

PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (“**Agreement**”) is made and entered into as of _____, 2024 for reference purposes only, by and between the CITY OF ALAMEDA, a California charter city and municipal corporation (“**Seller**”), and the ALAMEDA EMERGENCY FOOD, a California 501(c)(3) non-profit public benefit corporation dba ALAMEDA FOOD BANK (“**Buyer**”). The last date upon which both Buyer and Seller have executed this Agreement and delivered the same to one another, shall hereinafter be referred to as the “**Effective Date**”.

RECITALS

A. The Naval Air Station Alameda, the Fleet and Industrial Supply Center, Alameda Annex and Facility (“**NAS**”), which encompasses the Naval facilities and grounds comprising the western end of the City of Alameda and consist of approximately 1,546 acres of real property, together with the buildings, improvements and related other tangible personal property located thereon and all rights, easements and appurtenances thereto, was decommissioned by the United States Department of the Navy (“**Navy**”) in 1993 and closed in 1997.

B. In 1996, the Alameda Reuse and Redevelopment Authority (“**ARRA**”), of which the City was a member, the Local Reuse Authority under federal base closure law, approved the NAS Community Reuse Plan (“**Reuse Plan**”), as amended in 1997, to establish a plan for the reuse and redevelopment of the property at the former NAS, a portion of which (west of Main Street) is commonly referred to as Alameda Point. The Reuse Plan set forth specific policy and planning goals and objectives with regards to the disposition and use of property at the NAS.

C. The **ARRA**, predecessor-in-interest to the Seller, (“**Lessee**”) and the United States of America, Department of the Navy, (the “**Government**”) entered into that certain Lease in Furtherance of Conveyance dated June 6, 2000 (“**LIFOC**”) whereby Lessee leased the real property commonly referred to as the former NAS for 50 years and with the intention that when portions of the leased premises were conveyed to the Lessee, the LIFOC would automatically terminate over that portion of the NAS property.

D. On October 1, 2000, the ARRA and Nextel of California, Inc. (“**Subtenant**”) entered into that certain Original Agreement of Sublease, Sublease of Building 624, (“**Cell Tower Lease**”) located at 625 W. Ranger Ave, Alameda, CA, as amended, and evidenced by that certain Memorandum of Agreement recorded November 15, 2000, as Instrument No. 2000339015 and assigned to TowerCo Assets LLC pursuant to that certain Assignment and Assumption of Ground Lease, recorded March 11, 2009, as Instrument No. 2009072048, both recorded in the Official Records of the County of Alameda, California; as further amended by that certain Third Amendment to Agreement of Sublease dated March 1, 2018, whereby Subtenant leased certain premises located on NAS property known as Building 624, containing approximately 240 square feet, together with the improvements and fixtures situated therein and adjoining parcel to include the use of an existing 150’ lattice cell tower and equipment and appurtenant land (“**Cell Tower Premises**”). This Cell Tower Lease was originally subordinate and subject to the 2000 LIFOC; however, since the Cell Tower Premises has been conveyed to the City, the Cell Tower Lease is no longer a sublease.

E. The Seller intends to sell and Buyer desires to purchase the Property and include

the Cell Tower Lease as part of the purchase. The Property shall remain subject to the Cell Tower Lease which will remain in full force and effect after the Close of Escrow.

F. The Property is currently subject to that certain Legally Binding Agreement and Property Lease dated December 3, 2010 ("**LBAPL**") entered into between the ARRA, the Alameda County Housing and Community Development Department and the Alameda Point Collaborative ("**APC Lessee**") whereby APC Lessee leased the premises known as Building 607 (also originally subordinate to the 2000 LIFOC, but converted to a lease when the NAS property was conveyed to City in 2013) for the purpose of providing services to homeless persons in Alameda County. The Seller, now as the Lessor, and APC Lessee intend to terminate the LBAPL and the APC Lessee will vacate Building 607 on or before the Close of Escrow or upon such time as further described in Section 7(g) below.

G. 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.

H. The Property to be sold pursuant to this Agreement is real property included in the conveyance to the City by the Government via Quitclaim Deed dated June 4, 2013, recorded June 6, 2013 as Series No.: 2013-199810 of Official Records in the Office of the County Recorder, Alameda County, California (the "**Navy Quitclaim Deed**"). Upon consummation of conveyance from the Government to the City, the City became both the landowner and the landlord under the leases and the LIFOC terminated as to the NAS property.

I. The Navy Quitclaim Deed conveyed the NAS property to the City subject to certain covenants, conditions, restrictions, easements and encumbrances as set forth therein. The NAS property was 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 ("**Declaration of Restrictions**"), and the Covenant to Restrict Use of Property also dated June 4, 2013 as recorded June 6, 2013 as Series No.: 2013-199837 (the "**CRUP**"), both recorded in the Official Records of the County of Alameda. Copies of the foregoing documents will be delivered to Buyer and listed as part of Seller's Deliveries as described in Section 5 of this Agreement.

J. Some of the NAS property that was conveyed by the Government in 2013, as set forth in Recital H above, was subject to a public trust that has since been resolved. Seller and the State of California, acting by and through the State Lands Commission, entered into the 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 ("**Exchange Agreement**") the public trust on certain lands within the NAS, including the property subject to this transaction, was terminated.

K. At the time the property was conveyed to the City by the Navy, the land upon which the NAS property was situated had not been surveyed, subdivided or assigned an Assessor's Parcel Number. The City has therefore prepared a Tentative Parcel Map ("Tract 8696") (the "**Tentative Map**") and draft conditions of approval (the "**Draft Conditions**"), a copy of which is attached hereto as **Exhibit A** and by this reference incorporated herein.

L. The City desires to sell to the Buyer and Buyer desires to purchase from Seller the Property pursuant to the terms and conditions further described in this Agreement.

M. Pursuant to Section 3-10 of the Charter of the City of Alameda, the City Council adopted Ordinance No. _____ authorizing the sale of the Property upon the terms and conditions set forth herein.

IN CONSIDERATION of the respective agreements hereinafter set forth, Seller and Buyer hereby agree as follows:

AGREEMENT

1. Recitals; Purchase and Sale of Property. The foregoing recitals are true and correct and are hereby incorporated herein by this reference. Subject only to the extent any express representations, warranties and covenants are contained in Section 10 of this Agreement, Seller hereby agrees to sell "AS-IS" and convey to Buyer, and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions set forth herein, the following real, personal and other property (collectively, the "**Property**"):

(a) That certain improved real property located in the City of Alameda, County of Alameda, State of California, identified as Lot 23 in the Tentative Map, consisting of a 1.7 acre parcel of land (the "**Land**"), together with all improvements of an approximately 9,500 square feet one-story building (known as Building No. 607) (at 677 W. Ranger Ave, Alameda, CA), the Cell Tower Lease area, and a parking lot comprising of approximately one (1) acre, together with all rights, privileges, easements or appurtenances to or affecting the Land (collectively, the "**Appurtenances**"), subject to those certain conditions, covenants and restrictions, including those contained within the Navy Quitclaim Deed, the Declaration of Restrictions and the CRUP, all as more fully described herein.

(b) Tangible Personal Property. All of Seller's right, title and interest, without warranty, in the equipment, machinery, furniture, fixtures, furnishings, supplies and other tangible personal property, all of which, if any, remaining in and on the Property (the "**Tangible Personal Property**"), shall be considered included in the sale at the Closing or upon APC Lessee's vacation of the Property.

(c) Intangible Personal Property. All of Seller's right, title and interest, if any, without warranty, in all intangible personal property related to the Real Property and the Improvements, including, without limitation, all to the extent assignable: the plans and specifications and other architectural and engineering drawings for the improvements, if any; warranties, if any; contract rights related to the construction, operation or management of the Property, if any (collectively, the "**Service Contracts**") (but Seller's right, title and interest therein shall only be assigned to the extent Seller's obligations thereunder are expressly assumed by Buyer pursuant to this Agreement); and governmental permits, approvals and licenses, if any (collectively, the "**Intangible Personal Property**"). At the closing, the Buyer acknowledges that the Seller does not have or intend to have any Service Contracts for or to the Property. In the event that the Parties agree in writing to the continuance of any Service Contract(s), a true and correct list of the Service Contracts, if any.

(d) Cell Tower Lease; Subject to Cell Tower Lease. All of Seller's right, title and interest in and as landlord or lessor under the Cell Tower Lease. The purchase and sale of the Property is subject to a current Cell Tower leasehold estate as further described in Recital D

above. The Seller will assign to Buyer and Buyer agrees to accept and assume from Seller the rights, interest and obligations associated with the Cell Tower Lease evidenced by a separate assignment and assumption substantially in form attached as **Exhibit F** (the "Assignment and Assumption of Leases, Contracts and Intangible Property") and by this reference incorporated herein.

2. Purchase Price.

(a) The purchase price for the Property ("**Purchase Price**") is One Million Eight Hundred Thousand and 00/100 Dollars (\$1,800,000) per acre of the Property, or, if the Property shall be no less than 1.7 acres as shown on the Tentative Map when approved, the amount of Three Million Sixty Thousand and 00/100 Dollars (\$3,060,000.00).

(b) The Purchase Price shall be paid as follows:

(i) Within three (3) business days following the Effective Date, Seller and Buyer shall open an escrow in connection herewith ("**Escrow**") at First American Title Insurance Company with Nichole Segura ("**Escrow Holder**"), and Buyer shall deposit into Escrow the amount of One Hundred Fifty Three Thousand and 00/100 Dollars (\$153,000) ("**Initial Deposit**") in cash or other immediately available funds.

(ii) The Initial Deposit shall be held by Escrow Holder in an interest-bearing account for the benefit of Buyer in accordance with this Agreement. Notwithstanding anything herein to the contrary, One Hundred Dollars (\$100.00) of the Initial Deposit (the "**Independent Consideration**") shall not be refundable to Buyer, but shall represent consideration for this Agreement and shall be paid to Seller. The Independent Consideration shall be paid to Seller within three (3) days of the Effective Date. The Independent Consideration shall serve as consideration for the granting of the time periods herein contained for Buyer to exercise Buyer's right to satisfy and approve all of Buyer's conditions herein contained.

(iii) Within two (2) days following the expiration of the Feasibility Period, and if this Agreement is not earlier terminated, Buyer shall deposit into Escrow the additional amount of One Hundred Fifty Three Thousand and 00/100 Dollars (\$153,000.00) (the "**Second Deposit**"). Together, the First and Second Deposit, and Extension Deposit, if any, shall be referred to as the "**Deposits.**"

(iv) The Deposits (less the Independent Consideration) are referred to herein from time to time as the "**Earnest Money.**" The Earnest Money shall be held by Escrow Holder in an interest-bearing account for the benefit of Buyer in accordance with this Agreement.

(v) If the Closing (as defined herein) as contemplated hereunder should occur, then the Earnest Money will be paid by the Escrow Holder to Seller at the Closing, and the Earnest Money and any interest accrued thereon will be credited against the Purchase Price payable by Buyer to Seller at the Closing.

