

LEASE OPTION AGREEMENT

between

CITY OF ALAMEDA

and

RADIUM PRESENTS, INC.

_____, 2026

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LEASE OPTION AGREEMENT

THIS LEASE OPTION AGREEMENT ("**Option Agreement**") is entered into as of _____, 2026 ("**Effective Date**"), by and between the CITY OF ALAMEDA, a charter city and municipal corporation ("**City**"), and Radium Presents, Inc., a California 501(c)3 organization ("**Developer**").

RECITALS

A. City is the owner of that certain real property in the City of Alameda, County of Alameda ("**County**"), State of California, consisting of approximately 1.72 acres of land, commonly referred to as Blocks 12 and 13 of the Site A project site, plus such other adjacent area as is necessary for the Project as agreed to between the City and Developer, located in an area commonly known and referred to as Alameda Point and as more particularly described on Exhibit A attached hereto and as depicted on Exhibit A-1 attached hereto ("**Property**").

B. City wishes to grant to Developer the option to ground lease the Property for the development of a performing arts center with a public plaza ("**Project**").

C. Subject to modifications, the Project is anticipated to consist of an approximately 62,000 square foot facility which is preliminarily planned to include up to a 600 seat main theater, a 210 seat studio theater, a rehearsal room, offices and shared spaces, an event space and ticketing and concession spaces, along with improvements to an approximately 40,000 square foot outdoor event space known as the outdoor public plaza, and all required utility and infrastructure improvements for the Project ("**Improvements**").

D. On December 19, 2023, City and Developer entered into an Exclusive Negotiation Agreement setting forth parameters for good faith negotiations on the Project and Project approval for the Property. On March 19, 2025 City and Developer entered into a First Amendment to Exclusive Negotiating Agreement and on December 16, 2025 City and Developer entered into a Second Amendment to the Exclusive Negotiation Agreement amending the terms of the Agreement. The Agreement and the Amendments are collectively referred to herein as the "**ENA.**" The ENA shall expire on April 30, 2026.

E. Concurrently with this Option Agreement, Developer has submitted to City Council, a Fundraising Feasibility Study attached hereto as Exhibit B ("**Fundraising Feasibility Study**") to demonstrate the feasibility of raising a sufficient amount of funds to complete Project construction.

F. Concurrently with this Option Agreement, Developer has submitted to City Council, a Sustainable Operations Plan attached hereto as Exhibit C ("**Sustainable Operations Plan**") which sets out key operational benchmarks for the operation of the performing arts facility at a minimum standard acceptable to the City during the term of the Lease.

G. Concurrently with this Option Agreement, Developer has submitted to City Council, a community benefits package attached hereto as Exhibit D ("**Community Benefits Package**"), which (i) sets the general thresholds for the community benefits, (ii) acknowledges the City's contributions to, and goals for, the Project, and (iii) accounts for the economic and financial sustainability of the Developer.

H. Developer now desires to enter into this Option Agreement with the City, while it pursues the required Entitlements that will allow for the development of the Property with the Project.

I. Capitalized terms used but not defined elsewhere in this Option Agreement shall have the meanings set forth in Section 8.14.

NOW, THEREFORE, in consideration of the foregoing, which are incorporated herein by reference, the covenants in this Option Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer agree as follows:

ARTICLE I THE OPTION

1.1. Lease Option.

(a) Grant of Lease Option. City hereby grants to Developer the option ("**Option**") to ground lease the Property, in accordance with this Option Agreement, pursuant to a ground lease ("**Ground Lease**") to be entered into by the parties in the form attached hereto as Exhibit E. The Option shall be exercised, if at all, as hereinafter set forth. City agrees and acknowledges that Developer may request that the Ground Lease be entered into directly between City and an Affiliate by giving written notice to City at least ten (10) Business Days prior to the Closing Date, which notice must specify the name of the Affiliate and include the organizational documents of the Affiliate (including evidence of its due formation and qualification to conduct business in the State of California) and any other evidence reasonably requested by City. Upon confirmation by City that the proposed Affiliate satisfies the requirements of an Affiliate, the Affiliate shall have the same rights as Developer would have had to enter into the Ground Lease and receive possession of the Property at Closing and shall have the same obligation as Developer would have had to satisfy all conditions to Closing applicable to the Property, subject to all of the limitations set forth in this Option Agreement.

(b) Entitlement Authorization. During the Term of this Option, and notwithstanding the fact that Developer does not yet have site control of the Property, Developer shall have the right, at its sole cost and expense, to prepare and apply for, and diligently pursue all Entitlements necessary or desirable for the Project subject to the rights and obligations contained in this Agreement and the parties' Right of Entry Agreement. City hereby authorizes Developer, and its consultants and agents, to act in connection with the submission and processing of such Entitlements, provided that

Developer shall not commit City to any obligation or condition, financial or otherwise, without City's written consent. Notwithstanding the foregoing, if any governmental agency or department or other entity from which Developer is seeking an Entitlement requires further evidence from City that Developer is permitted to pursue such Entitlement(s), then City shall cooperate with Developer, at no material cost to City, to provide the required evidence requested by such agency, department or entity. All Entitlements obtained by Developer shall, upon issuance, be assignable to the City as Work Product under Section 1.6(j).

1.2. Memorandum of Option. The parties agree to record against title to the Property in the Official Records of Alameda County ("**Official Records**") a memorandum of this Option Agreement in the form attached hereto as Exhibit F ("**Memorandum of Option**") promptly after execution of this Option Agreement.

1.3. Term.

(a) Initial Term. The initial term of the Option ("**Initial Term**") shall commence on the Effective Date and shall terminate at 5:00 p.m. Pacific time on the 3rd anniversary of the Effective Date ("**Original Option Exercise Deadline**"), unless terminated earlier or extended pursuant to the terms of this Option Agreement.

(b) Extended Term. Notwithstanding the foregoing, and provided that the applicable conditions precedent described below in each of subsections (A), (B) and (C) are met, then Developer may request an extension of the Option Term:

(A) for one (1) additional year ("**First Extended Option Exercise Deadline**"), provided that (i) this Option Agreement has not otherwise terminated pursuant to its terms; and (ii) no Developer Default exists, by providing written notice to the City of its intent to extend the term and delivering concurrently therewith the Additional Option Payment required under Section 3.1 and evidence reasonably satisfactory to the City that Developer has commitments (as defined in Section 6.1(g)) for at least thirty-five (35%) of the required funds for Developer to satisfy all of its financial obligations under the Ground Lease, including the cost of the construction of the Improvements on the Property;

(B) for one (1) additional year ("**Second Extended Option Exercise Deadline**"), provided that: (i) this Option Agreement has not otherwise terminated pursuant to its terms; (ii) no Developer Default exists, and (iii) Developer has, at least thirty (30) days prior to the First Extended Option Exercise Deadline (1) shown it has diligently worked towards obtaining all Project Entitlements, and (2) satisfied (alone or with an Affiliate) the Extension Conditions to City's reasonable satisfaction, including each fundraising condition described below, by providing written notice to the City of its intent to extend the term and delivering concurrently therewith the Additional Option Payment required under Section 3.1 and evidence reasonably satisfactory to the City that Developer has commitments for at least sixty percent (60%) of the required funds for Developer to satisfy all of its financial obligations under the

Ground Lease, including the cost of the construction of the Improvements on the Property; and

(C) for one (1) final additional year ("**Third Extended Option Exercise Deadline**"), provided that: (i) this Option Agreement has not otherwise terminated pursuant to its terms; (ii) no Developer Default exists, and (iii) Developer has, at least thirty (30) days prior to the First Extended Option Exercise Deadline (1) shown it has diligently worked towards obtaining all Project Entitlements, and (2) satisfied (alone or with an Affiliate) the Extension Conditions to City's reasonable satisfaction, including each fundraising condition described below, by providing written notice to the City of its intent to extend the term and delivering concurrently therewith the Additional Option Payment required under Section 3.1 and evidence reasonably satisfactory to the City that Developer has commitments for at least eighty-five (85%) of the required funds for Developer to satisfy all of its financial obligations under the Ground Lease, including the cost of the construction of the Improvements on the Property.

Each of the First Extended Option Exercise Deadline, the Second Extended Option Deadline, and the Third Extended Option Exercise Deadline are subject to, and will only become effective upon the City's written approval of the requested extension, which approval shall be subject to the sole and absolute discretion of the City Manager. For the avoidance of doubt, "**exercised the Option**" or similar terms used herein refers to delivery of the Option Notice in compliance with the requirements of Section 1.4. City Manager has the discretion to approve an extension if commitments for required funds are within five (5%) of the established threshold for each extension.

(c) Early Termination by City. In the event Developer fails to make any Option Payment on or before the date due and fails to cure such default within thirty (30) Business Days following receipt of written notice thereof from City, City shall have the right to terminate this Option Agreement by written notice to Developer.

1.4. Method of Exercising Option. Developer may exercise the Option only by giving notice to City of exercise of the Option ("**Option Notice**") in accordance with the terms of this Option Agreement. The Option Notice shall set forth the Closing Date, which shall be no later than sixty (60) days after delivery of the Option Notice. The form of Option Notice is set forth in Exhibit G attached hereto. The Option Notice must be delivered to City on or before the expiration of the Option Exercise Deadline (as such may be extended), and, unless City agrees otherwise in its sole and absolute discretion, no Developer Default may exist when Developer gives the Option Notice or on the Closing Date. If Developer exercises the Option in accordance with this Option Agreement City shall be obligated to ground lease the Property to Developer, and Developer shall be obligated to ground lease the Property from City, in accordance with this Option Agreement. If Developer does not exercise the Option in accordance with this Option Agreement on or before the expiration of the Option Exercise Deadline, then this Option Agreement shall terminate (except for any provisions of this Option

Agreement that expressly survive such termination), and Developer shall have no further right to ground lease the Property.

1.5. Termination of Option Agreement. Developer shall have the right, at Developer's sole election and at any time prior to the earlier of (a) delivery of the Option Notice, and (b) the Option Exercise Deadline, to terminate this Option Agreement by delivery of written Notice to the City at least thirty (30) days prior to the deadline of the then-applicable Option Exercise Deadline. Upon termination of this Option Agreement, all obligations of Developer and City under this Option Agreement shall terminate, except those obligations that expressly survive such termination.

1.6. Developer Due Diligence and Conditions Precedent to Option Exercise.

(a) Due Diligence. Prior to delivering the Option Notice, Developer, in good faith and to its own satisfaction, in accordance with the terms of this Option Agreement and at Developer's sole control, direction and expense, shall conduct such review and investigation of the physical and environmental condition of the Property, including any soils reports, the character, quality and general utility of the Project, the zoning, land use, environmental and building requirements and restrictions applicable to the Project, the feasibility of the Project, the sources of funds to develop and construct the Project, the availability of all necessary governmental approvals for development of the Property, the state of title to the Property (as further described in Section 1.6 (e)), and such other matters as Developer deems appropriate. City makes no guarantees, either expressed or implied, as to the suitability of the Property for the Project nor is City obligated to or responsible for assisting Developer with any due diligence activities as may be requested or required by Developer in its review of the Property. Developer shall determine in its sole and absolute discretion whether or not the Property is acceptable to Developer prior to delivering the Option Notice. Developer shall be responsible for preparing and paying the cost of any survey required by Developer and/or its lenders.

(b) Due Diligence Documents. During the Option Term, City agrees to permit Developer and Developer's representatives to inspect and copy, at Developer's sole expense, the books, records and files of City relating to the Property, including (without limitation) all soils and engineering reports, surveys, subdivision applications, agreements, contracts, property tax bills for the past three years (if any), licenses, leases (if any), permits and other documents in City's possession or under its control relating to or concerning the Property, all environmental and/or hazardous materials studies, surveys, documents and reports regarding the Property (including without limitation all Phase I and Phase II reports), all civil, geotechnical and other engineering reports, studies and surveys, including a natural hazard disclosure report, all non-privileged documents regarding any litigation affecting or concerning title to or use of the Property and all other unrecorded documents and information in City's possession or under its control that may affect the physical condition or entitlement of the Property ("**Due Diligence Documents**"), but excluding appraisal and valuation reports. All records and documents related to either the Property or the Project are subject to and

will be released by the City in compliance with, all applicable public records and related “sunshine” laws, regulations, rules and ordinances.

(c) Inspection; Right of Entry. During the Option Term, Developer shall have the right to enter upon the Property, on the terms and conditions and subject to the obligations contained in this Option Agreement and a written right of entry agreement signed by both Developer and City (“**Right of Entry Agreement**”), for performance thereon of inspections, surveys, tests, investigations, work and other related activities (collectively, “**Work**”) as may be necessary or desirable to determine, among other things, the feasibility of developing the Property with the Project, obtaining the Entitlements and General Permits, locating and designing utilities serving the Improvements, constructing the Improvements and preparing the Construction Documents. The Right of Entry Agreement shall include terms and conditions governing Developer’s right to enter upon the Property prior to Closing of the Ground Lease, including a requirement Developer and/or any of Developer’s contractors maintain insurance coverages in forms and amounts reasonably satisfactory to the City, naming the City as an additional insured. Developer and City shall negotiate such Right of Entry Agreement in good faith.

(d) Third Party Reports. As additional consideration for the Option, Developer shall, promptly after completion or receipt thereof, provide City with copies of all studies, tests and reports prepared by third parties regarding the physical condition of the Property and the state of title to the Property and any application, notice or staff report to or from governmental authorities (other than the City) relating to the Property, excluding Financial Analysis (as defined below). In addition, Developer shall promptly upon receipt provide City with evidence of Developer’s receipt of permits and approvals for the construction of the Project from governmental authorities other than the City.

(e) Title Review. Prior to delivering the Option Notice, Developer shall, at its sole cost, obtain: (i) a preliminary report or title commitment (“**Preliminary Report**”) prepared by Escrow company’s affiliated underwriter (“**Title Company**”); and (ii) copies of all matters of record described therein (“**Underlying Documents**”) in order to review and approve or object to the condition of title to the Property as set forth on the Preliminary Report (“**Title Review Period**”). In the event that Developer objects to City’s title for any reason or to any other item disclosed by the Preliminary Report, Developer shall have ten (10) Business Days following receipt of the Preliminary Report to deliver written notice (“**Developer’s Title Notice**”) to City specifically identifying all objections to any such item or to the condition of City’s title. Failure of Developer to provide a Developer’s Title Notice shall be deemed approval by Developer of the condition of title to the Property as set forth in the Preliminary Report, and all matters shown thereon shall be deemed Permitted Exceptions to Title. City shall, within seven (7) Business Days following receipt of Developer’s Title Notice, deliver written notice (“**City’s Title Notice**”) to Developer informing Developer whether or not City elects, in its sole discretion, to attempt to eliminate or cure any such matter to which an objection has been raised. In the event City advises Developer in City’s Title Notice that City will not eliminate or cure the matter(s) to which Developer has objected, Developer shall, within seven (7) Business Days after receipt of City’s Title Notice either: (i) accept title

subject to the matters to which Developer has objected, which matters shall be then deemed Permitted Exceptions to Title; or (ii) terminate this Option Agreement with written notice to City, in which event the parties shall have no further obligations to each other under this Option Agreement, except for obligations which expressly survive the termination of this Option Agreement. In the event that City advises Developer in City's Title Notice that City will attempt to eliminate or cure any matter to which an objection is made, Developer's right to terminate this Option Agreement will be suspended, and City shall use reasonable efforts to do so prior to the Closing Date. If City is unable to eliminate or cure any such matter that City has agreed to attempt to eliminate or cure, despite City's reasonable efforts to do so, on or prior to Developer's delivery of the Option Notice, Developer shall have the right to either: (A) terminate this Option Agreement and revoke its exercise of the Option through delivery of the Option Notice if already delivered, in which event the parties shall have no further obligations to each other under this Option Agreement except for obligations which expressly survive the termination of this Option Agreement; or (B) waive such failure by City in writing, and accept condition of title to the Property subject to the matters to which Developer has objected and City was unable to eliminate or cure prior to the Closing Date, and those matters shall then become Permitted Exceptions to Title. Notwithstanding any other provision of this Section 1.6 (e), on or before the Closing Date, City shall remove of record any monetary liens or encumbrances voluntarily created by City that affect title to the Property, including without limitation, mortgages, deeds of trust, judgment liens, or mechanic's or materialmen's liens (excluding any liens arising from Developer's acts or omissions), which shall all be considered Unpermitted Exceptions to Title (as defined below). In lieu of removal, City may, at its option cause the Title Company to agree to insure over any such lien, but only to the extent the Title Company is willing to do so without cost, bond, or indemnity to City and provided such is acceptable to Developer in its reasonable discretion. Except as provided herein, no voluntary liens, including without limitation, deeds of trust, loan or lender agreements, tax liens for delinquent real estate taxes, other liens for unpaid assessments or fees, or leases (recorded or unrecorded), shall be included within the Permitted Exceptions to Title unless specifically approved in writing by Developer, and all such liens shall be deemed Unpermitted Exceptions to Title. City agrees to work cooperatively with Developer and Title Company to remove or address any outstanding title issues, to Developer's reasonable satisfaction, prior to and as a condition of Closing ("**Unpermitted Exceptions to Title**").

