

**EXCLUSIVE NEGOTIATION AGREEMENT
BY AND BETWEEN
THE CITY OF ALAMEDA,
AND
PACIFIC FUSION CORPORATION**

This EXCLUSIVE NEGOTIATION AGREEMENT (“**Agreement**”) is entered into by and between the City of Alameda, a municipal corporation (“**City**”), and Pacific Fusion Corporation, a Delaware corporation (“**Pacific Fusion**”), as of the Effective Date (defined in Section 1). City and Pacific Fusion sometimes are referred to collectively as the “**Parties**” and either individually as a “**Party**”.

RECITALS

A. City is the owner of certain real property located within the City of Alameda, State of California commonly referred to as the former Alameda Naval Air Station, now known as Alameda Point. The property that is the subject of this Agreement is an approximately 12–15-acre portion of Site B at Alameda Point, which is depicted for convenience in Exhibit A, the boundaries of which will be finalized in conjunction with the negotiation of the Land Transfer Agreement (defined below) (“**Property**”).

B. In February 2014, the Alameda City Council approved a Master Infrastructure Plan, General Plan Amendment, Zoning Ordinance Amendment and certified an Environmental Impact Report for Alameda Point, including the Property. These documents (the “**Planning Documents**”) all relate to potential development of the Property. Pacific Fusion understands that any proposed Project (as described below) must be consistent with the Planning Documents.

C. Pacific Fusion seeks to engage with a developer to develop the Property, and potentially the Option Parcel (defined below), with a state of the art headquarters facility, which will include office, laboratory and research and development space components for its mission of powering the world with abundant, affordable, clean energy by harnessing fusion (“**Project**”). The developer engaged by Pacific shall be Hines Interests Limited Partnership (or its affiliate) or another developer otherwise acceptable to City in City’s reasonable discretion, and is hereafter referred to as the “**Developer**.”

D. City and Pacific Fusion seek to negotiate a transfer of the Property from City to Developer for development of the Project. The Parties intend to negotiate mutually acceptable terms and conditions for the transfer and development of the Project by negotiating an Option Agreement or a Purchase and Sale Agreement (the “**Land Transfer Agreement**” and a “**Development Agreement**”).

NOW, THEREFORE, in consideration of the foregoing, which are incorporated herein by reference, and the promises, covenants, and provisions set forth below, the receipt and adequacy of which consideration is acknowledged, Pacific Fusion and City agree as follows.

AGREEMENT

1. Term. The term of this Agreement shall commence on the date City Council approves this Agreement (the “**Effective Date**”) and shall extend for twenty-four (24) months thereafter unless sooner terminated or extended as herein provided (“**Initial Term**”).
2. Extended Term. The Initial Term plus any and all extensions of the Initial Term under this Section 2 are referred to collectively as the “**Term**.” The Initial Term and the twelve (12) month periods referenced in Sections 3, 5 and 6 may be extended three (3) times for up to three (3) months each time, which may be granted in the City Manager’s or designee’s reasonable discretion, so long as Pacific Fusion is continuing to negotiate in good faith and so long as there are no uncured material defaults by Pacific Fusion under this Agreement or by Pacific Fusion or Developer under the Right of Entry Agreement referenced below. Any extensions shall be in writing.
3. Negotiation of Land Transfer Agreement for Property. Within twelve (12) months of Effective Date, the Parties shall negotiate a proposed Land Transfer Agreement for submittal to City Council for its consideration. The Land Transfer Agreement will establish all material and essential business terms, timing and framework for the transfer of the Property. A summary of non-binding key terms to be included in the Land Transfer Agreement is attached as Exhibit B. Pacific Fusion understands and agrees that the City Manager shall have the right to determine in his/her good faith, reasonable discretion if the proposed Land Transfer Agreement is complete and sufficiently consistent with the intent described in this Section 3 to be placed on a City Council agenda. At the end of the Term, if (a) a proposed Land Transfer Agreement is not placed on a City Council agenda by the City Manager in accordance with this Section 3; (b) City Council does not approve a proposed Land Transfer Agreement; or (c) City Council does not conditionally approve a proposed Land Transfer Agreement with direction being given to staff as to required modifications where such modifications are made and a Land Transfer Agreement executed by Developer thereafter within a reasonable period of time, then the City shall have the right to terminate this Agreement by written notice to Pacific Fusion, in which case the Parties shall have no further rights and obligations one to another pursuant to this Agreement.
4. Negotiation of Option Agreement for Option Parcel. Pacific Fusion or Developer would like an option to acquire the remainder of Site B at Alameda Point (the “**Site B Remainder Parcel**”). City acknowledges that desire and would like to reasonably cooperate with Pacific Fusion or Developer. Only a portion of the Site B Remainder Parcel is owned by the City; such parcel owned by the City is referred to herein as the “**Option Parcel**.” During the Term, the Parties shall negotiate a proposed Option Agreement for submittal to the City Council for its consideration. At the end of the Term, if (a) a proposed Option Agreement for Option Parcel is not placed on a City Council agenda by the City Manager in accordance with this Section 4; (b) City Council does not approve a proposed Option Agreement for Option Parcel; or (c) City Council does not conditionally approve a proposed Option Agreement for Option Parcel with direction being given to staff as to required modifications where such modifications are made and an Option Agreement executed by Pacific Fusion or Developer thereafter within a reasonable period of time, then the City shall have the right to terminate this Agreement (but only with respect to the Option Parcel) by written notice to Pacific Fusion, in which case the Parties shall have no further rights and obligations one to another pursuant to this Agreement.