(vi) If this Agreement is terminated prior to the expiration of the Feasibility Period, then the Earnest Money together with any interest accrued thereon shall be returned to Buyer. If this Agreement is not terminated prior to the expiration of the Feasibility Period, the Earnest Money and any interest accrued thereon shall be nonrefundable to Buyer, except that if this Agreement is terminated prior to the Closing due to Seller's default or the

failure of any of the Conditions Precedent (as defined herein) or as expressly set forth herein, then the Earnest Money together with any interest accrued thereon shall be returned to Buyer. The Earnest Money together with all interest accrued thereon shall be applied to the Purchase Price at the Closing.

(vii) On or before the Closing, if this Agreement has not been earlier terminated, Buyer shall deposit into Escrow cash or other immediately available funds in the amount of the balance of the Purchase Price and an amount sufficient to cover Buyer's costs to Close Escrow, less any credits due Buyer hereunder (the "**Closing Amount**"). The Closing Amount shall be applied towards the Purchase Price at the Closing.

3. Title to the Property. At the Closing, Seller shall cause to be conveyed to Buyer fee title to the Property by duly executed and acknowledged quitclaim deed, substantially in the form attached hereto as **Exhibit B** and incorporated herein by this reference (the "**Quitclaim Deed**") as well as (i) a duly executed Bill of Sale for the Personal Property, if any, the form of which is attached as **Exhibit C** (the "**Bill of Sale**") and (ii) a duly executed Assignment and Assumption of Leases, Contracts and Intangible Property for the Cell Tower Lease, any Service Contracts which Buyer elects to assume and the Intangible Property, (the form of which is attached hereto as **Exhibit F**) (the "**Assignment**"), each of which is by this reference incorporated herein. Buyer acknowledges that the Property will be conveyed subject to all of the Restrictions (as defined below), such public and private easements as described in that certain Preliminary Report of Escrow Holder (Order No. NCS-1196226-CO) dated September 28, 2023 (the "**Preliminary Report**") and such laws, ordinances and referred to in Section 22 below. As used in this Agreement, the Closing (the "**Closing**") shall be deemed to occur upon the recording of the Quitclaim Deed. Evidence of delivery of title shall be the issuance by Escrow Holder to Buyer of an ALTA extended coverage owner's policy of title insurance in the amount of the Purchase Price, insuring title to the Property in Buyer in the amount of the Purchase Price, subject only to such exceptions noted herein and those exceptions which Buyer has acknowledged herein this Agreement and those approved as provided below (the "**Title Policy**"). The Title Policy shall provide full coverage against mechanics' and materialmen's liens and shall contain such special endorsements as Buyer may reasonably require, including, without limitation, any endorsements required as a condition to Buyer's approval of any title exceptions (the "**Endorsements**"). Prior to the opening of Escrow, Seller has ordered the Preliminary Report with respect to the Property, and delivered to Buyer the Preliminary Report with copies of all underlying documents referenced therein. Seller shall coordinate delivery of a map containing a plotting of all easements capable of being plotted. No later than thirty (30) business days after receipt of the Preliminary Report or after the Effective Date, whichever is later, Buyer shall give written notice to Seller of any items contained in the Preliminary Report which Buyer disapproves ("**Buyer's Disapproval Notice**"). Failure of Buyer to notify Seller of Buyer's disapproval of all or any item on the Preliminary Report shall be deemed to be an approval by Buyer of such item(s). In any event, Seller covenants to remove as exceptions to title prior to the Closing (and Buyer shall have no obligation to object to), any mortgages, deeds of trust, and other monetary encumbrances (collectively, "**Disapproved Liens**") shown on the Preliminary Report except for real property taxes not delinquent. Seller shall notify Buyer in writing no later than five (5) business days after receipt of Buyer's Disapproval Notice, if such notice is received by Seller, whether it elects to remove such other items disapproved by Buyer ("**Seller's Title Notice**"). If by the expiration of the Feasibility Period, there remain exceptions to title which have not been modified to the satisfaction of Buyer and/or removed prior to the Closing Date,

then Buyer may elect to do either of the following by the expiration of the Feasibility Period: (i) accept such exceptions and proceed to take title to the Real Property subject to such exception(s); or (ii) this Agreement may be terminated in accordance with Section 4(b). In the event Buyer elects to terminate this Agreement pursuant to this Section 3, neither party shall have any further obligations to the other hereunder (except under provisions of this Agreement which specifically state that they survive termination).

4. Feasibility.

(a) From and after the Effective Date until the Closing or earlier termination of this Agreement, Seller shall afford authorized representatives of Buyer access to the Property, upon reasonable prior notice to Seller (of no more than 48 hours and with email notice being sufficient), and so long as such access does not unreasonably interfere with the conduct of business on or use of the Property, for purposes of conducting such physical inspections and investigations of the Property as Buyer deems necessary (the “**Inspections**”). Seller's representative shall have the right to be present with Buyer or Buyer's representative for any access to the Property. The Inspections and investigations may include, without limitation, (i) a review of existing zoning, entitlement, planning or similar issues applicable to the Property; (ii) a review of the physical condition of the Property and the systems serving the Property; (iii) a review of the environmental condition of the Property, including a Phase I environmental site assessment and any proposal regarding a Phase II environmental site assessment. Buyer agrees not to conduct or cause to be conducted a Phase II environmental site assessment without the prior written consent of Seller. Buyer's Inspections and investigations shall be governed by Section 14.

(b) As used herein, the term (“**Feasibility Period**”) shall refer to a period of time to expire at 5:00 p.m., California time, on the forty-fifth (45th) calendar day following the Effective Date; provided, however, that if the 45th day is a Saturday, Sunday or holiday on which banking institutions are closed in the State of California, then the Feasibility Period shall expire on one day after the following business day. Buyer may elect, by written notice to Seller at any time prior to the expiration of the Feasibility Period, to terminate this Agreement, which election shall be in Buyer's sole and absolute discretion for any reason or no reason whatsoever. If Buyer desires to terminate this Agreement pursuant to this Section 4(b) then before the expiration of the Feasibility Period, Buyer shall deliver written notice to Seller of Buyer's election to terminate (the “**Buyer's Notice to Terminate**”). If Buyer desires to proceed with the purchase of the Property subject to the remaining conditions set forth in this Agreement, then on or before the expiration of the Feasibility Period, Buyer shall deliver written notice to Seller of such election to proceed (the “**Buyer's Notice to Proceed**”), electing to waive Buyer's right of termination pursuant to this Section 4(b) and proceed with the Closing subject to the remaining conditions set forth in this Agreement. If Buyer fails to deliver either Buyer's Notice to Terminate or Buyer's Notice to Proceed to Seller prior to the expiration of the Feasibility Period, then Buyer shall be deemed to have elected to proceed with this Agreement and the Closing. In the event of the termination of this Agreement pursuant to this Section 4(b), the Initial Deposit minus the Independent Consideration shall be returned to Buyer and thereafter neither party shall have any further obligations to the other hereunder (except under provisions of this Agreement which specifically state that they survive termination).

(c) In the event Buyer elects to terminate this Agreement pursuant to Section 4(b), or if Closing does not occur for any reason, Buyer shall return all Seller's Deliveries

to Seller. Buyer further agrees that prior to Closing, Buyer shall provide Seller with copies of all studies, reports, appraisals and other materials commissioned by or prepared for Buyer relating to or regarding the Property ("**Buyer's Reports**"), at no cost to Seller; provided, however, in no event shall Buyer's Reports be deemed to include, and Buyer have any obligation to provide, any materials, documents or information which are subject to a privilege, protection or confidentiality requirement or any economic or financial analyses. Additionally, Buyer's Reports shall be delivered to Seller without any representation or warranty as to the completeness or accuracy of the Buyer's Reports or any other matter relating thereto, and Seller shall have no right to rely on any Buyer's Report without the written consent of the party preparing same.

5. Seller's Deliveries. Within five (5) business days following the Effective Date, Seller shall deliver to Buyer, whether electronically or otherwise, the materials described on **Exhibit E**, which shall contain copies of documents in Seller's possession or control, or to which Seller has access (collectively, the "**Seller's Deliveries**"). Seller makes no representation whatsoever about the content, accuracy, completeness or value of any of Seller's Deliveries. All Seller's Deliveries will be provided to Buyer without warranty from Seller regarding the accuracy or completeness of the information contained therein, and such documents may or may not be assignable to Buyer. The delivery of such reports and studies shall be subject to the proprietary rights of any engineer or other consultant preparing the same and any limitations on use imposed by them. Buyer assumes all risk of reviewing and understanding any and all information contained in Seller's Deliveries. Notwithstanding the foregoing, Seller shall deliver a Natural Hazards Disclosure Report within fifteen (15) days following the Effective Date.

6. Conditions to Seller's Obligations. Seller's obligations hereunder, including, but not limited to, its obligation to consummate the purchase transaction provided for herein, are subject to the satisfaction of each of the following conditions, each of which is for the sole benefit of Seller and may be waived by Seller in writing in Seller's sole and absolute discretion:

(a) Buyer shall not be in default under this Agreement.

(b) Each representation and warranty made in this Agreement by Buyer shall be true and correct in all material respects at the time as of which the same is made and as of the Close of Escrow.

7. Conditions Precedent to Closing. The following are conditions precedent to Buyer's obligation to purchase the Property (the "**Conditions Precedent**"). The Conditions Precedent are intended solely for the benefit of Buyer and may be waived only by Buyer in writing in Buyer's sole and absolute discretion. In the event any Condition Precedent is not satisfied, Buyer may, in its sole and absolute discretion, terminate this Agreement, subject to the provisions of Section 8.

(a) Buyer's inspection, review and approval, within the Feasibility Period, of all of the physical characteristics and condition of the Property (including without limitation the condition of the soils) whereby Buyer's approval of the Property is evidenced by Buyer's delivery to Seller of Buyer's Notice to Proceed or deemed approved by Buyer if Buyer failed to deliver either Buyer's Notice to Terminate or Buyer's Notice to Proceed prior to the expiration of the Feasibility Period;

(b) Escrow Holder shall be unconditionally committed to issue the Title Policy to Buyer upon the Closing in the form and with such exceptions and endorsements as have been

approved, or are deemed approved, by Buyer as provided in Section 3 above.

(c) Seller shall have complied with all of Seller's duties and obligations contained in this Agreement and all of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date.

(d) In the event that Buyer submits a Buyer's Disapproval Notice to Seller and to the extent that Seller elects in Seller's Title Notice to cure any objection set forth in Buyer's Disapproval Notice, the cure of such objection(s) Seller has elected to cure.

(e) Seller shall have delivered to Buyer no more than ten (10) days prior to Closing the tenant estoppel certificate in the form attached hereto as **Exhibit H** (the "Tenant Estoppel Certificate") from Subtenant, which tenant estoppel certificate must not reflect (i) any material default by either the landlord or the tenant, or (ii) any information that is materially different, in an adverse manner to Buyer, from the information reflected by the Cell Tower Lease or Seller Deliveries, and must be dated not more than thirty (30) days prior to the Closing.