(f) Developer's Title Policy. At the Closing, Escrow Holder shall cause the Title Company to issue to Developer a commitment to issue a ALTA Standard Coverage Owner's Policy of Title Insurance ("**ALTA Standard Policy**") in the amount requested by Developer naming Developer as proposed insured, which ALTA Standard Policy shall provide title insurance subject only to: (i) those exceptions to title approved by Developer, (ii) the standard printed exceptions set forth in the ALTA Standard Policy; (iii) general and special real property taxes and assessments for the current fiscal year, a lien not yet due and payable; and (iv) any exceptions directly or indirectly caused by Developer (including, without limitation, any documents or instruments to be recorded as part of any financing for the acquisition of the Property by Developer and deemed so under Section 1.6(e)) (collectively, "**Permitted Exceptions to Title**").

(1) Developer shall have the right to procure an ALTA Extended Coverage Owner's Policy of Title Insurance ("**ALTA Extended Policy**"). Developer shall pay for the increased cost of such ALTA Extended Policy, the cost of any survey that the Title Company requires for issuance of an ALTA Extended Policy and for the cost of any other endorsements or increase in the amount or scope of title insurance if Developer elects to increase the amount or scope of title insurance coverage.

(2) The costs associated with the ALTA Standard Policy shall be paid as provided in Section 7.3 (e), provided, however, that Developer may elect to obtain extended coverage and/or have any endorsements provided by the Title Company so long as (i) such endorsements (or amendments) shall be at no cost or additional liability to City; and (ii) Developer shall use commercially reasonable efforts to secure such endorsements from the Title Company prior to Closing. The ALTA Standard Policy or the ALTA Extended Policy, as selected by Developer, plus such endorsements and amendments as required by Developer shall be collectively referred to as the "**Title Policy**."

(g) Parcel Map Submission and Approval. As a condition to Developer's exercise of the Option, Developer shall prepare and submit to City for its consideration and processing a parcel map (or other subdivision map as may be required or desired by Developer) no later than twelve (12) months prior to exercising the Option. The parcel map shall be prepared in accordance with all applicable provisions of the Subdivision Map Act and the applicable City of Alameda Municipal Code and shall be in a form reasonably acceptable to City for purposes of initiating its review and approval. The parties acknowledge that City's review, processing, and potential approval or denial of the parcel map shall be undertaken solely in the City's regulatory capacity, and nothing in this Option Agreement shall be construed to obligate City to approve or conditionally approve any submitted map. City's failure or refusal to approve the submitted map shall be an exercise of its lawful discretion and shall not constitute a breach or default by City under this Agreement. Developer shall diligently pursue all necessary studies, surveys, and submittals to enable timely consideration of the parcel map including the use of a licensed surveyor to prepare any necessary legal descriptions.

(h) Pre-Development Entitlements. Developer shall obtain Pre-Development Entitlements (at Developer's sole cost and expense) for the Improvements to be constructed on the Property prior to the exercise of the Option. As used herein, the term "**Pre-Development Entitlements**" shall mean that Developer obtained a certificate of approval from the Alameda Historical Advisory Board and approval from the Alameda Planning Board.

(i) Entitlements. Developer will commence preparing and processing and use good faith efforts to work towards securing, during the Ground Lease term, approvals for a development plan for the Project and all other required land use and entitlement permissions, permitting, discretionary permissions, and all environmental review and regulatory permitting approvals (excluding General Permits and building permits), applicable to the Project (collectively, "**Entitlements**"), which shall be subject

to the Approval of City for consistency with the Alameda Point Town Center and Waterfront Precise Plan, General Plan Amendment and Zoning Ordinance Amendment and certified Environmental Impact Report for the portion of Alameda Point that includes the Property, and all other applicable federal, state, county, municipal and local laws. The Project's design and construction will comply with all City or California applicable green building codes and sustainable building requirements. City agrees to process Developer's applications in a reasonably expeditious manner and in the ordinary course of business consistent with its discretionary authority and applicable law, at no material expense to City, to effectuate the foregoing. Developer acknowledges and agrees that all Project Entitlements may involve one or more separate and distinct discretionary approvals, none of which are guaranteed. Nothing in this section shall be interpreted as an actual or implied waiver of the discretionary authority City has with respect to the Entitlements, nor shall anything in this Agreement be interpreted as an actual or implied waiver of any development impact fees, exactions, charges, or other required payments to be paid by Developer in connection with the Project. The foregoing shall survive any termination of the Option and this Option Agreement.

(j) Work Product. Prior to delivering the Option Notice, and at no cost to City, Developer shall execute an assignment to City to become effective if the Project is terminated for any reason at any time prior to Closing the Ground Lease of Developer's project plans (excluding all proprietary and confidential information of Developer, including, without limitation, proformas and other financial analysis for the Project) ("collectively, **Financial Analysis**"). Such assignment shall include the rights to any and all Project designs, drawings, CAD files, specifications, SDs, DDs, CDs, Pre-Development Entitlements, Entitlements (to the extent obtained), General Permits, building permits and any other Project design documents (collectively, **Project Plans and Specs**"), as well as any and all feasibility studies related to the physical development of the Property, applications and entitlements that have been prepared, filed, or approved, environmental data, and any and all architect's contracts and related design contracts at no cost to the City, but excluding all Financial Analysis. To the extent that any such applications and entitlements are in Developer's name at the time of termination of this Project, Developer shall assign the same to City. Developer shall ensure that its architect's contract and design contracts allow for the full assignment of relevant rights for further use and implementation of the Project Plans and Specs. The foregoing shall survive any termination of the Option and this Option Agreement.

1.7. Discovery of Hazardous Materials. If Hazardous Materials are discovered on the Property, unless Developer is legally responsible therefor (in which case Developer shall make the investigation and remediation thereof as required by this Option Agreement, the Right of Entry Agreement and/or under applicable law, and this Option Agreement shall continue in full force and effect), City may, in City's sole, but reasonable, discretion, either (i) investigate and remediate such Hazardous Materials to the extent required by applicable law, and this Option Agreement shall remain in full force and effect, or (ii) give written notice to Developer within thirty (30) days after receipt by City of knowledge of the existence of such Hazardous Material of City's desire to terminate this Option Agreement as of sixty (60) days following the date of such notice from City, which notice shall include copies of all reports and written

information obtained by or readily available to City (with no City obligation of further investigation) with respect to the Hazardous Materials of which City has obtained knowledge (“**City Haz Mat Notice**”). If City delivers the City Haz Mat Notice to Developer, Developer may, within twenty (20) Business Days after the receipt of such notice, give City written notice of Developer’s commitment to pay for and undertake the investigation and remediation of such Hazardous Materials (“**Developer Haz Mat Notice**”). If Developer timely delivers the Developer Haz Mat Notice to City, then this Option Agreement shall remain in full force and effect, Developer shall proceed to make such investigation and remediation as expeditiously as is reasonably possible to City’s reasonable satisfaction. If Developer does not timely deliver the Developer Haz Mat Notice, this Option Agreement shall terminate as of the date established by the City Haz Mat Notice. Notwithstanding the foregoing, nothing herein shall preclude or prohibit City and Developer from agreeing to meet and confer in good faith following the discovery of any Hazardous Materials to discuss potential mutually agreeable arrangements to address, remediate, or mitigate such conditions so that the Project may proceed. Following discovery of Hazardous Materials under this Section 1.7, irrespective of the party that is paying any expenses, the period of actual delay caused by such discovery, investigation and/or remediation shall be deemed a Force Majeure Delay to the extent such complies with Section 8.14(aa). Any such agreement between the parties with respect to Hazardous Materials shall be set forth in written amendment or other instrument executed by both parties.

1.8. Performance by Developer. Neither party’s performance under this Option Agreement shall be deemed in default hereunder if made impossible by a Force Majeure Delay. Notwithstanding anything to the contrary contained in this Option Agreement, Developer’s obligations herein shall not be excused by delays resulting from Developer’s negligence or willful misconduct, or matters within Developer’s reasonable control (collectively, “**Developer Delays**”), including, without limitation, (i) failure to timely submit or pursue applications for permit’s or approvals; (ii) failure to timely retain, coordinate, or engage contractors; or (iii) financial inability to perform. Developer Delays shall not constitute a Force Majeure Delay.

ARTICLE II ADDITIONAL OBLIGATIONS IN ADVANCE OF OPTION EXERCISE

2.1. Contractor. Developer shall provide City with proof that it has selected and retained a contractor for construction of the Project. Any contractor or subcontractor hired by Developer must provide, to the City’s reasonable satisfaction, all documents, licenses and evidence of insurance as reasonably requested and required by City staff.

2.2. Schedule of Performance. Developer shall provide City with a preliminary draft of a construction and performance timeline (“**Preliminary Schedule of Performance**”), which shall include projected construction phasing for the Improvements. The Preliminary Schedule of Performance shall be updated by Developer during the term of the Ground Lease no later than fifteen (15) months from Developer’s receipt of all approvals, Entitlements, and General Permits for the Project. Once updated by Developer, the Preliminary Schedule of Performance shall constitute

the “**Schedule of Performance**”. One column in the Schedule of Performance states if a particular milestone is considered “**Major**” or “**Minor**.” Milestones described as “**Major**” are meant to identify dates considered more fixed or items considered more material, which as a result, require City Council approval to be modified. In contrast, Milestones identified as “**Minor**” are meant to identify less significant milestones, such as an interim step towards achieving a Major milestone, administrative tasks or sequencing items. Consistent with Section 8.13, dates applicable to Minor milestones may be adjusted by Operating Memorandum approved by the City Manager or designee, provided that such adjustment does not materially extend, delay or impact a Major milestone. The Schedule of Performance is an implementation and tracking tool only and does not create defaults, remedies, or termination rights beyond those expressly set forth in this Option Agreement or the Ground Lease.

2.3. General Submissions. Developer shall submit to City for its Approval the following documentation (to the extent not already submitted prior to the Effective Date) no later than six (6) months prior to the anticipated Closing Date:

(a) Roles/Responsibilities. An updated written description of the specific and general roles, responsibilities, and obligations of Developer, Developer's members or partners, and any other entity participating in the legal entity established by Developer for purposes of developing the Property. Additionally, the written description of roles, responsibilities, and obligations shall identify the principals and other personnel, to the extent identified, from each participating party by name, title or position and areas of responsibility within the development entity.

(b) Balance Sheet. Certified copies of balance sheets and income/loss statements, prepared in accordance with generally accepted accounting principles, and other financial documentation as reasonably requested by City related to Developer's developing the Property covering the shorter of (i) the last two (2) years of Developer's operations, or (ii) the entire period of Developer's operations.

(c) Litigation. A written statement concerning any litigation in which Developer or Developer's partners or members are a party. Developer shall provide to City copies of any filed litigation documents in connection with such litigation within five (5) Business Days of City's written request.

(d) Formation Documents. Complete and accurate copies of Developer's certificate of formation, operating agreement (including all amendments thereto, all of which may be redacted by Developer with respect to confidential and proprietary information) and all other organizational documents reasonably requested by City.

2.4. Feasibility Submissions: Developer shall submit to City for its Approval the following documentation no later than (6) months prior to the anticipated Closing Date:

(a) Fundraising Feasibility Study. An updated Fundraising Feasibility Study, which will include, but is not limited to: (1) a refined description of the specific financial structure of the Project in a form that reasonably satisfies City that the Project is feasible, and (2) a list of potential lenders and if any, equity partners and investors, that will be approached for financing or lending on the Property, including, to the extent available, letters of interest and/or intent from lenders, and if any, equity partners and investors expressing willingness to provide financing for the construction and operation of the Project.

(b) Sustainable Operations Plan. An updated Sustainable Operations Plan, which in addition to operational benchmarks, will include sources and uses of funds necessary to support ongoing operations (e.g. approach to fundraising, establishment of an operating endowment, etc.).

2.5. Quarterly Reports. During the Option Term, Developer shall provide City with written quarterly progress reports on all matters pertaining to the Project. The quarterly progress reports shall include but not be limited to updates on the following areas: fundraising progress, entitlement status, financing, schematic designs, organizing documents, market analysis, any alterations to the Project program and design or changes to the pro forma previously submitted to City. In addition to quarterly reports, at least one (1) meeting shall be held between Developer and City each year during the Option Term.

2.6. Public Records. Developer expressly acknowledges and understands that City is a public agency and all records and documents submitted to City related to either the Property or the Project are subject to and will be released by the City in compliance with, all applicable public records and related “sunshine” laws, regulations, rules and ordinances, including but not limited to the California Public Records Act.

2.7. Site A Grading Obligation. City and Developer acknowledge and agree that construction of the Project is dependent on a developer of a project adjacent to the Project, namely Alameda Point Partners (“**APP**”), timely completing certain backbone infrastructure on the Property for the benefit of and as required for the Project. This backbone infrastructure obligation of APP is set out in Section 8.4 of that certain “**6th Amendment**” to the Disposition and Development Agreement (“**DDA**”) between City and APP, which backbone infrastructure work is referred to in the 6th Amendment as the “**Block 12/13 Grading**.” As described in the 6th Amendment, the Block 12/13 Grading is a component of the Phase 2.3 background infrastructure (“**Phase 2.3 Backbone Infrastructure**”) to be constructed by APP. A copy of the 6th Amendment is attached hereto as Exhibit L and incorporated herein by reference. To facilitate the timely completion of the Block 12/13 Grading, City and Developer agree to the following:

(a) Following the date on which Developer reasonably determines that it has fifty percent (50%) of the sufficient funds (as described in Section 6.1(g)), Developer shall deliver written notice to City that Developer has reasonably determined it will require that the Block 12/13 Grading, be completed within eighteen (18) months of

the date of such written notice to avoid a delay by Developer in its performance under the Schedule of Performance (“**Required Completion Date**”).

(b) Within thirty (30) days after the date of Developer’s Required Completion Date notice, City will deliver to Developer (i) the most current copies of the improvement plans for the Phase 2.3 Backbone Infrastructure as approved by City, (ii) written confirmation from APP, including supporting documents reasonably acceptable to Developer, that it is prepared to complete the Block 12/13 Grading by no later than the Required Completion Date, and (iii) written confirmation, including supporting documents reasonably acceptable to Developer, that APP has funding committed to complete all of the Block 12/13 Grading.