5. Negotiation of the Development Agreement or Other Mutually Agreeable Entitlement Process. Within twelve (12) months of Effective Date, the Parties and the Developer shall negotiate the proposed terms of the Development Agreement for submittal to City Council for its consideration. The Development Agreement will document the material and essential business terms and framework for the development of the Property and, if so acquired, the Option Parcel and timing. The Development Agreement shall also include (a) requirements and conditions for a proposed Development Plan, as more fully described in Alameda Municipal Code Section 30-4.13(j) ("**Development Plan**") for the Project, (b) a "**Phasing Plan**" for the Project, and (c) a "**Milestone Schedule**" for each phase of the Project. Pacific Fusion understands and agrees that the City Manager shall have the right to determine in his/her reasonable discretion if the proposed Development Agreement is complete and sufficiently consistent with the intent described in this Section 5 to be placed on a City Council agenda. At the end of the Term, if (a) if the City Manager does not place a proposed Development Agreement, including a Phasing Plan, Milestone Schedule and Financing Plan, on a City Council agenda in accordance with this Agreement; or (b) City Council does not approve a proposed Development Agreement, including a Phasing Plan, Milestone Schedule, and Financing Plan, then this Agreement shall expire and the Parties shall have no further rights and obligations one to another pursuant to this Agreement. If the City determines that a Development Agreement is not necessary in City's sole discretion, then this Agreement shall not expire for failure to place a Development Agreement on the City Council Agenda.
6. Processing of Development Plan and Development Agreement.
 - 6.1 Within twelve (12) months of Effective Date, Pacific Fusion or Developer shall apply for and City shall process a Development Plan for the Project for consideration by the City Planning Board.
 - 6.2 Within twelve (12) months of Effective Date, Pacific Fusion or Developer shall apply for and, provided the application is made, City shall process a Development Agreement for the Project for consideration by the Planning Board and the City Council.
7. City Responsibilities. During the Term, City shall do the following to further the negotiation process:
 - 7.1 Exclusive Negotiations. City shall negotiate exclusively with Pacific Fusion and Developer regarding the Project, the Property, the Option Parcel and the terms of the Land Transfer Agreement and Development Agreement and shall not solicit, market to or negotiate with any other person or entity regarding the Project or the Property or the Option Parcel, or otherwise solicit or entertain bids or proposals to do so.
 - 7.2 Retention of Discretionary Authority. City shall negotiate in good faith with Pacific Fusion and Developer during the Term with respect to the Land Transfer Agreement, Development Plan, Development Agreement and any other Project entitlements Developer may reasonably elect to apply for during the Term. Pacific Fusion understands and agrees that by entering into this Agreement, City is making no commitment that it will approve a Land Transfer Agreement or a Development Agreement, including a, Financing Plan, Phasing Plan and/or Milestone Schedule for the Project, or a Development Plan for the Project. City

specifically retains the right to approve or deny a proposed Land Transfer Agreement and/or Development Agreement, including a Phasing Plan and/or Milestone Schedule and/or Financing Plan, approve or deny a Development Plan, and/or to approve an alternative(s) and/or to impose any conditions or mitigation measures upon the Project in accordance with the discretion accorded to City pursuant to applicable law.