(f) A legal lot plus an Alta 26 subdivision endorsement or a final map that substantially complies with the Tentative Map (the "**Final Map**") shall have been finally approved by the City and be available for recordation.

(g) Seller shall have terminated the LBABPL; with the APC Lessee and concurrently therewith,

(i) Seller will have entered into a short term License Agreement with the APC Lessee to allow the APC Lessee to continue to use and occupy the Property until such date that the APC Lessee vacates Building 607 and the Property, but in no event later than six (6) months from the Closing, and

(ii) Seller will have entered into a short term License Agreement with Buyer to allow Buyer to continue its use of Building 92 or use of a Comparable Building (as defined and set forth in Section 16(a) below) until the later of the following:

(A) until January 31, 2025, or

(B) eight (8) months after the APC Lessee vacates Building 607 and the Property, or

(C) for an extended term if the parties agree by written amendment to the License Agreement.

For clarification purposes relative to the conditions to be satisfied in this Section 7(g), the Seller will have terminated the LBABPL with APC Lessee, a License Agreement will have been entered into with APC Lessee if APC Lessee will continue its use of Building 607 after the close of escrow, such License Agreement is subject to Buyer's approval if changes to the form of the City's License Agreement has been revised in a manner that would place a financial obligation on the Buyer after the close of escrow, and a License Agreement will have been entered into with Buyer for Buyer's continued use of Building 92 for the duration of time provided in the License Agreement.

Buyer may waive any such condition(s) and proceed to purchase the Property, without a reduction of the Purchase Price therefor.

8. **LIQUIDATED DAMAGES.** IF THE SALE OF THE PROPERTY PURSUANT TO THIS AGREEMENT IS NOT CONSUMMATED SOLELY BECAUSE OF A MATERIAL DEFAULT UNDER THIS AGREEMENT ON THE PART OF BUYER, AFTER WRITTEN NOTICE BY SELLER TO BUYER AND FIVE (5) DAYS OPPORTUNITY TO CURE HAS RUN, THE EARNEST MONEY AND ALL BUYER'S REPORTS, SHALL BE RETAINED BY SELLER AS LIQUIDATED DAMAGES (SUBJECT TO THE CONDITIONS SET FORTH IN THE LAST SENTENCE OF SECTION 4(c) ABOVE). THE PARTIES HAVE AGREED THAT SELLER'S ACTUAL DAMAGES, IN THE EVENT OF SUCH A DEFAULT BY BUYER, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE EARNEST MONEY AND BUYER'S REPORTS HAVE BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES AND AS SELLER'S SOLE AND EXCLUSIVE REMEDY AGAINST BUYER, AT LAW OR IN EQUITY, IN THE EVENT OF SUCH A DEFAULT UNDER THIS AGREEMENT ON THE PART OF BUYER. UPON THE OCCURRENCE OF ANY SUCH DEFAULT BY BUYER, BUYER SHALL DELIVER WITHIN FIVE (5) BUSINESS DAYS OF SELLER'S WRITTEN REQUEST ALL BUYER'S REPORTS AND APPROPRIATE DOCUMENTS ASSIGNING SAME TO SELLER, TO THE EXTENT ASSIGNABLE (WHICH SHALL BE DELIVERED TO SELLER WITHOUT ANY REPRESENTATION OR WARRANTY AS TO THE COMPLETENESS OR ACCURACY OF SUCH BUYER'S REPORTS OR ANY OTHER MATTER RELATING THERETO, AND SELLER SHALL HAVE NO RIGHT TO RELY ON ANY BUYER'S REPORT WITHOUT THE WRITTEN CONSENT OF THE PARTY PREPARING SAME), IF NECESSARY (SUBJECT TO THE CONDITIONS SET FORTH IN THE LAST SENTENCE OF SECTION 4(c) ABOVE). FURTHERMORE, THE PAYMENT AND RETENTION OF SUCH EARNEST MONEY AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 AND 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. NOTHING IN THIS AGREEMENT WILL, HOWEVER, BE DEEMED TO LIMIT BUYER'S LIABILITY TO SELLER FOR DAMAGES OR INJUNCTIVE RELIEF FOR BREACH OF BUYER'S INDEMNITY OBLIGATIONS UNDER SECTION 14. UPON SUCH BUYER'S DEFAULT, SELLER MAY INSTRUCT ESCROW HOLDER TO CANCEL THE ESCROW, AND PROMPTLY UPON RECEIPT OF SAID INSTRUCTIONS, ESCROW HOLDER SHALL (i) CANCEL THE ESCROW, (ii) PAY ALL OF ESCROW HOLDER'S CHARGES FROM THE EARNEST MONEY, AND (iii) DISBURSE TO SELLER THE EARNEST MONEY PURSUANT TO THIS SECTION 8.

INITIALS: SELLER _____ BUYER *MR*

9. **Escrow; Closing, Prorations.**

(a) Upon mutual execution of this Agreement, the parties hereto shall deposit an executed counterpart of this Agreement with Escrow Holder and this Agreement shall serve as instructions to Escrow Holder for consummation of the purchase contemplated hereby. Seller and Buyer shall execute such supplemental Escrow instructions as may be appropriate to enable

Escrow Holder to comply with the terms of this Agreement, provided such supplemental Escrow instructions are not in conflict with this Agreement as it may be amended in writing from time to time. In the event of any conflict between the provisions of this Agreement and any supplementary Escrow instructions signed by Buyer and Seller, the terms of this Agreement shall control.

(b) The Closing shall take place (the “**Closing Date**”) on or before the date that is fifteen (15) days following the latter of (i) the date Seller is able to convey a legal lot to Buyer; (ii) the date upon which the Final Map has been approved and is available for recordation; (iii) or a date certain as may be extended as provided below, but in no event shall the outside Closing date be later than September 1, 2024.

(c) Buyer shall have the option to extend the Closing Date for one period of fifteen (15) days (“**Extension Period**”), exercisable by written notice of the Extension Period (the “**Extension Notice**”) delivered to Seller and Escrow Holder not later than five (5) days prior to the previously scheduled Closing Date, together with an additional deposit of Five Thousand Dollars (\$5,000.00) (the “**Extension Deposit**”). The Extension Deposit shall be immediately released to Seller upon receipt by Escrow Holder and shall not be applicable to the Purchase Price, and shall be nonrefundable to Buyer except in the event of Seller's default hereunder. For any reason whatsoever, the Parties may extend the escrow period by written amendment.

(d) At or before the Closing, Seller shall deliver to Escrow Holder or Buyer the following:

- (i) the final Map, certified and acknowledged for recordation or a legal description of a legal lot;
- (ii) the duly executed and acknowledged Quitclaim Deed for the Property and the duly executed Bill of Sale;
- (iii) the duly executed Assignment and Assumption of Leases, Contracts and Intangible Property;
- (iv) the duly executed certain License Agreement between the Seller and Buyer for the land adjacent to the Property;
- (v) a duly executed affidavit that Seller is not a “foreign person” within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986 in the form attached as **Exhibit D** and incorporated herein by this reference together with a duly executed non-foreign person affidavit and evidence that Seller is exempt from the withholding obligations imposed by California Revenue and Taxation Code Sections 18805, 18815, and 26131;
- (vi) evidence reasonably acceptable to Escrow Holder that the documents delivered by Seller have been duly authorized and executed on behalf of Seller and constitute valid and binding obligations of Seller.
- (vii) any other documents, resolutions, consents, affidavits and indemnities (including, customary owner’s affidavits and mechanic’s liens and/or gap indemnities) which the Escrow Holder may reasonably require from Seller in order to close Escrow which do not increase Seller's liability or obligations hereunder;
- (viii) a closing statement in form and content satisfactory to Buyer and Seller (the “**Closing Statement**”) duly executed by Seller; and

(ix) any other instruments, records or correspondence called for hereunder which have not previously been delivered.

(e) At or before the Closing, Buyer shall deliver to Escrow Holder or Seller the following:

- (i) the Closing Statement, duly executed by Buyer;
- (ii) the Closing Amount and an amount sufficient to cover the Buyer's costs to Close Escrow;
- (iii) the duly executed Assignment and Assumption of Leases, Contracts and Intangible Property; and
- (iv) the duly executed certain License Agreement between the Seller and Buyer for the land adjacent to the Property; and
- (v) evidence reasonably acceptable to Escrow Holder that the documents delivered by Buyer have been duly authorized and executed on behalf of Buyer and constitute valid and binding obligations of Buyer.

(f) Seller and Buyer shall each deposit such other instruments as are reasonably required by Escrow Holder or otherwise required to close the Escrow and consummate the purchase of the Property in accordance with the terms hereof.

(g) Closing Costs. The following are to be paid by Buyer or Seller or apportioned as of the Closing Date, as follows:

(i) Costs and expenses of Escrow incurred in this transaction shall be paid as follows:

(1) Buyer shall pay all sales and use taxes, and recording fees for the Quitclaim Deed and related expenses;

(2) Buyer shall pay the premium costs and expenses for a standard or extended ALTA coverage owner's policy of title insurance;

(3) Seller and Buyer shall each pay one-half (1/2) of the Escrow fees;

(4) Seller shall pay any and all city or county transfer taxes that may be due;

(5) all other costs of escrow shall be paid equally by Buyer and Seller.

(ii) Buyer shall be responsible for obtaining and paying for utility services from and after the Close of Escrow.

(iii) The provisions of this Subparagraph (g) shall survive the Closing.

(h) Prorations shall be made as of the Close of Escrow with income of the Cell Tower Lease and expenses attributable to the Closing Date being credited to and at the expense of Buyer. All prorations shall be made on the basis of a thirty (30) day month and shall be paid in cash to Seller if it is entitled thereto, or shall be credited against the cash portion of the Purchase Price if Buyer is entitled thereto. Such prorations shall be made by Escrow Holder on

the basis of a statement(s) approved by Buyer and Seller and deposited into the Escrow prior to the Close of Escrow. The date used for prorations is hereinafter referred to as the "Proration Date."

(i) Unpaid rent under the Cell Tower Lease for the period in which the Proration Date occurs shall be prorated as if the same had been collected by Seller. Buyer shall receive a credit against the cash portion of the Purchase Price payable by Buyer in an amount equal to all prepaid rent under the Cell Tower Lease which is applicable to the period including and after the Proration Date, and all unused security or other deposits under the Lease. To the extent rent applicable to the period prior to the Proration Date is collected by Buyer subsequent to the Proration Date, Buyer shall remit to Seller that portion of such rent applicable to the period prior to the Proration Date, less Buyer's cost of collection of same which Buyer has paid to third parties. Any rent recovered by Buyer subsequent to the Proration Date pertaining to a particular tenant shall first be applied to any delinquency of said tenant after the Proration Date. Nothing contained herein shall require Buyer to endeavor to collect any rent which was delinquent as of the Proration Date.

