

## SUBMANAGEMENT AGREEMENT

THIS SUBMANAGEMENT AGREEMENT (this “Agreement”), is made as of March 28, 2022 (“Effective Date”), between Cerda-Zein Real Estate, Inc., a California corporation (“Sub-Manager”), RiverRock Real Estate Group, a California Corporation (“Manager”) and the City of Alameda (“City”).

### RECITALS

This Agreement is entered upon the basis of the following facts, understanding and intentions of the City, the Sub-Manager and Manager, sometimes collectively referred to herein as the “Parties”.

A. The City owns certain real residential property within Alameda Point (“the Alameda Point Residential Properties”) identified by address on the attached Exhibit A and incorporated herein by reference. Collectively, the Alameda Point Residential Properties shall be referred to as “the Managed Properties”. Manager is responsible, as manager of the Managed Properties, for managing, operating, maintaining and servicing the Managed Properties as more specifically set forth in that certain Service Provider Agreement dated February 9, 2022.

B. The Manager desires to obtain the services of Sub-Manager as Sub-Manager of the Managed Properties with responsibilities for managing, operating, maintaining and servicing the Managed Properties as more specifically set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, which are incorporated herein by reference, and the mutual covenants herein contained, the Parties agree as follows:

### ARTICLE I DUTIES OF SUB-MANAGER

Section 1.1 Appointment of Sub-Manager. The Manager hereby appoints Sub-Manager as sub-manager of the Managed Properties with the responsibilities and upon the terms and conditions outlined in this Agreement, and Sub-Manager hereby accepts such appointment. In addition, the City hereby approves of such appointment to Sub-Manager as sub-manager of the Managed Properties.

Section 1.2 Property Management of the Managed Properties. The Sub-Manager shall diligently perform its duties hereunder and shall devote sufficient time and effort to the Managed Properties to ensure that they are managed, leased, operated, maintained and serviced in good, well-maintained condition and in a manner comparable to similar professionally managed developments. In addition to providing the Property Management Services (as hereinafter defined), Sub-Manager shall perform such other services as the Manager or the City may reasonably request in connection with the Managed Properties which are consistent with the services provided by property managers at similar professionally managed developments.

Section 1.3 Specific Management Services. Sub-Manager will use commercially reasonable efforts to obtain lessees or retain tenants of the Managed Properties at a lease rate reasonably consistent with the lease rates set forth in the budget prepared in accordance with Section 3 below. Sub-Manager may cooperate with other licensed real estate brokers in providing its services but no employee, affiliate or independent contractor of Sub-Manager may represent prospective or current tenants of the Managed Properties concerning a new or renewed lease of

the Managed Properties. Without limiting the generality of any other term or provision of this Agreement, Sub-Manager shall provide the following services (the "Property Management Services").

(a) Personnel. Sub-Manager shall hire, pay (subject to reimbursement by Manager and/or City), supervise and discharge all employees and personnel necessary for the operation of the Managed Properties as employees or personnel of Sub-Manager and not of the Manager or City. As of the Effective Date, those persons listed in Exhibit F ("Operation Team") shall comprise the personnel of Sub-Manager assigned to perform the services under this Agreement. Sub-Manager may add or delete such persons from the Operation Team by notifying the Manager and the City in writing of such changes. Any additions of the Operation Team must be approved by the City and the Manager, each in its reasonable discretion. Such personnel shall in every instance be the employees or independent contractors of Sub-Manager and not of the Manager or the City. Executive personnel of Sub-Manager will provide oversight at no additional cost to the City. Sub-Manager shall comply with all laws, statutes and ordinances relating to the employment of its employees, including, without limitation, those requiring workers' compensation insurance to cover all of Sub-Manager's employees. Sub-Manager shall remove from the Operation Team for the Managed Properties all persons whom the Sub-Manager, in the exercise of its good business judgment, or whom the Manager or the City, each in its reasonable judgment, deems unnecessary or undesirable for the operation and management of the Managed Properties, which removal shall be in compliance with applicable laws, statutes and ordinances.

(b) Collection and Handling of Money.

(i) Sub-Manager shall diligently undertake the collection of rents and others charges payable by tenants of each of the Managed Properties under the terms of their leases and any sums otherwise payable to the City with respect to each of the Managed Properties. All sums collected by Sub-Manager shall be deposited promptly in an interest-bearing account (all interest shall accrue to the benefit of the City), approved by and established in the City's name, for the benefit of, and held in trust for, the City, in a bank which has been approved by the City. Funds collected by Sub-Manager from each of the Managed Properties shall not be commingled with any other funds collected by Sub-Manager from properties that are other than the Managed Properties. If required by law, Sub-Manager shall establish separate accounts for holding tenants' security deposits, and funds in such accounts shall not be commingled with other funds of Sub-Manager. Funds may only be withdrawn from the account by Sub-Manager for permissible expenditures pursuant to this Agreement.

(ii) Sub-Manager acknowledges that the City has certain regularly scheduled payments that it must make on a regular basis out of the revenues from certain of the Managed Properties, including debt service on bonds. Within fifteen (15) days after the end of each calendar month, Sub-Manager shall cause to be disbursed to the City all funds in any of the bank accounts established by Sub-Manager described in Section 1.3(b)(i) above (other than any accounts established for the deposit of tenants' security deposits), less any amounts which are necessary in order to meet anticipated expenses of such Properties coming due during the next thirty (30) days, accompanied by the reports required under Section 1.3 (d) below.

(c) Intentionally Omitted.

(d) Books and Records.

(i) Sub-Manager shall maintain complete books and records in accordance with generally accepted accounting principles or real estate accounting principles, each applied on a consistent basis in connection with its management and operation of each of the Managed Properties and such books and records shall be clearly identified and readily accessible.

(ii) Sub-Manager shall make the books of account and all other records relating to, or reflecting the operation of each of the Managed Properties, including without limitation, computer records and electronic data, all of which Sub-Manager agrees to keep safe, available and separate from any records not relating to the Managed Properties, available to the Manager and City and their representatives at all reasonable times for examination, audit, inspection and transcription. Sub-Manager shall provide access to the Manager and City or their respective designees during normal business hours upon request by the Manager or City. The records for each of the Managed Properties shall be kept on-site at the principal office of the Sub-Manager, with copies to be stored digitally on a mutually agreeable platform. The Manager or City may examine and audit the records, make any copies or transcripts therefrom it wishes, and inspect all work, data, documents, proceedings, and activities related to this Agreement. Such records shall be kept separate from other documents of Sub-Manager and shall be maintained for a period of three (3) years after receipt of final payment. For purposes of this provision, the term "record" shall have the definition it has in the Public Records Act of the State of California (Cal. Gov't. Code Section 6250 *et seq.*)

(iii) Upon the Manager's or City's reasonable request, Sub-Manager shall deliver to the Manager and City copies of any source materials utilized by Sub-Manager in preparing the records, books and accounts.

(iv) Upon termination of the Agreement, Sub-Manager, at the City's written request, shall turn over copies of all such books and records to the City.

(v) Sub-Manager agrees to deliver to the Manager on or before the twelfth (12<sup>th</sup>) day of each calendar month a detailed financial report as specified in Article III. Sub-Manager shall, within sixty (60) days after the Manager's written request therefor (but not more than once during any calendar year), have an annual audit of the books and records of each of the Managed Properties made by a firm of certified public accountants or others auditors approved by the Manager and City, which audit shall be certified as to the fairness of the presentation of such financial statements and notes and the preparation thereof in accordance with generally accepted or real estate accounting principles, each accounting principles applied on a consistent basis, but shall in no event include any tax return preparation relating to each of the Managed Properties. The expense of the annual audit shall be an expense of the City.

(vi) If supplemental examination or audit of the records is necessary due to concerns raised by the City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records determines there is an error that

exceeds five percent (5%) of the total annual operating expenses, then Sub-Manager shall reimburse the City for all reasonable costs and expenses associated with the initial examination and audit and the supplemental examination or audit, but not to exceed the amount of the error determined by such audit(s), plus any costs incurred by the City associated with such audit(s).

(vii) Sub-Manager will cooperate with, and give reasonable assistance to, any accountant or other person designated by the City to examine such records.

(e) Repairs and Maintenance.

(i) Sub-Manager shall cause to be made all repairs and perform all maintenance on the buildings, grounds and other improvements of the Managed Properties necessary to maintain the Managed Properties in good well-maintained condition, in a manner comparable to similar professionally managed developments and any other reasonable standards approved by the Manager and the City from time to time. Sub-Manager shall also use commercially reasonable efforts to cause to be performed or furnished any and all emergency repairs or services necessary for the preservation of the Managed Properties or to avoid the suspension of any service to any of the Managed Properties or danger to life or property. Sub-Manager shall give prompt notice of any emergency repairs to the Manager and to make reasonable efforts to secure the Manager's prior written approval. Emergency repairs or services may be made or furnished or caused to be made or furnished by Sub-Manager without the Manager's prior approval, but only if it is not reasonably feasible to secure such prior approval. In any event, Sub-Manager shall, not later than two (2) business days after performing or furnishing or causing to be performed or furnished an emergency repair or service, notify the Manager and the City of the details and cost thereof. Except in the case of an emergency, Sub-Manager shall obtain Manager's prior written approval for any unbudgeted expense that exceeds Two Thousand Five Hundred Dollars (\$2,500.00).

(ii) Notwithstanding the provisions of Section 1.3 (e) (i) above, Sub-Manager's obligations for repair and maintenance of any of the Managed Properties described in clause (i) above shall not include repair and maintenance of utilities located within the public rights of way. The Sub-Manager shall maintain, or cause to be maintained, the lateral utility lines from the area on the Managed Properties outside the public rights of way and within the buildings for each of the Managed Properties. The utilities located within the public rights of way (or street areas which are intended to become public rights of way) shall be the responsibility of the City or the utility. For purposes of determining what constitutes "public rights of way," the Parties hereto agree the "public rights of way" shall mean the existing roadways and streets up to the curb line.

(f) Service Contracts. Subject to the provisions of Section 2.2 below, Sub-Manager, as the City's agent, may enter into contracts (using the City's approved form of contract attached hereto as Exhibit B.) for the furnishing to the Managed Properties of utility, maintenance and other services and for the acquisition of equipment and supplies as may be necessary for the management, operation, maintenance and servicing of the Managed Properties in accordance with this Agreement. Unless otherwise approved in writing by the Manager and the City, all such contracts entered into pursuant to this subsection shall be terminable upon no more than thirty (30) days' prior written notice and shall be assignable to the Manager or City, at the Manager's or City's request. To the extent that any such contracts entered into pursuant to this subsection are required to be in the name of and directly with the City, such contracts shall be submitted to the City for processing, review and execution by the City. Sub-Manager shall be responsible for enforcing the terms of and the performance pursuant to all such contracts entered into as described herein. The City shall have the right to enforce the obligation of the contract whether the City or the Sub-Manager is named as a party to the contract.