(c) If City is unable to timely provide all documents and evidence required in Section 2.7(b), then within such thirty (30) day period, City shall notify Developer in writing that it elects to assign to Developer City’s right set out in the 6th Amendment to cause the Block 12/13 Grading to be removed from the scope of the Phase 2.3 Backbone Infrastructure (“**Infrastructure Removal Right**”).

(d) If City notifies Developer of its election to assign to Developer City’s Infrastructure Removal Right, Developer may, within sixty (60) days of receipt of such notice, elect to do either of the following by delivery to City of written notice: (i) terminate the Project and this Option Agreement, or (ii) construct the Block 12/13 Grading. If Developer elects to terminate the Project and this Option Agreement, then Developer shall deliver to City written notice thereof and all rights and obligations of City and Developer hereunder shall terminate and be of no further force and effect, except those that expressly survive termination.

(e) If Developer elects to construct the Block 12/13 Grading, then: (A) Developer shall deliver written notice to City of such election in accordance with subsection (d) above and City shall, within ten (10) Business Days of receipt thereof, (1) execute an assignment of City’s Infrastructure Removal Right in favor of Developer, including an assignment of City’s right to receive the Block 12/13 Grading Payment (“**Infrastructure Assignment**”), the form and substance of which shall be reasonably satisfactory to Developer and which shall expressly direct APP to deliver to Developer the Block 12/13 Grading Payment, and (2) deliver to Developer a fully executed copy of the Infrastructure Assignment, (B) Developer shall deliver to APP a copy of the Infrastructure Assignment as written notice of City’s and Developer’s election to cause the Block 12/13 Grading to be removed as a part of the Phase 2.3 Backbone Infrastructure through its exercise of the Infrastructure Removal Right, provided that if APP requires any other documentation from City regarding the Infrastructure Removal Right and the assignment thereof to Developer, City shall cooperate to timely provide such requested documentation, (C) City and Developer shall work cooperatively and in good faith to incorporate into the Schedule of Performance (as defined in the Ground Lease) the additional Block 12/13 Grading work and adjust other dates therein impacted by such additional work, and (D) if APP refuses to recognize the Infrastructure Assignment or to timely pay the APP Grading Payment directly to Developer, City and Developer shall work cooperatively and in good faith to enforce any and all remedies

available under the APP DDA and/or the 6th Amendment to the extent applicable to the Block 12/13 Grading obligation and/or the Block 12/13 Grading Payment.

(f) The Block 12/13 Grading Payment shall be paid to Developer by APP to the extent set out in the 6th Amendment or as otherwise agreed by Developer and APP in a separately negotiated written agreement between them, and City shall have no obligation for reimbursing Developer for any costs incurred by Developer in connection with the Block 12/13 Grading, except that City shall (A) use its best efforts to cause APP to make the Block 12/13 Grading Payment, and (B) work cooperatively with Developer in effectuating the assignment of the Infrastructure Removal Right and Developer's exercise thereof.

(g) Following either (1) written confirmation, as described in Section 2.7(b), that APP will construct the Block 12/13 Grading and complete such work by no later than the Required Completion Date, or (2) execution by City of the Infrastructure Assignment, as described in Section 2.7(e), acknowledging that Developer will construct the Block 12/13 Grading, City shall use best efforts to obtain APP's agreement on and execution of an Operating Memorandum to the APP DDA in a form and substance reasonably satisfactory to Developer and to which Developer shall be an express third-party beneficiary solely for the purposes of enforcing APP's obligations thereunder relating to the Block 12/13 Grading.

(h) If APP confirms in writing, as described in Section 2.7(b), that it will construct the Block 12/13 Grading and complete such work by no later than the Required Completion Date and subsequently fails to commence such work by a date that would cause APP to be reasonably likely to complete the work by the Required Completion Date, as reasonably determined by Developer ("**Anticipatory APP Default**"), or APP actually fails to complete such work by the Required Completion Date ("**Actual APP Default**"), then within thirty (30) days after Developer determines that an Anticipatory APP Default or an Actual APP Default has occurred, Developer shall notify City in writing that it shall either: (i) perform or complete the Block 12/13 Grading, or (ii) terminate this Option Agreement pursuant to Section 2.7(d)(i). Within ten (10) Business Days of City's receipt of such written notice from Developer, City shall, in the case of an Anticipatory APP Default where APP has not commenced the Block 12/13 Grading and Developer has elected to perform the Block 12/13 Grading, deliver to Developer the executed Infrastructure Assignment in accordance with Section 2.7(e) and thereafter, the parties shall perform such other obligations described in Section 2.7(e). If City is unable to exercise the Infrastructure Removal Right set out in the 6th Amendment because APP has already commenced the Block 12/13 Grading and thereafter an Actual APP Default occurs, then City shall use best efforts to obtain APP's consent to removal of the Block 12/13 Grading obligation or work cooperatively with the Developer to obtain completion by APP of the Block 12/13 Infrastructure in a timely manner.

ARTICLE III
CONSIDERATION

3.1. Option Consideration of Developer. In consideration of City granting the Options to Developer for the Property for the Option Term, Developer shall pay to City an option fee of One Thousand dollars (\$1,000.00) ("**Initial Option Payment**"). Thereafter, Developer shall make an additional payment of One Thousand dollars (\$1,000.00) to City (each, a "**Renewal Option Payment**"; the Initial Option Payment and the Renewal Option Payments paid by Developer from time to time hereunder shall be referred to herein collectively as the "**Option Payments**") with each Option Notice in consideration of the Options granted to Developer, unless this Option Agreement terminates prior to or on the date any such payment is due or all Options have been exercised. The Option Payments are in consideration of the Options and other rights granted herein. The Option Payments are non-refundable and will not be applied to the rental payments under the Ground Leases. The Option Payments shall be paid directly to City and not through the Escrow Company.

3.2. Consideration of City. In consideration of Developer developing the Project for the benefit of the community, City shall pursue the amendment of its Master Infrastructure Plan ("**MIP Amendment**"), so that the road that leads into the Project, as shown on the drawing attached hereto as Exhibit H ("**Plaza Road**"), functions as an extension of the public plaza portion of the Project and only allows for limited vehicular access on the Plaza Road. If City successfully obtains the MIP Amendment during the term of this Option Agreement, then the Plaza Road shall be maintained at Developer's cost for the term of the Ground Lease. If the MIP Amendment is not approved and obtained during the term of this Option Agreement, as such may be extended, then Developer shall have the option to: (a) extend the term of this Option Agreement for the period of time City reasonably estimates will be required to process the MIP Amendment, plus a buffer period of ninety (90) days; or (b) elect to proceed with development of the Plaza Road as a public road and in accordance with applicable laws and written City design standards documented in the Alameda Municipal Code, together with any additional design, construction, or engineering standards adopted and consistently applied to development projects by the City, in which case Developer may design, construct, install and maintain, at its sole cost, nonstandard roadway elements, decorative or enhanced roadway improvements (including, without limitation, special paving, lighting, landscaping, furnishings, or other aesthetic features) (collectively, the "**Enhanced Improvements**"). In consideration of the fact that Developer may subsequently elect to install Enhanced Improvements absent the MIP Amendment, the Ground Lease shall include mutually acceptable terms and conditions governing Developer's maintenance, repair, and replacement of such Enhanced Improvements and such Enhanced Improvements shall not be maintained by City.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES

4.1. City. The representations and warranties of City in this Section 4.1 are a material inducement for Developer to enter into this Option Agreement. Developer

would not agree to enter into a Ground Lease for the Property from City without such representations and warranties of City. Such representations and warranties shall survive the Closing for a twelve (12) months (the "**Survival Period**"). City represents and warrants to Developer as of the date of this Option Agreement and again as of the Closing Date as follows:

(a) Authority. City is a charter city and municipal corporation. City has full power and authority to enter into this Option Agreement and to perform this Option Agreement.

(b) Foreign Person. City is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and the Income Tax Regulations thereunder.

(c) No Broker. City has not dealt with any real estate broker or finder in connection with the lease of the Property to Developer or this Option Agreement.

(d) No Conflict. To City's Representatives' Knowledge, the execution of this Option Agreement and the incurrence of the obligations set forth in this Option Agreement do not violate any order or ruling of any court, law or regulation binding on City or any provision of any indenture, agreement or other agreement to which City is a party and that is applicable to the Property.

(e) Pending Litigation. To City's Representatives' Knowledge, City has not been served with nor received any written notice regarding any action, suit, or proceeding affecting the Property or affecting the right, power or authority of City to enter into and perform this Option Agreement and/or the Ground Lease in accordance with its respective terms, or which question the validity or enforceability of this Option Agreement and/or the Ground Lease, in any court or before any governmental authority, domestic or foreign.

(f) Violations of Law. To City's Representatives' Knowledge, City has received no written notice of any material violations of federal, state, or local laws currently outstanding and specifically applicable to the Property.

(g) Eminent Domain. To City's Representatives' Knowledge, City has not received written notice of any pending eminent domain proceeding against the Property.

(h) Governmental Proceedings. To City's Representatives' Knowledge, City has received no written notice of any condemnation, environmental, CEQA, zoning or other land use regulation proceedings specifically directed to the Property or the development of the Project, nor any notice of any special assessment proceedings affecting the Property.

(i) Contracts and Other Agreements. Except as listed on Exhibit I, including any agreements with Developer related to the Property and/or the Project or as otherwise contemplated by this Option Agreement and/or the Ground Lease, there

are no service or maintenance contracts relating to the Property that will bind Developer after Closing.

(j) Other Contracts to Convey Property. To City's Representatives' Knowledge, City has not entered into any agreements (oral or written) with any Person other than Developer pursuant to this Option Agreement regarding a conveyance of any form of the Property.

(k) Hazardous Material. To City's Representatives' Knowledge, City has received no written notice of the existence of Hazardous Material on, in or under the Property, except for the Hazardous Materials disclosed in the reports listed on Exhibit J.

(l) Condition of Property. Except as expressly stated herein, City makes no representation or warranty as to the physical or environmental condition of the Property, and Developer acknowledges it is accepting the Property "as-is, where-is."

(m) City Representatives. For purposes of this Section 4.1 the term "**City's Representatives' Knowledge**" refers to the current, actual knowledge of the Base Reuse and Economic Development Director, with regard to the Property and the Project, with no imputation of knowledge and no duty of investigation or inquiry. City's representative named in this section shall have no personal liability under this Option Agreement by virtue of acting as a representative of City for the purpose of this definition.

4.2. Developer. The representations and warranties of Developer in this Section 4.2 are a material inducement for City to enter into this Option Agreement. City would not enter into this Option Agreement or enter into a Ground Lease for the Property with Developer without such representations and warranties of Developer. Such representations and warranties shall survive the Closing for the Survival Period. Developer represents and warrants to City as of the date of this Option Agreement and again as of the Closing Date as follows:

(a) Authority. Developer is a 501(c)3 non-profit organization, duly formed and validly existing and in good standing under the laws of the State of California. Developer is qualified to do business and is in good standing in the State of California. Developer has full power and authority to enter into this Option Agreement and to perform this Option Agreement. The execution, delivery and performance of this Option Agreement by Developer have been duly and validly authorized by all necessary action on the part of Developer and all required consents or approvals have been duly obtained. This Option Agreement is a legal, valid and binding obligation of Developer,

enforceable against Developer in accordance with its terms, subject to the effect of applicable bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws affecting the rights of creditors generally.

(b) No Broker. Developer has not dealt with any real estate broker or finder in connection with the lease of the Property from City or this Option Agreement.

(c) No Violation. The execution of this Option Agreement and the incurrence of the obligations set forth in this Option Agreement do not violate any order or ruling of any court binding on Developer or any provision of any indenture, agreement or other instrument to which Developer is a party or may be bound. Neither the entry into nor the performance of this Option Agreement will result in the violation, or conflict with, or invalidate, cancel or make inoperative, or constitute a default under, any charter, bylaw, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, credit agreement, franchise, permit, judgment, decree, order, easement, restriction or other charge, right or interest applicable to Developer.

(d) Bankruptcy. Developer has not (a) made a general assignment for the benefit of creditors; (b) filed any voluntary petition for bankruptcy or suffered the filing of any involuntary petition by its creditors; (c) suffered the appointment of a receiver to take possession of all or substantially all of its assets; or (d) suffered the attachment or other judicial seizure of all or substantially all of its assets.

(e) Threatened Actions. There are no pending, and to Developer's actual knowledge, none threatened in written notice to Developer, actions, suits, arbitrations, claims or proceedings at law, in equity, or otherwise, that would adversely affect Developer's ability to perform its obligations under this Option Agreement or the Ground Lease, as applicable.

ARTICLE V COVENANTS

5.1. City. City covenants and agrees with Developer as follows:

(a) Cooperation. City shall cooperate with Developer, at Developer's sole cost and expense, to assist Developer in obtaining the permits and approvals from outside government agencies, if any, necessary to allow Developer to develop the Project. City shall execute any and all applications, forms and certificates required to process all Pre-Development Entitlements, Entitlements, General Permits, maps, and other approvals reasonably requested by Developer. City agrees that it will consent to reasonable and customary conditions, restrictions or other encumbrances being placed against the Property, effective on or after the Closing Date (but not before) as a condition to Developer's receipt of such permits or approvals.

(b) Contracts, Licenses and Permits. City shall not enter into any contracts, licenses, permits or other agreements pertaining to the Property (other than any agreements with Developer related to the Property and/or the Project or as otherwise contemplated by this Option Agreement and/or the Ground Lease) during the

Option Term that would be binding on Developer after the Closing, without Developer's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed; except that nothing herein shall restrict City's ability to exercise its governmental authority or take action in its regulatory capacity.

(c) Liens; Mechanic's Liens. City agrees that it shall not cause and prior to Closing shall promptly discharge, at its sole cost and expense, any liens upon the Property. On or before the Closing, City shall pay for all materials, supplies and work provided or ordered for the Property (other than by, through or under Developer) for which a labor, materialman's or mechanic's lien may be claimed under applicable law, and (ii) if required by the Title Company, provide the Title Company with such indemnifications or security as it may require to insure title to Developer's leasehold interest in the Property at the Closing without exception for any unrecorded labor, materialman's or mechanic's claim of lien, other than those created by, through or under Developer.

(d) Existing Service Contracts, Etc. Effective as of the Closing Date, City shall terminate or cause to be terminated any and all leases, subleases, licenses and contracts as they apply to the Property, except as otherwise provided in this Option Agreement or agreed by the parties.

(e) City Indemnity. City shall indemnify and defend Developer and its affiliates, members, shareholders, officers, employees, directors and agents (collectively, "**Developer Indemnitees**") against and hold the Developer Indemnitees harmless from all claims, demands, liabilities, losses, damages, costs and expenses, including reasonable attorneys' fees and disbursements, that may be suffered or incurred by any Developer Indemnitee for City's willful misrepresentation of any representation or warranty made by City in Section 4.1 as of the Effective Date and on the Closing Date. In no event shall City be liable for consequential, incidental, or punitive damages, or for conditions of which Developer had actual knowledge (including any matters discovered through Developer's Due Diligence). If City learns that any representation or warranty made by City hereunder has become untrue in any material respect or was untrue in any material respect when made or on the Closing Date, City shall give prompt written notice of the same to Developer. Such notice shall include whether City is electing to take any action that City deems reasonably appropriate to cause City to make true the representation or warranty or otherwise cure the problem with the representation or warranty (all to the reasonable satisfaction of Developer), in which case, if the same is able through the exercise of reasonable diligence of being made true or cured, City shall have the right to postpone the Closing Date for up to ten (10) Business Days to make true or cure such representation or warranty.