(ii) 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. General real property taxes for the year in which Closing occurs together with assessments, property operating expenses, utilities and other recurring costs relating to the Property, in each case attributable to the period including and after the Proration Date, shall be paid by the Buyer (unless Buyer establishes an exemption to same) as of the Closing Date on the basis of a thirty (30)-day month.

10. Representations, Warranties and Covenants of Seller. As of the date hereof and again as of Closing, Seller represents, warrants and covenants to Buyer as follows, which shall survive the Closing and delivery of the Quitclaim Deed for a period of twelve (12) months after the Closing Date:

(a) Authority. Seller is duly organized, validly existing and in good standing under the laws of the State of California. This Agreement and all documents executed by Seller which are to be delivered to Buyer at the Closing are and at the time of Closing will be duly authorized, executed and delivered by Seller, are and at the time of Closing will be legal, valid and binding obligations of Seller enforceable against Seller in accordance with their respective terms. Seller has obtained all necessary authorizations, approvals and consents to the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

(b) No Action. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings are pending against Seller, nor are any such proceedings contemplated by Seller.

(c) No Representations as to Property. There are no representations, agreements, arrangements, or circumstances, oral or written, between the parties relating to the subject matter contained in this Agreement that are not fully expressed in the Agreement, and except as set forth in this Agreement, Seller has not made and does not make any representation or warranty concerning any matter or thing affecting or relating to the Property, including but not limited to its fitness for a particular use, its physical condition or any other matter.

(d) Litigation. To the actual, present personal knowledge of the Seller's Clerk

(who is designated to accept service of summons and complaints or any claims filed against the Seller), without investigation or duty of inquiry, Seller has not received written notice of any current litigation, arbitration or adversarial proceeding before any court or administrative agency that materially relates to or affects the Property, Seller's performance hereunder, or which will result in any unsatisfied lien, charge, encumbrance or judgment against any part of or any interest in the Property

(e) Tenant Leases. A true, correct and complete list of all leases, licenses and occupancy agreements with respect to the Property or any portion thereof ("Leases"), and amendments thereto, is set forth in Schedule 1 attached hereto. True, correct and complete copies of the Leases and all amendments described in Schedule 1 have been delivered to Buyer. Except for any parties in possession pursuant to, and any rights of possession granted under, the Leases shown on Schedule 1, Seller is not a party to any other Leases with respect to the Property.

(f) Sale "AS-IS". Subject only to the extent any express representations, warranties and covenants are contained in this Section 10 of the Agreement, Seller is selling the Property 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.

(g) Except for the fraud, gross negligence or willful misconduct of Seller or its agents, Seller will not be liable for any loss, damage, injury or claim to any person or property arising from or caused by the development of the Property by Buyer.

(h) From the Effective Date until the Closing Date, (i) Seller will continue to manage and service the Property in the usual and ordinary course of business consistent with past practices, but (ii) shall not enter into any new contracts or arrangements which will materially affect the Property on or after the Closing Date, except those contracts or arrangements referenced in this Agreement pertaining to the use and occupation of Building 607. Seller may (i) modify, terminate, cancel, extend or amend the Cell Tower Lease, accept any payment of rent or other charges from any tenant of the Property applicable for a period exceeding one month in advance (subject to proration between Seller and Buyer), grant any material consent relating to any existing Lease (including the Cell Tower Lease), with Buyer's prior written consent, which consent shall not be unreasonably withheld or denied prior to the expiration of the Feasibility Period, and which may be withheld in Buyer's sole and absolute discretion after the expiration of the Feasibility Period, and shall be given or denied in writing, with the reasons for any denial stated therein, within five (5) business days of Buyer's receipt of Seller's request for Buyer's consent. If Buyer fails to reply to Seller's request for consent in a written notice given within the above-described time period or if Buyer expressly denies its consent but fails to provide Seller with justifiable reasons for such denial, Buyer's consent shall be deemed to have been denied.

(i) Seller shall promptly notify Buyer in writing if Seller becomes aware of any material fact or occurrence that would render any representation in this Section 10 by Seller untrue.

(j) Seller shall promptly notify Buyer in writing of any event or circumstance which adversely affects Seller's ability to perform its obligations under this Agreement in a timely manner, or the likelihood of timely satisfaction of the conditions precedent set forth above.

11. Representations, Warranties and Covenants of Buyer. Buyer hereby represents and warrants to Seller as follows:

(a) Buyer acknowledges and agrees that it 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. Buyer's election to purchase the Property will be based upon and will constitute evidence of Buyer's independent investigation of the Property, its use, development potential and suitability for Buyer's intended use, including (without limitation) the following: the feasibility of developing the Property for the purposes intended by Buyer and the conditions of approval for any subdivision map; the size and dimensions of the Property; the availability, cost and adequacy of water, sewerage and any utilities serving or required to serve the Property; the presence and adequacy of current or required infrastructure or other improvements on, near or affecting the Property; any surface, soil, subsoil, fill or other physical conditions of or affecting the Property, such as climate, geological, drainage, air, water or mineral conditions; the condition of title to the Property; the existence of governmental laws, statutes, rules, regulations, ordinances, limitations, restrictions or requirements concerning the use, density, location or suitability of the Property for any existing or proposed development thereof including but not limited to zoning, building, subdivision, environmental or other such regulations; the necessity or availability of any general or specific plan amendments, rezoning, zoning variances, conditional use permits, building permits, environmental impact reports, parcel or subdivision maps and public reports, requirements of any improvement agreements; requirements of the California Subdivision Map Act, and any other governmental permits, approvals or acts (collectively "**Permits**"); the necessity or existence of any dedications, taxes, fees, charges, costs or assessments which may be imposed in connection with any governmental regulations or the obtaining of any required Permits; the presence of endangered plant or animal species upon the Property; and all of the matters concerning the condition, use, development or sale of the Property.

Except with respect to a default by Seller hereunder (including a breach of Seller's warranties, representations and covenants and Seller's fraud, gross negligence or willful misconduct), Buyer at the Close of Escrow expressly waives its rights granted under California Civil Code Section 1542, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

Buyer's Initials: 

(b) Buyer is a 501(c)(3) non-profit public benefit organization duly organized, validly existing and in good standing under the laws of California [and qualified to do business in California]. This Agreement and all documents executed by Buyer which are to be delivered to Seller at the Closing are and at the time of Closing will be duly authorized, executed and delivered by Buyer, are and at the time of Closing will be legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms, and do not and at the time of Closing will not violate any provision of any agreement Buyer has entered into or judicial order to which Buyer is subject. Buyer has obtained all necessary authorizations, approvals and consents to the execution and delivery of this Agreement and the consummation of the

transactions contemplated hereby.

(c) Buyer warrants that Buyer is a sophisticated owner and buyer of real property, familiar and experienced with requirements for the development of real property. Buyer has examined the Property or will have done so by the Closing, is or will be familiar with its physical condition, and accepts the Property in an "AS-IS" condition, subject only to the extent any express representations, warranties and covenants are contained in Section 10 of this Agreement.

(d) Buyer has conducted or will conduct an independent investigation with respect to zoning and subdivision laws, ordinances, resolutions, and regulations of all governmental authorities having jurisdiction over the Property, and the use and improvement of the Property and is, or at Closing will be, satisfied with the results of such investigation.

(e) Buyer acknowledges and agrees that (subject only to the extent any express representations, warranties and covenants are contained in Section 10 of this Agreement) the Property is being sold "AS-IS" and with all faults, known or unknown, contingent or existing, and without any representation or warranty by Seller as to its fitness for any purpose.

12. Environmental Matters/Release. As used in this Agreement, "**Hazardous Materials**" includes petroleum, asbestos, radioactive materials or substances defined as "hazardous substances," "hazardous materials" or "toxic substances" (or words of similar import) in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.), and under the applicable laws of California. Buyer must rely on its own investigation and not on any representation by Seller regarding Hazardous Materials. Buyer shall rely solely upon its own investigation and inspection of the Property and the improvements thereon and upon the aid and advice of Buyer's independent expert(s) in purchasing the Property, and shall take title to the Property without any warranty, express or implied, by Seller or any employee or agent of Seller. Seller makes no representations regarding Hazardous Materials in, on or under the Property. Seller's knowledge and disclosures regarding Hazardous Materials are limited to the contents of Seller's Deliveries.

Accordingly, Buyer hereby expressly waives and relinquishes any and all rights and remedies Buyer may now or hereafter have against Seller, whether known or unknown, with respect to any past present, or future presence of Hazardous Materials on, under or about the Property or with respect to any past, present or future violations of any rules, regulations or laws, now or hereinafter enacted, regulating or governing use, handling, storage or disposal of Hazardous Materials, including, without limitation (i) any and all remedies Buyer may now or hereafter have under the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("**CERCLA**"), as amended, and any similar law, rule or regulation, (ii) any and all rights Buyer may now or hereafter have against Seller under the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code, Section 25300 et seq.), as amended and any similar law, rule or regulation, and (iii) any and all claims, whether known or unknown, now or hereafter existing, with respect to the Property under Section 107 of CERCLA (42 U.S. C.A. § 9607).

BUYER HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542

("SECTION 1542"), WHICH IS SET FORTH BELOW

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

BY INITIALING BELOW, BUYER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES.

 PK (Buyer's Initials)

13. Continuation and Survival. All representations, warranties and covenants by the respective parties contained herein or made in writing pursuant to this Agreement are intended to and shall be deemed made as of the date of this Agreement or such writing and again at the Closing, shall be deemed to be material, and unless expressly provided to the contrary shall survive the execution and delivery of this Agreement, the Quitclaim Deed and the Closing.

14. Indemnity.

(a) To the fullest extent permitted by law, Buyer shall indemnify, defend (with counsel acceptable to Seller,) and to hold and save Seller, including its City Council, boards, commissions, officials, employees, agents and volunteers, and the Property harmless from all claims, demands, suits, actions, damages, obligations, liabilities, losses, costs and expenses, including but not limited to attorneys' fees and court costs (the "Claims"), based or asserted upon the acts or omissions of Buyer, its officers, directors, employees, agents, contractors or representatives as a result of the Inspections; provided, however, that Buyer will not be obligated to indemnify, defend, or hold Seller harmless to the extent the Claims are found to have resulted solely from the fraud, gross negligence or willful misconduct of Seller or any of the Seller parties. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

(b) Additionally, Buyer shall not suffer or permit any mechanic's or materialmen's or other lien to stand against the Property in connection with any labor, materials or services furnished or claimed to have been furnished by or on behalf of Buyer in connection with or as a result of any Inspections. If any such lien shall be filed against the Property, Buyer shall cause such lien to be discharged or bonded within thirty (30) days after such filing. Following any Inspections Buyer shall restore the Property to substantially its physical condition as existed prior to such inspection (except for any changes to the Property caused by Seller, or its agents or employees). Buyer's obligation to indemnify, defend and hold harmless Indemnities shall expressly survive the expiration or early termination of this Agreement.