(g) Other Services. Sub-Manager shall perform all other services which are customarily performed in connection with the operation and management of similar professionally managed developments; and specifically, without limiting the generality of the foregoing, Sub-Sub-Manager shall perform, all services normally provided to tenants of similar developments and City or Manager shall reimburse and/or pay Sub-Manager in connection therewith to the extent consistent with the practices of property owners of similar professionally managed developments. Payment to Sub-Manager for such services is outlined in Paragraph 3.2.

(h) Compliance With Laws, Permits, and Licenses. With regard to the performance of the Property Management Services, Sub-Manager shall take such action as may be reasonably necessary to comply with all laws, rules and regulations and any and all orders or requirements of any governmental authority having jurisdiction over the Managed Properties. Sub-Manager shall not knowingly permit the use of the Managed Properties for any purpose which might void or increase the premiums payable under any insurance policies held by the City. Sub-Manager shall obtain and maintain during the term of this Agreement all appropriate permits, certificates and licenses, including, but not limiting to, a City of Alameda Business License, that may be required in connection with the performance of services hereunder. To the extent permits, certificates or licenses are necessary for Sub-Manager to conduct its operations, the cost of such permits, certificates and licenses shall be at Sub-Manager's sole expense and not an expense paid out of revenues from the Managed Properties.

(i) Legal Actions. Sub-Manager shall have no right to initiate, settle, compromise or release legal actions or suits arising out of or related to disputes over tenancy or possession rights of an Alameda Point Residential Property, such as Unlawful Detainer or eviction actions, or reinstate such tenancies without prior written approval of the City and the City Attorney.

(j) Notices. Sub-Manager shall promptly deliver to the Manager and City all notices received from any contractor, subcontractor, governmental or official entity, any tenant or any other party with respect to the Managed Properties. Sub-Manager may sign and serve in the name of the City any and all notices required in connection with the proper performance by Sub-Manager of the Property Management Services.

(k) Notices of Claim of Injury or Damage. Sub-Manager shall notify the Manager and City of any personal injury or property damage occurring to, or claimed by, any tenant or third party on or with respect to the Managed Properties promptly upon obtaining actual knowledge thereof and to promptly forward to the Manager and City any summons, subpoena, or legal document served upon the Sub-Manager relating to actual or alleged potential liability of the Manager or City, the Sub-Manager or the Managed Properties within two (2) business days of receipt thereof.

(l) Cooperation. Sub-Manager shall give the Manager and City all pertinent information in its possession and provide reasonable assistance in the defense or disposition of any claim, demands, suits or other legal proceedings which may be made or instituted by any third party against the Manager or City which arise out of any matters relating to the Managed Properties, this Agreement or Sub-Manager's performance hereunder.

(m) Leasing. Sub-Manager shall provide those leasing services set forth in Exhibit C attached to and made a part of this Agreement in connection with the Managed Properties specified in Exhibit A

(n) Tenant Relations. Sub-Manager shall make itself fully familiar with the terms and provisions of all leases for areas within the Managed Properties, shall perform all delegable property management duties of the City as landlord under each such lease, so that such lease shall remain in full force and effect, with no default by the City, and shall enforce the full performance of all obligations of the tenant under each such lease. Sub-Manager shall maintain business-like relations with tenants, receive requests, complaints and the like from tenants and respond and act upon the foregoing in reasonable fashion. To insure full performance by tenants of all their obligations, Sub-Manager shall inspect the Managed Properties at least monthly per Section 1.3 (r) below, and, if appropriate, shall notify all tenants of all rules, regulations, and notices as may be promulgated by the Manager, City, governing bodies and insurance carriers. If a lease with any tenant requires that the tenant maintain any insurance coverage, Sub- Manager shall obtain insurance certificates and endorsements from such tenant evidencing compliance with the lease terms, and shall promptly notify the Manager and the City if it is unable to obtain such certificates.

(o) Taxes and Assessments. Sub-Manager, at the Manager's or City's request, agrees to annually review, and submit a report on all real estate and personal property taxes and assessments affecting the Managed Properties (and if so requested, Sub-Manager may engage outside consultants at the City's expense with the City's prior written approval) and initiate and pursue appeals of same at City's cost, if so directed by the Manager and City.

(p) Inventories and Supplies. Sub-Manager agrees to supervise and purchase, or arrange for the purchase, in an economical manner, of all inventories, provisions, supplies and operating equipment which, in the normal course of business, are necessary and proper to maintain and operate the Managed Properties in a first-class manner.

(q) Hours. At all times during normal business hours (i.e., Monday-Friday from 9 a.m. to 5 p.m.), Sub-Manager agrees to be available to, or cause a representative of Sub-Manager to be available to, tenants of the Managed Properties. It is expressly understood that Sub-Manager shall also make itself available for emergency situations.

(r) Inspections. Sub-Manager shall perform periodic diligent interior visual inspections of the Managed Properties of the areas reasonably accessible to Sub-Manager, and report on such inspections to the Manager and the City at least annually. In addition, Sub-Manager shall visually inspect all exterior areas of the Managed Properties for safety hazards, inclusive of sidewalk inspections, on a monthly basis and shall report on such inspections to the Manager and the City. Sub-Manager shall also inspect all premises upon termination of leases, and shall inspect the roofs of buildings within the Managed Properties annually and report on such inspections to the Manager and the City.

(s) Assistance with Proposed Sale, Financing, Refinancing. Sub-Manager agrees to reasonably cooperate with, and assist the City in any attempt by the City to sell, finance or refinance any of the Managed Properties without such cooperation giving rise to compensation. Such cooperation shall include, without limitation, answering prospective purchaser' or lenders(s)' questions about the Managed Properties or tenant leases, notifying tenants about the sale of any of the Managed Properties and obtaining estoppel certificates. When requested by the City, Sub-Manager shall prepare a list of all personal property owned by the City and used at any of the Managed Properties or in their operation. Upon request, Sub-Manager shall diligently seek to obtain lease estoppel certificates (on a form approved by the City) from tenants for the benefit of the City and/or any proposed purchaser and/or mortgagee.

Section 1.4 Construction Management Services. Without limiting the generality of any other term or provision of this Agreement, Sub-Manager shall provide the following services (the “Construction Management Services”) in furtherance of the construction, repair, maintenance, redevelopment and reuse of the Managed Properties, provided Manager and the City agree to hire Sub-Manager for such work:

(a) Budgets. Sub-Manager shall (i) prepare budgets for the construction of certain capital improvements and capital repairs designated by the Manager (collectively the “Work”), (ii) supervise other Consultants (as defined herein) on the Work, and (iii) perform such other services as are reasonably requested in writing by the Manager from time to time in connection with the planning, development and construction of the Work, or as may be necessary to complete the planning, development and construction of the Work. Sub- Manager further agrees to perform such other reasonable extraordinary services as the Manager may direct in writing from time to time after obtaining the written approval of the City (it being agreed that such approval from the City shall be obtained by Manager and Sub-Manager shall have no responsibility in connection therewith), provided that the City shall reimburse Sub-Manager for Sub- Manager’s reasonable cost in performing same.

(b) Consulting Contracts. All contracts for the design, development and construction of any improvements for the Work including, without limitation, all contracts with engineers, architects, consultants, designers and contractors (collectively, the “Consultants”) shall be in the name of the City and shall, at the direction of the City, be executed by the City or by Sub-Manager as agent for the City.

(c) Competitive Bidding. At the request of the Manager or City, or in the reasonable discretion of Sub- Manager, contracts for the Work shall be awarded on the basis of competitive bidding, solicited in the following manner:

- (i) A minimum of three (3) written bids shall be obtained for any work over \$5,000 (to the extent it is reasonably practicable for Sub-Manager to obtain three (3) written bids therefor, at Manager and the City’s discretion);
- (ii) Require compliance with the terms and conditions of this Agreement;
- (iii) Each bid will be solicited in a form prescribed by the Sub-Manager so that uniformity will exist in the bid quote;
- (iv) Sub-Manager shall provide the Manager and the City with all bid responses accompanied by the Sub-Manager’s recommendations as to the most acceptable bid. If the Sub-Manager advises acceptance of other than the lowest bidding, the Sub-Manager shall adequately support, in writing its recommendations; and
- (v) The Manager or City shall be free to accept or reject any and all bids. The Manager or City will communicate in writing to Sub-Manager its acceptance of rejection of bids.

(d) Plans and Specifications. At the request of the Manager, prior to submitting any of the Work for bid, the Manager shall approve all plans and specifications relating to the Work and all costs for the completion of any and all plans and specifications shall be deemed to be a part of the Work.

(e) Contract Administration. Sub-Manager shall administer the various contracts relating to the Work and shall use commercially reasonable efforts to cause each party to a contract to adhere to the terms and conditions of such contract. Sub-Manager shall be responsible for regularly keeping the Manager informed with respect to the progress of the Work. However, subject to the foregoing, Sub-Manager shall not be responsible for (i) the quality or quantity of the Work, nor the construction means, methods, techniques, sequences or procedures employed by contractors in the performance of their contracts; (ii) the failure of any contractor to complete the Work in accordance with the contract documents, the acts or omissions of any contractors, subcontractors or their agents or employees, or any other persons performing portions of the Work; (iii) any errors, inconsistencies or omissions which may be contained in the plans and specifications relating to the Work, (iv) acts or omissions of the City, its agents (other than Sub-Manager) and employees; (v) any payments to contractors, subcontractors, material suppliers or any other parties; (vi) any delays in the completion of the Work; (vii) the enforcement of any contract pertaining to the Work; (viii) adherence to any budget for the completion of the Work; and (ix) any other matters not expressly made the responsibility of Sub-Manager herein.

(f) Payments.

(i) Subject to the provisions herein set forth, and subject to the availability of funds therefor, Sub-Manager shall deliver all progress payments to the contractors in accordance with the provisions of the construction contracts relating thereto for Work performed thereunder which is undisputed and in accordance with the plans and specifications relating thereto, and shall make all payments to professionals for services rendered under the professional contracts relating thereto. Notwithstanding the foregoing, the Manager shall have the right to approve the invoices relating thereto, which invoices shall be prepared by the Sub-Manager and shall detail the particular Work performed or service rendered, identify the person or firm performing such Work or service, and shall set forth the amount due for such Work or services; provided, however, the Sub-Manager shall have the right, but not the obligation, to pay directly any contractor and/or professional amounts not exceeding Five Thousand Dollars (\$5,000.00) with respect to any such contractor or professional, prior to the Manager's approval of the invoices relating thereto.

(ii) Sub-Manager may withhold disbursement to any contractor and/or professional for a period of not more than thirty (30) days following the Manager's approval of the invoice relating thereto if the Sub-Manager reasonably deems the performance of such contractor or professional unsatisfactory under the applicable contract.

(iii) Payment of all sums to the contractors and the professionals for Work performed shall be subject to Section 4.3 of this Agreement.