(1) If City does not include in its written notice City's intent to take action or if City is unable through the exercise of reasonable diligence to make the representation or warranty true or otherwise cure the problem therewith to the reasonable satisfaction of Developer within the allowed time period, then Developer shall thereafter have the option by providing written notice to City, within five (5) Business Days after one (1) of the following occurs, as applicable: (i) Developer's

receipt of City's written notice that City does not elect to take action, or (ii) the expiration of the time period stated in the notice (up to a maximum of ten (10) Business Days) during which City will take action, to either, as its sole and exclusive remedy, (A) terminate this Option Agreement effective upon the date of Developer's notice, or (B) to proceed with Closing notwithstanding such untrue representation or warranty, in which case Developer shall have irrevocably waived any of rights with respect to the untruthfulness of the representation or warranty in question.

(2) For purposes of Sections 5.1 and 5.2 "**material**" shall mean any matter or matters that otherwise, individually or in the aggregate, could reasonably be expected to result in damages to Developer or City, as applicable, or the Property of One Hundred Thousand and 00/100 Dollars (\$100,000.00) or more.

(3) Notwithstanding the foregoing, following Closing, Developer shall not have the right to enforce any claim, nor shall City be liable in any way to Developer, for a breach of a representation or warranty of City if the breach in question results from or is based on a condition, state of facts or other matter of which Developer had actual, documented knowledge prior to Closing or that was included in any of the Due Diligence Documents and Developer elected to proceed to the Closing. Furthermore, if the Closing occurs, following the Closing, City shall have no liability to Developer for a breach of any of City's representations or warranties in this Option Agreement unless written notice containing a description of the specific nature of such breach has been given by Developer to City prior to the expiration of the Survival Period. The provisions of this Section 5.1 shall survive the Closing.

5.2. Developer. Developer shall indemnify and defend City and its officials, officers, employees and directors (collectively, "**City Indemnitees**") against, and hold the City Indemnitees harmless from, all claims, demands, liabilities, losses, damages, costs and expenses, including reasonable attorneys' fees and disbursements, that may be suffered or incurred by any City Indemnitee for Developer's material or willful misrepresentation of any representation or warranty made by Developer in Section 5.1 as of the Effective Date and on the Closing Date. In no event shall Developer be liable for consequential, incidental, or punitive damages, or for conditions of which City had actual, documented knowledge.

(1) If Developer learns that any representation or warranty made by Developer hereunder has become untrue in any material respect or was untrue in any material respect when made, Developer shall give prompt written notice of the same to City. Such written notice shall include whether Developer is electing to take any action that Developer deems reasonably appropriate to cause Developer to make true the representation or warranty or otherwise cure the problem with the representation or warranty, in which case, if the same is capable of being made true or cured, Developer shall have the right to postpone the Closing Date for up to ten (10) Business Days in order to cure or make true the representation or warranty.

(2) If Developer does not include in its written notice Developer's intent to take action or if Developer is unable to make the representation or warranty

true in all material respects or otherwise cure the problem therewith within the allowed time period, then City shall thereafter have the option, by providing written notice to Developer, within five (5) Business Days after one (1) of the following occurs, as applicable: (i) City's receipt of Developer's written notice that Developer does not elect to take action, or (ii) the expiration of the time period stated in the notice (up to a maximum of ten (10) Business Days) during which Developer will take action, to either, as its sole and exclusive remedy, (A) terminate this Option Agreement effective upon the date of City's notice, or (B) proceed with Closing notwithstanding such untrue representation or warranty, in which case City shall have irrevocably waived any of rights with respect to the untruthfulness of the representation or warranty in question.

(3) Notwithstanding the foregoing, City shall not have the right to enforce any claim, nor shall Developer be liable in any way to City, for a breach of a representation or warranty of Developer if the breach in question results from or is based on a condition, state of facts or other matter of which City had actual knowledge of prior to Closing. Furthermore, if the Closing occurs, following the Closing, Developer shall have no liability to City for a breach of any of Developer's representations or warranties in this Option Agreement unless written notice containing a description of the specific nature of such breach has been given by City to Developer prior to the expiration of the Survival Period. The provisions of this Section 5.2 shall survive the Closing.

ARTICLE VI CONDITIONS PRECEDENT

6.1. City. The obligations of City under this Option Agreement to Close Escrow and enter into the Ground Lease with Developer are subject to satisfaction of all of the conditions set forth in this Section 6.1. City may waive any or all of such conditions in whole or in part, except City and Developer acknowledge that City may not waive the requirement that Developer obtain all necessary Pre-Development Entitlements for the development of the Project, including compliance with CEQA. Any waiver shall be effective only if made in writing. After Closing, any condition that has not been satisfied shall be treated as having been waived in writing. If any condition set forth in this Section 6.1 is not fully satisfied or waived in writing by City, this Option Agreement and the Option may, if elected in writing by City, terminate without releasing Developer from liability for any material default of Developer in the performance of any covenant or agreement, except as otherwise described herein.

(a) Pre-Development Entitlements. Developer shall have received all Pre-Development Entitlements required for the development of the Project.

(b) Funding. Developer shall have obtained City approval of an updated Fundraising Feasibility Study and an updated Sustainable Operations Plan.

(c) Building Permits. Pursuant to the authority granted to Developer in Section 1.1(b), Developer shall have submitted its initial application for any City-building permits required by City to begin construction on the Project. The parties acknowledge

and agree that acquisition of building permits shall be a condition to commencement of construction under the Ground Lease.

(d) No Default. No Developer Default shall exist.

(e) Delivery of Documents. Developer shall have delivered into Escrow the documents specified in Section 7.4.

(f) Representations and Warranties. All representations and warranties made by Developer in Section 4.2 shall be true and correct in all material respects as if made on and as of the Closing Date.

(g) Financial Ability. Developer shall have provided City with evidence reasonably satisfactory to City that Developer has sufficient funds in hand and/or commitments by donors, including the anticipated timing of such commitments, where “**commitment**,” as used herein, shall mean that such donors have agreed to donate and such future donations are documented in a manner consistent with typical practices used by non-profit organizations and consistent with guidance set by the Financial Accounting Standards Board (FASB) and Accounting Standards Codification 958 (ASC 958), to enable Developer to satisfy all of its financial obligations under the Ground Lease, including the cost of the construction of the Improvements on the Property; provided that if Developer intends to take out a construction loan for the Improvements, the principal amount of such loan shall be deducted from the calculation of “**sufficient funds**,” as described herein, recognizing that Developer will be unable to obtain a construction loan until the Ground Lease is fully executed and effective in all respects (collectively, “**Evidence of Financial Ability**”).

(h) Rent. Developer has deposited into escrow the rent due under the Ground Lease.

(i) Other Agreements. All other agreements between City and Developer required for Closing, if any, shall have been deposited into escrow.

(j) Project Stabilization Agreement and Prevailing Wages. Developer shall have negotiated a Project Stabilization Agreement (“**PSA**”) consistent with the City’s PSA Ordinance and to the extent required by law, Developer shall agree to pay prevailing wages for all Improvements to be constructed on the Property, as well as any improvements being constructed off site in conjunction with the Property.

(k) Adverse Actions. There shall exist no actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings, pending or threatened against Developer that would materially affect Developer’s ability to perform its obligations under this Option Agreement and/or to enter into the Ground Lease for the Property with City, and there shall exist no pending or threatened action, suit or proceeding with respect to Developer before or by any court or administrative agency that seeks to restrain or prohibit, or to obtain damages or a discovery order with respect to this Option Agreement or the potential Ground Lease of the Property.

6.2. Developer. The obligation of Developer under this Option Agreement to enter into a Ground Lease for the Property with City is subject to satisfaction of all of the conditions set forth in this Section 6.2. Developer may waive any or all of such conditions in whole or in part, but any such waiver shall be effective only if made in writing. After the Closing, any condition that has not been satisfied shall be treated as having been waived in writing. If any condition set forth in this Section 6.2 is not fully satisfied or waived in writing by Developer, this Option Agreement and the Option may, if elected in writing by Developer, terminate without releasing City from liability for any material default of City in the performance of any covenant or agreement to be performed by City, except as otherwise described herein.

(a) Title. The Title Company shall be irrevocably and unconditionally committed to issue to Developer the Title Policy.

(b) No Default. On the Closing Date, City shall not be in default in the performance of any material covenant to be performed by City under this Option Agreement beyond the passage of any applicable grace or cure period.

(c) Representations and Warranties. On the Closing Date, all representations and warranties made by City in Section 4.1 hereof shall be true and correct in all material respects as if made on and as of the Closing Date.

(d) Delivery of Closing Documents. City shall have delivered into Escrow the documents specified in Section 7.3.

(e) Other Agreements. All other agreements between City and Developer required for Closing, if any, shall have been deposited into escrow.

(f) Adverse Actions. There shall exist no actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings, pending or threatened against City or respecting the Property that would materially affect City's ability to perform its obligations under this Option Agreement and/or to enter into the Ground Lease for the Property with Developer, and there shall exist no pending or threatened action, suit or proceeding with respect to City before or by any court or administrative agency that seeks to restrain or prohibit, or to obtain damages or a discovery order with respect to this Option Agreement or the potential Ground Lease of the Property.

(g) Hazardous Material. No Hazardous Materials that materially affect all or any part of the Property or the current or prospective operation, use, value, income, expenses or occupancy thereof or its suitability for development of the Project have been discovered on the Property or any part thereof between the date that Developer exercised the Option and the Closing Date.

(h) No Material Changes. No event shall have occurred nor shall any condition have arisen after Developer's exercise of the Option that as of the Closing Date materially affects all or any part of the Property or the current or prospective

operation, use, value, income, expenses or occupancy thereof or its suitability for development of the Project.

(i) Site A Grading. If APP is completing the Block 12/13 Grading, then the Block 12/13 Grading is complete as further described in Section 2.7, and if Developer is completing the Block 12/13 Grading, as further described in Section 2.7, then the parties have worked cooperatively, as described in Section 2.7(e)(C), to modify the Schedule of Performance to address the timing of completion by Developer of the Block 12/13 Grading and the impact of such grading work on the timing of the completion of all other subsequent milestones reflected in the Schedule of Performance such that the resulting updated Schedule of Performance is reasonably satisfactory to Developer.

ARTICLE VII CLOSING

7.1. Place and Date. The Closing shall occur through an escrow ("**Escrow**") with the Title Company at 1280 Civic Drive, Suite 104, Walnut Creek, CA 94596, on the date set forth in the Option Notice, which shall in no event be later than sixty (60) days and no earlier than fifteen (15) Business Days after delivery of the Option Notice ("**Closing Date**"), or at such other place or on such other date as City and Developer agree in writing. Prior to the Closing Date, City and Developer each may give written escrow instructions, consistent with this Option Agreement, to the Title Company for the Closing. If Developer designates an Affiliate, all references to Developer in this Article 8 shall be to the Affiliate.

7.2. Closing. "**Closing**" means the exchange of documents, as described herein, and will be deemed to have occurred when the Title Company is authorized to record the Memorandum of Lease in accordance with Section 7.6 and the Title Company holds and can record and deliver the remaining documents described in Sections 7.4 and 7.5.

7.3. Closing Prorations and Adjustments.

(a) Proration Date. Except as otherwise set forth hereinafter, if the Closing occurs pursuant to this Option Agreement, the following items shall be paid, prorated, or adjusted as of midnight on the Closing Date ("**Proration Date**") in the manner hereinafter set forth:

(b) Taxes and Assessments. Developer shall be responsible for all property taxes and assessments, including documentary transfer and possessory interest taxes, if any, assessed on Developer's interests under this Agreement from and after the Proration Date. The parties' expressly acknowledge that City is a public agency and, as such, is exempt from all ad valorem taxes and similar charges imposed by any governmental authority.

(c) Intentionally Omitted.

(d) Intentionally Omitted.

(e) Title Insurance and Escrow Fees. City shall bear and pay: (a) the title insurance premiums and charges for the ALTA Standard portion of the title policy; (b) one-half of the escrow fees; and (c) costs and expenses incurred in removing or resolving Unpermitted Exceptions to Title consistent with Section 1.6(e). Developer shall pay: (i) one-half of the escrow fees; (ii) the recording fees; (iii) the premium payable in connection with Developer obtaining an ALTA Extended Policy, including updating or obtaining an ALTA survey of the Property, and the cost of all endorsements to the Title Policy, that are desired by Developer; and (iv) all costs and expenses incurred in connection with obtaining any financing for the purchase of the Property, including title, escrow, documentation and appraisal costs relating thereto, and the cost of any lender's policy of title insurance. Except as provided in this Section 7.3(e), each party will pay its own expenses incurred in connection with this Option Agreement and the transactions contemplated hereby, including, without limitation: (A) all costs and expenses stated herein to be borne by a party, and (B) all of their respective consulting, accounting, legal and appraisal fees. The parties acknowledge that City is a public agency and, as such, is exempt from all recording fees and documentary transfer taxes.

(f) Miscellaneous Costs. All other items which are customarily prorated in transactions similar to the transaction contemplated hereby and which were not specifically addressed in this Section 7.3, will be prorated as of the Proration Date in accordance with custom of real estate transactions in the County wherein the Property is located.

(g) All adjustments made pursuant to Section 7.3 shall be paid in cash at Closing; provided that if at any time following Closing, the amount of an item listed or prorated this Section 7.3 shall prove to be incorrect, the party in whose favor the error was made shall promptly pay to the other party the sum necessary to correct such error upon receipt of reasonable proof of such error. The provisions of this Section 7.3(g) shall survive the Closing for a period of one (1) year and not be merged therein.

7.4. City's Closing Obligations. On the Closing Date, City shall deliver to the Title Company for recordation or delivery to Developer (or the party noted below) through Escrow the following:

(a) Ground Lease. The Ground Lease, duly executed by City;

(b) Memorandum of Lease. A Memorandum of Lease in the form attached hereto as Exhibit K ("Memorandum of Lease") duly executed and acknowledged by City and in recordable form;

(c) Withholding Liability Forms. Certificates required by Section 1445 of the Internal Revenue Code of 1986, as amended ("**Code**"), to relieve Developer of any potential transferee withholding liability under such Code section, and a California Form 593, each executed by City;

(d) Authority. Such proof of City's authority and authorization to ground lease the Property and such proof of power and authority of the individuals executing and/or delivering any instruments, documents or certificates on behalf of City to act for and bind City as may be reasonably required by the Title Company (such documents are to be retained by the Title Company, not Developer);

(e) Transfer Tax Declaration. A Transfer Tax Declaration (if a separate declaration is required), such statements as may be required by the Title Company and such other documents reasonably required by the Title Company to properly consummate this transaction, including a customary owner's affidavit (such documents are to be retained by the Title Company, not Developer); and

(f) Other Documents. Other documents reasonably required to properly consummate the transaction.

7.5. Developer's Closing Obligations. On the Closing Date, Developer (or the Affiliate) shall deliver to the Title Company for recordation or delivery to City (or the party noted below) through Escrow the following:

(a) Ground Lease. The Ground Lease executed by Developer;

(b) Memorandum of Lease. A Memorandum of Lease executed and acknowledged by Developer in recordable form;

(c) Authority. Proof of Developer's authority and authorization to ground lease the Property, and such proof of power and authority of the individuals executing and/or delivering such instruments, documents or certificates on behalf of Developer to act for and bind Developer as may reasonably be required by the Title Company (such documents are to be retained by the Title Company, not City);

(d) Rent. The rent due under the Ground Lease; and

(e) Other Funds. Other funds and documents reasonably required to properly consummate the transaction.