15. Insurance

(a) Prior to any entry on the Property, Buyer shall furnish the Seller's Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with this Section 15 The Certificate

Holder should be The City of Alameda, 2263 Santa Clara, Ave., Alameda, CA 94501. Such certificates, which do not limit Buyer's indemnification, shall also contain substantially the following statement:

"Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda. Attention: Risk Manager."

Buyer shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company licensed to offer insurance business in the State of California with a current A.M. Best's rating of no less than A:VII or Standard & Poor's Rating (if rated) of at least BBB unless otherwise acceptable to the City. Buyer shall deliver updated insurance certificates to the City prior to the expiration of the existing insurance certificate for the duration of the term of Agreement. Endorsements naming Seller, its City Council, boards, commissions, officials, employees, agents, and volunteers as additional insured shall be submitted with the insurance certificates.

 (Buyer's Initials)

(b) Specifically, Buyer shall obtain commercial general liability coverage in the following minimum limits:

Bodily Injury:	\$1,000,000 each occurrence
	\$2,000,000 aggregate - all other
Property Damage:	\$1,000,000 each occurrence
	\$2,000,000 aggregate

(c) If submitted, combined single limit policy with per occurrence limits in the amounts of \$2,000,000 and aggregate limits in the amounts of \$4,000,000 will be considered equivalent to the required minimum limits shown above. Buyer shall also submit declarations and policy endorsements pages. Additional Insured Endorsement naming Seller, its City Council, boards, commissions, officials, employees, agents, and volunteers is required. The Additional Insured Endorsement shall include primary and non-contributory coverage at least as broad as the CG 2010. Such insurance will provide that it constitutes primary insurance with respect to claims insured by such policy, and, except with respect to limits, that insurance applies separately to each insured against whom claim is made or suit is brought. Such insurance is not additional to or contributing with any other insurance carried by or for the benefit of Seller.

(d) Buyer hereby agrees to waive rights of subrogation that any insurer of Buyer may acquire from Buyer by virtue of the payment of any loss. Buyer agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether Seller has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Seller for all work performed by Buyer, its employees, agents and subcontractors.

(e) If Buyer at any time during the term hereof should fail to secure or maintain the foregoing insurance, Seller shall be permitted to obtain such insurance in Buyer's name or as an agent of Buyer and shall be compensated by Buyer for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is

received that the premiums have not been paid.

(f) Seller, its City Council, boards, commissions, officials, employees, agents, and volunteers shall be named as additional insured(s) under all insurance coverages, except workers' compensation and professional liability insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy. Additional Insured coverage under Buyer's policy shall be primary and non-contributory and will not seek contribution from the Seller's insurance or self-insurance. Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured(s).

(g) The insurance limits required by Seller are not represented as being sufficient to protect Buyer. Buyer is advised to consult Buyer's insurance broker to determine adequate coverage for Buyer. The coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of the coverage carried by or available to Buyer; whichever is greater.

16. Casualty: Condemnation.

(a) Seller shall notify Buyer immediately of the occurrence of any damage to or destruction of the Property, or the institution or maintenance of any condemnation or similar proceedings with respect to the Property. In the event of any damage to or destruction of the Property shall occur prior to the Closing, the Seller and Buyer agree to work cooperatively and use reasonable efforts to extend the term of the License Agreement (referenced in Section 7(g)(ii) herein) for use of its current location or a Comparable Building (as defined below) to accommodate the time for Buyer's construction of its intended improvements to the Property. For purposes hereof, a "**Comparable Building**" shall mean (x) a commercial building located at Alameda Point containing no less than 15,000 square feet of usable area which provides comparable utility as Building 92 for the operations of Buyer, (y) such building has the use of sufficient parking in the area to allow for AFB operations and is reasonably accessible from a transit line.

(b) In the event a governmental entity commences eminent domain proceedings to take any portion of the Property after the date hereof and prior to the Closing, then Buyer shall have the option to terminate this Agreement by written notice to Seller within ten (10) business days after Buyer first learns of such commencement. In the event of any such termination, the Earnest Money, together with all interest, shall be returned to Buyer. Buyer and Seller shall each be liable for one-half of any escrow fees or charges, and neither party shall have any further liability or obligation under this Agreement.

(c) In the event a governmental entity commences eminent domain proceedings to take any part of the Property after the date hereof and prior to the Closing and this Agreement is not terminated pursuant to Section 16(b), then the Closing shall occur as scheduled notwithstanding such proceeding; provided, however, that Seller's interest in all awards arising out of such proceedings (except for any award attributable to the loss of Seller's business or income, Seller's personal property, or the property of any tenant of the Property) shall be assigned

to Buyer as of the Closing or credited to Buyer if previously received by Seller. Seller's obligations pursuant to this Section 16(c) shall survive the Closing.

17. Possession. Possession of the Property shall be delivered to Buyer on the Closing Date free of any tenant, subtenant or occupant (other than APC Lessee, its subtenants and Cell Tower tenants and its subtenants).

18. Short Term License of Land Adjacent to Property. The Parties desire to enter into a short-term license agreement for no additional consideration for that certain land, situated adjacent to and to the west of Building 607 of the Property pursuant to the terms and conditions described in the attached License Agreement as **Exhibit G** and by this reference incorporated herein, whereby Buyer will use and occupy temporarily the adjacent area for the duration of time it takes for Buyer to renovate, install and reconstruct any improvements it intends to make on the Property.

19. Seller's Cooperation with Buyer. At no cost to Seller, Seller shall cooperate and do all acts as may be reasonably required or requested by Buyer, at no additional cost to Seller, with regard to the fulfillment of any Condition Precedent. Seller hereby authorizes Buyer and its agents to make all inquiries with and applications to any third party, including any governmental authority, as Buyer may reasonably require to complete its due diligence and satisfy the Conditions Precedent.

20. Brokers and Finders. Seller has engaged the firm of Cushman & Wakefield as its broker ("**Seller's Broker**") in connection with or related to the purchase and sale of the Property. Seller shall be solely responsible, pursuant to separate agreement, for any payment, fee or commission owing to Seller's Broker in connection with the purchase and sale of the Property in accordance with this Agreement. Except for Seller's Broker, neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee in connection with the sale contemplated herein. In the event that any such broker or finder claims a commission or finder's fee based upon any contact, dealings or communication, the party through whom the broker or finder makes its claim shall be responsible for said commission or fee and all costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by the other party in defending against the same. The party through whom any such other broker or finder makes a claim shall hold harmless, indemnify and defend the other party hereto, its successors and assigns, agents, employees, officers and directors, and the Property from and against any and all obligations, liabilities, claims, demands, liens, encumbrances and losses (including, without limitation, attorneys' fees), arising out of, based on, or incurred as a result of such claim. The provisions of this Section 20 shall survive the Closing or termination of this Agreement until such date the statute of limitations has run for any such claims.

21. No Recovery of Litigation Fees and Costs. In the event of any disputes, litigation, including administrative proceedings, relating to this Agreement, including but not limited to any action or suit by any party, assignee or beneficiary against any other party, beneficiary or assignee, to enforce, interpret or seek relief from any provision or obligation arising out of this Agreement, the parties and litigants shall bear their own attorney's fees and costs. No party or litigant shall be entitled to recover any attorneys' fees or costs from any other party or litigant, regardless of which party or litigant might prevail.

22. Publicity and Confidentiality. Buyer acknowledges that Seller is a public entity and that this Agreement and any other documents shared with or submitted to Seller by Buyer shall be a matter of public record and available to the public under the Public Records Act.

23. Laws, Ordinances, Restrictions 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 Transportation Demand Management Plan and the Environmental Impact Report for Alameda Point and the Mitigation Monitoring and Reporting Program adopted pursuant thereto. Buyer acknowledges receipt of copies of the Quitclaim Deed and Declaration of Restrictions. Use of the Property is further encumbered and restricted by that certain National Environmental Protection Act Final Record of Decision Installation Restoration Site 35 Areas of Concern in Transfer Parcel EDC-5 Dated February 16, 2010 ("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 Property, are collectively referred to herein as the "Restrictions." Any use of the Property shall comply with the Restrictions and a failure to so comply shall constitute a default under this Agreement.

24. Miscellaneous.

(a) Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, (ii) one business day after being deposited with Federal Express or another reliable overnight courier service for next day delivery, (iii) upon facsimile or email transmission (except that if the date of such transmission is not a business day or if such transmission is made after 5:00 p.m. on a business day, then such notice shall be deemed to be given on the first business day following such transmission), or (iv) two business days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows (or such other address as either party may from time to time specify in writing to the other in accordance herewith):

If to Seller: City of Alameda
Attn: City Manager
Alameda City Hall, Rm 320
2263 Santa Clara Ave.
Alameda, CA 94501
Email: jott@alamedaca.gov

With a copy to: City of Alameda
Attn: City Attorney
Alameda City Hall, Rm 280
2263 Santa Clara Ave.
Alameda, CA 94501
Email: jshen@alamedacityattorney.org

If to Buyer: Alameda Food Bank
Attn: Rebecca Rivkyn, Board President
P.O. Box 2167
Alameda, CA 94501
Email: rebeccaballari@gmail.com

With a copy to: Steve Campbell
1620 4th Street
Alameda, CA 94501
Email: iamscampbell@yahoo.com

With a copy to: Goldberg Real Estate Law LLP
Attn: Mark R. Goldberg
Four Embarcadero Center, 14th Floor
San Francisco, CA 94111
Phone: (415) 928-5859
Email mark@goldberg-relaw.com

To Escrow Holder: First American Title Insurance Company
Attn: Nichole Segura
1380 17th Street
Denver, CO 80202
Phone: (303) 876-1112
Email nsegura@firstam.com

To Title Officer: First American Title Insurance Company
Attn: Melinda Schroeder-Hash
1380 17th Street
Denver, CO 80202
Phone: (720) 703-4657
Email mschroeder-hash@firstam.com

(b) Successors and Assigns. Buyer shall have the right to assign this Agreement to any entity, subject to Seller's prior written approval and in Seller's sole and exclusive discretion. Any such assignee shall assume all obligations of Buyer hereunder; however, Buyer shall remain liable for all obligations hereunder. Seller shall have the right to assign this Agreement, but only to an entity that is concurrently transferred fee title to the Property and assigned all right, title and interest of the City in and to the Cell Tower Lease. Except as otherwise permitted by this paragraph, neither this Agreement nor the rights of either party hereunder may be assigned by either party. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

(c) Amendments. This Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

(d) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action or proceeding relating to or arising out of this Agreement shall be filed, if a state action, in the Superior Court of the State of California for the County of Alameda, or if a federal action, in the United States District Court for the Northern District of California.

(e) Construction. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to Sections and subparagraphs are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.