(iv) All construction contracts which are let in accordance with the provisions of this Agreement shall provide for ten percent (10%) holdback from the amounts due under each progress payment, with the entire amount of the holdback under such contract that is subject to the terms and conditions contained in the applicable contract, payable to such contractor or material provider within thirty-five (35) days following recordation of a valid Notice of Completion. Notwithstanding anything of the contrary set forth in this Section 1.4, the Manager acknowledges and agrees that the Sub-Manager shall in no way be construed to be engaging in the performance of any construction or design activities.



## ARTICLE II

### CITY RIGHTS AND OBLIGATIONS

Section 2.1 Managed Properties Materials in Possession of City. City and Manager have previously provided Sub-Manager the documents and information required for the management of the Managed Properties including, but not limited to, all leases, amendments and correspondence related thereto, the status of rental payment, copies of service contracts in effect, and all applicable insurance policies. Upon Sub-Manager's request, the City shall provide any additional such documents it may have in its possession.

Section 2.2 Approval of Contracts. Notwithstanding any term or provision of this Agreement to the contrary, except in the case of an emergency situation involving danger to persons or property, or as otherwise approved by the Manager or City, no contract or agreement for equipment, supplies, services or any other item shall be entered into by Sub-Manager as agent for the City or by Sub-Manager, in its name, unless Sub-Manager shall have first complied with, or used a procurement process consistent with, the City's procurement policies applicable to equipment, supplies and materials, a copy of which has been furnished to Sub-Manager, or in the case of services, Sub-Manager shall have first obtained and submitted to the Manager three (3) competitive, written bids for the performance or furnishing of the same (to the extent it is reasonably practicable for Sub-Manager to obtain three (3) written bids therefor, at Manager's and the City's discretion), and the Manager shall have approved the awarding of such contract or agreement within a reasonable amount of time after request therefor. All service contracts shall contain a provision permitting the City to terminate such contracts on no more than thirty (30) days written notice and shall comply with the provision of Section 1.3(f). Notwithstanding any other provision of this Agreement to the contrary, in no event shall Sub-Manager enter into, on behalf of the City, any agreement with any affiliate of Sub-Manager without the prior written consent of the Manager or City, which consent shall specifically reference the affiliation of Sub-Manager with the contracting party.

Section 2.3 Manager's Representative. For the purposes of administering this Agreement, Sub-Manager shall communicate with and take direction from the Manager's representative, (currently Ryan Gaughan), in connection with Sub-Manager's performance of its obligations under this Agreement. The Manager may change its representative by providing written notice to Sub-Manager.

## ARTICLE III

### BUDGETS AND REPORTS

Section 3.1 Budgets. Sub-Manager acknowledges that the fiscal year for the City is July 1- June 30. No later than January 15<sup>th</sup> of each year (except the first year of the assignment), or such other date specified in a written notice from the Manager to Sub-Manager, Sub-Manager shall submit to the Manager, for the Manager's written approval (which shall not be unreasonably withheld), proposed budget for each of the Managed Properties, and a description of the Property Management Services to be provided by Sub-Manager during the next fiscal year. Sub-Manager shall provide such other financial data and other information as may be reasonably required by the Manager in connection with the preparation of its annual business plan or which may otherwise be reasonably requested by the Manager.

Section 3.2 Compensation for Property Management Services; Construction Management Services and Leasing Services. The City shall pay to Sub-Manager (i) as compensation for performing the Leasing Services for the Managed Properties, an amount set forth on Exhibit E attached hereto, (ii) as compensation for performing the Construction Management Services, an amount set forth on Exhibit E attached hereto, related to any Work that is managed by Sub-Manager, (iii) as compensation for performing the Property Management Services, a monthly fee equal to the greater of Eight Percent (8%) of gross revenue or One Hundred Dollars (\$100.00) per Door beginning with the second calendar month of the assignment (the "Property Management Fee"). It is hereby mutually agreed that from the Commencement Date through April 30, 2022, Sub-Manager's responsibilities shall be limited to transition activities, limited inspections, maintenance, repair, project management and tenant communication related thereto, but Sub-Manager shall be entitled to a full monthly fee (equivalent to 30 days). Beginning May 1, 2022, Sub-Manager's responsibilities shall be expanded to include all incorporated in this Agreement.

(a) Budget Adjustment. If the Sub-Manager desires to adjust the budget, the Sub-Manager shall send written notice (the "Budget Adjustment Request") to the Manager. The Budget Adjustment Request shall include the proposed budget adjustments. In no event shall such adjustments collectively exceed a three percent (3%) increase over the prior year's annual budget without the prior written consent of the City or Manager.

(b) Negotiation. The Parties agree to negotiate in good faith any such budget adjustments requested in the Budget Adjustment Request.

Section 3.3 Monthly Reports. On or before the twelfth (12<sup>th</sup>) day of each calendar month, Sub-Manager shall deliver to the Manager, for each leased premises within the Managed Properties, and for the Managed Properties as a whole, the following reports, for the preceding month:

- (a) Accounting. A cash flow operating statement, a funds from operation statement (cash basis), an income statement (cash basis), a balance sheet (cash basis) and a statement of cash flows. Such statements shall present the results of operation of each leased premises within the Managed Properties and the Managed Properties as a whole for the preceding calendar month and for the year-to-date and shall include variance comments for amounts exceeding \$1,000 and 5%.
- (b) Rent Roll and Account Receivable Aging Reports. Reports setting forth a rent roll, presentation rent roll, tenant delinquencies and the aging of accounts payable.
- (c) Inspection Reports. A report of all significant and material findings, if any, of Sub-Manager's inspections of the Managed Properties pursuant to this Agreement.
- (d) Capital Expenditure Reports. Reports providing details of capital expenditures, including tenant improvements, for the preceding month and for the remainder of the calendar year, itemized by type of capital expenditure.
- (e) Updated Forecast. A statement setting forth in detail the estimated revenues, expenses, capital expenditures, for each of the remaining months of the calendar year. Sub-Manager shall also set forth on a monthly basis the estimated cash flow to the Manager.
- (f) Book and Tax Projections. If requested by the Manager and approved in writing by the City (at the City's cost), projections of the current year's net income or loss on a book and tax basis, together with statements supporting the calculation of these projections. The Manager will notify Sub-Manager of the specific date on which the projections are due.

- (g) Receivables Aging Reports. A list of all accounts receivable outstanding as of the end of the preceding month, specifying the amount due, the nature of the receivable, the person or entity from whom due, the age of the receivable and a summary of collection efforts to date.
- (h) Bank Reconciliation. A reconciliation for each of the City's bank accounts related to each of the Managed Properties of the activity in such account for the preceding month and for the year-to-date.

Section 3.4 Annual Reports. Within forty-five (45) days after the end of each calendar year, Sub-Manager shall deliver to the Manager a cash flow operating statement, a funds from operations statement (cash basis), an income statement (cash basis), a balance sheet (cash basis) and a statement of cash flows, each for or as of the end of the immediately preceding year.

Section 3.5 Format. At the Manager's request, Sub-Manager shall make available to the Manager all reports required hereunder in an electronic format reasonably acceptable to the Manager and compatible with the City's computer system and software, and Manager and/or the City shall reimburse Sub-Manager for all costs incurred by Sub-Manager in achieving compatibility with the City's computer system and software and/or creating new forms.

Section 3.6 Use of Reports. All reports prepared by Sub-Manager may be used by the Manager or City in execution or implementation of:

- (a) The original services for which Sub-Manager was hired;
- (b) Continuation of the services by others;
- (c) Subsequent additions to the original services; and/or
- (d) Other services being furnished to the City, as the Manager or City deems appropriate.

Section 3.7 No Distribution Without Approval. No report, information or other data given to or prepared or assembled by Sub-Manager pursuant to this Agreement shall be made available to any individual or organization by Sub-Manager without prior written approval by the Manager and the City or as required by law.

## ARTICLE IV

### EXPENSES

Section 4.1 Expense of City. All payments made, or expenses incurred, by the Sub-Manager in the performance of the Property Management Services shall be paid or reimbursed by the City within thirty (30) days after Sub-Manager delivers a notice thereof to Manager or the City, except as otherwise expressly provided in this Agreement. Both Parties acknowledge that the City shall not be obligated to pay or reimburse the Sub-Manager for any expenses incurred by the Sub-Manager in its performing its Leasing Services as described in Exhibit C.

Section 4.2 Payment by the Sub-Manager. Subject to Section 4.3 below, without the necessity of obtaining the prior written consent of the Manager, the Sub-Manager shall make all payments for repairs and maintenance cost incurred and equipment and supply purchases made in accordance with this Agreement, and under contracts existing prior to the Effective Date or approved or authorized pursuant to this Agreement, but only if such payments (a) will not cause the annual expenditure under a budget line item to exceed the approved budget by the lesser of Five Thousand and No/100ths Dollars (\$5,000.00) or ten percent (10%) or more of the amount of such budget line item, and (b) will not, as result of actual savings to date in other budget line items, cause the total projected annual expenditures to exceed the approved budget. However, in the case of casualty, breakdown in machinery or other similar emergency, the Sub-Manager may make reasonable payments for repairs, maintenance, equipment or supplies in excess of such authorization amounts if, in the reasonable determination of the Sub-Manager, emergency action prior to written approval is necessary to prevent additional damage or a greater total expenditure, to protect the Managed Properties from damage or to prevent a default on the part of the City as landlord under a lease. In such cases, such authority shall terminate upon the cessation of the emergency and the Sub-Manager shall notify the Manager of the expenditure within two (2) days after such expenditure.

Section 4.3 Source of Payment. Any authorized payments made by the Sub-Manager on behalf of the City shall only be made out of such funds as the Sub-Manager may from time to time hold for the account of the City or as may be provided by the City.

## ARTICLE V

### NONDISCRIMINATION AND EQUAL OPPORTUNITY

Section 5.1 Nondiscrimination. Neither the Manager, City, Sub-Manager nor anyone authorized to act for any of them, shall, in the rental, lease or sale, in the provision of service, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, handicap, sex, sexual orientation or national origin, and Sub-Manager hereby agrees to comply with all laws, regulations and ordinances pertaining thereto.

Section 5.2 Equal Opportunity. Sub-Manager is an equal opportunity non-discriminatory employer. Sub-Manager and the Manager each mutually agree that there shall be no discrimination against, or segregation with respect to any person or of a group of persons on account of race, color, religion, creed, sex, sexual orientation or national origin in leasing, transferring, use, occupancy, tenure or enjoyment of the Managed Properties, nor shall the Manager or Sub-Manager permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants.