7.6. Close of Escrow. If, on the Closing Date, the Title Company holds and can deliver the documents described in Sections 7.4 and 7.5 ; and the Title Company can record the Memorandum of Lease, then the Title Company shall:

(a) Record the Memorandum of Lease in the Official Records;

(b) Deliver the fully executed Ground Lease and copies of all recorded documents to City and Developer;

(c) Deliver the Title Policy to Developer;

(d) Deliver the rent to City; and

(e) Deliver the remaining documents to the parties specified as specified herein.

7.7. Termination of Escrow. Subject to the terms of Section 7.2, if the Closing does not take place on or before the Closing Date, then the parties shall in good faith attempt to mutually agree to extend the Closing Date for a mutually acceptable period of time, or if they are unable to agree on such an extension, then the Escrow shall terminate, all documents and funds deposited into Escrow with respect to the Closing shall be returned to the respective parties that delivered such items and, and except for obligations that expressly survive termination of this Option Agreement, the Option and this Option Agreement shall terminate.

7.8. Possession. Subject to the terms of the Ground Lease, City shall deliver possession of the Property to Developer on the Closing Date, subject only to the Permitted Exceptions.

ARTICLE VIII GENERAL PROVISIONS

8.1. Notices. All notices and other communications under this Option Agreement shall be properly given only if made in writing and mailed by certified mail, return receipt requested, postage prepaid, or delivered by hand (including messenger or recognized delivery, courier or air express service) to the party at the address set forth in this Section 8.1 or such other address as such party may designate by notice to the other party. Such notices and other communications shall be effective on the date of receipt (evidenced by the certified mail receipt) if mailed or on the date of such hand delivery if hand delivered. If any such notice or other communication is not received or cannot be delivered due to a change in the address of the receiving party of which notice was not previously given to the sending party or due to a refusal to accept by the receiving party, such notice or other communication shall be effective on the date delivery is attempted. Any notice or other communication under this Option Agreement may be given on behalf of a party by the attorney for such party.

If to City: City of Alameda
Alameda City Hall
2263 Santa Clara Ave
Alameda, CA 94501
Attn: City Manager

one copy to: Attn: Director of the Base Reuse and
Economic Development Director

second copy to: Attn.: City Attorney

With a copy to: Best Best & Krieger LLP
Attn: Jessica Lomakin, Esq.
2855 E. Guasti Rd., Suite 400
Ontario, CA 91761

If to Developer: Radium Presents, Inc.
1201 Sherman Street
Alameda, CA 94501
Attn: Christopher Seiwald

With a copy to: Burke, Williams & Sorensen, LLP
1999 Harrison Street, Suite 1650
Oakland, CA 94612
Attn: Lisa Maxwell, Esq.

If to the Title Company: First American Title Insurance Company
1280 Civic Drive, Suite 104
Walnut Creek, CA 94596
Attn: Ted V. Bigornia

8.2. Defaults.

(a) Developer Default. In the event of a Developer Default under the terms and conditions of this Option Agreement, City shall promptly give Developer written notice of such default. If any Developer Default exists and is continuing beyond the applicable notice and cure period, then City shall have the option, in its sole discretion, in lieu of all other remedies that City might otherwise have hereunder at law or in equity, to terminate this Option Agreement upon written notice of termination to Developer, and thereafter neither of the Parties shall have any further rights or obligations hereunder, except for obligations that expressly survive the termination of this Option Agreement. In no event shall City be entitled to any damages, of any kind or character, from Developer.

(b) City Default. In the event of a City Default under the terms and conditions of this Option Agreement, Developer shall promptly give City written notice of such default. In the event that any City Default exists and is continuing beyond the applicable notice and cure period, then Developer shall have the right, as its sole and exclusive remedy, in lieu of all other remedies that Developer might otherwise have

hereunder at law or in equity, to terminate this Option Agreement by written notice to City. In the event this Option Agreement terminates in accordance with this Section 8.2(b), neither of the Parties shall have any further rights or obligations hereunder, except for obligations that expressly survive the termination of this Option Agreement. In no event shall Developer be entitled to any damages, of any kind or character, from City.

8.3. Governing Law. This Option 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.

8.4. No Recovery of Attorney's Fees or Costs. In the event of any litigation or administrative or arbitration proceeding relating to this Lease, the parties and litigants shall bear their own attorney's fees and costs. No party or litigant shall be entitled to recover any attorneys' fees or costs from any other party or litigant, regardless of which party or litigant might prevail.

8.5. Construction. City and Developer acknowledge that each party and its counsel have reviewed and revised this Option Agreement and that the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Option Agreement or any document executed and delivered by either party in connection with the transactions contemplated by this Option Agreement. The captions in this Option Agreement are for convenience of reference only and shall not be used to interpret this Option Agreement.

8.6. Terms Generally. The defined terms in this Option Agreement shall apply equally to both the singular and the plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The words "approval," "consent" and "notice" shall be deemed to be preceded by the word "written."

8.7. Further Assurances. From and after the date of this Option Agreement, City and Developer agree to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and, usual to complete the transactions contemplated by this Option Agreement and to carry out the purpose of this Option Agreement in accordance with this Option Agreement.

8.8. Partial Invalidity. If any provision of this Option Agreement is determined by a proper court to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the other provisions of this Option Agreement, and this

Option Agreement shall remain in full force and effect without such invalid, illegal or unenforceable provision.

8.9. Waivers. No waiver of any provision or right under this Option Agreement or any breach of this Option Agreement shall be effective unless such waiver is in writing and signed by the waiving party and any such waiver shall not be deemed a waiver of any other provision of this Option Agreement or any other or subsequent breach of this Option Agreement.

8.10. Assignment. Developer shall not assign or transfer this Option Agreement or any interest in or part of this Option Agreement without City's written consent, except for the right of Developer to cause the Ground Lease to be entered into or assigned to an Affiliate. Subject to the foregoing, this Option Agreement shall benefit and bind City and Developer and their respective successors and assigns.

8.11. Miscellaneous. The exhibits attached to this Option Agreement are made a part of this Option Agreement. Neither City nor Developer shall make any public announcement of this Option Agreement or the transactions contemplated by this Option Agreement without the prior consent of the other, except in connection with the submittals and other applications to public agencies as contemplated or permitted by this Option Agreement or unless any such announcement is reasonably necessary to comply with applicable law. Time is of the essence of this Option Agreement. This Option Agreement may not be amended or modified except by a written agreement signed by City and Developer. This Option Agreement and the agreements attached as exhibits to this Option Agreement, if and when executed, constitute the entire and integrated agreement between City and Developer relating to the ground lease of the Property and supersede all prior agreements, understandings, offers and negotiations, oral or written, with respect to the lease of the Property.

8.12. Counterparts. This Option Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. The signature of any party transmitted by electronic signature software or service, facsimile or e-mail (PDF or other image) shall be deemed an original signature of the transmitting party for any and all purposes.

8.13. Operating Memoranda. The parties acknowledge that the provisions of this Option Agreement require a close degree of cooperation, and that new information and future events may demonstrate that changes are appropriate with respect to the details of performance of the parties under this Option Agreement. The parties desire, therefore, to retain a certain degree of limited flexibility with respect to the non-substantive or administrative details of performance of those items covered in general terms under this Option Agreement. If and when, from time to time during the term of this Option Agreement, the parties find that refinements or adjustments regarding details of performance are necessary or appropriate, they may effectuate such refinements or adjustments through a memorandum (individually, an "**Operating Memorandum**", and collectively, "**Operating Memoranda**") approved by the parties which, after execution, shall be attached to this Option Agreement as addenda and

become a part hereof, provided, however, that such willingness to cooperate by either party shall not in any way diminish, waive, delay, or modify Developer's obligation to timely perform all covenants, milestones, and duties required under this Option Agreement, except to the extent an obligation under this Option Agreement is expressly changed, waived, delayed or modified in a non-material manner pursuant to an Operating Memorandum executed by both parties. This Option Agreement describes some, but not all, of the circumstances in which the preparation and execution of Operating Memoranda may be appropriate. Operating Memoranda that implement the provisions of this Option Agreement, that provide clarification to existing terms of this Option Agreement or that make minor modifications to the Schedule of Performance may be executed on City's behalf by its City Manager, or designee, without action or approval of City Council, provided such Operating Memoranda do not change material terms of this Option Agreement. Minor modifications may include, among others, administrative adjustments to interim dates that do not materially extend, delay, or impact Major milestones or City's remedies related to enforcement of the same. Operating Memoranda shall not require prior notice or hearing, and shall not constitute an amendment to this Agreement. Any substantive or significant modifications to the terms and conditions of performance under this Option Agreement shall be processed as an amendment to this Agreement and must be approved by City Council. For the avoidance of doubt, references in this Section 8.13 to "minor modifications" include administrative adjustments to dates associated with milestones identified as Minor in the Schedule of Performance pursuant to Section 2.2.

8.14. Definitions.

(a) **"Affiliate"** means any Person that directly or indirectly Controls, is Controlled by or is under Common Control with Developer, which shall require that the same Person hold, a majority controlling interest in both Developer and such Affiliate, and provided such Person possesses comparable financial and management capacity to Developer.

(b) **"Approve," "Approved," or "Approval"** means, as to the subject matter thereof and as the context may require, an express approval contained in a written statement signed by an approving Person, which, except as otherwise expressly stated in this Option Agreement, said Approval shall not be unreasonably withheld, conditioned or waived.

(c) **"City"** is defined in the Preamble.

(d) **"City Indemnitees"** is defined in Section 5.2.

(e) **"City's Representatives' Knowledge"** is defined in Section 4.1(m).

(f) **"Business Day(s)"** means any day other than Fridays, Saturdays, Sundays and days on which Federal or California state-chartered banks are closed for business.

(g) **"CEQA"** means the California Environmental Quality Act, Public Resources Code Section 21000 et seq., as such may be amended from time to time.

(h) **"City"** is defined in the Preamble.

(i) **"City Default"** means (i) a default by City hereunder, which is not cured (x) within ten (10) Business Days following written notice from Developer, with respect to a default that consists solely of the failure to pay an amount to Developer that is due and payable, or (y) with respect to City's failure to perform any other express obligation under this Option Agreement, within thirty (30) days following written notice from Developer, provided that, in the event the default is not of the nature that may reasonably be cured within such thirty (30) day period but can be cured by City, the default shall not be deemed to be uncured if City commences such cure within the initial thirty (30) day period and thereafter continuously and diligently prosecutes the cure to completion. The parties expressly acknowledge and agree that "City Default" shall not include actions or omissions of City in exercising its governmental, legislative, regulatory, or police powers in a manner consistent with City's typical practices and procedures.

(j) **"Closing"** is defined in Section 7.2.

(k) **"Closing Date"** is defined in Section 7.1.

(l) **"Code"** is defined in Section 7.4(c).

(m) **"Community Benefits Package"** is defined in Recital G.

(n) **"Construction Documents"** means, collectively, the final and complete detailed architectural and engineering plans and specifications for construction of the Improvements that will be prepared by Developer and its consultants and Approved by City in accordance with this Option Agreement.

(o) **"Control"**, **"Controlling"** or under **"Common Control"** means possession of the power to direct decision-making, management and policies of the Person in question.

(p) **"County"** is defined in Recital A.

(q) **"Developer"** is defined in the Preamble.

(r) **"Developer Default"** means (i) a default by Developer hereunder, which is not cured (x) within ten (10) Business Days following written notice from City, with respect to a default that consists solely of the failure to pay an amount to City (including the Option Payment) that is due and payable, or (y) with respect to any other default, within thirty (30) days following written notice from City, provided that, in the event the default is not of the nature that may reasonably be cured within such thirty (30) day period but can be cured by Developer, the default shall not be deemed to be

uncured if Developer commences such cure within the initial thirty (30) day period and thereafter continuously and diligently prosecutes the cure to completion.

(s) **"Developer Indemnitees"** is defined in Section 5.1(e).

(t) **"Effective Date"** is defined in the Preamble.

(u) **"ENA"** is defined in Recital D.

(v) **"Entitlements"** means each and every land use approval and entitlement to develop the Improvements that must be obtained before Developer may apply for a building permit to commence construction of the Improvements, including compliance with CEQA, zoning, approval of a site development permit, vesting tentative Property map, preliminary development plan, development agreement, but, for the avoidance of doubt, not including any General Permit or building permits.

(w) **"Escrow"** is defined in Section 7.1.

(x) **"Extension Conditions"** means those conditions and performance milestones imposed by City in Section 1.3(b) of this Option Agreement, including Project development and fundraising milestones and ongoing progress by Developer to obtain the Entitlements and building permits for the Project.

(y) **"First Extended Option Exercise Deadline"** is defined in Section 1.3(b)

(z) **"Fundraising Feasibility Study"** is defined in Recital E.

(aa) **"Force Majeure"** means actual delay in performance by either party under this Option Agreement that is caused by events beyond the reasonable control of the affected party and not due to its fault or negligence. In such cases the delay shall not constitute a default and related performance deadlines shall be extended on a day-for-day basis for the actual duration of the Force Majeure event. Events that may constitute Force Majeure include: war; acts of terrorism; insurrection; labor disputes or strikes; lockouts; riots; natural disasters (including floods, fires, earthquakes, and other acts of God); unusually severe weather, but only to the extent that such weather or its effects (including, without limitation, dry-out time) result in delays that cumulatively exceed twenty (20) days during any season occurring after commencement of construction under the Ground Lease; epidemics or pandemics; quarantine or travel restrictions; freight embargoes; government orders or restrictions; delay in obtaining approval of the Pre-Development Entitlements, Entitlements or General Permits or any modifications thereto within the timeframes set forth in the Option Agreement or the Ground Lease to the extent such delay is caused by any government agency or department, excluding City provided that Developer has diligently pursued all such Pre-Development Entitlements, Entitlements or General Permits and timely responded to all follow up inquiries or requests for information from said government agency or department; the discovery, investigation and/or remediation of pre-existing Hazardous Materials in, on, under or about the Property; or any litigation, injunction, or other legal

action that directly and actually prevents the affected party from performing its obligations under this Agreement, including any qualifying Legal Challenge (each, a "**Force Majeure Delay**"). For the avoidance of doubt, the mere filing of a legal challenge, including but not limited to challenges under the California Environmental Quality Act ("**CEQA**"), related to any decision, action, or inaction of the City or other governmental authority in connection with the Property, the Project, or this Option Agreement is not sufficient to constitute Force Majeure or a Force Majeure Delay ("**Legal Challenge**"), except to the extent that such Legal Challenge results in an injunction or other judicial or administrative order that expressly and directly restricts a party's performance hereunder, in which event such Legal Challenge shall be considered a Force Majeure Delay. If a Force Majeure Delay occurs, the affected party shall provide written notice to the other party within thirty (30) days of the commencement of said delay detailing the nature of the Force Majeure event, the steps taken to mitigate delay, and the specific delay that said Force Majeure event has caused to that party's performance as well as an anticipated date for resuming performance to the extent such date is known or can be estimated. Failure of a party to provide timely, compliant notice shall forfeit Force Majeure relief for the period prior to the provision of actual notice to the other party. Any extension of time granted under this section shall be limited to the actual period of delay caused by the Force Majeure event and shall commence from the date the Force Majeure event began. The parties shall use reasonable efforts to mitigate the effects of any Force Majeure Delay and to resume performance as soon as is reasonably practicable. Notwithstanding the foregoing, if any Legal Challenge that does not constitute a Force Majeure Delay, as described above, continues for a period of twelve (12) months or longer without a resolution that allows the Project, as described in this Option Agreement and the Ground Lease, to continue to completion without material modification (meaning the Project could only move forward if it underwent major changes such as, by way of example, significant change in scope, building size, parcel size, or public benefits), Developer may terminate this Option Agreement, the Ground Lease and the Project by delivering to City thirty (30) days written notice thereof. Upon the date that such termination by Developer is effective, the parties shall have no further obligations to the other, except those obligations which expressly survive termination, as set out in this Option Agreement or the Ground Lease. The termination option described in this section applies only during the Lease Option. Upon execution of the Ground Lease, Developer's option to terminate pursuant to this section shall automatically expire and be of no further force or effect, except as otherwise expressly set forth in the Ground Lease.