(f) No Joint Venture. This Agreement shall not create a partnership or joint venture relationship between Buyer and Seller.

(g) Merger of Prior Agreements. This Agreement and the exhibits attached hereto constitute the entire agreement between the parties and supersede all prior agreements and understandings between the parties relating to the subject matter hereof, including without limitation, any letters of intent previously executed or submitted by either or both of the parties hereto, which shall be of no further force or effect upon execution of this Agreement.

(h) Time of the Essence. Time is of the essence of this Agreement. As used in this Agreement, a "business day" shall mean a day which is not a Saturday, Sunday or recognized federal or state holiday. If the last date for performance by either party under this Agreement occurs on a day which is not a business day, then the last date for such performance shall be extended to the next occurring business day.

(i) Severability. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

(j) Further Assurances. Each of the parties shall execute and deliver any and all additional papers, documents and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the parties.

(k) Exhibits. All exhibits, **Exhibits A through H**, inclusive, and **Schedule 1** attached hereto and referred to herein are incorporated herein as though set forth at length.

(l) Captions. The captions appearing at the commencement of the sections and paragraphs hereof are descriptive only and for convenience in reference. Should there be any conflict between any such caption and the section at the head of which it appears, the section and paragraph and not such caption shall control and govern in the construction of this Agreement.

(m) No Obligation To Third Parties. Execution and delivery of this Agreement shall not be deemed to confer any rights upon, directly, indirectly or by way of subrogation, nor obligate either of the parties hereto to, any person or entity other than each other.

(n) Waiver. The waiver by any party to this Agreement of the breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or another provision of this Agreement.

(o) Interpretation. This Agreement has been negotiated at arm's length and

between persons (or their representatives) sophisticated and knowledgeable in the matters dealt with in this Agreement. Accordingly, any rule of law (including California Civil Code § 1654 and any successor statute) or legal decision that would require interpretation of any ambiguities against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose of the parties and this Agreement.

(p) Counterparts/Facsimile/.PDF Signatures. This Agreement may be executed in counterparts and when so executed by the Parties, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument that shall be binding upon the Parties, notwithstanding that the Parties may not be signatories to the same counterpart or counterparts. The Parties may integrate their respective counterparts by attaching the signature pages of each separate counterpart to a single counterpart. In order to expedite the transaction contemplated herein, facsimile or .pdf signatures may be used in place of original signatures on this Agreement. Seller and Buyer intend to be bound by the signatures on the facsimile or .pdf document, are aware that the other party will rely on the facsimile or .pdf signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

(Signature provisions on following pages)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

SELLER:

CITY OF ALAMEDA, a California charter city and municipal corporation

By: _____

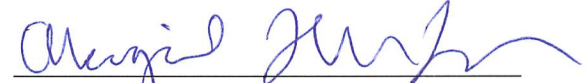
Jennifer Ott
City Manager

Date: _____

ATTEST:

City Clerk

RECOMMENDED FOR APPROVAL:



Abigail Thorne-Lyman
Base Reuse and Economic Development
Director

APPROVED AS TO FORM:



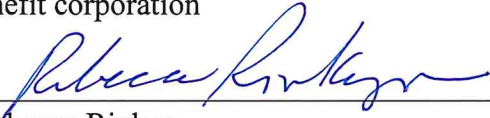
Ass't City Attorney
Len Aslanian

Signatures Continue on Following Page

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

BUYER:

ALAMEDA EMERGENCY FOOD dba Alameda Food Bank, a California 501(c)(3) non-profit public benefit corporation

By: 
Name: Rebecca Rivkyn
Its: Board President
Date: 2/20/24

SCHEDULE OF EXHIBITS

EXHIBIT A	LEGAL DESCRIPTION OR TENTATIVE MAP
EXHIBIT B	QUITCLAIM DEED FORM
EXHIBIT C	BILL OF SALE FORM
EXHIBIT D	TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS
EXHIBIT E	SELLER'S DELIVERIES (QCD, CCRS, CRUP, DOR)
EXHIBIT F	ASSIGNMENT AND ASSUMPTION OF LEASE(S), CONTRACTS AND INTANGIBLE PROPERTY WITH SCHEDULE A
EXHIBIT G	SHORT-TERM LICENSE AGREEMENT (FOR ADJACENT PROPERTY)
EXHIBIT H	TENANT ESTOPPEL CERTIFICATE
SCHEDULE 1	LIST OF LEASES

EXHIBIT A
LEGAL DESCRIPTION
Or
TENTATIVE PARCEL MAP
(with conditions of approval)

EXHIBIT B

FORM OF QUITCLAIM DEED
NOT EXECUTION COPY

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO, AND
MAIL TAX STATEMENTS TO:

[buyer address or attorney]

A.P.N.: _____

(Space Above Line for Recorder's Use Only)

The Undersigned Grantor(s) Declare(s):

DOCUMENTARY TRANSFER TAX \$ _____; CITY TRANSFER TAX \$ _____; SURVEY MONUMENT FEE \$ _____

[] computed on the consideration or full value of property conveyed, OR
[] computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,
[] unincorporated area; [] City of _____, and

QUITCLAIM DEED

This Quitclaim Deed is made this _____ day of _____, 20____, by and between the CITY OF ALAMEDA, a California charter city and municipal corporation, ("GRANTOR") and the ALAMEDA EMERGENCY FOOD, a 501(c)(3) non-profit public benefit corporation dba ALAMEDA FOOD BANK ("GRANTEE").

RECITALS

WHEREAS, the United States of America, acting by and through the Department of the Navy (the "Government") conveyed this Property to the City via that certain Quitclaim Deed and Environmental Restriction dated June 4, 2013 ("Navy Quitclaim Deed"), recorded on June 6, 2013 in the Official Records of the County of Alameda, Instrument No. 2013-199810, subject to covenants, conditions, restrictions easements, rights-of-way, reservations, rights, agreements and encumbrances of record that pertain to the Property; and

WHEREAS, the Property is 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 ("Declaration of Restrictions"), and the Covenant to Restrict Use of Property also dated June 4, 2013 as recorded June 6, 2013 as Series No.: 2013-199837 (the "CRUP"), both recorded in the Official Records in the Office of the County Recorder of Alameda County;

NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, receipt and sufficiency of which is hereby acknowledged, **GRANTOR**, does hereby remise, release and quitclaim to **GRANTEE**, all the right, title and interest in and to that certain real property situated

in the City of Alameda, County of Alameda, State of California, more particularly legally described on **EXHIBIT "A"**, and depicted on the Plat Map as **EXHIBIT B**, attached hereto and by this reference incorporated herein (the "**Property**"):

1. TOGETHER WITH all buildings and improvements located thereon, and all the right, tenements, hereditaments and appurtenances to the Property.

2. SUBJECT TO THE FOLLOWING NOTICES, COVENANTS, RESTRICTIONS AND CONDITIONS, which shall be binding upon and enforceable against the Grantee, its successor and assigns, in perpetuity:

A. The Grantee agrees to accept conveyance of the Property subject to all covenants, conditions, restrictions, easements, rights-of-way, reservations, rights, leases, agreements and encumbrances of record that pertain to the Property, including but not limited to, those exceptions and leases listed in that certain Purchase and Sale Agreement and Joint Escrow Instructions by and between Grantor, as seller, and Grantee, as buyer, dated _____, 20____ ("Purchase Agreement"), those contained in the Navy Quitclaim Deed, the Declaration of Restrictions and the CRUP.

B. The Grantee acknowledges that it has inspected, is aware of, and accepts the condition and state of repair of the Property, and except to the extent any express representations, warranties and covenants contained in Section 10 of the Purchase Agreement, which such representations, warranties and covenants shall survive for twelve (12) months after the Closing, or as otherwise provided herein, or as otherwise provided by law, that the Property is conveyed "AS-IS" and WHERE IS without any representation, promise, agreement, or warranty on the part of the Grantor regarding such condition and state of repair, or regarding the making of any alterations, improvements, repairs or additions. The Grantee further acknowledges that the Grantor shall not be liable for any latent or patent defects in the Property except to the extent required by applicable law.

IN WITNESS WHEREOF, Grantor has executed this Quitclaim Deed as of _____, 20__.

GRANTOR:

CITY OF ALAMEDA

By: _____

Name: _____

Its: _____

ACCEPTANCE: The Grantee hereby accepts this Quitclaim Deed and agrees to be bound by all the agreements, covenants, conditions, restrictions and reservations contained herein.

GRANTEE:

ALAMEDA EMERGENCY FOOD dba
ALAMEDA FOOD BANK

By: Rebecca Rivkyn
Name: Rebecca Rivkyn
Its: Board President

EXHIBIT A
To Quitclaim Deed

JANUARY 31, 2024
JOB NO.: 1087-022

**LEGAL DESCRIPTION
ALAMEDA FOOD BANK SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA**

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

BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL 1 IN THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 23, 2022, AS DOCUMENT NO. 2022-201443 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERN CORNER OF PARCEL 2, AS SAID PARCEL 2 IS SHOWN AND SO DESIGNATED ON THE FINAL MAP FOR TRACT 8315, ENTITLED "WEST TOWER AVENUE", RECORDED AUGUST 23, 2016, IN BOOK 341 OF MAPS, AT PAGE 82, IN SAID OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE NORTHERN LINE OF SAID PARCEL 2, NORTH 85°18'21" WEST 19.83 FEET;

THENCE, LEAVING SAID NORTHERN LINE, NORTH 04°41'39" EAST 103.17 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, NORTH 85°12'42" WEST 321.03 FEET;

THENCE, NORTH 04°47'18" EAST 125.71 FEET;

THENCE, ALONG THE ARC OF A TANGENT 19.50 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 30.63 FEET;

THENCE, SOUTH 85°12'42" EAST 172.48 FEET;

THENCE, NORTH 04°47'18" EAST 158.85 FEET;

THENCE, SOUTH 85°12'42" EAST 129.05 FEET;

THENCE, ALONG THE ARC OF A TANGENT 20.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 31.42 FEET;

THENCE, SOUTH 04°47'18" WEST 264.06 FEET;

LEGAL DESCRIPTION
PAGE 2 OF 2

JANUARY 31, 2024
JOB NO.: 1087-022

THENCE, ALONG THE ARC OF A TANGENT 20.00 FOOT RADIUS CURVE TO THE
RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC DISTANCE OF 31.42
FEET TO SAID POINT OF BEGINNING.

CONTAINING 1.67 ACRES OF LAND, MORE OR LESS.

