

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Successor Agency to the
Community Improvement Commission
c/o City of Alameda
2263 Santa Clara Avenue, Room 280
Alameda, California 94501
Attention: City Attorney

This document is exempt from the payment
of a recording fee pursuant to Government Code
Section 27383 and the building homes & jobs
trust fund fee pursuant to Government Code
§27388.1(a)(2)(D)

Space above for Recorder's use

**FIRST AMENDMENT TO CONSTRUCTION GROUND LEASE DEED OF TRUST
(WITH SECURITY AGREEMENT, FIXTURE FILING AND
ASSIGNMENT OF RENTS AND LEASES)**

**NOTICE: A PORTION OF THE PROCEEDS OF THE LOAN SECURED BY
ORIGINAL DEED OF TRUST AS AMENDED HEREBY WERE OR WILL BE USED
TO FINANCE CONSTRUCTION OF IMPROVEMENTS ON LAND.**

This First Amendment to Construction Ground Lease Deed of Trust ("**First Amendment**") dated March __, 2019, is entered into by and between the SUCCESSOR AGENCY TO THE COMMUNITY IMPROVEMENT COMMISSION OF THE CITY OF ALAMEDA, as successor to the former Community Improvement Commission of the City of Alameda ("**Beneficiary**") and ALAMEDA ENTERTAINMENT ASSOCIATES, L.P., a California limited partnership ("**Trustor**").

RECITALS:

A. Beneficiary and Trustor are parties to that certain Construction Ground Lease Deed of Trust ("**Original Deed of Trust**") dated March 15, 2007, recorded March 16, 2007, in the Official Records of Alameda County as Document No. 2007108463, pursuant to which Trustor agreed to secure the indebtedness and obligations described in the Original Deed of Trust, by granting, bargaining, selling, assigning, transferring, and conveying, unto the Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all of Trustor's estate, right, title and interest in the Mortgaged Property as described in the Original Deed of Trust, including without limitation, Trustor's ground leasehold and leasehold interests in the Land set forth on **Exhibit A** attached hereto. The Original Deed of Trust and this First Amendment shall be collectively referred to herein as the "**Deed of Trust.**" Capitalized terms used above and in this First Amendment without definition have the meaning given to them in the Original Deed of Trust.

B. Trustor desires to borrow \$ _____ from _____ Bank (“**New Loan**”) to upgrade the Improvements located on the Real Property by, among other things, _____ *[insert description of upgrade work – replace seats etc.]*.

C. To facilitate the making of the New Loan, Trustor and Beneficiary desire to amend the Original Deed of Trust to permit such New Loan financing and to make certain other modifications, as set forth herein.

NOW, THEREFORE, in consideration of the mutual benefits accruing to Beneficiary and Trustor, and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, it is hereby declared, understood and agreed as follows:

AGREEMENTS:

Section 1 – Additional Liens. Section 5.1 of the Original Deed of Trust is hereby deleted in its entirety and replaced with the following:

“Additional Liens. In no event shall Beneficiary’s fee interest in the Land or the Historic Theater, or residual interest in the Cineplex (as those terms are defined in the DDA) be subordinated to the lien of any leasehold mortgage or leasehold deed of trust securing any construction or other loan of or to Trustor. Other than the New Loan, which Beneficiary hereby approves, Trustor will not, without prior written consent of Beneficiary, grant any lien, security interest, or other encumbrance affecting any of the Mortgaged Property (“**Additional Lien**”). If the foregoing prohibition is determined by a court of competent jurisdiction to be unenforceable, any such Additional Lien shall contain express covenants to the effect that the Additional Lien is unconditionally subordinate to this Deed of Trust and all modifications, renewals, extensions, or increases thereof. If Beneficiary desires to consent to an Additional Lien, Beneficiary, at its option, may condition such consent on the Additional Lien containing express covenants to the effect that the Additional Lien is unconditionally subordinate to this Deed of Trust and all modifications, renewals, extensions, or increases hereof. Alternatively, Beneficiary at its sole option and in its sole discretion may determine that subordination of this Deed of Trust to such Additional Lien is generally consistent with the terms and conditions of the DDA, such that this Deed of Trust and all modifications, renewals, extensions or increases hereof may be subordinated to the Additional Lien pursuant to a subordination agreement in form and substance acceptable to Successor Agency’s counsel. Any default under an Additional Lien shall be an Event of Default under this Deed of Trust. Trustor shall promptly forward to Beneficiary any notices of default received by Trustor with respect to the New Loan or any Additional Lien.

“Section 2 – Subordination of Indebtedness to New Loan. Beneficiary hereby agrees to subordinate the lien of the Deed of Trust securing the Indebtedness to the New Loan, pursuant to a subordination agreement to be recorded in the Official Records, in form and substance reasonably acceptable to Beneficiary’s legal counsel.

Section 3. - Miscellaneous.

3.1 Except as set forth in this First Amendment, the Original Deed of Trust remains unmodified and in full force and effect.

3.2 This First Amendment is binding on and inures to the benefit of the legal representatives, heirs, successors and assigns of the parties.

3.3 This First Amendment is governed by and construed in accordance with the laws of the State of California.

3.4 This First Amendment may be signed by the parties hereto in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

[Signatures follow on next page]

Dated and effective as of the date first set forth above.

TRUSTOR:

ALAMEDA ENTERTAINMENT ASSOCIATES,
L.P., a California limited partnership

By: ALAMEDA ENTERTAINMENT
MANAGEMENT CORPORATION, a
California corporation

Its: General Partner

By: _____
Name: _____
Its: _____
[Signature to be acknowledged by notary]

By: _____
Name: _____
Its: _____
[Signature to be acknowledged by notary]

SUCCESSOR AGENCY:

SUCCESSOR AGENCY TO THE COMMUNITY
IMPROVEMENT COMMISSION OF THE CITY
OF ALAMEDA, a public entity

By:

Name:

Its:

[Signature to be acknowledged by notary]

APPROVED AS TO FORM:

Lisa Nelson Maxwell
Assistant City Attorney/Successor Agency Counsel

EXHIBIT A

LEGAL DESCRIPTION OF LAND

[legals of cineplex parcel and historic theater parcel to be inserted]

[NOTARY ACKNOWLEDGMENTS]