(bb) "**General Permits**" means each and every permit that must be obtained before Developer may apply for a building permit to commence construction of the Improvements, including any permits required from agencies with jurisdiction over the Project, but, for the avoidance of doubt, not including any building permit.

(cc) "**Ground Lease**" is defined in Section 1.1(a).

(dd) "**Hazardous Material**" means any hazardous or toxic substance, material or waste, or any pollutant or contaminant, or any substance that is or becomes

regulated by any local governmental authority, the state in which the Project is located or the United States Government. The term "Hazardous Material" includes, but is not limited to, any material or substance that is (i) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1321), (ii) designated as a "toxic pollutant" pursuant to Section 307 thereof (33 U.S.C. § 1317), (iii) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. § 6903), (iv) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601, et seq.), (v) asbestos, (vi) petroleum (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), (vii) petroleum products, (viii) polychlorinated biphenyls, (ix) urea formaldehyde, (x) radon gas, (xi) radioactive matter, (xii) medical waste, and (xiii) chemicals that may cause cancer or reproductive toxicity.

(ee) **"Hazardous Material Laws"** means all laws, ordinances, rules, regulations, orders and other requirements of any government or public authority now in force or that may hereafter be in force relating to protection of human health or the environment from Hazardous Material, including all requirements pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, storage, disposal or releases of Hazardous Materials and all requirements pertaining to the protection of the health and safety of employees or the public with respect to Hazardous Material.

(ff) **"Improvements"** means the improvements to be constructed on the Property, as more specifically described in Recital C, by Developer.

(gg) **"Initial Option Payment"** is defined in Section 3.1.

(hh) **"Initial Term"** is defined in Section 1.3(a).

(ii) **"Memorandum of Lease"** is defined in Section 7.4(b).

(jj) **"Memorandum of Option"** is defined in Section 1.2.

(kk) **"Notice"** means a written advice, request, demand or notification required or permitted by this Option Agreement, as more particularly provided in Section 8.1.

(ll) **"Official Records"** is defined in Section 1.2.

(mm) **"Operating Memoranda"** and **"Operating Memorandum"** are defined in Section 8.13.

(nn) **"Option"** is defined in Section 1.1(a).

(oo) **"Option Agreement"** is defined in the Preamble.

(pp) "**Option Exercise Deadline**" means the Original Option Exercise Deadline, unless the Original Option Exercise Deadline is timely extended by Developer in accordance with Section 1.3, in which case it shall mean the First Extended Option Exercise Deadline, the Second Extended Option Exercise Deadline or the Third Extended Option Exercise Deadline, as applicable].

(qq) "**Option Notice**" is defined in Section 1.4.

(rr) "**Option Payments**" is defined in Section 3.1.

(ss) "**Option Term**" means the Initial Term, as such may be extended, and if extended, the First Extended Option Exercise Deadline, the Second Extended Option Exercise Deadline and/or the Third Extended Option Deadline.

(tt) "**Original Option Exercise Deadline**" is defined in Section 1.3(a).

(uu) "**Property**" is defined in Recital A.

(vv) "**Right of Entry**" means Developer's right to enter the Property during the Option Term to undertake Work as set forth in the Right of Entry Agreement.

(ww) "**Person**" means any individual, corporation, limited liability company, partnership (general or limited), joint venture, association, joint stock company, trust, business trust or other business entity or organization, the United States or a federal, state or local subdivision thereof.

(xx) "**Pre-Development Entitlements**" is defined in Section 1.6(h).

(yy) "**PSA**" is defined in Section 6.1(j)

(zz) "**Project**" is defined in Recital B."

(aaa) "**Second Extended Option Exercise Deadline**" is defined in Section 1.3(b)(B).

(bbb) "**Survival Period**" is defined in Section 4.1.

(ccc) "**Sustainable Operations Plan**" is defined in Recital F.

(ddd) "**Third Extended Option Exercise Deadline**" is defined in Section 1.3(b)(C).


(eee) "**Work**" is defined in Section 1.6(c).

[Signatures on following page]

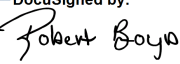
IN WITNESS WHEREOF, City and Developer have executed this Option Agreement as of the Effective Date.

RADIUM PRESENTS, INC., a California 501(c)(3) corporation

CITY OF ALAMEDA, a charter city and municipal corporation

Signed by:

ED00220608D1430...
Christopher Seiwald, CEO

By: _____
Name: _____
Its: _____

DocuSigned by:

5A5B39B73FFF454
Robert Boyd
Secretary

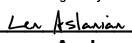
Approved as to Form:

Len Aslanian
Assistant City Attorney

Exhibit A

Property – Legal Description

JANUARY 16, 2026
JOB NO.: 1087-010

**LEGAL DESCRIPTION
RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA**

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

BEING A PORTION OF DESIGNATED REMAINDER 2, AS SAID DESIGNATED REMAINDER 2 IS SHOWN AND SO DESIGNATED ON THE FINAL MAP FOR TRACT 8696, ENTITLED "WEST MIDWAY LARGE LOT", RECORDED JULY 31, 2025 IN BOOK 373 OF MAPS, AT PAGE 85, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERN CORNER OF SAID DESIGNATED REMAINDER 2;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE SOUTHERN LINE OF SAID DESIGNATED REMAINDER 2, NORTH 85°08'27" WEST 75.00 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID SOUTHERN LINE, NORTH 85°08'27" WEST 405.96 FEET;

THENCE, LEAVING SAID SOUTHERN LINE, NORTH 04°51'33" EAST 104.00 FEET;

THENCE, NORTH 85°08'27" WEST 30.00 FEET;

THENCE, NORTH 04°51'33" EAST 90.00 FEET;

THENCE, SOUTH 85°08'27" EAST 435.96 FEET;

THENCE, SOUTH 04°51'33" WEST 194.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 1.87 ACRES OF LAND, MORE OR LESS.

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

END OF DESCRIPTION



Sabrina Kyle Pack 16 JAN 2026
SABRINA KYLE PACK, P.L.S.
L.S. NO. 8164

Exhibit A-1

Property – Depiction



16 JAN 2026

SCALE: 1"=100'



PARCEL TWO
DN. 2022-128360

N04°51'33"E 539.90'

75.00'

POINT OF
COMMENCEMENT

S04°51'33"W 194.00'

POINT OF BEGINNING

405.96'

N85°08'27"W 1122.14'

S85°08'27"E 435.96'

N04°51'33"E 90.00'

N85°08'27"W 30.00'

N04°51'33"E 104.00'

RADIUM THEATER SITE

1.87 AC±

PARCEL 1
(PORTION)
28 RS 14

PARCEL A
338 M 9

SEAPLANE (NORTH)

DESIGNATED
REMAINDER 2
373 M 85

PHASE 1 AGREED TRUST LANDS PARCEL NINE
DN 2014-154596

SHEET 1 OF 1



SAN RAMON (925) 866-0322
ROSEVILLE (916) 788-4456
WWW.CBANDG.COM

CIVIL ENGINEERS ■ SURVEYORS ■ PLANNERS

PLAT TO ACCOMPANY LEGAL DESCRIPTION

RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA

JANUARY 16, 2026

Exhibit B

Fundraising Feasibility Study

PHILANTHROPIC PLANNING STUDY FOR RADIUM PRESENTS

EXECUTIVE SUMMARY

December 2025

Purpose of This Executive Summary

Upstream Philanthropy Inc. was honored to collaborate with Radium Presents (Radium) to conduct a philanthropic planning study from late 2024 through 2025. This Executive Summary synthesizes the key findings, conclusions, and recommendations of the study. It is intended for civic leaders, board members, philanthropic partners, and senior stakeholders to provide a clear, integrated understanding of the project's opportunity, challenges, and recommended path forward.

Study Methodology

Upstream Philanthropy was retained by Radium to conduct a philanthropic planning study assessing fundraising readiness for a proposed performing arts center at Alameda Point, including the feasibility of raising \$165 million as part of a capital campaign. The study was designed as a diagnostic process to inform plans and provide an early indicator of the ability to fundraise at a large scale, rather than to initiate fundraising.

The study addressed six core questions related to campaign feasibility: the strength of the case for support; what would be the most effective fundraising strategy and sequencing; availability of volunteer and philanthropic leadership; staffing and resource requirements; adjustments needed to secure major commitments; and recommended next steps should a campaign not be immediately feasible.

The process was guided by a volunteer Task Force of board and other advisors, which convened in late 2024 and remained engaged throughout the study. Potential interviewees were identified collaboratively by staff and Task Force members and represented philanthropic, civic, and regional perspectives, most of whom were not current donors to Radium. Personalized outreach was conducted through email, letters, and follow-up communications signed by Radium leadership and Task Force members, accompanied by a brief prospectus. It should be noted that the City of Alameda's commitments -- including favorable lease terms and infrastructure improvements supporting the surrounding area -- were finalized after the study prospectus was distributed and therefore not reflected in participant interviews.

Confidential in-depth interviews were conducted in addition to meetings with other key stakeholders between December 2024 and August 2025. Because many interviewees were unfamiliar with Radium, the process required thoughtful cultivation, often involving multiple conversations before an interview was accepted. Interviewees were assured complete confidentiality, and all feedback was reported without attribution.

Following the interview phase, Upstream Philanthropy analyzed qualitative data to identify key themes, risks, opportunities, and patterns related to fundraising readiness, organizational capacity, leadership, and external conditions. Principal findings, conclusions, and recommendations were drafted and reviewed with the Task Force, which refined and approved them prior to finalizing the report. This process ensured that the study's conclusions are grounded in candid stakeholder input, tested assumptions, and a realistic assessment of readiness, providing Radium with a credible foundation for planning its next phase.

I. Key Findings

Broad Enthusiasm and Cultural Opportunity

Interviewees expressed strong appreciation for the arts and widespread enthusiasm for the idea of a waterfront performing arts center in Alameda. Radium's plans for a waterfront performing arts center are widely viewed as a visionary concept with the potential to become a cultural, economic, and place-making asset for Alameda and the greater East Bay. Alameda's island identity, waterfront location, ferry access, and growing hospitality ecosystem were frequently cited as powerful differentiators. At the same time, interviewees emphasized that successful performing arts destinations do not function in isolation. They thrive when embedded within vibrant, walkable, mixed-use districts supported by strong civic planning and infrastructure investment. Interviewees widely viewed the project as one that will undoubtedly benefit the city and region and were deeply impressed by the investment of a private individual in a public site, noting how rarely that happens.

Alameda Point as Opportunity and Constraint

Alameda Point is seen as an area of extraordinary potential that is still emerging. Access and perception, particularly among audiences from outside Alameda, remain challenges. While many respondents were enthusiastic about its long-term promise, most noted that the area currently lacks sufficient foot traffic, amenities, and nighttime activity to support a major performing arts venue at scale. However, this finding presents an opportunity for collective partnership -- among the City, business and development community, the Chamber of Commerce, and Radium -- to further define the regional importance of Alameda and reasons to visit. A recurring finding was that arts facilities

are most successful when surrounded by housing, retail, restaurants, public space, and transportation options that support a complete destination experience.

Many interviewees expressed skepticism toward an “if you build it, they will come” approach absent broader district development that might be underway albeit further into the future. While the study prospectus referenced the approximately 1,200 residential units within the Site A development, the broader pipeline of existing and approved housing – totaling some 2,251 units within walking distance of the site – was not a primary focus of the research.

Expectations Among Those Most Likely to Make Large Gifts

Several interviewees consistently stated that projects of this scale require visible public-sector participation. Government involvement through planning leadership, infrastructure investment, land use policy, and even financial participation is widely viewed as a prerequisite for major philanthropic investment. Donors interpret public-sector engagement as a signal of legitimacy, shared risk, and long-term civic commitment strengthening fundraising momentum. As noted earlier, the City's commitments to the project – including favorable lease terms and infrastructure improvements supporting the surrounding area – were not included in the study prospectus shared with interview candidates and therefore were not reflected in interviewee responses regarding public-sector participation.

II. Principal Conclusions

Capital Campaign Readiness

The study affirmed strong enthusiasm for Radium's vision while noting that, at a tested campaign goal of \$165 million, the pool of lead donors needed for a campaign of this size is still emerging. As a result, the study recommends launching fundraising with an interim, strategic approach that builds early momentum, demonstrates proof of concept, and expands Radium's base of committed supporters. This phase presents an opportunity to strengthen key elements—including timing, long-term sustainability, surrounding development, and organizational capacity—concurrently with early fundraising efforts.

Destination Readiness and Timing

Many interviewees shared views that a large-scale venue would struggle to attract consistent audiences before Alameda Point reaches a greater level of development. Housing, retail, hospitality, public space, and infrastructure were viewed as essential precursors to long-term success. The study

reinforces that timing matters as much as ambition. Opening a major cultural facility too early risks operational challenges, reputational harm, and donor skepticism.

Leadership and Capacity

Founder and staff leadership (and vision) received widespread praise, particularly Christopher Seiwald and Rachel Campos de Ivanov, and Radium's accomplishments to date in the community were widely recognized as significant. However, the study concluded that Radium must strengthen governance, staffing, and fundraising capacity before undertaking a project of this magnitude. There is also concern that Alameda alone does not have the philanthropic capacity to support a campaign and ongoing operations at this scale, reinforcing the importance of regional engagement and public-sector partnership.

Perceived Role of the City of Alameda

Across our conclusions, partnership with the City of Alameda and visible state and local investment were viewed as essential conditions for fundraising success. Interviewees broadly saw the project as a strategic opportunity for the city given its potential to drive economic development, tourism, and quality of life.

III. Recommendations and Path Forward

Pursue an Interim Strategy

The principal recommendation of the study is that Radium pursue an interim path toward its long-term vision. This would include identifying an interim location or semi-permanent structure that allows Radium to operate year-round, refine its identity, test programming, build audiences, generate proof-of-concept, and build a philanthropic base. This interim phase is intended to reduce risk, demonstrate demand, and strengthen organizational readiness.

Augment the Project Team to Position the Campaign for Success

The study recommends that Radium expand its operations to support future growth and partnership. Key steps include hiring an Executive Director, Development staff, clarifying existing staff roles, expanding and strengthening the Board, investing in fundraising and patron development infrastructure, and continued partnership and engagement with the City's arts and tourism objectives. These investments will ensure that Radium builds an audience of patrons and donors and functions as a credible civic partner and to responsibly steward future philanthropic and public investment.

Align Interim Efforts with City Planning and Deepen Partnership

A core recommendation is that Radium's interim and long-term strategy be intentionally aligned with the City of Alameda's planning and development efforts at Alameda Point, ensuring that cultural activation, infrastructure investment, and district development reinforce one another. Throughout this phase, there is significant opportunity for Radium and the City to collaborate so that arts programming supports place-making goals while public policies and investments position Alameda Point as a destination.