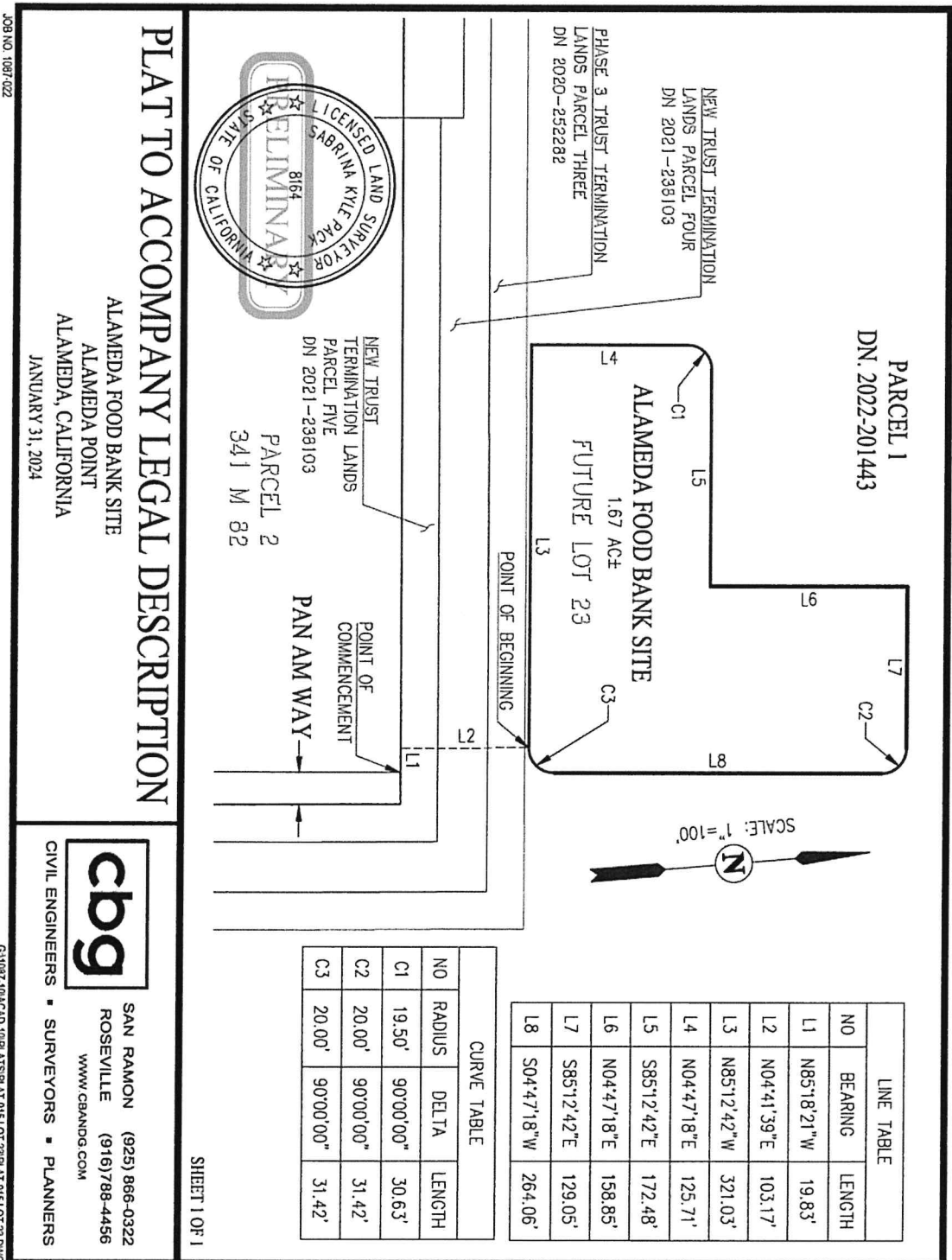
ATTACHED HERETO IS A PLAT TO ACCOMPANY LEGAL DESCRIPTION, AND BY THIS
REFERENCE MADE A PART HEREOF.

END OF DESCRIPTION

PRELIMINARY

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

EXHIBIT B
Plat Map to Quitclaim Deed



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 California
County of Alameda

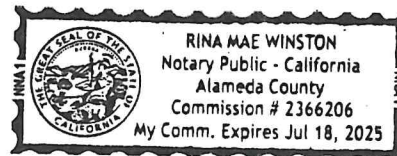
On 2/20/24 before me, Rina Mae Winston
(insert name and title of the officer)

personally appeared Rebecca Rivkyn
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 [Signature] (Seal)



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 _____

(Seal)

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 _____

(Seal)

EXHIBIT C
BILL OF SALE FORM
(NOT EXECUTION COPY)

BILL OF SALE

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, _____ (“Transferor”), hereby transfers, conveys and assigns to _____ (“Transferee”), its successors and assigns, all of Transferor’s right, title and interest in and to those certain items of personal property left at and located on or in the Property at the later of the Closing or upon the date the tenants, subtenants and occupant(s) of that certain Building 607 located on the Property have vacated the Building 607 and the Property (“Transferred Property”).

1. Transferor warrants and represents that Transferor, to the extent that Transferor is the owner of the Transferred Property and that the Transferred Property is free and clear of all liens, encumbrances, security interest and any claims to title, except no warranties or representations are made concerning any personal property left at or located on or in Building 607 or on the Property by the tenants, subtenants or occupants of Building 607.
2. This Bill of Sale may be relied upon as conclusive proof that each and all of the Transferred Property has been transferred to Transferee.
3. This Bill of Sale has been prepared, negotiated and executed, and shall be construed in accordance with, the laws of the State of California.
4. In the event any action or proceeding is brought by either party hereto against the other party hereto by reason of the breach or enforcement of this Bill of Sale, the prevailing party shall be entitled to have and recover from the other party all costs and expenses of the action or proceeding, including reasonable attorneys’ fees. Any action or proceeding relating to or arising out of this Bill of Sale shall be filed in a court of competent jurisdiction.

DISCLAIMER OF WARRANTIES

EXCEPT AS MAY BE OTHERWISE PROVIDED IN THIS BILL OF SALE, OR THAT CERTAIN PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS BY AND BETWEEN TRANSFEROR AND TRANSFEE AND DATED _____ (THE “PURCHASE AGREEMENT”), TRANSFEROR AND TRANSFEE ACKNOWLEDGE AND AGREE THAT THIS IS A NON-WARRANTY BILL OF SALE AND THAT BUYER IS PURCHASING THE TRANSFERRED PROPERTY WITHOUT ANY WARRANTIES, WHETHER EXPRESS OR IMPLIED, AND WHETHER PURSUANT TO THE CALIFORNIA UNIFORM COMMERCIAL CODE, OR OTHERWISE. TO THE EXTENT ANY WARRANTIES WOULD APPLY TO

THE TRANSFERRED PROPERTY OR THIS TRANSACTION, TRANSFEROR UNCONDITIONALLY WAIVES, AND SELLER DISCLAIMS, ANY SUCH WARRANTIES.

TRANSFeree FURTHER EXPRESSLY ACKNOWLEDGES THAT TRANSFeree IS PURCHASING THE TRANSFERRED PROPERTY IN AN "AS IS," "WHERE IS" CONDITION, WITH ALL ITS FAULTS. TRANSFeree HAS INSPECTED THE TRANSFERRED PROPERTY AND IS SATISFIED THAT THE TRANSFERRED PROPERTY IS IN GOOD CONDITION. TRANSFEROR HAS NOT INSPECTED THE TRANSFERRED PROPERTY, DOES NOT KNOW IF THE TRANSFERRED PROPERTY IS COMPLETELY AS DESCRIBED IN EXHIBIT "A," NOR DOES TRANSFEROR KNOW THE PURPOSE TO WHICH TRANSFeree WILL PUT THE PROPERTY. TRANSFEROR MAKES NO REPRESENTATION CONCERNING THE VALUE OF THE TRANSFERRED PROPERTY.

TRANSFEROR DOES NOT WARRANT THE MERCHANTABILITY OF THE TRANSFERRED PROPERTY OR WHETHER IT IS FIT FOR ANY PARTICULAR PURPOSE, OR EVEN IF THE TRANSFERRED PROPERTY IS FIT FOR THE ORDINARY PURPOSE FOR WHICH IT IS NORMALLY USED, AND TRANSFeree SPECIFICALLY WAIVES ANY IMPLIED WARRANTY OF MERCHANTABILITY OF THE TRANSFERRED PROPERTY OR WARRANTY THAT THE TRANSFERRED PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE OR THE PURPOSE FOR WHICH IT IS NORMALLY USED.

IF TRANSFEROR BREACHES ITS WARRANTY OF TITLE, TRANSFeree'S SOLE AND EXCLUSIVE REMEDY SHALL BE LIMITED TO THE RECOVERY OF AN AMOUNT EQUAL TO THE FAIR MARKET VALUE OF THE TRANSFERRED PROPERTY AS OF THE DATE HEREOF AND, IN NO EVENT, SHALL TRANSFeree BE ENTITLED TO CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER.

IN WITNESS WHEREOF, Transferor and Transferee have executed this Bill of Sale as of _____, -.

TRANSFEROR

TRANSFeree

EXHIBIT D

TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS

This form is provided so that the Buyer and/or Seller in this transaction can certify compliance with the Foreign Investment in Real Property Tax Act to the Escrow Agent and/or Buyer. Buyer (“**Transferee**”) must retain a copy of this document until after the fifth taxable year following the transfer.

Section 1445 of the Internal Revenue Code of 1986, as amended (“**Code**”) provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform Transferee that withholding of tax is not required upon the disposition of a U.S. real property interest, the undersigned hereby certifies the following on behalf of _____ (“**Transferor**”):

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust, foreign estate or foreign person (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder).
2. The Transferor is not a disregarded entity as defined in Income Tax Regulation Section 1.1445-2(b)(2)(iii).
3. The Transferor's U.S. employer or tax identification number is _____.
4. The Transferor's office address is _____

The Transferor understands that this Certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this Certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor.

Date: _____, 20__

TRANSFEROR:

By: _____

Name: _____

Its: _____

EXHIBIT E
SELLER'S DELIVERIES

1. Quitclaim Deed and Environmental Restriction dated June 4, 2013 ("Navy Quitclaim Deed"), recorded on June 6, 2013 in the Official Records of the County of Alameda, Instrument No. 2013-199810.
2. Legally Binding Agreement and Property Lease dated December 3, 2010 entered into between the ARRA, the Alameda County Housing and Community Development Department and the Alameda Point Collaborative.
3. Cell Tower Lease and amendments
4. Declaration of Restrictions (former Naval Air Station Alameda) dated June 4, 2013 and recorded June 6, 2013 as Series No.: 2013-199782.
5. Covenant to Restrict Use of Property also dated June 4, 2013 as recorded June 6, 2013 as Series No.: 2013-199838.

