

AGREEMENT FOR PURCHASE AND SALE

THIS AGREEMENT FOR PURCHASE AND SALE ("**Agreement**") is made and entered into as of _____, _____ (the "**Effective Date**") by and between the SUCCESSOR AGENCY TO THE COMMUNITY IMPROVEMENT COMMISSION OF THE CITY OF ALAMEDA ("**Seller**" or "**SACIC**"), and the CITY OF ALAMEDA, a charter city ("**Buyer**" or "**City**"), with regard to the purchase and sale of certain property, upon the terms and conditions set forth herein.

RECITALS

A. On or about August 1, 2001, the United State of America, acting by and through the Department of the Navy ("**Navy**") conveyed to Seller's predecessor in interest, the Community Improvement Commission of the City of Alameda ("**CIC**") the former U.S. Navy Fleet Industrial Supply Center, Alameda ("**FISC**"); and

B. Pursuant to AB 1X26 (as amended by AB 1484 and SB 107, collectively referred to as the "Dissolution Act"), the SACIC acquired from the CIC a portion of the FISC consisting of approximately 35,556 square feet (0.82 acres) of gross land area located at 2350 5th Street, Alameda and commonly referred to as the "Bottle Parcel." The Long Range Property Management Plan ("**LRPMP**") of the SACIC, dated February 2015, proposed for the disposition of the Bottle Parcel by means of a sale. The LRPMP and the disposition of the properties listed therein, including the Bottle Parcel, was approved by the California Department of Finance by letter dated March 12, 2015; and

C. The approved LRPMP provides that the real property commonly referred to as the "Bottle Parcel" due to its shape, located at 2350 Fifth Street, Alameda, California (APN 074-1356-023), consisting of approximately 0.82 acres, shall be marketed for sale at fair market value, with the net proceeds to be distributed among the local taxing entities. The LRPMP estimates the value of the Bottle Parcel at \$250,000; and

E. On or about November 16, 2021, the City, the SACIC, Five Keys Schools and Programs ("Five Keys"), a California nonprofit public benefit corporation, and DignityMoves, a California nonprofit public benefit corporation, (collectively, "Grant Applicants") entered into a Memorandum of Understanding to apply for a grant from the State Housing and Community Development Department's ("HCD") Project Homekey Round 2 fund ("Homekey") to develop interim supportive housing on the Bottle Parcel; and

F. On or about March 1, 2022, HCD approved the Grant Applicants' Homekey application and awarded them a \$12.3 million grant to develop interim supportive homeless housing on the Bottle Parcel; and

G. As required to comply with the Dissolution Act and the approved LRPMP, and to allow construction and eventual operation of the interim supportive homeless housing development pursuant to the Homekey grant, the SACIC must transfer title to the Bottle Parcel to the City.

NOW, THEREFORE, for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, and in consideration of the forgoing, which are incorporated herein for reference, the parties agree as follows:

1. Authority. Pursuant to Health & Safety Code §34181(a)(1), on _____, 2022, the SACIC adopted Resolution No. _____ authorizing the City Manager, as Executive Director of the SACIC to execute this Agreement and take other all other actions necessary to transfer the Bottle Parcel to the City. Additionally, on the same date the City adopted Resolution No. _____ authorizing the City Manager to execute this Agreement and take other all other actions necessary to transfer the Bottle Parcel to the City.

2. The Property. Seller hereby agrees to sell, assign and convey to Buyer, and Buyer hereby agrees to purchase from Seller, (a) the Real Property, defined as that approximately 0.82 acre unimproved parcel commonly known as 2350 5th Street, Alameda, APN 074-1356-023, the legal description of which is set out on Exhibit A, attached hereto (the “**Real Property**”), together with all appurtenances, rights, privileges, warranties and easements benefiting, belonging or pertaining thereto, and (b) all of Seller’s right, title and interest in any intangible property related to or associated with the Real Property, collectively the “**Property**”.

3. Purchase Price. The Purchase Price for the Property is Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) (the “**Purchase Price**”) and shall be paid by Buyer to Seller in good, same day funds, on or before the closing date for this transaction (“**Closing Date**”).

4. Condition of Property.

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

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

4.3 Waiver of Natural Hazards. Buyer further acknowledges that “Natural Hazards” described in the following California Code Sections (the “**Natural Hazard Laws**”) may affect the Property: Government Code Sections 8589.4; 8589.3; Government Code Sections 51183.4, 51183.5 (Fire Hazard Severity Zone); Public Resource Code Section 2621.9 (Earthquake Fault Zone); Public Resource Code Section 2694 (Seismic Hazard Zone); and Public Resource Code Section 4136 (Wildlands Area). Buyer acknowledges and agrees that Buyer has had the opportunity independently to evaluate and investigate whether any or all of such Natural Hazards affect the Property and Seller shall have no liabilities or obligations with respect thereto. Without limiting the foregoing, Buyer acknowledges and agrees that Buyer knowingly and intentionally waives and releases Seller from, any disclosures, obligations or

requirements of Seller with respect to Natural Hazards, including, without limitation, any disclosure obligations or requirements under the aforementioned Code Sections or under California Civil Code Section 1102.