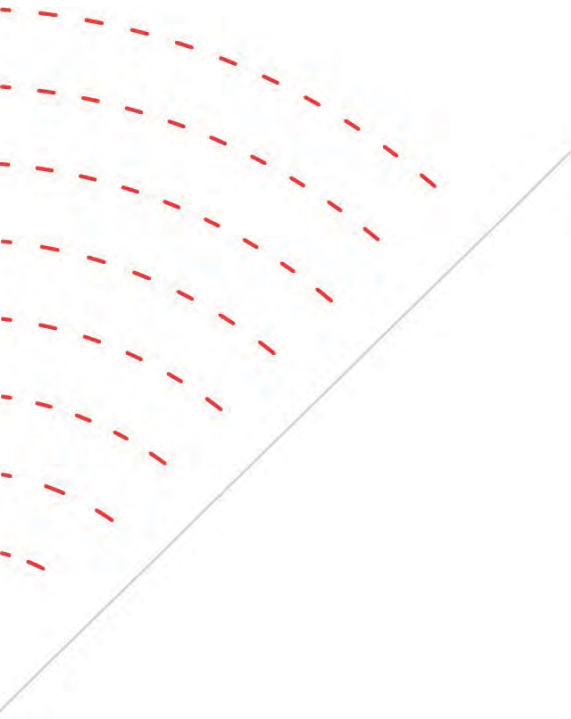
The study emphasizes the importance of visible partnership with the City and coordination with private entities developing Alameda Point. Major donors to civic-scale projects consistently look to government as an active contributor—not as sole funder, but as a partner whose involvement validates and amplifies private philanthropy. Radium is well-positioned to serve as a leading arts and cultural partner in realizing the vision for a cultural district at Alameda Point, and to explore appropriate financing and infrastructure tools, especially those tied to tourism and economic development.

IV. Conclusion

A performing arts center at Alameda Point represents a significant cultural and economic opportunity for Alameda, but its success depends on thoughtful sequencing, organizational readiness, and continued strong partnership with the City of Alameda. Interviewees often cited their optimism for further development at Alameda Point and that the Radium project is as beneficial for the City as the City is to this project. More specifically, the future feasibility of this center is inextricably linked to the future of Alameda Point development.

A phased, interim approach—anchored in collaboration between Radium and the City—offers a responsible path to reduce risk, build credibility, and strengthen community support while delivering tangible economic and community benefits now, rather than waiting for all funds to be raised for a permanent facility. This strategy ensures that the envisioned permanent performing arts center opens at the right time and with the broad-based civic and philanthropic support required for long-term success.

Exhibit C
Sustainable Operations Plan



RADIUM

P R E S E N T S

Sustainable Operations Plan

October 2025

Radium Presents

Purpose

To make the power of art accessible.

Vision

A state-of-the-art performance venue for local and international artists that champions the power of art to build community, inspire compassion and create uplifting social change.

Mission

To build community and access to the arts through world-class performance, serving as a center of creative innovation for all.



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Introduction

The Radium Presents project (defined as the development of a performing arts facility at Alameda Point, hereafter known as “Project”) is not merely a space; it is a dynamic cultural hub that seeks to elevate the arts to new heights and, in turn, elevate the City of Alameda and its vibrant community. The purpose of this document, prepared by AMS Planning & Research (AMS) an arts management consulting firm, is to educate potential stakeholders and supporters on the intent and opportunities surrounding the proposed Radium Presents project in Alameda, California. This plan outlines the elements that will be necessary to build and sustainably operate the performing arts center at Alameda Point. The plan outlines the feasibility of the Project, including the rationale for its size and scale, envisioned programming, operating structure, and forecast of annual operating expenses.

Project Goals

We firmly believe that art has the capacity to transcend boundaries, ignite imaginations, and bridge divides.

Cultural Enrichment: We aspire to provide a platform for artistic expression, cultural exchange, and creative exploration. By hosting a variety of performances, exhibitions, and events, our performance venue will celebrate the rich diversity of art forms, including music, dance, theater, visual arts, and more. The Center will be an inclusive space that welcomes artists from various backgrounds and disciplines, fostering an environment that reflects the vibrant tapestry of the Bay Area arts community.

Foster Community Engagement: The Center will be a gathering place for residents, visitors, and artists, serving as a catalyst for community engagement and interaction. Through curated programs and outreach initiatives, we will actively involve local schools, community organizations, and residents, providing educational opportunities, workshops, and performances that inspire creativity, empathy, and cultural understanding. We believe that by actively involving the community, we can create a sense of ownership and pride in the venue, establishing it as a central hub for civic and cultural activities.

Promote Social Change: We firmly believe in the transformative power of art to create positive social change. Our Project seeks to showcase



performances and exhibitions that challenge societal norms, spark conversations, and inspire audiences to think critically about important issues. By promoting uplifting messages, empathy, and compassion through artistic expressions, we aim to contribute to the growth of a more inclusive and equitable society.

Stimulate Economic Growth: Our proposed performance venue is not only a cultural asset but also a driver of economic growth. By collaborating with local businesses and organizations, we will strive to create partnerships that support the local economy and foster sustainable development. We anticipate that by attracting local and international artists, as well as visitors from neighboring communities, Radium will generate increased tourism, stimulate local businesses, and serve as a cornerstone of Alameda Point's transformation into a vibrant waterfront destination within the Bay Area.

Provide a State-of-the-Art Facility: The Center will include a world-class performance venue that meets the highest standards in terms of design, acoustics, technology, and sustainability. We will prioritize the incorporation of environmentally friendly practices, utilizing energy-efficient systems, and sustainable materials wherever possible. Our goal is to create an iconic architectural landmark that not only enhances the cityscape but also reflects the City of Alameda's commitments to environmental responsibility and honoring the historic character of Alameda Point.



Operating Model

There are generally three business models for performing arts centers:

Four-Wall Rental: A four-wall rental refers to a business model where the venue is rented out to clients or resident companies. The venue provides the space, and the renter is responsible for all aspects of the production, including marketing, ticket sales, and production costs. This model allows the venue to generate revenue from rental fees while minimizing financial risk.

Presenting Facility: A presenting facility is a venue that hosts performances and events produced by external organizations or artists. The venue is responsible for selecting and booking the performances, marketing the events, and managing ticket sales. This model allows the venue to offer a diverse range of performances without the financial risk of producing the events themselves.

Producing Facility: A producing facility is a venue that is typically home to a single organization that creates and produces its own performances and events. The venue takes on the responsibility of all aspects of the production, including artistic direction, casting, rehearsals, set design and construction, in addition to the typical tasks of marketing, ticket sales, fundraising, etc. This model allows the venue to have greater control over the creative content and artistic vision but also involves higher financial risk due to the costs associated with producing performances. Radium will not operate in this manner.

Radium's operating model will be a hybrid of the Presenting and Four-Wall Rental models. A common practice, this hybrid model will allow Radium to spread the financial risk across business segments by a wide variety of content providers to access the space, while also maintaining control of the brand of the venue through its presenting activities.

Programming

Radium will partner with Bay Area and international artists and arts organizations to bring world-class programming to its stage. In addition, the Theater will become a cultural hub for Alameda-based community arts organizations with several already working with The Theater's leadership in the planning of the new building.

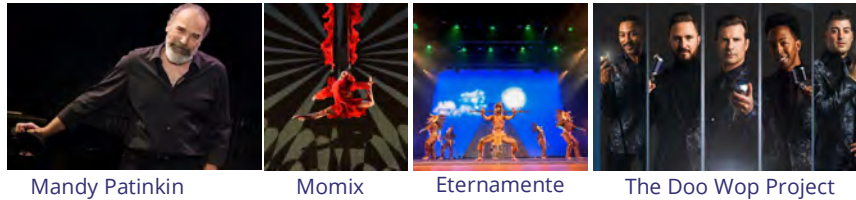
Radium will draw its audiences primarily from Alameda and the greater East Bay region. Radium is committed to engaging the diverse community of this region and offering inclusive programming and engagement opportunities.

To that end, based on analysis of the market and surveys of Alameda and East Bay arts and cultural organizations, the early business modeling for a normalized year of operations forecasts over 300 performances and events representing a mix of opera, dance, theater, music, lectures, educational programs, rehearsals, and rentals.

The Radium’s programming activity will be divided into three areas:

Radium Presents: Signature touring artists from around the globe in the genres of music, dance, theater, and film presented directly by Radium. These performances could include, for example, some of the following:

- Modern dance performances like *Momix Dance*
- Multi-cultural performances like *Eternamente: A Dia de los Muertos Spectacular*
- Family friendly performances like *Mummenschanz* mask and mime theater troupe from Switzerland
- Nostalgic music performances like *The Doo Wop Project*
- Star performers like *Mandy Patinkin in Concert*



Rentals: Artists and arts companies from Alameda and the East Bay, along with local promoters and other presentations (film series, speaker series, etc.) Local and regional arts organizations such as the Island City Opera, West Edge Opera, Tomorrow Youth Repertory, and AXIS Dance Company, will likely be frequent renters at the facility.



Education Programs: Radium will work with facility renters, touring artists, and local schools and non-profits to offer unique opportunities to learn about the performing arts, experience performances on field trips, and gain hands-on training. Programs such as master classes, technical theater internships, performing arts summer camp programs, and afterschool classes and workshops will all take place at the new performing arts center.

The Facility

Radium's facility will be an approximately 62,000 square foot performing arts center with two theatres, an inviting, patron-friendly lobby, full backstage and scenery-handling capabilities including orchestra pit, professional-grade production capabilities and acoustics, with patron amenities and administrative and other functionalities. A 24,000 square foot multi-use, public outdoor plaza is also planned for the site.

- *Patron Amenities:* Ticket office, lobby, concession areas, - including a rooftop bar - and restrooms.
- *Mainstage Theatre:* A proscenium style stage with 600 fixed seats, outfitted with state-of-the art lighting, sound and other theatre equipment, with Green Room and dressing rooms.
- *Second "Studio" Theatre:* A "studio" type space with flexible seating and a flat floor, to be used for rehearsals and for performances that are enhanced by a smaller, more intimate space, such as solo concerts, dance performances and other presentations.
- *Rehearsal Room:* The Center includes a Rehearsal Room with a sprung floor, matching the dimensions of the mainstage's performing area. This allows performers to rehearse while another event occupies the stage. Adjacent to the lobby on the ground floor, the Rehearsal Room becomes an excellent space for educational purposes such as dance, music, and movement classes, as well as community gatherings.
- *Administrative Facilities:* Executive offices, event offices, reception/open office space, work and storage areas, staff lounge, conference room.
- *Other Facilities:* Catering kitchen and prep area, janitorial and building operations.
- *Public Plaza:* The Project will include an approximately 24,000 square foot outdoor public plaza that can accommodate a range of uses such as performances and be widely accessible to the public on a daily basis.

- *Publicly Accessible Viewing Areas:* The current design of the Project includes a lobby, second floor balcony, and roof viewing areas which could be accessible to the public.

Staffing

To accomplish the mission and support the planned level of activity, the following senior level staff positions are anticipated. Radium anticipates having a staff of 14 full-time equivalent staff members. Forecasted staffing is based on industry standards for comparable facilities.

Executive & Artistic Director: the chief executive officer of Radium. Also primarily responsible for selecting Radium’s presenting series artists and maintaining relationships with artists, agents, and community arts organizations.

Business Manager / Bookkeeper: maintains financial records, fiscal reports, human resources, and contracts.

Development Director: oversees and coordinates all fundraising activities.

Marketing Director: oversees and coordinates all marketing, communications, and community engagement.

Operations Director: oversees and coordinates all aspects of theatrical and facility operations.

Operating Considerations & Community Benefits

In addition to the activity provided to the community through Radium’s programming, the organization is committed to providing some specific benefits and achieving certain operational benchmarks as part of a land lease agreement with the City of Alameda for a site at Alameda Point. The complete *Operations & Benefits Statement* offered by Radium to the City is included in the appendices (Appendix V).

Operations

Operating Revenues

30% of revenues will be derived from ticket sales from shows presented directly by Radium Presents (approximately \$1 million annually). These performances would include signature artists from around the globe in the genres of music, dance, theater, and film. Like many performing arts centers, patrons will be able to purchase season packages, flex-tickets,

and single event tickets at varying price points (including the redemption of over 100 complimentary ticket vouchers per year provided to Alameda Point-based not-for-profit organizations noted in the *Operations & Benefits Statement* and shown on page 8 of Appendix IV). AMS has established a conservative ticket price range of \$25 - \$100 with an overall average of \$54, which is in-line with similar programs in the Bay Area. Ticket prices will be adjusted as market conditions and costs fluctuate over time. The typical array of discounted tickets will also be made available for senior citizens, students, veterans, etc.

Additional earned revenue streams include rentals (\$348,000; 10%) by area arts and non-profit groups (which will occupy the largest number of annual use days), related fees for chargebacks (fees charged for labor, equipment and other supplementary items; \$376,000; 11%), and ancillary income from ticket fees and concessions (\$745,500; 21%).

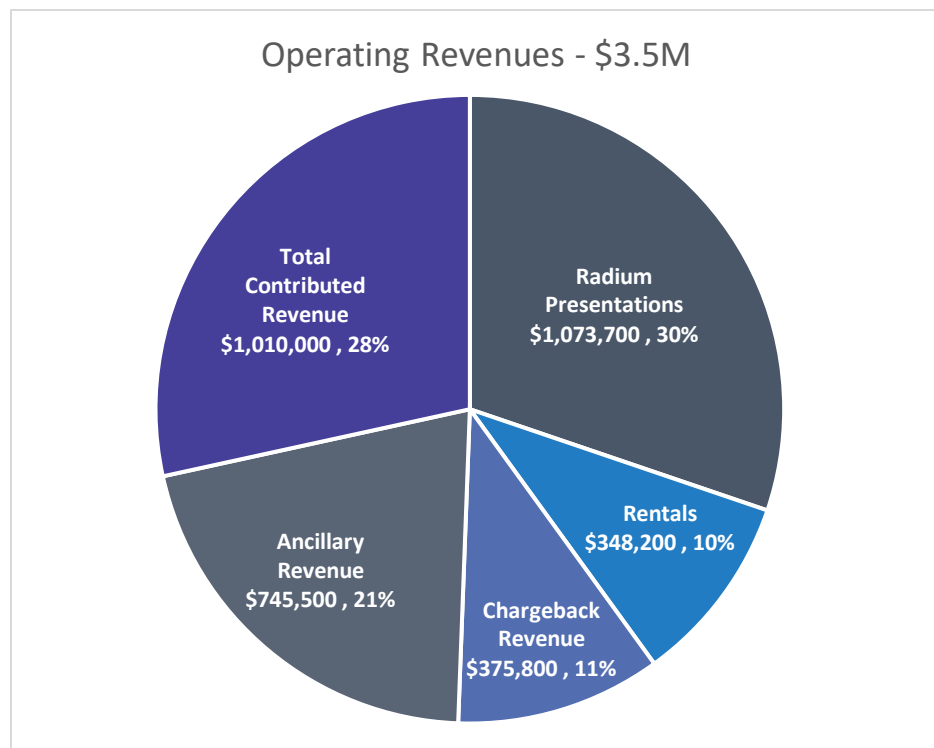


Figure 1: Revenue Sources

Performing arts centers also require contributions and other forms of 'given support' to meet their expenses and Radium Presents will be no different. Contributed revenue sources will include a mix of sponsorships, grants, government contributions, endowment earnings, individual

donations, and special event proceeds. Contributed revenue of \$955,000, (28%) plus \$2.45 million in earned revenue equates to a total income of \$3.5 million in a normalized year of operation (assumed to begin the third year following building opening). Earned and contributed income will be sufficient to cover annual operational expenses.

Operating Expenses

Program and personnel expenses necessarily drive costs. Radium’s season of featured performances and touring events will have direct costs in the range of \$1million (or 28% of total expenses), which includes artist fees, marketing costs, and other production costs directly related to shows. Personnel costs are projected at \$1.45million (41%), which will support a staff of 14 full-time equivalent employees. The remaining costs are split between general & administrative overhead, occupancy costs (for utilities, property insurance, maintenance, security, and cleaning) and a 5% expense contingency bringing total expenses to over \$3.5million.