EXHIBIT F
ASSIGNMENT AND ASSUMPTION OF LEASE(S), CONTRACTS AND INTANGIBLE
PROPERTY WITH SCHEDULE A

(Attach Cell Tower Lease – Original and any amendments, copy of any contracts and intangible property, if any)

ASSIGNMENT AND ASSUMPTION FORM

(NOT EXECUTION COPY)

ASSIGNMENT AND ASSUMPTION OF LEASE(S), CONTRACTS AND OTHER PROPERTY INTERESTS

This **ASSIGNMENT AND ASSUMPTION OF LEASES CONTRACTS AND OTHER PROPERTY INTERESTS** (this "Assignment") is made as of the ____ day of _____, __, by and between _____, a _____, ("Assignor") and _____, a _____, ("Assignee") with reference to the following facts:

RECITALS

A. Assignor is the owner of that certain real property, commonly known as _____ Street, _____, California, and more particularly described in that certain that certain Purchase and Sale Agreement and Joint Escrow Instructions by and between Assignor, as seller, and Assignee, as purchaser, dated _____, 20 ____ ("Purchase Agreement") attached hereto and incorporated herein (the "Property").

B. On or about the date hereof, Assignor has sold all of its right, title and interest in and to the Property to Assignee, including but not limited to all of Assignor's right, title and interest in and to each and all of those leases of portions of the Property, more particularly described in the Purchase Agreement (the "Leases").

C. Assignor and Assignee desire to enter into this Assignment to confirm the assignment by Assignor to Assignee of all of Assignor's right, title and interest in and to the Leases and to confirm Assignee's assumption of Assignor's obligations under the Leases, Contracts and Intangible Property as of the Effective Date, the lease agreements enumerated on **Schedule A** attached hereto and made a part hereof, (ii) to the extent assignable, the Service Contracts (as defined in the Purchase Agreement, defined below)) (the "Contracts") enumerated in **Schedule B** attached hereto and made a part hereof, (iii) to the extent assignable, any governmental permits and approvals (the "Permits and Approvals") related to the improvements (the "Improvements") located on the land (the "Land") being conveyed by Assignor to Assignee by Deed, dated the date hereof, and (iv) to the extent assignable, all contract rights (including, without limitation, all existing third party warranties, if any, on materials and equipment constituting a part of or used in the operation and maintenance of the Improvements), licenses, permits, plans and specifications, surveys, soils reports, insurance proceeds by reason of damage to the Improvements, condemnation awards and all other rights, privileges or entitlements necessary to continue the use and operation of the Land and the Improvements.

NOW, THEREFORE, in consideration of the mutual covenants of the parties herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Assignment by Assignor.** Assignor hereby sells, transfers and assigns to Assignee all of Assignor's right, title and interest in and to each and all of the Leases, Service Contracts (if any), effective upon the Closing Date of the Purchase Agreement.

2. **Acceptance and Assumption by Assignee.** Assignee hereby accepts the foregoing assignment and transfer and specifically assumes and agrees to perform and observe each and every covenant, agreement and condition to be performed or observed by the "Landlord" under each and all of the Leases and Service Contracts (if any).

3. **Governing Law.** This Assignment is made and entered into in the State of California and shall be interpreted, construed and enforced in accordance with the laws of the State of California.

4. **Binding Effect.** This Assignment shall apply to, bind, and inure to benefit of Assignor and Assignee, and their respective heirs, legal representatives, successors and assigns.

5. **Counterparts.** This Assignment may be executed in one or more counterparts, each of which shall be an original, but all of which shall together constitute one instrument.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first above written.

"ASSIGNOR"

_____,

a _____

By: _____

Its: _____

"ASSIGNEE"

_____,

a _____

By: _____

Its: _____

Schedule A
to
Assignment and Assumption of Leases,
Contracts and Other Property Interests

LIST OF LEASES

[Insert]

Schedule B
to
Assignment and Assumption of Leases,
Contracts and Other Property Interests

LIST OF CONTRACTS
(If any)

[to be inserted]

EXHIBIT G
SHORT-TERM LICENSE AGREEMENT (FOR ADJACENT PROPERTY)

EXHIBIT H
TENANT ESTOPPEL CERTIFICATE

SUBTENANT: SBA 2012 TC Assets, LLC
PROJECT: 625 W. Ranger Avenue, Alameda, California (Building 624)
TENANT ESTOPPEL CERTIFICATE

To: ALAMEDA EMERGENCY FOOD, a California 501(c)(3) non-profit public benefit corporation dba ALAMEDA FOOD BANK ("**Prospective Buyer**"), and its lender ("**Lender**")

Re: Agreement of Sublease dated October 1, 2000, by and between the City of Alameda (as successor to ARRA (as defined below), as sublessor ("**Sublessor**"), and SBA 2012 TC Assets, LLC, a Delaware limited liability company, f/k/a TowerCo Assets LLC, a Delaware limited liability company (as successor to Nextel (as defined below), as subtenant ("**Subtenant**"), for 625 W. Ranger Avenue, Alameda, California, commonly known as Building 624 (the "**Project**")

Ladies and Gentlemen:

The undersigned, as subtenant, hereby states and declares as follows:

1. Subtenant is the lessee under that certain Agreement of Sublease, Sublease of Building 624 at the Former Alameda Naval Air Station between Alameda Reuse and Development Authority, a joint powers authority established by the City of Alameda and the City Improvement Commission under the California Joint Exercise of Powers Act, as sublessor, and Nextel of California, Inc., a Delaware corporation ("**Nextel**"), as subtenant, and dated October 1, 2000 (the "**Original Sublease**") pertaining to the Project.

2. The Sublease (as defined below) is for the following portion of the Project (collectively, the "**Demised Premises**"): Building 624, plus the Additional Leased Premises as defined in this Second Amendment (as defined below).

3. The Original Sublease has not been modified or amended except by the following documents (the Original Sublease, as amended, shall hereinafter be referred to as the "**Sublease**"):

- Amendment No. 1 to Agreement of Sublease dated August 23, 2008;
- Second Amendment to Agreement of Sublease dated August, 2010 and fully executed on Sept. 7, 2010(the "**Second Amendment**"); and
- Third Amendment to Agreement of Sublease dated March 1, 2018.

A true, correct and complete copy of the Sublease is attached hereto as Exhibit A.

4. The commencement date of the Sublease occurred on _____, _____. The Sublease Term shall expire _____, _____, unless sooner terminated in accordance with the terms of the Sublease, and Subtenant shall be vacating upon such expiration. Subtenant has no option to renew or extend the term of the Sublease, except as follows (if none, so state): None.

5. The Sublease contains the entire agreement of Sublessor and Subtenant with respect to the Demised Premises, and is in full force and effect.

6. As of the date hereof, Subtenant is occupying the Demised Premises and is paying rent on a current basis under the Sublease.

(a) The minimum monthly or base rent currently being paid by Subtenant for the Demised Premises pursuant to the terms of the Sublease is \$_____ per month

(b) Common area maintenance, taxes, insurance and other charges (collectively, the “**Reimbursables**”) due under the Sublease have been paid through _____.

7. Subtenant has accepted possession of the Demised Premises, and all items with respect to the Demised Premises to be performed by Sublessor have been completed, including, but not limited to, completion of construction thereof (and all other improvements required under the Sublease) in accordance with the terms of the Sublease. Sublessor has paid in full any required contribution towards work to be performed by Subtenant, if any, under the Sublease, except as follows (if none, so state): **None**.

8. The Demised Premises shall be expanded by the addition of the following space on the dates hereinafter indicated (if none, so state): **None**.

9. No default or event that with the passage of time or notice would constitute a default (hereinafter collectively a “**Default**”) on the part of Subtenant exists under the Sublease in the performance of the terms, covenants and conditions of the Sublease required to be performed on the part of Subtenant.

10. To the best of Subtenant’s knowledge, no Default on the part of Sublessor exists under the Sublease in the performance of the terms, covenants and conditions of the Sublease required to be performed on the part of Sublessor.

11. Subtenant has no option or right to purchase all or any part of the Project.

12. Subtenant has not assigned, sublet, transferred, hypothecated or otherwise disposed of its interest in the Sublease and/or the Demised Premises, or any part thereof.

13. Neither the Sublease nor any obligations of Subtenant thereunder have been guaranteed by any person or entity, except as follows (if none, so state): **None**.

14. No hazardous substances are being generated, used, handled, stored or disposed of by Subtenant on the Demised Premises or on the Project in violation of any applicable laws, rules or regulations or the terms of the Sublease.

15. No rentals are accrued and unpaid under the Sublease, except for Reimbursables, if any, which are not yet due and payable.

16. No prepayments of rentals due under the Sublease have been made for more than one month in advance. No security or similar deposit has been made under the Sublease, except for the sum of \$_____ which has been deposited by Subtenant with Sublessor pursuant to the terms of the Sublease.

17. As of the date hereof, Subtenant has no defense as to its obligations under the Sublease and asserts no setoff, claim or counterclaim against Sublessor.

18. Subtenant has not received notice of any assignment, hypothecation, mortgage or pledge of Sublessor’s interest in the Sublease or the rents or other amounts payable thereunder, except as follows (if none, so state): **Assignment of lease to Sublessor**.

19. The undersigned is authorized to execute this Tenant Estoppel Certificate on behalf of Subtenant.

20. This Tenant Estoppel Certificate may be executed in any number of separate counterparts, each of which shall be deemed an original, but all of which, collectively and separately, shall constitute one and the same instrument.

Subtenant acknowledges and agrees that (a) this estoppel certificate may be relied upon by Lender, Prospective Buyer, and by their respective successors and assigns, including but not limited to, any designee or successor, and shall be binding upon the undersigned and its

successors and assigns, as Subtenant under the Sublease and (b) Lender and Prospective Buyer are relying and will rely upon this estoppel certificate and the accuracy of the information contained herein.

Very truly yours,

SUBTENANT:

a

By:

Name:

Its:

Dated:

[INSERT APPROPRIATE NOTARY / ACKNOWLEDGMENT]

Exhibit A
To
Tenant Estoppel Certificate
LEASE

[Attached]

SCHEDULE 1 TO AGREEMENT

LIST OF LEASES

Agreement of Sublease, Sublease of Building 624 at the Former Alameda Naval Air Station between Alameda Reuse and Development Authority, a joint powers authority established by the City of Alameda and the City Improvement Commission under the California Joint Exercise of Powers Act, as sublessor, and Nextel of California, Inc., a Delaware corporation ("Nextel"), as subtenant, and dated October 1, 2000 (the "Original Sublease"), as amended by that certain Amendment No. 1 to Agreement of Sublease dated August 23, 2008; that certain Second Amendment to Agreement of Sublease dated August, 2010 and fully executed on Sept. 7, 2010 (the "Second Amendment"); and that certain Third Amendment to Agreement of Sublease dated March 1, 2018.



Board Approval to designate Rebecca Rivkyn, acting in her capacity as Board President, to execute on behalf of Alameda Food Bank the Purchase Agreement for the purchase of Building 607 and the adjacent parking lot comprising 1.7 acres from the City of Alameda.

On Friday, February 16, 2024, the Alameda Food Bank Board of Directors unanimously approved via email that Rebecca Rivkyn, acting in her capacity as Board President, execute the Purchase Agreement and temporary use agreement of the former Building 101 Site dated February 20, 2024.

Linda Crabbe
Secretary, Alameda Food Bank Board of Directors

February 20, 2024
Date