8. Pacific Fusion Responsibilities. During the Term, Pacific Fusion shall do the following, at its sole expense, to further the negotiation process:

- 8.1 Refundable Deposits to Offset City Expenses.

- 8.1.1 Within thirty (30) days after execution of this Agreement by all parties, Pacific Fusion shall wire transfer to City a deposit of Seventy-Five Thousand Dollars (\$75,000) (“**Deposit**”). Within ten (10) business days’ notice from City that less than \$15,000 of the Deposit remains in the possession of the City (after application of such Deposit by City to the payment of the costs to be funded by such Deposit pursuant to this Section 8.1), Pacific Fusion shall wire transfer to City such additional amount as is required in order to increase the amount of the Deposit then being held by the City back to the original balance of the Deposit.

- 8.1.2 If payment is not received by City within the time periods specified in Section 8.1.1 above, this Agreement shall immediately terminate.

The Deposit shall be used by City to fund pre-development costs incurred by it, which shall consist of third-party consultant and legal costs and expenses and City staff time, related to the negotiation and preparation of this Agreement, the Land Transfer Agreement and Development Agreement. Any and all such costs and expenses shall be incurred in accordance with a budget prepared by City and approved by Pacific Fusion, which approval shall not be unreasonably withheld, and which budget may be amended from time to time with the approval of City and Pacific Fusion, which approval shall not be unreasonably withheld. If amendments to the budget cannot be agreed to by Pacific Fusion or City, either party may terminate this Agreement. Unused portions of the Deposit at termination of this Agreement will be refunded to Pacific Fusion. City has the sole and exclusive discretion as to the use of the Deposits in accordance with such approved budget and over the selection and oversight of its outside counsel and consultants. City shall not be obligated to disclose attorney-client communications or work product, or privileged or confidential information or documents, or other documents beyond the requirements of the Public Records Act.

- 8.2 Community Engagement Plan. Pacific Fusion and/or Developer shall submit a Community Engagement Plan to the City within 60 days of execution of this Agreement. The City shall review and provide feedback on this plan within 30 days of receipt. Additionally, Pacific Fusion and/or Developer shall commit to participating in no less than five meetings with community groups prior to submittal of this Community Engagement Plan, to provide information about the proposed Development and education about nuclear fusion.

- 8.3 Further Entitlements. Pacific Fusion and/or Developer shall seek further entitlements, as needed, for development of the Project, including but not limited to, preparation of a proposed Development Plan. Pacific Fusion understands and agrees that, subject to any Development Agreement approved by City for the Project, the Project will be required to conform to City's approval processes and ordinances and be consistent with City's Zoning Ordinance, General Plan, Alameda Point Master Infrastructure Plan, and specific plans applicable to the Property as now approved, or as may be in effect at the time Pacific Fusion and/or Developer submits a preliminary application (or completed application, if Pacific Fusion and/or Developer does not submit a preliminary application) for the Project.
- 8.4 Due Diligence. Pacific Fusion and/or Developer shall conduct any and all investigations they deem necessary to negotiate the terms of the Land Transfer Agreement and Development Agreement regarding the physical condition of the Property and the condition of title to the Property at the time of transfer. If Pacific Fusion's or Developer's due diligence requires entry on the Property, they will be required to sign a Right of Entry with City in a form provided by City, which shall include City's standard indemnification and insurance requirements. Pacific Fusion shall have the right to terminate this Agreement in connection with such due diligence or for any other reason, in its sole discretion, upon five (5) business days' prior written notice to City. Upon such termination by Pacific Fusion, (i) Pacific Fusion shall have no obligation to pay any Deposit that is not yet due pursuant to Section 8.1 above and City shall refund the unused portion of such Deposit, and (ii) Pacific Fusion and/or Developer shall, subject to the rights of third parties, deliver to City copies of all final third-party reports regarding the physical condition of the Property prepared for and received by Pacific Fusion or Developer during the Term (provided that Pacific Fusion and Developer shall be entitled to withhold any attorney-client privileged, attorney work product, confidential, and/or proprietary materials) and, if City reimburses the costs of preparing the same, shall, subject to the contractual rights of third parties, without representation or warranty and at no additional out-of-pocket cost to Pacific Fusion, use commercially reasonable efforts to assign to City in writing their rights to such materials; provided that they shall not be obligated to deliver such materials to the City in the event of a City breach of its obligations pursuant to Section 7.1 herein.
- 8.5 Financing and Project Pro Forma. Pacific Fusion shall provide evidence, reasonably satisfactory to City, of the Developer's financial ability to undertake and successfully complete the proposed Project, including the following:
- Financing Plan – including a pro forma for review and approval by City that includes sources (including evidence of commitments or availability) and uses for financing the Project.
 - Financing Statement – make available for confidential review audited (or if audited financial statement are not available, unaudited certified by Developer's chief financial officer) financial statements for the past two (2) years for the Developer entity which is anticipated to provide a completion guaranty to the Project construction lender in connection with the ultimate development of the Project. If not available, provide documented evidence of