## ARTICLE VI

## HOLD HARMLESS

1. To the extent permitted by applicable law, Sub-Manager shall indemnify, defend (with counsel reasonably acceptable to City), and hold harmless the Manager, the City, its City Council, boards, commissions, officials, and employees (collectively, "City Indemnitees") from and against any and all losses, damages, liabilities, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees (collectively, "Claims"), to the extent arising from (i) Sub-Manager's grossly negligent, reckless or willful misconduct, (ii) Sub-Manager's breach of this Agreement, or (iii) work conducted or performed by Sub-Manager outside of the scope of authority expressly granted to Sub-Manager pursuant to this Agreement. Notwithstanding the foregoing, the foregoing indemnification shall not extend to any Claims to the extent arising out of, or by reason of (1) any gross negligence and/or willful or reckless misconduct of the Manager, the City or any of the City Indemnitees; (2) the performance by Sub-Manager of any of its obligations under this Agreement, including any damage or injury to any employees or other persons or property arising out of the use, administration, or control of the Managed Properties during the term of this Agreement; (3) any condition of the Managed Properties, unless the condition of the Property results from Sub-Manager's gross negligence, reckless or willful misconduct, or Sub-Manager's breach of this Agreement; and/or (4) the Manager or the City's breach of its obligations under this Agreement.

2. As to Claims arising out of the acts of the Sub-Manager or its employees only for which Sub-Manager is expressly obligated to indemnify the Manager or the City under subsection B.1, above, Sub-Manager's commercial general liability insurance policy shall include a stipulation that the insurance is primary insurance and that no insurance or self-insurance of the Manager or the City will be called upon to contribute to a loss relating to any such Claims.

3. Notwithstanding the foregoing, except as expressly provided in the immediately preceding subsection B.4, the City's liability insurance policies, which include any self-insurance of the City, shall at all times be primary and non-contributory with any liability insurance carried by the Sub-Manager with respect to any Claims arising out of the performance or non-performance of Sub-Manager's duties and activities within the scope of this Agreement arising from any action, or from any activity on, or condition of, the Property.

4. To the extent permitted by applicable law, City shall indemnify, defend (with counsel reasonably acceptable to Sub-Manager), and hold Sub-Manager and its employees, officers, members and managers (collectively, the "Sub-Manager Indemnitees") harmless from and against any and all Claims to the extent arising out of (i) the gross negligence and/or willful and reckless misconduct of the City or its officers, employees, and agents; (ii) the performance by Sub-Manager of any of its obligations under this Agreement, including any damage or injury to any employees or other persons or property arising out of the use, administration, or control of the Managed Properties during the term of this Agreement; (iii) any condition of the Managed Properties, unless the condition of the Managed Properties result from Sub-Manager's gross negligence, reckless or willful misconduct, or Sub-Manager's breach of this Agreement; and/or (iv) the City's breach of its obligations under this Agreement; provided, however, that such indemnity shall not extend to any Claims to the extent arising out of (1) any gross negligence and/or willful and reckless misconduct of Sub-Manager or its employees and officers; (2) Sub-Manager's breach of its obligations under this Agreement; and/or (3) any act taken by Sub-Manager or its employees and officers outside the scope of Sub-Manager's authority expressly granted

to Sub-Manager pursuant this Agreement.

5. City shall name Sub-Manager as an additional insured as respects the claims that it is responsible to insure.

6. Sub-Manager's and the City's obligation to indemnify, defend and hold harmless the City Indemnities and Sub-Manager Indemnites, as applicable, shall expressly survive the expiration or early termination of this Agreement.

## ARTICLE VII

### INSURANCE

Section 7.1 Liability Coverages. Sub-Manager, at its cost, shall maintain, or cause to be maintained, the following insurance coverage during the term of this Agreement:

(a) Comprehensive, broad form general liability insurance, in an amount not less than Six Million Dollars (\$6,000,000), combined single limit. At least \$1,000,000 shall be primary as to general liability insurance and the remainder may be maintained, as applicable, as umbrella or excess liability coverage.

(b) Automobile liability insurance for owned, hired or non-owned vehicles, in an amount not less than One Million Dollars (\$1,000,000), combined single limit.

Additional Insured Endorsement naming the RiverRock Real Estate Group and the City of Alameda is required.

(c) Workers' compensation, as required by law, and employer's liability in an amount not less than One Million Dollars (\$1,000,000).

(d) Two Million Dollars (\$2,000,000) of professional liability insurance for errors and omissions for the professional acts, errors and omissions of Sub-Manager or its employees and agents related to any services performed by Sub-Manager hereunder requiring a real estate broker's license.

(e) Sub-Manager shall not undertake or permit to be undertaken any construction involving heavy equipment, such as grading or earthmoving equipment, without prior written approval of the Manager and the City, which may be conditioned upon requiring additional insurance from Sub-Manager or the contractor or subcontractor performing the work.

(f) With respect to construction or other services by contractors in the Managed Properties other than as described in Subsection (e) above, Sub-Manager shall cause the construction contractors and subcontractors to provide the following insurance coverage:

(i) Comprehensive, broad form general liability insurance, including products and completed operations, in amounts not less than:

(A) For construction contracts under \$100,000 and all service and consultant contracts:

\$1,000,000 per occurrence  
\$1,000,000 in the aggregate, or  
\$1,000,000 combined single limit

For construction contracts under \$100,000 and all capital improvement projects:

\$1,000,000 per occurrence  
 \$2,000,000 in the aggregate, or  
 \$2,000,000 combined single limit

If such insurance is provided under a blanket policy, a separate general liability and completed operations aggregate limit shall apply to each of the Managed Properties. The completed operations coverage shall be maintained for at least two (2) years following completion of construction.

(ii) Liability insurance of owned, hired and non-owned vehicles in amounts not less than:

For construction contracts involving large trucks and heavy equipment:

\$2,000,000 per occurrence  
 \$2,000,000 in the aggregate, or  
 \$2,000,000 combined single limit

(A) For all other construction contracts over \$100,000:

\$1,000,000 per occurrence  
 \$2,000,000 in the aggregate, or  
 \$2,000,000 combined single limit

(B) Notwithstanding subsection (ii) (A) above, for all contractors driving in the course and scope of contract:

\$500,000 per occurrence  
 \$500,000 in the aggregate

(iii) Workers' compensation, as required by law, and employer's liability in an amount not less than One Million Dollars (\$1,000,000).

(iv) If required by the City's risk manager (to be determined on a case by case basis) professional liability insurance in an amount not less than One Million Dollars (\$1,000,000).

(v) If required by the City's risk manager (to be determined on a case by case basis), pollution legal liability insurance in an amount not less than One Million Dollars (\$1,000,000).

(g) Sub-Manager shall also cause contractors and subcontractors to maintain as applicable, umbrella, or excess liability, coverage, in an amount not less than Three Million Dollars (\$3,000,000) unless the City's Risk Manager expressly approves in writing lesser amounts. Such insurance shall be in excess of all liability coverages required in the above subsections to be maintained by the contractors and subcontractors.

(h) To the extent Sub-Manager is directly or indirectly involved in any type of excavation on or adjacent to any of the Managed Properties, it must obtain prior written approval of the Manager and the City, which may condition such approval on requiring pollution legal liability insurance in an amount to be determined by the City's Risk Manager based on the scope of work.

## Section 7.2 General Requirements.

(a) Required Provisions. All insurance policies required under this Article VII others than workers' compensation and professional liability insurance for errors and omissions shall (i) name the Manager and City and all other parties specified in Section 7.2 (f)

below as additional insured, but only to the extent any claim thereunder is caused by Sub-Manager's gross negligence, willful misconduct or fraud, to the extent of its indemnity obligations, (ii) be issued by an insurer and be in a form and contain terms, all reasonably approved by the City's Risk Manager, (iii) provide that such policies shall not be cancelled nor shall any material change be made therein without at least thirty (30) days' prior written notice to the Manager and City and ten (10) days for non-payment, and (iv) provide that any loss shall be payable to the Manager and City and any other additional named insured specified in Section 7.2 (f) below notwithstanding any gross negligent act of Sub-Manager which might otherwise result in forfeiture of such insurance. All commercial general liability, vehicle liability, and workers' compensation insurance required under this Article VII shall include a waiver of subrogation endorsement.

(b) Rating. All insurers providing the coverages specified in this Article VII shall be rated A-VII or better by Best's and shall otherwise be subject to the prior approval of the City's Risk Manager.

(c) Certificates of Insurance. On or before the Effective Date, Sub-Manager shall furnish the Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with this Agreement. Such certificates, which do not limit Sub-Manager's indemnification obligation, 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 Manager and City of Alameda by certified mail, Attention: Risk Manager." It is agreed that Sub-Manager 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 or companies licensed to do insurance business in the State of California and domiciled in the United State of America. Evidence of insurance with endorsements naming the additional insureds specified in Section 7.2 (f) below shall be submitted with the insurance certificates. Sub-Manager shall also provide the City with certificates evidencing and further insurance coverages required by this Article VII (whether maintained by Sub-Manager or by contractors and subcontractors) prior to be commencement of any activity or operation hereunder. Replacement certificates shall be sent to the Manager and City's Risk Manager as policies are renewed, replaced or modified.

(d) Investigation of Claims. Sub-Managers shall promptly report any conditions or incidents of which Sub-Manager becomes aware which could give rise to a claim or lawsuit against to the Manager or City or involving any of the Managed Properties. Sub-Manager shall promptly investigate and make a full, timely, written report to any insurance company providing coverage, with a copy of the Manager and City's Risk Manager, of all accidents, claims, or damage (other than minor damage to any units at the Managed Properties, that does not require an insurance claim at the discretion of Manager or the City) relating to the ownership, operation and maintenance of any of the Managed Properties, any damage or destruction to any of the Managed Properties and the estimated cost of repair thereof, and shall prepare any and all further reports required by any such insurance company in connection therewith. Sub-Manager shall have no right to settle, compromise or otherwise dispose of any claims, demands or liabilities against the Manager or City, whether or not covered by insurance, without the prior written consent of the Manager or City's Risk Manager.

(e) Failure to Secure. If Sub-Manager at any time during the term hereof should fail to secure or maintain the foregoing insurance, the Manager shall be permitted to obtain such insurance in Sub-Manager's name or as an agent of the City and shall be compensated by Sub-Manager for the cost of the insurance premiums at the maximum rate permitted by law and computed from the day written notice is received that the premiums have not been paid.



(f) Additional Insureds. The Manager and the City, its Council, boards, commissions, officials, employees, Alameda Power Telecom, and the Housing Authority shall be named as additional insureds under all insurance coverages required by this Agreement except the Workers' Compensation coverage 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 or any extension thereof. The insurance Sub-Manager is required to carry or cause to be carried under this Agreement shall be primary to the extent of its indemnity obligations. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance required to be provided by this Agreement except to the extent of the additional insured's indemnity obligations

(g) Deductibles. All deductibles shall be subject to the approval of the City's Risk Manager. No self-insured retentions shall be permitted.

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Sub\_Manager's Initials

(h) Subrogation Waiver. Sub-Manager agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, Sub-Manager shall look solely to its insurance for recovery. Sub-Manager hereby grants to Manager and City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Sub-Manager, Manager or City with respect to the services of Sub-Manager herein, a waiver of any right to subrogation which any such insurer of said Provider may acquire against Manager or City by virtue of the payment of any loss under such insurance.

(i) Sufficiency of Insurance. The insurance limits required by the Manager are not represented as being sufficient to protect Sub-Manager. Sub-Manager is advised to confer with Sub-Manager's insurance broker to determine adequate coverage for Sub-Manager.