5.4 Release. Consistent with the foregoing, effective as of the Closing Date, Buyer, for itself and its agents, affiliates, successors and assigns, hereby releases and forever discharges Seller, its trustees, beneficial owners, agents, employees, representatives, affiliates, successors and assigns (collectively, the “**Releasees**”) from any and all rights, claims and demands at law or in equity, whether known or unknown at the time of this Agreement, which Buyer has or may have in the future, arising out of the physical, environmental, economic or legal condition of the Property, including, without limitation, all claims in tort or contract and any claim for indemnification or contribution arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601, et. seq.) or any similar federal, state or local statute, rule or ordinance relating to liability of property owners for environmental matters. Without limiting the foregoing, Buyer, upon the Closing Date, shall be deemed to have waived, relinquished and released Seller and all other Releasees from and against any and all matters arising out of latent or patent defects or physical conditions, violations of applicable laws and any and all other acts, omissions, events, circumstances or matters affecting the Property, except as expressly and specifically provided in (and as limited by) any provision of this Agreement with respect to any express covenant, representation, warranty or indemnity of Seller.

5.5 Exclusions from Waivers and Release. Notwithstanding the foregoing, the above releases and waivers in this Section 5 shall not include any rights, claims, obligations, or liabilities arising out or related to: (i) any material breach of Seller’s covenants, representations or warranties expressly set forth in this Agreement or any other documents required to be executed by Seller in connection with this Agreement, or (ii) the fraud, intentional misrepresentation or intentional misconduct of Seller.

5.6 Private Sewer Lateral/Gas Shutoff Valve. The East Bay Municipal Utility District (“**EBMUD**”) Wastewater Control Ordinance requires property owners in certain areas of the EBMUD wastewater service area to obtain a compliance certificate that shows their private sewer laterals are without defects and have proper connections. The ordinance requires property owners to test and, if needed, repair or replace their private sewer laterals. Buyer shall be responsible for any costs associated with the testing/repair/replacement of the existing sewer lateral and, if needed, the installation of a shutoff valve at any gas meter.

6. Title. Seller shall convey title to the Real Property to Buyer by quit claim deed, subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, except for any monetary encumbrances other than non-delinquent taxes or assessments.

7. Default Remedies.

7.1 Notice and Cure. Notwithstanding anything contained in this Agreement to the contrary, if a party is in breach under this Agreement (“**Defaulting Party**”) the other party (“**Non-defaulting Party**”) shall deliver written notice to the Defaulting Party of such breach, and (a) the Defaulting Party shall have until 5:00 p.m. California time on the date that is five (5) business days after the Defaulting Party’s receipt of such written notice to cure the breach, and (b) the Defaulting Party shall not be in default under this Agreement if the Defaulting Party cures

such breach on or prior to 5:00 p.m. California time on the date that is five (5) business days after the Defaulting Party's receipt of such written notice.

8. General Provisions.

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

8.2 Binding on Successors. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

8.3 Assignment. Buyer shall have the right to assign this Agreement to a third party with Seller's consent, to be given in Seller's reasonable discretion and after consideration by Seller of the qualifications, experience, financial viability and other relevant factors related to such proposed assignee, provided that Seller's obligation to exercise reasonable discretion in granting or withholding any consent required under this Section 8.3 after reviewing the various factors described above shall not be deemed to obligate Seller to modify any terms of this Agreement or of any of the Entitlements. The assignee shall be required to assume all of Buyer's obligations under this Agreement.

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

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

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

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

8.8 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all counterparts shall constitute one instrument. The parties agree that this Agreement may be deemed executed by the delivery of signatures of the parties by facsimile, pdf files or other forms of electronic transmission.

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

To Seller: Successor Agency
Alameda City Hall
2263 Santa Clara Ave., Suite 280
Alameda, CA 94501-4566
Telephone: (510) 748-4750
Attn: City Attorney

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

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

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

8.11 Laws, Ordinances and Regulations. Buyer shall take title to the Property subject to all laws, ordinances, rules, regulations and codes of all city, county, state and federal authorities relating thereto.

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

8.13 Time References. Time is of the essence. Unless otherwise expressly provided in this Agreement, any reference in this Agreement to time for performance of obligations or to elapsed time shall mean Pacific Standard Time and time periods shall mean consecutive calendar days, months or years, as applicable. If the date ("**Performance Date**") on which any action is to be taken, any obligation is to be performed, or any notice is to be given under this Agreement falls on a Saturday, Sunday or federal holiday, such Performance Date shall be automatically extended to the next business day. As used in this Agreement, "**business day**" means any calendar day that is not a Saturday, Sunday or federal holiday. The time for performance on any Performance Date shall be no later than 5:00 p.m., unless otherwise provided in this Agreement.

8.14 Incorporation of Exhibits. Exhibit A, attached hereto, is incorporated herein by this reference.

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

[Signatures on following page]

SELLER:

SUCCESSOR AGENCY to the COMMUNITY
IMPROVEMENT COMMISSION of the CITY
OF ALAMEDA

By:

Eric J. Levitt
City Manager, as Executive Director
of the SACIC

BUYER:

CITY OF ALAMEDA, a charter city and
municipal corporation

By:

Eric J. Levitt
City Manager

Approved as to Form:

By:

Len Aslanian
Assistant City Attorney

Recommended for Approval:

By:

Lisa N. Maxwell
Community Development Director

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

[to be attached]

LEGAL DESCRIPTION

Real property in the City of Alameda, County of Alameda, State of California, described as follows:

LOT DD AS SHOWN ON THE MAP ENTITLED "MAP OF TRACT 7511-BAYPORT", FILED JULY 09, 2004, IN MAP BOOK 277, PAGES 1 THROUGH 19, INCLUSIVE, ALAMEDA COUNTY RECORDS.

APN: 074-1356-023