prior project development transactions in which substantially all of the funding was obtained by Developer, its affiliates or a member of its development team. Subject to any written confidentiality restrictions imposed on and in effect as to Developer, this information should identify the Project lenders and the size and material terms of the loans, as well as the equity investors, the equity investment amounts and the material terms applicable to the equity contribution applicable to the Property Development.

- 8.6 Project Team. Pacific Fusion or Developer shall identify key individuals on their Project team who will be dedicated to working with City during negotiation of the Land Transfer Agreement and negotiation and implementation of the Development Agreement. Additionally, Pacific Fusion or Developer shall provide City with a list of its primary consultants, including but not limited to, architectural, engineering, legal, financial and construction.
 - 8.7 Reports. At any time requested by City, but not more frequently than quarterly, Pacific Fusion shall make oral and summary form written progress reports advising City on all progress being made on the responsibilities listed in this Section 8.
9. Meetings. Pacific Fusion and/or Developer and City staff, as needed, shall meet or hold a conference call approximately every two (2) weeks during the Term to negotiate the Land Transfer Agreement and the Development Agreement and discuss the status of activities and tasks related to the negotiations and the Project, the accomplishment of such activities and tasks and other such matters as City or Pacific Fusion or Developer reasonably requests.
10. Representations and Warranties.
 - 10.1 Duly Formed and Validly Existing. Pacific Fusion represents and warrants that it is a Delaware corporation, duly formed and validly existing under the laws of the State of Delaware and qualified to do business in California.
 - 10.2 Pacific Fusion Authority. Pacific Fusion represents and warrants that the person executing this Agreement has the full right, power and authority to execute this Agreement and to bind Pacific Fusion hereunder. Pacific Fusion agrees to provide City with evidence of this authority prior to execution of this Agreement,.
 - 10.3 City Authority. City represents and warrants that the person executing this Agreement on behalf of City has the full right, power and authority to execute this Agreement and bind City hereunder and that all necessary City Council, and other City approvals have been obtained.
11. No Assignment. City is entering into this Agreement with Pacific Fusion based on Pacific Fusion's mission and vision for the Property and the development experience and track record of its selected development team including the Developer.
 - 11.1 This agreement may be assigned by Pacific Fusion to an affiliate of Pacific Fusion or Developer. For purposes of this Agreement, "affiliate" of a person or entity shall mean any corporation, partnership, limited liability company, trust or other person or entity controlling, controlled by or under common control with the

person or entity in question (whether directly or indirectly through one or more intermediaries).