## ARTICLE VIII

### TERM AND TERMINATION

Section 8.1 Term. The term of this Agreement shall commence on the Effective Date and shall continue until April 30, 2024 unless sooner terminated in accordance with its terms. Subject to termination pursuant to Sections 8.2 or 8.3 below, this Agreement shall be automatically renewed for one (1) year unless one party notifies the other, in writing, within ninety (90) days prior to the termination date that it elects not to renew. Upon any termination of this Agreement by the City, the Manager or Sub-Manager, with or without cause, Sub-Manager shall be entitled only to the fees and reimbursements which have accrued under this Agreement but have not been paid as of the effective date of such termination. In the event the management agreement between the City and Manager expires, terminates or is not renewed, the City has the right to cause the Manager's rights and obligations under this Agreement to be assigned to another property management company for the duration of its term.

Section 8.2 Termination by Manager or City.

(a) For Cause. The Manager or City may terminate this Agreement, effective immediately upon receipt by Sub-Manager of such written notice if:

(i) In the Manager's or City's reasonable judgment, Sub-Manager has mismanaged any of the Managed Properties or has been negligent in the management, operation, maintenance or serving of any of the Managed Properties or has otherwise defaulted in the performance of its obligations hereunder, and has not remedied or cured the matter within thirty (30) days after receipt of written notice from the Manager or the City specifying the facts of such matter, provided, however, that if the nature of such failure is such that it cannot reasonably be cured within the thirty (30) day period, Sub-Manager shall not be deemed to be in default if it has commenced to cure the default and is diligently proceeding to cure through completion;

A receiver, liquidator, or trustee of Sub-Manager shall be appointed by court order, or a petition to liquidate or reorganize Sub-Manager shall be filed against Sub-Manager under any bankruptcy, reorganization, or insolvency law and such order or petition is not vacated or dismissed within sixty (60) days, or if Sub-Manager shall file a petition in bankruptcy or request a reorganization under any provision of the bankruptcy, reorganization or insolvency laws, or if Sub-Manager shall make an assignment for the benefit of its creditors, or if Sub-Manager is adjudicated a bankrupt;

(ii) There is damage or destruction to any material portion of the Managed Properties and the City elects not to rebuild or restore the particular Managed Property or Properties;

(iii) Sub-Manager fails to make payments of any amount payable to the City on the due dates set forth hereunder; provided that such failure shall not be an event or default if Sub-Manager makes such payment within seven (7) days after notice from the Manager of such failure, but Sub-Manager shall not be entitled to such seven (7) days' notice more than twice in any twelve month period.

(b) Without Cause. Upon thirty (30) days' written notice to Sub-Manager, Manager or City may terminate this Agreement at any time, in either of their sole discretion, without cause of any kind. Upon termination without cause, Sub-Manager shall be reimbursed all funds reasonably incurred in terminating any subcontracts entered into for the performance of obligations hereunder upon provision of proof of same to Manager and City.

Section 8.3 Termination by Sub-Manager.

(a) For Cause. Sub-Manager may terminate this Agreement, by written notice to the Manager, if the Manager or City has materially defaulted in either of their obligations hereunder, and has not cured such default within thirty (30) days after receipt of written notice from Sub-Manager specifying such default, provided, however, that if the nature of such failure is such that it cannot reasonably be cured with a thirty (30) day period, the Manager shall not be deemed to be in default if it has commenced to cure the default and is diligently pursuing the cure through completion.

(b) Without Cause. Upon sixty (60) days' written notice to the Manager, Sub-Manager may terminate this Agreement at any time, in its sole discretion, without cause of any kind.

Section 8.4 Sub-Manager's Obligations after Termination. Upon the expiration or termination of this Agreement pursuant to Section 8.2 or 8.3 above, Sub-Manager shall:

(a) deliver to the Manager, or such other person or persons designated by the Manager, copies of all books and records of each of the Managed Properties and all funds in the possession of Sub-Manager belonging to the Manager or received by Sub-Manager pursuant to the terms of this Agreement;

(b) deliver to the City any and all funds of the City on hand or in any bank account, including all security deposits of tenants, if not previously delivered to the City, less any unpaid compensation due to Sub-Manager pursuant to this Agreement, and less any other reimbursements due to Sub-Manager under this Agreement, which delivery of funds shall include a detailed description of any deductions;

(c) deliver to the City, as received, any funds due to the City under this Agreement but received after such termination;

(d) deliver to the Manager all material, supplies, keys, contract, documents, plans, specifications, promotional materials and other materials pertaining to each of the Managed Properties; and

(e) assign, transfer to convey to such person or persons as directed in writing by the Manager and the City all service contracts and personal property relating to or used in the operation and maintenance of the Managed Properties, except any personal property which was paid for and is owned by Sub-Manager. Sub-Manager shall, at its cost and expense, remove all signs that it may have placed at the Managed Properties indicating that it is Sub-Manager of the Managed Properties and repair and restore any damage resulting therefrom. Sub-Manager shall also, for a period of up to sixty (60) days after such expiration or termination, make itself available to consult with and advise the Manager, or such other person or persons designated by the Manager, regarding the operation and maintenance of the Managed Properties, and in connection therewith, the City shall continue to pay the Property Management Fee equal to half month's fee to Sub-Manager during such period.

## ARTICLE IX

### ASSIGNMENT

Section 9.1 Personal Services. This Agreement is a contract for the personal services of Sub-Manager, and Sub-Manager may not assign, hypothecate, or transfer this Agreement or any interest therein directly or indirectly, by operation of law or otherwise without the Manager's and City's prior written approval, which shall not be unreasonably withheld by the Manager and/or the City. The Manager shall not be required to accept performance hereunder by any person other than Sub-Manager, including without limitation, Sub-Manager as debtor in possession under the Bankruptcy Code, any trustee of Sub-Manager appointed under the Bankruptcy Code, or any assignee of such trustee or of Sub-Manager.

Section 9.2 Sub-Manager Identity. For purposes of this Agreement, any change in the constituent entities comprising Sub-Manager as of the Effective Date shall be deemed to be an assignment requiring the approval of the Manager or City, which shall not be unreasonably withheld.

Section 9.3 Binding. Without derogating from the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

## ARTICLE X

### NOTICES

Section 10.1 Notices. Unless otherwise specifically provided, all notices, demands, statements and communication required hereunder shall be in writing and shall be delivered in person or sent by registered or certified mail, postage prepaid, or by Federal Express or similar overnight courier, if intended for the Manager or City, addressed as follows:

Manager: RiverRock Real Estate Group  
2392 Morse Ave.  
Irvine, CA 92614  
Attention: John Combs

City: City of Alameda  
2263 Santa Clara Avenue  
Alameda, California 94501  
Attention: City Manager

With copies to: City of Alameda  
2263 Santa Clara Avenue, Room 280  
Alameda, California 94501  
Attention: City Attorney

Base Reuse – Alameda Point  
City Hall West  
City of Alameda  
950 West Mall Square, 2<sup>nd</sup> Floor  
Alameda, CA 94501-2272  
Attention: Assistant Director of Base Reuse & Community Development  
Director

And if intended for Sub-Manager,

addressed to Sub Manager at:

Nancy Cerda-Zein  
Managing Partner  
Cerda-Zein Real Estate  
2514 Santa Clara Avenue  
Alameda, CA 94501  
Nancy@certazein.com

with a copy to:

Jose Cerda-Zein  
Broker/CEO  
Cerda-Zein Real Estate  
2514 Santa Clara Avenue  
Alameda, CA 94501  
jose@certazein.com

or to such other address as shall, from time to time, have been designated by written notice by either party to the other party as herein provided. Unless otherwise specified herein, such notices, demands, statements and communications shall be deemed received (a) on the date delivered (or the date delivered is refused) if delivered in person; (b) three (3) business days after being deposited with the U.S. Mail, if sent by registered or certified mail, postage prepaid, or (c) one (1) business day after being sent, if sent by Federal Express or similar overnight courier.

## ARTICLE XI

### MISCELLANEOUS

Section 11.1 Entire Agreement. This Agreement is the entire agreement between the Parties with respect to the subject matter hereof, and no alteration, modification or interpretation hereof shall be binding unless in writing and signed by both Parties.

Section 11.2 Severability. If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

Section 11.3 Applicable Law. This Agreement shall be construed in accordance with the laws of the State of California. Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

Section 11.4 Authority Limited. Sub-Manager's authority shall be derived wholly from this Agreement, and Sub-Manager has no authority to act for or represent the Manager or City except as herein specified.

Section 11.5 Exclusiveness of Compensation. The payments to be made to Sub-Manager hereunder shall be in lieu of all other further compensation or commission of any nature whatsoever for the services described herein and this Agreement shall be considered as a special agreement between the Parties covering the appointment and compensation of Sub-Manager to the exclusion of any other method of compensation unless otherwise agreed to in writing.

Section 11.6 Independent Contractor. Sub-Manager is an independent contractor and, as such, shall be solely responsible for all of its employees, for the supervision of all persons performing services in connection with the performance of all of the obligations relating to the maintenance and operation of the Managed Properties, and for determining the manner and time of performance of all acts hereunder. Nothing herein contained shall be construed to establish Sub-Manager as an agent of the Manager or City beyond the scope of authority expressly granted hereunder, or to create a joint venture or partnership between Sub-Manager and the City. No civil service status or other right of employment will be acquired by any person by virtue of Sub-Manager's services pursuant to this Agreement. None of the benefits provided by the Manager or City to their employees, including but not limited to, unemployment insurance, workers' compensations plans, vacation and sick leave are available to Sub-Manager, its employees, independent contractors or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from the compensation due Sub-Manager under this Agreement. Payments of the above items, if required to or on behalf of any individual providing services under this Agreement, are the responsibility of Sub-Manager.

Section 11.7 Transactions With Affiliates. Notwithstanding anything to the contrary contained in this Agreement, Sub-Manager shall not enter into or advise the Manager or City to enter into any agreement or arrangement with Sub-Manager or any party affiliated with Sub-Manager, directly or indirectly at the City's expense or directly or indirectly on behalf of the Manager or City, without the written notification of the Manager. The provision of this Section 11.7 are not intended to limit any fiduciary duties of Sub-Manager to the Manager and the City, as contained in this Agreement or under common law.

Section 11.8 Limitation on Liability. The parties hereto agree that the obligation incurred by Sub-Manager, the Manager and the City under this Agreement shall not constitute personal obligation of the employees, shareholders or any other principals or representatives of Sub-Manager, the Manager or the City (as the case may be). Sub-Manager further agrees that its recourse against the Manager or City under this Agreement shall be strictly limited to a dollar amount equal to the monetary value of the City's interest in the Managed Properties, and that Sub-Manager shall have no recourse to any other asset of the City, or any other principal or representative of the City for the satisfaction of any of the City's obligations hereunder.

