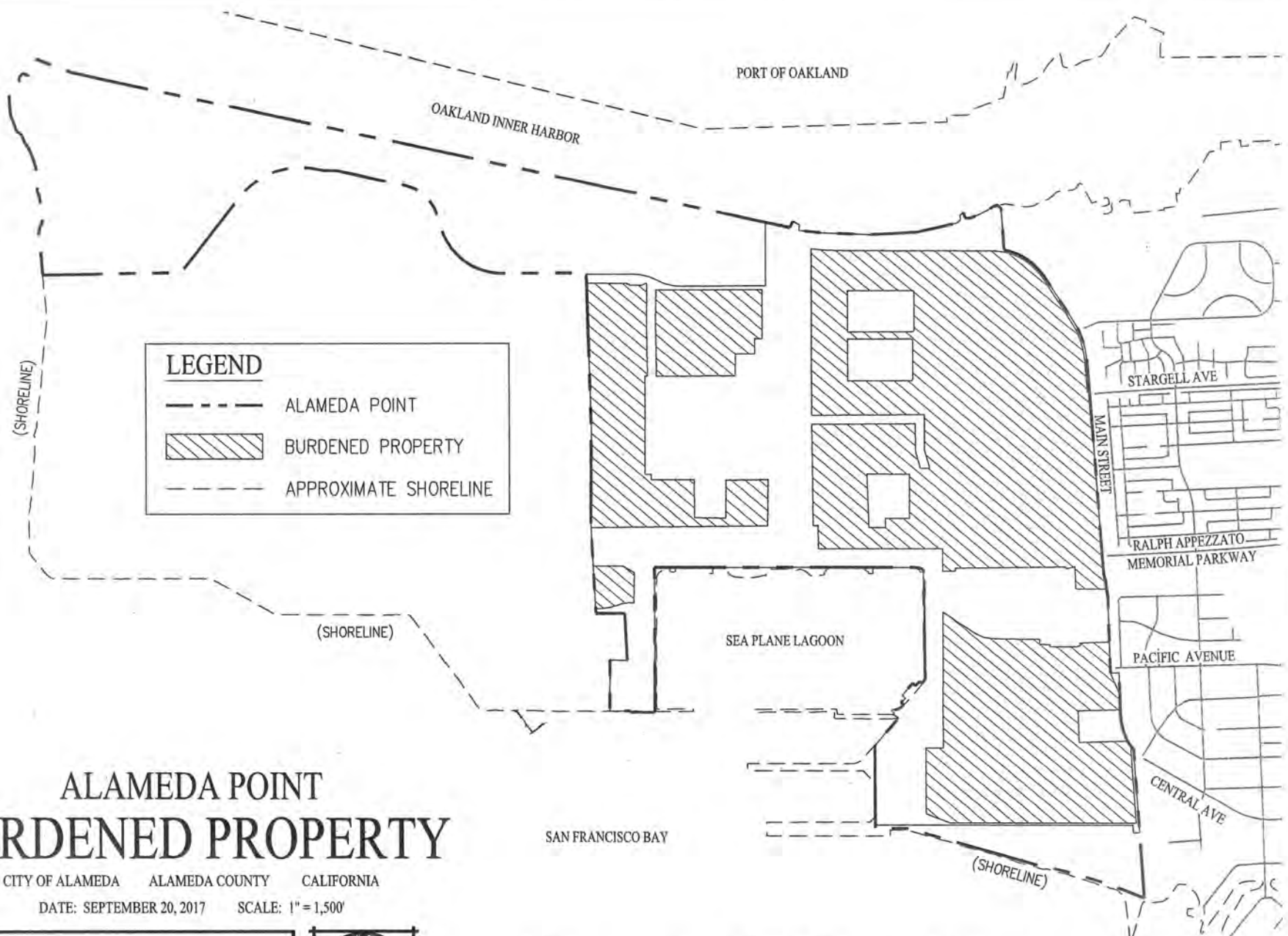







SABRINA KYLE PACK, P.L.S.
L.S. NO. 8164

EXHIBIT B

Description of Burdened Property




LEGEND

-  ALAMEDA POINT
-  BURDENED PROPERTY
-  APPROXIMATE SHORELINE

ALAMEDA POINT BURDENED PROPERTY

CITY OF ALAMEDA ALAMEDA COUNTY CALIFORNIA

DATE: SEPTEMBER 20, 2017 SCALE: 1" = 1,500'



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www.cbgsd.com

SAN RAMON, CALIFORNIA (925) 866 - 0322
 SACRAMENTO, CALIFORNIA (916) 375 - 1877






EXHIBIT D

[CITY OF ALAMEDA LETTERHEAD]

DATE: _____, _____, 2017

800 West Tower LLC
c/o Bladium, Inc.
800 W. Tower Avenue
Alameda, CA 94501
Attn: Brad Shook

**Re: Alameda Point Potable Water System Advisement and
Acknowledgement – Building 40**

Dear Brad:

This letter is an important advisement regarding the Alameda Point Potable Water System ("Water Supply System") and planned improvements. This letter is delivered in anticipation of the purchase of 800 W. Tower Avenue, Building 40, (the "Property") by 800 West Tower Avenue LLC ("Buyer")

Alameda Point's Water Supply System was designed, installed and operated by the Navy. Water was supplied by East Bay Municipal Utility District ("EBMUD"). However, the Water Supply System at Alameda Point was neither built, nor maintained to the standards of EBMUD. EBMUD does not own the Water Supply System, and the Water Supply System does not meet EBMUD standards. By purchasing property at Alameda Point, Buyer will not automatically become a customer of EBMUD and until the Water Supply System is brought up to EBMUD standards, Buyer cannot become an EBMUD customer, nor will Buyer have any legal access to water from EBMUD. Until such time as the Water Supply System is brought up to EBMUD standards, water will be provided by the City by means of the City's current water supply system. Buyer will be charged and billed by the City for its water usage at a rate no greater than the rate paid by the City to EBMUD, and may bill Buyer at a lower rate.

The City of Alameda is committed to replacing the water infrastructure at Alameda Point. To that end, the City has entered into that certain Ten-Year Water Infrastructure Agreement Between East Bay Municipal Utility District and City of Alameda Regarding Alameda Point (the "Water System Infrastructure Agreement"), so that at a point in the future the Alameda Point Water Supply System will meet all requirements set forth in EBMUD's Regulations Governing Water Service and Buyer will be able to become a customer of EBMUD. These requirements include the establishment of proper frontage on a District water main, compliance with all water efficiency requirements, and payment of certain fees. The City will be responsible for an amount not to exceed \$526,000 for

System Capacity Charges ("SCC") and an amount not to exceed \$124,000 for Wastewater Capacity Fees ("WCF") assessed by EBMUD necessary for establishing initial EBMUD water services to the Property at the time the SCC and WCF are due to EBMUD. Buyer shall be responsible for the payment of any other fees and costs which may be assessed by EBMUD, including any SCC or WCF in excess of the above-referenced amounts.

Please indicate below, by signing and dating the original of this letter, that you have read and understood the contents of this letter. Please retain a copy of this letter for your files and return the signed and dated original to us.

Very truly yours,

City of Alameda, a municipal corporation

By: _____
Jill Keimach
City Manager

I have read and understand the contents of the above letter concerning Alameda Point's Potable Water System.

800 WEST TOWER AVENUE, LLC
a Delaware limited liability company

DATE

By: _____

Its: _____

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the ____ day of _____, 2017, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2017.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Janet C. Kern, City Attorney
City of Alameda