- 11.2 Except as otherwise provided herein, Pacific Fusion may not sell, assign or transfer any of its rights or obligations under this Agreement, without obtaining the prior written consent of the City, which consent shall not be unreasonably withheld.
- 11.3 It is anticipated that the Developer will enter into a lease of the Property with Pacific Fusion upon the closing of the Land Transfer Agreement or completion of the development of the Project.
12. Notices. All notices required or permitted under this Agreement shall be delivered in person; by facsimile, email or overnight courier with written confirmation of receipt, or by registered or certified mail, postage prepaid, return receipt requested, to such Party at its address shown below, or to such other address designated in writing by such Party:

Notices to the City:

City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501
Attn: Jennifer Ott, City Manager and
Abby Thorne-Lyman, Director, Base Reuse and Economic Development
Telephone: 510.872-2686
Email: athornelyman@alamedaca.gov

With copies to:

City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501
Attn: Yibin Shen, City Attorney and
Len Aslanian, Assistant City Attorney
Telephone: 510.747.4773
Email: laslanian@alamedacityattorney.org

Notices to Pacific Fusion:

Pacific Fusion
Attn: Courtney Richardson, Infrastructure Lead
E-mail: courtney@pacificfusion.com
Attn: Mindy Eihusen, Head of Finance
E-mail: mindy@pacificfusion.com

With copies to:

Hines Interests Limited Partnership
Attn: Shawn Hardy

101 California Street, Suite 1000
San Francisco, CA 94111
E-mail: shawn.hardy@hines.com

and

Cox, Castle & Nicholson LLP
50 California Street, Suite 3200
San Francisco, CA 94111
Attn: Kevin Crabtree

Telephone: (415) 262-5155
E-mail: kcrabtree@coxcastle.com

Notice shall be deemed received and effective on delivery, if delivered personally or upon receipt of confirmation if by facsimile, email or overnight courier; or three (3) days after deposit into the United States mail if delivered by registered or certified mail.

13. Limitations of this Agreement.

13.1 Limitations of City's Commitment. City is not, by entering this Agreement, committing itself to or agreeing to undertake any other acts or activities requiring the subsequent independent exercise of discretion by City or any agency or department thereof. This Agreement is merely an agreement to enter exclusive negotiations with respect to the Property and the Option Parcel according to the terms hereof, with all final discretion and approval in accordance with applicable law remaining with City Council as to any Land Transfer Agreement or Development Agreement, including Phasing Plan and Milestone Schedule, and Financing Plan and all proceedings and decisions in connection therewith and Planning Board as to the Development Plan. If negotiations under this Agreement result in a proposed Land Transfer Agreement and/or Development Agreement, City Council approval thereof may occur only after compliance, as may be required, with all applicable laws and ordinances including, without limitation, CEQA.

13.2 Limitations on Effect of the Agreement. This Agreement shall not obligate the Parties to enter into a Land Transfer Agreement or Development Agreement or to enter into any further agreement. City and Pacific Fusion agree that any development, permitting or other activities pertaining to the Property and Option Parcel are uncertain and that the negotiations contemplated by this Agreement may or may not result in a final agreement or development.

13.3 Effect of Expiration or Termination. If this Agreement expires under Section 1 (as extended under Section 2) or is terminated under Section 3 or 8, then neither Party shall have any further rights, obligations, or liability to the other Party under this Agreement.

13.4 City Termination Rights. If Pacific Fusion elects to exclusively pursue the development of the Project on another site, or otherwise has abandoned pursuing the Project on the Property, it shall promptly notify City of the same and City shall thereafter have the right to terminate the ENA.

14. Miscellaneous Provisions.

- 14.1 Entire Agreement. This Agreement, including the exhibits, contains the entire agreement as understood by the Parties with respect to the matters set forth herein.
- 14.2 Amendments. This Agreement may be amended only in a writing signed by all Parties and approved by City Council; provided that extensions of the Term in accordance with Section 2 shall not require City Council approval; and further provided that the City Manager shall have the authority to approve amendments that the City Manager determines to be immaterial.
- 14.3 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any action to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in Alameda County or, in the case of any federal claims, in federal court for the Northern District of California.
- 14.4 No Third-Party Beneficiaries. No third-party beneficiaries are intended to be created by this Agreement.
- 14.5 Limitation on Remedies. In any action or other legal or administrative proceeding to enforce this Agreement, or that otherwise may arise out of this Agreement, neither City nor Pacific Fusion shall be entitled to any damages or monetary relief. It is understood and agreed by the Parties that this Agreement is only to enable the Parties to negotiate the terms of a proposed Land Transfer Agreement and a proposed Development Agreement, including Phasing Plan, Milestone Schedule and Financing Plan, and Development Plan and/or other Project entitlements, on an exclusive basis during the Term. There is no commitment that any Land Transfer Agreement and/or Development Agreement, including Phasing Plan and Milestone Schedule or Development Plan, and/or other entitlements will be approved and no damages, monetary relief or specific performance shall be available to Pacific Fusion, Developer or City if a Land Transfer Agreement and/or Development Agreement, Phasing Plan and Milestone Schedule, or Development Plan and/or any other entitlements are not approved during the Term.
- 14.6 Waiver of Lis Pendens. It is expressly understood and agreed by the Parties that no lis pendens shall be filed against any portion of the Property with respect to this Agreement or any dispute or act arising from it.
- 14.7 Intentionally deleted.
- 14.8 Attorneys' Fees. In any action or other legal or administrative proceeding to enforce this Agreement, or that otherwise may arise out of this Agreement, each Party shall pay its own attorneys' fees and costs.
- 14.9 Headings. The section headings in this Agreement are for convenience only; they do not explain, modify, or add to the meaning of this Agreement.