Section 11.9 Consents and Approvals. To be effective, consents and approvals of the Manager or City shall be in writing. All such requests shall be directed to the Manager and City at the address set forth in Section 10.1 above or such representative as the Manager or City shall have designated in writing, and approvals from such person shall constitute the approval of the Manager and City. Any approval by Manager (without the express approval of the City) hereunder shall be deemed to constitute the approval of both Manager and the City under this Agreement.

Section 11.10 Disclosure. Sub-Manager shall disclose to the Manager and the City for the Manager's and the City's reasonable approval of any controlling ownership interest of Sub-Manager, any officer or employee of Sub-Manager, or any immediate family member (parent or parent-in-law, spouse, child, brother, sister, brother-in-law or sister-in-law or step-parent), of any officer or employee of Sub-Manager in any corporation, partnership, joint venture or other business which provides materials, products or services, directly or indirectly, for the Managed Properties. Such disclosure shall be made to the Manager and City, in writing, at least ten (10) days prior to the proposed entering into any contract or agreement with such business for the provision of such products, material, or service.

Section 11.11 Time. Time is of the essence with respect to this Agreement.

Section 11.12 Confidentially Clause. Sub-Manager shall not reveal proprietary information with respect to the Manager or City or the City's properties, other than required by law, without prior written approval by the Manager and City. The Manager and City shall not reveal proprietary information with respect to Sub-Manager other than as required by law without the prior written approval of the Sub-Manager.

Section 11.13 Waiver. No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by the party granting the waiver, and only to the extent expressly provided in such written waiver. Further, the failure of the City, Manager or Sub-Manager, as applicable, to seek redress for breach, or to insist upon the strict performance of any covenant, agreement, provision or condition of this Agreement, shall not constitute a waiver thereof, and the City, Manager and Sub-Manager shall have all remedies provided herein and by applicable law with respect to any subsequent act which would have originally constituted a breach.

Section 11.14 Captions. The captions of this Agreement are inserted only for the purpose of convenient reference and do not define, limit or prescribe the scope or intent of this Agreement or any part hereof.

Section 11.15 Conflict of Interest. The Manager and its agents, including the Sub-Manager, must comply with California laws prohibiting financial conflicts of interest. As to the leasing services that the Sub-Manager will provide under this Agreement, neither the Sub-Manager nor any of its employees, affiliates or persons with whom Sub-Manager has a contract shall represent, advise or advocate on behalf of any current or prospective tenant of the Managed Properties. The City, from time to time and depending on the leasing services that Sub-Manager's employees, affiliates or persons with whom Sub-Manager has a contract provides to the City, may require such person to file with the City Clerk of the City a conflict of interest form 700 (Fair Political Practices FORM 700) because the services provided under this Agreement require such person to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations. As the Effective Date, the City is not requiring any of Sub-Manager's employees, affiliates or persons with whom Sub-Manager has a contract to file such form.

Section 11.16 Immigration Reform and Control Act. Sub-Manager assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder pursuant to the Immigration Reform and Control Act ("IRCA") and all other applicable federal and state laws, rules and regulations governing the immigration and citizenship status of employees. In addition to the indemnification provided in Article VI above, Sub-Manager shall indemnify, defend (with counsel reasonably acceptable to the City) and hold harmless the Manager and City from and against any loss, damage, liability, cost or expenses arising from any noncompliance of this provision by Sub-Manager.

Section 11.17 Compliance with Fair Housing Act of 1968. Sub-Manager shall comply with the requirements of the Fair Housing Act of 1968 and all other applicable federal and state fair housing laws, rules and regulations.

Section 11.18 Warranty of Authority. Each party hereto represents and warrants to the other that this Agreement has been duly authorized, executed, delivered and that the individual executing this Agreement on behalf of such party is duly authorized to do so.

Section 11.19 Compliance with Marsh Crust Ordinance. Sub-Manager shall perform or cause its contractors to perform all excavation work in compliance with the City's Marsh Crust Ordinance as set forth at Section 13-56 of the Municipal Code. Prior to performing any excavation work, Sub-Manager shall verify with the City's Buildings Official whether the excavation work is subject to the Marsh Crust Ordinance. Sub-Manager or its contractor shall apply for and obtain permits from the City's Building Services on projects deemed to be subject to the Marsh Crust Ordinance.

Section 11.20 Compliance with Rent Review, Rent Stabilization and Limitations on Eviction Ordinance and Implementing Policies and Procedures. As to the Managed Properties, Sub-Manager shall comply in all respects with the requirements and obligations of a Landlord under the City's then current rent review, rent stabilization and limitations on evictions ordinance and the City's policies and procedures related thereto, as such may be revised from time to time.

Section 11.21 Exhibits. Each of the exhibits referenced in this Agreement is attached hereto and incorporated herein.

*Signatures on next page*

IN WITNESS WHEREOF, the City, Manager and Sub-Manager have executed this Agreement in duplicate originals on the date set forth below, effective as of the Effective Date.

MANAGER:

RIVERROCK REAL ESTATE GROUP

a California corporation

By: 

Name: Steve Core

Title: President

SUB-MANAGER:

Cerda-Zein Real Estate

a California corporation

By: 

Name: JOSE CERDA-ZEIN

Title: BROKER

  
Nancy Cerda-Zein  
Managing Partner

CITY

CITY OF ALAMEDA

a municipal corporation

Approved as to form:

DocuSigned by:

By: 

Name: Gerry Beaudin

Title: Interim City Manager

DocuSigned by:

By: 

Name: Len Aslanian

Title: Assistant City Attorney

RECOMMENDED FOR APPROVAL:

DocuSigned by:

By: 

Name: Lisa Nelson Maxwell

Title: Community Development Director



EXHIBIT A  
ALAMEDA POINT RESIDENTIAL PROPERTIES  
[see attached]

# Market Rate Residential Rental Addresses

Townhouses	Bedrooms	Bathrooms
2540 Barbers Pt Road Unit A	3	1.5/.5
2540 Barbers Pt Road Unit B	3	1.5/.5
2540 Barbers Pt Road Unit C	4	2.5
2540 Barbers Pt Road Unit D	4	2.5
2601 Barbers Pt Road Unit A	3	1.5/.5
2601 Barbers Pt Road Unit B	3	1.5/.5
2601 Barbers Pt Road Unit C	3	1.5/.5
2601 Barbers Pt Road Unit D	3	1.5/.5
2651 Barbers Pt Road Unit A	3	1.5/.5
2651 Barbers Pt Road Unit B	3	1.5/.5
2651 Barbers Pt Road Unit C	3	1.5/.5
2651 Barbers Pt Road Unit D	3	1.5/.5
2600 Lemoore Road Unit A	4	2.5
2600 Lemoore Road Unit B	4	2.5
2650 Lemoore Road Unit A	4	2.5
2650 Lemoore Road Unit B	4	2.5
2700 Lemoore Road Unit A	4	2.5
2700 Lemoore Road Unit B	4	2.5
<b>Total Townhouses</b>	18	
Ranch Homes	Bedrooms	Bathrooms
2811 Barbers Pt	4	2
2820 Barbers Pt	4	2
2821 Barbers Pt Road	4	2
2830 Barbers Pt Road	4	2
2831 Barbers Pt Road	3	2
2840 Barbers Pt Road	4	2
2841 Barbers Pt Road	4	2
2850 Barbers Pt Road	3	2
2860 Barbers Pt Road	3	2
2861 Barbers Pt Road	3	2
2870 Barbers Pt Road	4	2
2901 Barbers Pt Road	4	2
2701 Lemoore Road	4	2
2750 Orion St.	4	2
2745 Pearl Harbor Road	4	2
2756 Pearl Harbor Road	4	2
2760 Pearl Harbor Road	4	2
2775 Pearl Harbor Road	3	2
2780 Pearl Harbor Road	3	2
2790 Pearl Harbor Road	3	2

<b>Ranch Homes</b>	<b>Bedrooms</b>	<b>Bathrooms</b>
2800 Pearl Harbor Road	3	2
2820 Pearl Harbor Road	3	2
2830 Pearl Harbor Road	3	2
2840 Pearl Harbor Road	3	2
2850 Pearl Harbor Road	3	2
2855 Pearl Harbor Road	3	2
250 W Essex Drive	4	2
301 W Essex Drive	4	2.5
350 W Essex Drive	4	2
<b>Total Ranch Homes</b>	30	
<b>Big Whites</b>	<b>Bedrooms</b>	<b>Bathrooms</b>
2765 Newport Road	4+	3.5
2801 Newport Road	4+	3.5
2815 Newport Road	4+	3.5
2825 Newport Road	4+	3.5
2805 Pearl Harbor Road	4+	3.5
2825 Pearl Harbor Road	4+	3.5
2845 Pearl Harbor Road	4+	3.5
2775 San Diego Road	4+	3.5
2805 San Diego Road	4+	3.5
2835 San Diego Road	4+	3.5
2865 San Diego Road	4+	3.5
2765 Seattle Road	4+	3.5
2805 Seattle Road	4+	3.5
2795 San Pedro Road	4+	3.5
2815 San Pedro Road	4+	3.5
2835 San Pedro Road	4+	3.5
2845 San Pedro Road	4+	3.5
2875 San Pedro Road	4+	3.5
390 W Essex Drive (Admiral's House)	6	3.5
<b>Total Big Whites**</b>	19	
***# of Big Whites units may be reduced		
<b>Total Residential Units in Portfolio</b>	67	

rev 3/3/22

EXHIBIT B  
City's Approved Service Provider Agreement  
[see attached]

## SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT (“**Agreement**”) is entered into this \_ of \_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_ (“**Effective Date**”), by and between RiverRock Real Estate Group, a California corporation (hereinafter referred to as “**Agent**”) as agent for the CITY OF

ALAMEDA, a municipal corporation (“the **City**”), and COMPANY, a (California corporation, LLC, LP, GP, sole proprietor/individual), whose address is ADDRESS (“**Provider**”), in reference to the following facts and circumstances:

### **RECITALS:**

A. The City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City. The City has an interest in certain real property and improvements known as Alameda Point located in Alameda, California, on behalf of the City of Alameda (the “**Project**”).

B. The City is in need of the following services:  
 [City staff reached out to the service providers on the City’s bidders list interviewed qualified firms and selected the service provider that best meets the City’s needs.] [City staff issued an RFP/RFQ on DATE and after a submittal period of NUMBER days received NUMBER of timely submitted proposals. Staff reviewed the proposals, interviewed qualified firms and selected the service provider that best meets the City’s needs.] [Provider was selected on a sole source basis because (must provide justification for sole source selection).] [Other: Consistent with administrative procurement regulations, the City Manager has determined it is unnecessary to follow the City’s administrative selection procedures in awarding this Agreement to Provider, given that the City has experienced satisfactory services from Provider at a reasonable cost for more than the past five years.]

C. [Provider is specially trained, experienced and competent to perform the special services which will be required by this Agreement.] [Provider possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.]

D. The RiverRock Real Estate Group, a California corporation, has been appointed as the manager of the Project and is authorized to enter into this Agreement as “**Agent**” for the City of Alameda.