- 14.10 Interpretation. This Agreement is the result of the combined efforts of the Parties. If any provision is found ambiguous, the ambiguity will not be resolved by construing this Agreement in favor of or against either Party, but by construing the terms according to their generally accepted meaning.
- 14.11 Time Periods. Any time period to be computed under this Agreement shall be computed by excluding the first day and including the last day. If the last day falls on a Saturday, Sunday or legal holiday, the last day will be extended until the next day City is open for business. All references to days in this Agreement shall mean calendar days unless otherwise expressly specified. [City offices are closed on Fridays and therefore any reference to business days shall mean Monday through Thursday], unless one of those days is a holiday observed by City.
- 14.12 Severability. The provisions of this Agreement are severable. The invalidity or unenforceability of any provision in this Agreement will not affect the other provisions.
- 14.13 Successors and Assigns. This Agreement is binding on and will inure to the benefit of the Parties and their respective successors. This Agreement cannot be transferred or assigned except as permitted by the terms of this Agreement.
- 14.14 Independent Capacity. Nothing in this Agreement is intended to or does establish the Parties as partners, co-venturers or principal and agent with each another.
- 14.15 Conflict of Interest. No officer or employee of City shall hold any financial interest in this Agreement (California Government Code § 1090).
- 14.16 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement.
- 14.17 Electronic Signatures. This Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.
- 14.18 Exhibits. The following exhibits are attached to this Agreement and incorporated herein as though set forth in full for all purposes:

Exhibit A – Diagram of the Property

Exhibit B - Summary of Non-Binding Key Terms for the Land Transfer Agreement

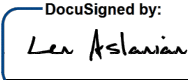
[Signatures on following page]

CITY:

CITY OF ALAMEDA,
a California municipal corporation

By: _____
Jennifer Ott
City Manager

APPROVED AS TO FORM:
CITY ATTORNEY

By:  _____
765D25E39B18464...
Len Aslanian
Assistant City Attorney

PACIFIC FUSION:

PACIFIC FUSION
a Delaware corporation

By:  _____
E048F5788DEB4A6...
Name: Keith LeChien
Title: Chief Technology Officer

Exhibit A

Diagram of the Property

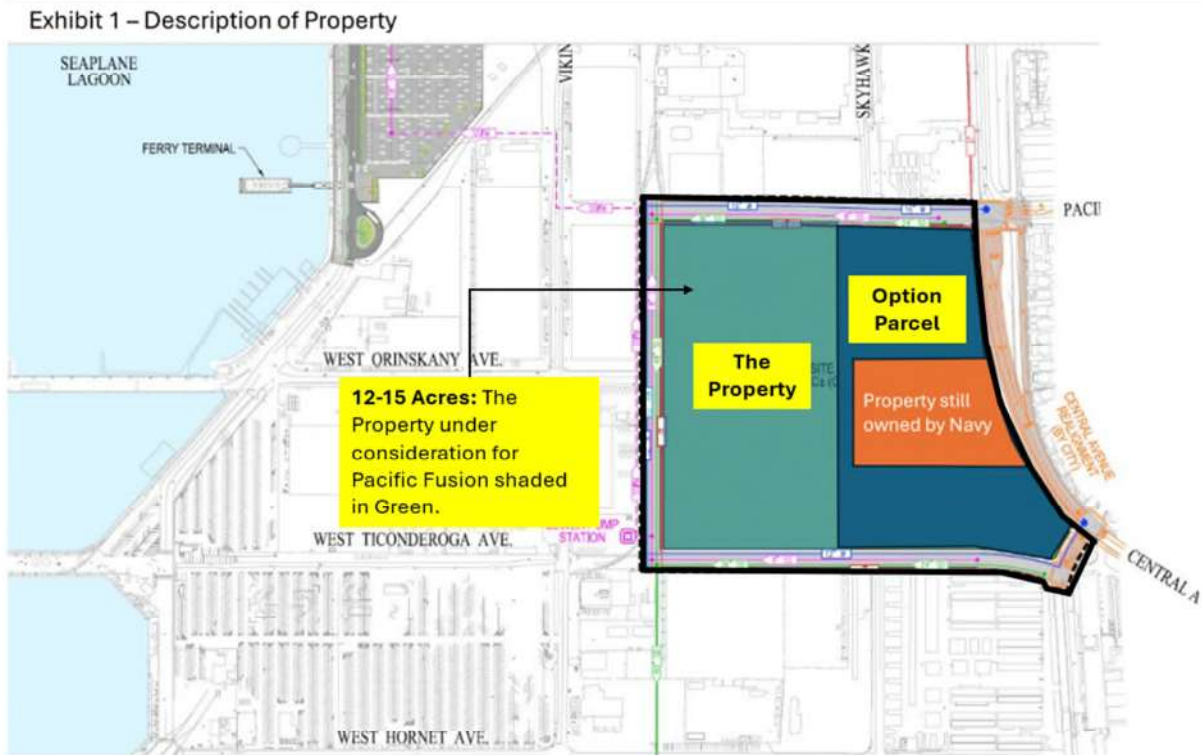


Exhibit B

Summary of Non-Binding Key Terms for the Land Transfer Agreement

1. The Buyer or Optionee shall be Pacific Fusion or the Developer ("**Buyer**").
2. Initial Deposit or Option Consideration (applicable to purchase price if closing), subject to further discussion
3. Due Diligence Period or Term of Option: 12 months beginning the effective date of the ENA
4. Extension(s) of Due Diligence Period or Option Term and Extension Payments: Three options to extend of three months each. Extension fee of \$_____ per extension, applicable to purchase price and non-refundable.
5. Closing Date: the earlier of (a) 30 days after Buyer obtains the building permit for completion of the Project, or (b) _____.
6. Purchase Price: To be paid in kind by construction of infrastructure improvements. The cost of such infrastructure improvements is estimated to be \$_____. Buyer is responsible for any costs over that and may retain any savings.
7. Due Diligence covering: (a) physical condition of the Property, (b) zoning, governmental use restrictions, (c) Buyer's ability to obtain entitlements; (d) title and survey
8. Title and escrow company: William Wagasy at Commonwealth Land Title Insurance Company.
9. Closing Costs: Buyer pays for title insurance premium and escrow fees, as well as all customary County and City transfer taxes and Cushman & Wakefield's commission.
10. Representations and warranties by City and Buyer as to authority and authorization
11. Representations and warranties by City as to possessory rights, no defaults, no litigation
12. AS-IS sale, subject to due diligence
13. Hazardous Materials: Navy and Chevron responsible for hazardous materials as further described I in the Land Transfer Agreement
14. Right of Entry: - Typical City permit for right of entry
15. Assignment and Transfer: - Subject to prior City consent not to be unreasonably withheld.
16. Obligation to construct offsite and onsite infrastructure improvements. Infrastructure improvements include without limitation demolition and site preparation, environmental remediation by the Navy or Chevron as applicable, flood protection and site grading, dewatering, sanitary sewer, storm drain, potable water, recycled water, dry utilities, on-site street work, transportation, and other improvements required by the City of Alameda

Municipal Code, as well as the related soft costs.

17. Covenant Running with the Land as to infrastructure improvements and project development.
18. Right of repurchase for failure to reach milestones, subject to mutually agreeable milestones to be specified in the Land Transfer Agreement.
19. Option to acquire the Option Parcel for 5 years after the Closing, subject to terms and conditions to be negotiated.
20. Other terms and conditions as Buyer and City agree.