E. Agent and Provider desire to enter into an agreement for \_\_\_\_\_, upon the terms and conditions herein.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the forgoing, which are incorporated herein by reference, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is mutually agreed by and between the undersigned parties as follows:

**1. TERM:**

The term of this Agreement shall commence on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, and shall terminate on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, unless terminated earlier as set forth herein.

[The parties may agree to extend the term of this Agreement on a year-by-year basis, for up to xxxx (x) additional years. Any extension shall be documented in a signed amendment. In the event that the parties agree to extend the Agreement, all provisions of the Agreement shall remain unchanged [with the exception that the compensation shall be adjusted by the Consumer Price Index for the San Francisco Bay area as reported by the U.S. Department of Labor, Bureau of Labor Statistics for the previous calendar year.][with the exception that the compensation shall be adjusted by the Construction Cost Index for the San Francisco Bay Area as reported in the Engineering News Record for the previous calendar year for the trade(s) associated with the services or tasks.][Other: Describe any compensation escalator.]

**2. SERVICES TO BE PERFORMED:**

Provider agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit A as requested. Provider acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Provider to perform all tasks included therein.

**3. COMPENSATION TO PROVIDER:**

a. By the 7<sup>th</sup> day of each month, Provider shall submit to the City an invoice for the total amount ~~of work done the previous month. Pricing and accounting of charges are to be according to the fee schedule [as set forth in this Section 3.][as set forth in Exhibit B and incorporated herein by this reference.]~~ Extra work must be approved in writing by the City Manager or their designee prior to performance and shall be paid on a Time and Material basis [as set forth in this Section 3.][as set forth in Exhibit B.]

b. [If you wish to encumber department funds for the aggregate amount of the contract compensation, then state: The total five-year compensation for this Agreement shall not exceed \$XXX,XXX. Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City.]

[If you wish to encumber department funds annually in the same amount, or if you are doing a contract with one-year extensions, then state: Compensation for this contract shall not exceed \$XX,XXX per year, for a total five-year compensation not to exceed \$XXX,XXX. Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City]

[If the compensation is to be encumbered annually, but in different amounts because of an escalator then state: Compensation for work done under this Agreement, shall not exceed as follows:

FY XX-XX total compensation shall not exceed \$XX FY  
XX-XX total compensation shall not exceed \$XX FY XX-  
XX total compensation shall not exceed \$XX

FY XX-XX total compensation shall not exceed \$XX FY  
 XX-XX total compensation shall not exceed \$XX  
 Total five-year compensation shall not exceed \$XXX,XXX]

Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City.

**4. TIME IS OF THE ESSENCE:**

Provider and Agent agree that time is of the essence regarding the performance of this Agreement.

**5. STANDARD OF CARE:**

Provider agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City.

**6. INDEPENDENT PARTIES:**

Provider hereby declares that Provider is engaged as an independent business and Provider agrees to perform the services as an independent contractor. The manner and means of conducting the services and tasks are under the control of Provider, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Provider's services. None of the benefits provided by Agent or City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave are available from the City/Agent to Provider, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer- employee relationship from any compensation due to Provider. Payments of the above items, if required, are the responsibility of Provider.

**7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):**

Provider assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Provider shall indemnify, defend, and hold Agent and the City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Provider.

**8. NON-DISCRIMINATION:**

Consistent with the City's policy and state and federal law that harassment and discrimination are unacceptable conduct, neither Provider nor its employees, contractors, and agents shall harass or discriminate against any job applicant, City employee, or any other person on the basis of any kind of any statutorily (federal, state or local) protected class, including but not limited to: race, religious creed, color, national origin, ancestry, disability (both mental and physical) including HIV and AIDS, medical condition (e.g. cancer), genetic information, marital status, sex gender, gender identity, gender expression, age, sexual orientation, pregnancy, political

affiliation, military and veteran status or legitimate union activities. Provider agrees that any violation of this provision shall constitute a material breach of this Agreement.

## **9. HOLD HARMLESS:**

a. To the fullest extent permitted by law, Provider shall indemnify, defend (with counsel acceptable to the City) and hold harmless Agent, the City, its City Council, boards, commissions, officials, employees, agents and volunteers (“**Indemnitees**”) from and against any and all loss, damages, liability, obligations, claims, suits, judgments, costs and expenses whatsoever, including reasonable attorney’s fees and costs of litigation (“**Claims**”), arising from or in any manner connected to Provider’s performance of its obligations under this Agreement or out of the operations conducted by Provider even if the City is found to have been negligent. If the Claims filed against Indemnitees allege negligence, recklessness or willful misconduct on the part of Provider, Provider shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence, recklessness or willful misconduct is not found on the part of Provider. Provider shall not have any obligations to indemnify Indemnitees if the loss or damage is found to have resulted solely from the negligence or the willful misconduct of the City. 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. As to Claims for professional liability only, Provider’s obligation to defend Indemnitees (as set forth above) is limited as provided in California Civil Code Section 2782.8.

c. Provider’s obligation to indemnify, defend and hold harmless Indemnities shall expressly survive the expiration or early termination of this Agreement.

## **10. INSURANCE:**

a. On or before the commencement of the terms of this Agreement, Provider shall furnish Agent with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with Sections 10.b. (1) through (4). Such certificates, which do not limit Provider'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."

Provider 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. Provider shall deliver updated insurance certificates to the City at the address described in Section 17.f. prior to the expiration of the existing insurance certificate for the duration of the term of Agreement. Endorsements naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers and RiverRock Real Estate Group, their officers and employees as additional insured shall be submitted with the insurance certificates.



\_\_\_\_\_  
Provider Initials

b. COVERAGE REQUIREMENTS:

Provider shall maintain insurance coverage and limits at least as broad as:

(1) Workers' Compensation:

Statutory coverage as required by the State of California.

(2) Liability:

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

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. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

(3) Automotive:

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

Bodily injury:	\$1,000,000 each occurrence
Property Damage:	\$1,000,000 each occurrence

or

Combined Single Limit:	\$2,000,000 each occurrence
------------------------	-----------------------------

Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

**[(4) Professional Liability: (delete section if not applicable)]**

Professional liability insurance which includes coverage appropriate for the professional acts, errors and omissions of Provider's profession and work hereunder, including, but not limited to, technology professional liability errors and omissions if the services being provided are technology-based, in the following minimum limits:

\$2,000,000 each occurrence

Technology professional liability errors and omissions shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of

electronic data and/or information “property” of the City in the care, custody, or control of Provider. If not covered under Provider’s liability policy, such “property” coverage of the City may be endorsed onto Provider’s Cyber Liability Policy as covered property as follows: cyber liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the City that will be in the care, custody, or control of Provider. **II** As to commercial general liability and automobile liability insurance, 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 the City.

c. SUBROGATION WAIVER:

Provider hereby agrees to waive rights of subrogation that any insurer of Provider may acquire from Provider by virtue of the payment of any loss. Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether the City 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 the City for all work performed by Provider, its employees, agents and subcontractors.

d. FAILURE TO SECURE:

If Provider at any time during the term hereof should fail to secure or maintain the foregoing insurance, Agent ~~shall be permitted to obtain~~ such insurance in Provider’s name or as an agent of Provider and shall be compensated by Provider 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.

e. ADDITIONAL INSURED:

The City, its City Council, boards, commissions, officials, employees, agents, and volunteers, River Rock Real Estate Group, their officers and employees 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 Provider’s policy shall be primary and non-contributory and will not seek contribution from the City’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).

f. SUFFICIENCY OF INSURANCE:

The insurance limits required by Agent are not represented as being sufficient to protect Provider. Provider is advised to consult Provider’s insurance broker to determine adequate

coverage for Provider. 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 Provider; whichever is greater.

#### **11. CONFLICT OF INTEREST:**

Provider warrants that it is not a conflict of interest for Provider to perform the services required by this Agreement. Provider may be required to fill out a conflict of interest form if the services provided under this Agreement requires Provider to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

#### **12. PROHIBITION AGAINST TRANSFERS:**

a. Provider shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of Agent. Provider shall submit a written request for consent to transfer to the Agent at least thirty (30) days in advance of the desired transfer. The Agent may consent or reject such request in their sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against the City under this Agreement may be assigned by Provider to a bank, trust company or other financial institution without prior written consent.

b. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock, membership interest, partnership interest, or the equivalent, which shall result in changing the control of Provider, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of Provider.

#### **13. APPROVAL OF SUB-PROVIDERS:**

a. Only those persons and/or businesses whose names and resumés are attached to this Agreement shall be used in the performance of this Agreement. However, if after the start of this Agreement, Provider wishes to use sub-providers, at no additional costs to the City, then Provider shall submit a written request for consent to add sub-providers including the names of the sub-providers and the reasons for the request to the Agent at least five (5) days in advance. The Agent may consent or reject such requests in their sole and absolute discretion.

b. Each sub-provider shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance (as applicable) in reasonable conformity to the insurance carried by Provider.

c. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement. Provider shall include the following language in their agreement with any sub-provider: "Sub-providers hired by Provider agree to be bound to Provider and the City in the same manner and to the same extent as Provider is bound to the City."

d. The requirements in this Section 13 shall not apply to persons who are merely providing materials, supplies, data or information that Provider then analyzes and incorporates into its work product.

**14. PERMITS AND LICENSES:**

Provider, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City business license that may be required in connection with the performance of the services and tasks hereunder.

**15. REPORTS:**

a. Each and every report, draft, work product, map, record and other document produced, prepared or caused to be prepared by Provider pursuant to or in connection with this Agreement shall be the exclusive property of the City.

b. No report, information or other data given to or prepared or assembled by Provider pursuant to this Agreement shall be made available to any individual or organization by Provider without prior approval of the City Manager or their designee or Agent.

c. Provider shall, at such time and in such form as City Manager or their designee or Agent may require, furnish reports concerning the status of services and tasks required under this Agreement.

**16. RECORDS:**

a. Provider shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of Provider's performance under the Agreement, as well as maintain books and records related to sales, costs, expenses, receipts and other such information required by the City or Agent that relate to the performance of the services and tasks under this Agreement (collectively the "**Records**").

b. All Records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Provider shall provide free access to the Records to the representatives of the City, its designees, or Agent during regular business hours upon reasonable prior notice. The City or Agent has the right to examine and audit the Records, and to make copies or transcripts therefrom as necessary, and to allow inspection of all proceedings and activities related to this Agreement. Such Records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained by Provider for a period of three (3) years after receipt of final payment.

c. If supplemental examination or audit of the Records is necessary due to concerns raised by the City's or Agent's preliminary examination or audit of records, and the City's or Agent's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of this Agreement or failure to act in good faith, then Provider shall reimburse the City or Agent for all reasonable costs and expenses associated with the supplemental examination or audit.

**17. NOTICES:**

a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party's respective address listed in this Section.

b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

d. All notices, demands, requests, or approvals from Provider to City shall be addressed to City at:

City of Alameda  
c/o RiverRock Real Estate Group 950  
W. Mall Square, Room 239  
Alameda, CA 94501 ATTENTION:  
Property Manager Ph: (510) 749-  
0304

e. All notices, demands, requests, or approvals from the City to Provider shall be addressed to Provider at:

[Provider Name]  
[Department] [Address]  
[City, State, zip]  
ATTENTION: [Title]  
Ph: (xxx) [xxx-xxxx]

f. All updated insurance certificates from Provider to the City shall be addressed to the City at:

City of Alameda  
c/o RiverRock Real Estate Group 950  
W. Mall Square, Room 239  
Alameda, CA 94501 ATTENTION:  
Property Manager Ph: (510) 749-  
0304

**18. SAFETY:**

a. Provider will be solely and completely responsible for conditions of all vehicles owned or operated by Provider, including the safety of all persons and property during

performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Provider will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. Provider's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. Provider will immediately notify Agent within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. Provider will promptly submit to the Agent a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Provider's employee(s) involved in the incident; (iii) name and address of Provider's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

## **19. TERMINATION:**

a. In the event Provider fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Provider shall be deemed in default in the performance of this Agreement. If such default is not cured within two (2) business days after receipt by Provider from the City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, the City may thereafter immediately terminate the Agreement forthwith by giving to Provider written notice thereof.

b. The foregoing notwithstanding, the City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Provider as provided herein.

c. Upon termination of this Agreement either for cause or for convenience, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination. The obligation of the parties under this Section 19.c. shall survive the expiration or early termination of this Agreement.

## **20. ATTORNEYS' FEES:**

In the event of the bringing of any action or suit by a party hereto against the other party by reason of any breach of any covenants, conditions, obligation or provision arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses of the action or suit, including reasonable attorney's fees, experts' fees, all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For the purposes of this Agreement, reasonable fees of attorneys of the Alameda City Attorney's Office shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the services were rendered who practice in Alameda County in

law firms with approximately the same number of attorneys as employed by the Alameda City Attorney's Office.

**21. HEALTH AND SAFETY REQUIREMENTS.**

Provider acknowledges that the City shall have the right to impose, at the City's sole discretion, requirements that it deems are necessary to protect the health and safety of the City employees, residents, and visitors. Provider agrees to comply with all such requirements, including, but not limited to, mandatory vaccinations, the use of personal protective equipment (e.g. masks), physical distancing, and health screenings. Provider also agrees to make available to the City, at the City's or the Agent's request, records to demonstrate Provider's compliance with this Section. [See Certification of Compliance attached.]

**22. COMPLIANCE WITH ALL APPLICABLE LAWS:**

During the term of this Agreement, Provider shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which affect the manner in which the services or tasks are to be performed by Provider, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Provider shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by the City.

**23. CONFLICT OF LAW:**

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

**24. WAIVER:**

A waiver by the City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

**25. INTEGRATED CONTRACT:**

Subject to the language of Section 29, the Recitals and exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both the City and Provider.

**26. CAPTIONS:**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

**27. COUNTERPARTS:**

This Agreement may be executed in any number of counterparts (including by fax, PDF, DocuSign, or other electronic means), each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**28. SIGNATORY:**

By signing this Agreement, signatory warrants and represents that they executed this Agreement in their authorized capacity and that by their signature on this Agreement, they or the entity upon behalf of which they acted, executed this Agreement.

**29. CONTROLLING AGREEMENT:**

In the event of a conflict between the terms and conditions of this Agreement (as amended, supplemented, restated or otherwise modified from time to time) and any other terms and conditions wherever contained, including, without limitation, terms and conditions included within exhibits, the terms and conditions of this Agreement shall control and be primary.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



IN WITNESS WHEREOF, the parties have each caused this Agreement to be duly executed on its behalf as of the Effective Date.

COMPANY

a California corporation, LP, LLC,  
GP, sole proprietor/individual)

RIVERROCK REAL ESTATE GROUP  
as agent for the City of Alameda

\_\_\_\_\_  
NAME  
TITLE

\_\_\_\_\_  
Mike Meyer  
Regional Vice President  
CA License #01327247

\_\_\_\_\_  
NAME  
TITLE

Certification of Compliance  
**With the City of Alameda's Vaccination Requirement**

\_\_\_\_\_

**(To be signed by Sub-Manager as part of this Agreement and also to be added to Service Provider Agreement  
(when utilized)**

The City of Alameda (“City”) requires all individuals who perform work for the City to be fully vaccinated<sup>1</sup> against COVID-19. All service providers and contractors for the City must sign the following statement certifying compliance with this requirement.

By signing below, I certify that all of our personnel who are performing work for the City are fully vaccinated against COVID-19. I also acknowledge that the City reserves the right to review any relevant records to demonstrate our compliance with this requirement.

I declare under penalty of perjury that the foregoing is true and correct.

Certa-Zein Real Estate, Inc.

Date:\_\_\_\_\_

\_\_\_\_\_  
By:

Title:

\_\_\_\_\_  
<sup>1</sup> For the purposes of this Certification of Compliance, an individual is considered to be fully vaccinated if two weeks have passed since their second dose in a 2-dose series (such as the Pfizer or Moderna vaccines) or if two weeks have passed since receiving their single-dose vaccine (such as Johnson & Johnson’s Janssen vaccine).

EXHIBIT C  
Leasing and Commissions  
[see attached]

## I. LEASING.

1.1 Leasing Services. The Manager hereby engages the Sub-Manager as the exclusive leasing broker for the purpose of leasing those portions of the Managed Properties which way be available for lease during the term of this Agreement. Sub-Manager shall:

(a) Diligently pursue new and renewal tenants for rental units within the Managed Properties (leases) on the best terms available in the market.

(b) Investigate prospective tenants as to their credit-worthiness.

(c) Negotiate lease terms with prospective and renewal tenants.

1.2 Outside Brokers. Notwithstanding anything to the contrary in the foregoing, Sub-Manager shall be responsible for payment of any commissions or brokerage fees to any outside brokers and neither the Manager nor City shall be liable to any outside broker for any commissions or brokerage fees which may arise as a result of Sub-Manager's agreements with outside brokers.

### 1.3 Reports

(a) Leasing Status Report. On or before the fifteenth day of each month, the Sub-Manager shall deliver to the Manager for each lease a leasing status report for the preceding month.

(b) Prospective Tenants. With respect to prospective tenants, the lease status report shall include the tenant's name; proposed term of the lease, including rent, term, free-rent periods and projected occupancy date.

## II. LEASING COMMISSIONS.

2.1 Compensation for leasing. Sub-Manager shall earn a leasing commission of 30% of the first month's rent (paid by either Tenant or Landlord, to be mutually decided).

### 2.2 CONSTRUCTION MANAGEMENT.

Should the City or Manager elect to hire Sub-Manager to perform construction management services for the Managed Properties, Sub-Manager shall be paid the following by the City:

Ten Percent (10%) of the final hard construction cost billed to the City.

EXHIBIT D  
Scope of Work  
[see attached]

# SCOPE OF WORK

## Staffing

1. Staffing, work assignments, supervision, and overseeing the payrolls of all employees engaged in managing, operating, leasing and maintaining of the Buildings.

## Financial/Operational Reporting

1. Providing full financial control, accountability and reporting of Buildings' related income and expenses (including capital expenses) on a cash basis.
2. Ensuring the timely billing and collection of rent, deposits, fees, utility charges, and other revenue (such as late fees, damage charges, etc.).
3. Providing strict accountability for all receipts and disbursements with respect to the operation of the Buildings.
4. Ensuring diligence in the collection of rent and initiating appropriate collection action as necessary.
5. Supporting the established cash management procedures of the Owner for all funds received from the Buildings and for the processing of withdrawals to fund operations in a manner consistent with budgetary considerations of the Building.
6. Preparing annual operating and capital expenditure budgets as part of the annual Business Plan related to the Buildings.
7. Cooperating with outside auditors in the performance of an annual financial audit if required.

## Administrative

1. Administering all tenant leases and providing responsive tenant services. Verify that tenants are complying with all terms and conditions of the lease documents and all laws, codes, and reasonable policies that Owner and Manager may establish.
2. Coordinating and communicating with Owner's representatives (i.e. managers, auditors, legal counsel, tax consultants, City Council, etc.).
3. Providing tenants/owner (if possible) access to an online portal (rent payments, accounting, access to lease documents, work order requests, etc.)
4. Maintain current vendor files and ensure all COIs are up to date with City requirements.

## Repair, Maintenance/Operations Program

1. Conducting regular, routine inspections of the Buildings and noting deficiencies with proper corrective action to be implemented. Inspect building exteriors on a monthly basis and interior a minimum of once per calendar year but always at turnover. Turnover inspections shall include video footage and/or photos and a written documentation signed by tenant and PM firm regarding condition of premises.
2. Maintaining all physical areas within the

Buildings and exterior grounds to assure that appropriate levels of cleanliness, state of repair, and aesthetic appeal are maintained.

3. Conducting a preventative maintenance and inspection program.
4. Evaluating and (in conjunction with Manager) controlling all factors relating to liability, life safety, security, and environmental issues.
5. Maintaining an inventory listing and control of all building equipment and supply items.
6. Supervising all contractors engaged in providing routine or periodic services on behalf of the Buildings and administration of all service contracts; competitively bidding and negotiating contracts for those services as required.
7. Overseeing and administering all necessary improvement projects
8. Addressing emergency calls within 30 minutes or less.
9. Managing landscape contract and ensuring residential units present a neat and professional looking landscape year round.

### **Leasing**

1. Marketing vacant units using appropriate marketing tools and platforms, such as the company website and obtaining lessees at a lease rate and other terms acceptable to the Owner and Manager.
2. Ensuring compliance with the requirements of the Fair Housing Act of 1968 and all other applicable federal, state and local fair housing laws, rules and regulations.

EXHIBIT E  
Fees And Expenses  
[see attached]



## FEES AND EXPENSES

Full description of fees:

Property Management Fee - 8% of gross rental income or \$100 (per door), whichever is greater.

Regular Maintenance - \$65.00 per hour during regular business hours (9AM to 5 PM Monday through Friday), \$97.50 per hour overtime, plus materials.

Leasing Commission Fee (Landlords Option) - \$30% of 1 month's rent

Other Reimbursements or ongoing expenses – Prices are subject to change. Clients will be notified 30 days in advance if prices are changed.

- Exterior site surveys are currently billed at \$65.00 per hour.
- Interior site surveys are presently billed at \$65.00 per hour.
- 10% of the final invoice for project management coordination beyond regular routine maintenance.

EXHIBIT F  
Certa-Zein Operations Team

Jose Cerda-Zein  
Nancy Cerda-Zein  
Abia Al-Khafaji  
Nicole Thresher  
Gregg McGlinn  
Tanya Garvine  
Sebastien Colas  
Angelo Melendez  
Lorenzo Ybarra  
Vanessa McDaniels  
Debra Lindsey  
Krista Paine  
Lily Saechao  
Elia Ayala  
Ramona Ruiz  
Gerardo Oseguera  
Ruben Castro