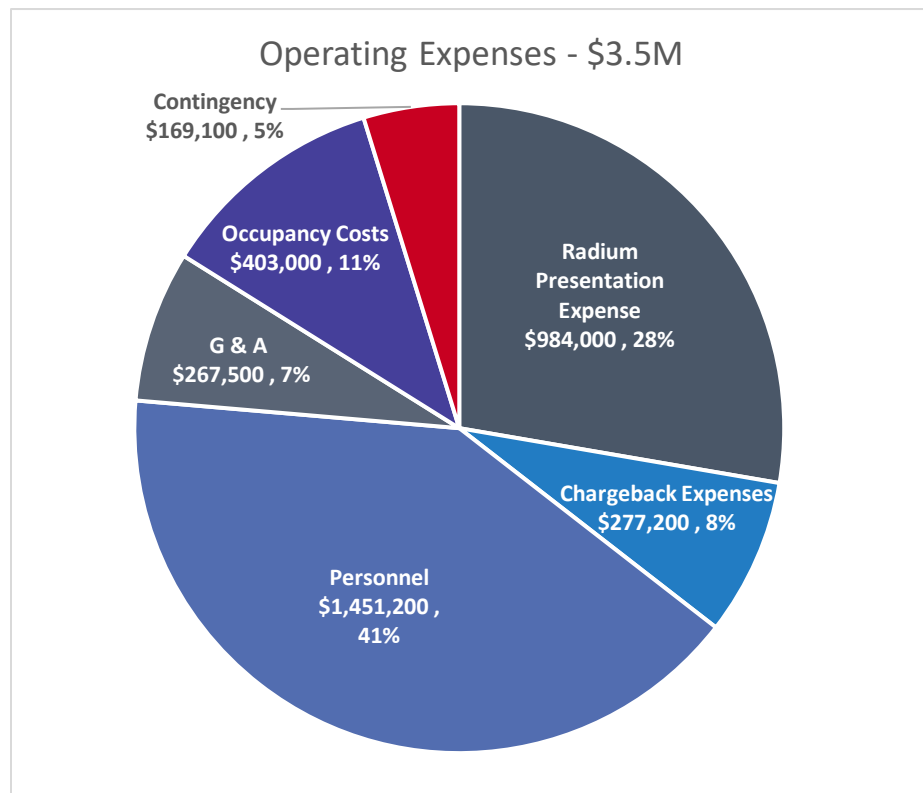


Figure 2: Expenses

Operating Net Results

So long as an adequate level of fundraising occurs, the current projections result in a break-even budget. This equates to an earned-to-contributed revenue ratio of roughly 70% earned to 30% contributed. This ratio places somewhat greater reliance on earned revenue than many performing arts organizations, which commonly have 60-40 or 50-50 ratios. But we believe this is still a conservative and reasonable ratio given the rentable spaces of Radium Presents, its special location facing the San Francisco Bay, documented high demand for space in the market, and the unique nature and accessibility to arts users of the facility in the East Bay market.

The financial forecast summary on the next page, with related information found in Appendix IV, shows a Capital Expenditure Account as denoted in the *Operations & Benefits Statement*. This special account will be funded by a \$2 per ticket fee, which will generate over \$212,000 per year based on current ticket sales estimates. Using this as a basis, this special account would make approximately one million dollars available for major repairs and replacements every five years.

A complete summary of the operating financial forecast for a Base Year of operations (typically the third year after opening) is below, with full details appended.

Radium Presents	
SCHEDULE 2: SUMMARY BASE PRO FORMA	BASE YEAR
Earned Revenue	
Radium Presentations	\$1,073,700
Rentals	\$348,200
Chargeback Revenue	\$375,800
Ancillary Revenue	\$745,500
<i>Total Earned Revenue</i>	<i>\$2,543,200</i>
Contributed Revenue	
Individuals / Families	\$560,000
Grants / Sponsorships	\$450,000
<i>Total Contributed Revenue</i>	<i>\$1,010,000</i>
TOTAL OPERATING REVENUES	\$3,553,200
Operating Expenses	
Radium Presentation Expense	\$984,000
Chargeback Expenses	\$277,200
Personnel	\$1,451,200
G & A	\$267,500
Occupancy Costs	\$403,000
<i>Subtotal Operating Expenses</i>	<i>\$3,382,900</i>
Contingency	\$169,100
TOTAL OPERATING EXPENSES	\$3,552,000
TOTAL ANNUAL RESULT:	\$1,200
Capital Expenditure Account	\$212,100
% Earned Revenue	72%
% Contributed Revenue	28%
Total Annual Attendance	117,860

Figure 3: A top-line summary of the financial forecast. The detailed pro forma has been attached as Appendix IV. Figures rounded.

The operating forecast above represents a summary Profit and Loss statement. It does not include bank balances or other balances that would be represented on a Balance Sheet. The forecast has accounted for non-profit rental rates, ticket discounts, redeemed ticket vouchers, staffing to allow public access, and other operational factors.

Current Status

Over the last two years, the Radium Presents Governing Board of Directors has worked to further develop the organization's direction, establishing a purpose, and updating its vision and mission. This work has allowed the Board to consider its philosophical underpinnings and explore the Theater's proposed activity mix, location, potential partners, and evolution. In 2022, the Board launched an outdoor performing arts series, known as Radium Runway, as a "proof of concept." The series recently completed its third season.

Board committees are currently driving organizational development initiatives. From utilizing community input to inform critical Project decisions, to establishing criteria for continued board recruitment, their planning framework, as illustrated below, represents an iterative and overlapping process which allows the organization to advance in a holistic way. Most recently, the Board commissioned a fundraising feasibility study and has commenced a capital campaign.

Economic Impact

The Americans for the Arts (AFTA) "Arts and Economic Prosperity" study proves a powerful tool for arts and cultural organizations as they communicate their value to their communities. According to AFTA, approximately 79% of Americans believe that the arts are "important to their community's businesses, economy, and local jobs."¹

The most recent Americans for the Arts study finds that in the United States, the nonprofit arts and culture industry generated \$151.7 billion in total economic activity – \$73.3 billion in spending by arts and cultural organizations and an additional \$78.4 billion in event-related spending by their audiences. These expenditures represent \$101 billion in resident household incomes, \$29.1 billion in government revenue, and 2.6 million in full-time equivalent jobs.

¹ *Arts & Economic Prosperity 6* (September 2023); 2022 data.



In its calculations, AFTA accounts for direct audience spending through admission costs, as well as indirect audience spending. The latter represents the total financial contribution arts audiences make to local businesses and people, over and above the dollars spent at the arts organization itself; this may include dining out, paying for parking, or compensating for childcare. AFTA found that on average, arts and cultural patrons spend \$38.46 per event in addition to the cost of admission.

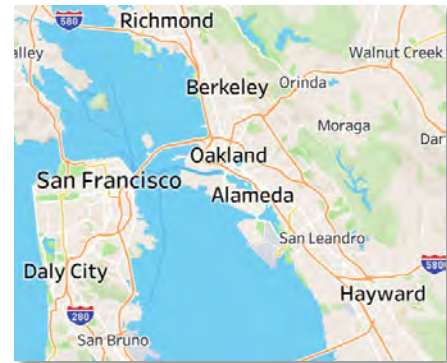
Along with its national aggregated data, AFTA provides an [“Economic Impact Calculator”](#) for individual entities to measure their potential impact. When estimated Radium audiences and expenditures were entered, the calculator projected total expenditures, jobs, household income, and government revenues, revealing potential economic impact upwards of \$5 million per year.

The data demonstrates that total economic impact is not driven by population, but by content, therefore showing that continued investment in the arts will result in higher impact for Alameda and advance the quality of life for residents and visitors alike.



Project History & Market Context

In May 2017 AMS Planning & Research and The Shalleck Collaborative, theater consultants, were engaged to conduct a feasibility study for a new theater for the community of Alameda, California, a city in the San Francisco Bay area that borders the City of Oakland and is directly across the Bay from San Francisco.



The consulting team was charged with examining existing community arts assets, testing key assumptions and producing recommendations for strategies to promote the new facility and to promote the community as an attractive destination for experiencing the arts and culture.

AMS conducted research, solicited input from the community, studied the needs of prospective theater users, and evaluated existing cultural resources. In addition, case studies of comparable facilities in similar communities were researched and documented to provide examples of community performing arts facilities' management structures, programming and operations and as exemplars of best practices in the field that might have potential application to the development of the new facility in Alameda. These case studies also provided the basis, in part, for some of the recommendations in the feasibility study.

The feasibility of developing a new and successful performing arts center in Alameda was supported by the findings of the study. In short, it was found that building a new performing arts facility is a beneficial investment in the community, for the community. The benefits of the arts to the local economy, to building a sense of community, to education, to promoting cross-cultural understanding and cohesiveness in Alameda would be greatly enhanced with the development of a new performing arts center. Upon conclusion of the feasibility study the not-for-profit, 501(c)3 corporation, currently named Radium Presents was formed and is leading the planning and development of the Project.

A Strong Market for Arts & Culture

Not-for-profit performing arts programs are for everyone. The Radium Project will exist to serve residents from near and far, from all socioeconomic strata, and be a true community benefit for the region. This will be reflected in programming choices, pricing strategies, public access policies, and marketing and communications campaigns.

AMS conducted a regional exploration of both the current market for the arts and the potential for growth in demand resulting from the development of the new facility and expected population growth. Based on the presence of relatively high-income levels, educational attainment, and interest in social engagement, 85% of the residents of Alameda provide a ready market for an expansion of performing arts programs in the community that the new facility will make possible. Further, in a single year, an estimated:

% of HH	# of HH	Lifestyle attribute
52%	14,000	Will watch PBS
50%	13,500	Will go to the zoo
36%	9,700	Will attend live theater
33%	8,800	Will do photography
26%	6,900	Will visit an art museum
26%	6,900	Will attend a paid music concert
25%	6,800	Will attend a rock concert

Figure 4: Cultural Consumption in Primary Market

In addition to the current ready market for the arts in the existing population, there is a slight projected population growth of 0.14% expected in Alameda County between 2024 to 2026². However, the number of households in the expanded market (Alameda and Contra Costa Counties) had a 3% growth between 2020 to 2023³, which includes

² California Department of Transportation (2023); County-Level Economic Forecast

³ U.S. Census Bureau (May 2024); Population Division

the housing developments in Alameda Point⁴. The projected growth in well-educated, high-income individual, who are likely to have a strong interest in the performing arts, will require an expansion in the availability of performing arts programs to meet the growth in population and will be a strong contributing factor in the viability of a new performing arts facility.

With an increasing population and potential audience, the new performing arts venue will meet a growing demand that will continue to build an audience for the performing arts throughout all segments of the market to become an accessible community benefit for all.

Market Analysis

A market analysis was conducted based on both U.S. Census Bureau⁵ statistics and the proprietary [PRIZM Premier](#) Market Segmentation System developed by AMS’s research partner, Claritas, a division of the Nielson Company. The demographic data for both the identified primary market and an expanded market area was analyzed and compared to state and national market data.

The Primary Market Area was defined as the City of Alameda (Figure 2). The Expanded Market Area includes the East Bay counties of Alameda and Contra Costa (Figure 3). San Francisco is excluded which is not expected to be a significant part of the market for the new facility.

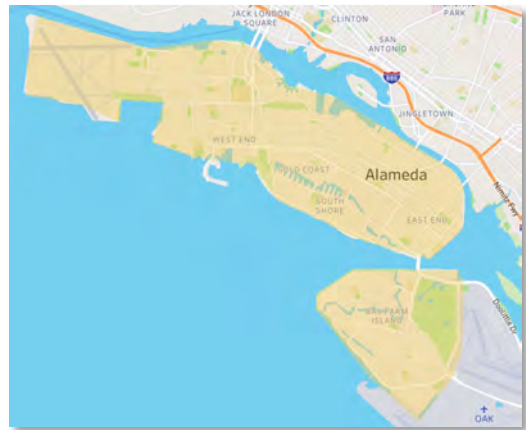


Figure 5: Primary Market - City of Alameda

⁴ California Department of Transportation (2023); County-Level Economic Forecast

⁵ U.S. Census Bureau (2022); ACS 1-year Estimates

In 2022, the population in Alameda was estimated to be 76,039, comprising only 3% of the 2,785,963 inhabitants in the expanded East Bay market area. The number of primary market area households is estimated to be 27,630 and in the expanded market area there are an additional 1,011,808 households (inclusive of households in the primary market area) that constitute the viable market for the programs of the proposed new facility.



Figure 6: Expanded Market - Alameda & Contra Costa Counties

Key Demographics:

The market population is predominantly White and Asian, generally middle-aged, highly educated, have relatively high incomes, and are very socially engaged. All positive predictors of high interest and participation in arts and cultural activity.

- In the primary market 57.6% of the population has bachelor’s degree or higher, which is slightly higher than the expanded market (49.3%), and significantly higher than the state (37.0%) and national rate of education (35.7%).
- The median household income in the primary and expanded market areas is 32.3% higher than the State of California and 62.0% higher than the US median income. The median household income in the primary market is \$131,116 and slightly lower \$121,110 per year in the expanded market area.

While these demographics suggest a viable and robust market for the arts, Radium’s programming and marketing will engage the region’s diverse populations and truly be an inclusive cultural resource for all.

In order to understand consumer behaviors of the area population, in 2017 when AMS was first commissioned to conduct a feasibility study, it used the PRIZM Premier market segmentation system, developed by The Nielsen Company, to categorize the households in the primary and

expanded markets based on demographic profiles and consumer research into psychographic and consumption patterns⁶. The PRIZM Premier Market profiling and segmentation system is a micro-geographic consumer targeting system that segments every household in the United States into one of 68 unique clusters based on similar demographic and behavioral attributes. The clusters are numbered from 1 to 68 in order of socioeconomic affluence, taking into account factors including income, assets, age, occupation, technology usage, and family structure.


This research places 38% of the population of the East Bay into the five, dominant consumer segments, all of which have moderate to strong interest in arts and cultural activities.

Cultural Consumers – Primary Market – Segmentation Summary




- ★ Common segments in Alameda are **affluent, middle aged, and highly educated** with few or no kids
- ★ The majority of segments in Alameda live **upscale lifestyles**: traveling abroad, purchasing luxury vehicles, and engaging in cultural activities
- ★ Find your favorites at: [My Best Segments](#)


Figure 7: Consumer Lifestyles in the Primary Market




#4, 14.48% "Young Digerati" Young Digerati are tech-savvy and live in fashionable neighborhoods on the urban fringe. **Affluent and highly educated**, Young Digerati communities are typically filled with **trendy apartments and condos, fitness clubs and clothing boutiques, casual restaurants and all types of bars**--from juice to coffee to microbrew. Many have chosen to start families while remaining in an urban environment.




#7, 24% "Money & Brains" The residents of Money & Brains seem to have it all: **high incomes, advanced degrees, and sophisticated tastes** to match their credentials. Many of these city dwellers are **married couples with few children** who live in fashionable homes on small, manicured lots.



#17, 20.9% "Urban Elders" Urban Elders—a segment located in the downtown neighborhoods of such metros as New York, Chicago, Las Vegas, and Miami—are more likely to be renters than other households in their age cohort. They enjoy the cultural options available to them in their communities, **frequently attending musical performances and other live events**.



#31, 9.61% "Connected Bohemians" A collection of mobile urbanites, Connected Bohemians represent the nation's most liberal lifestyles. Its residents are a progressive mix of **tech savvy, young singles, couples, and families ranging from students to professionals**. In their funky row houses and apartments, Bohemian Mixers are the early adopters who are **quick to check out the latest movie, nightclub, laptop, and microbrew**.



#40, 15.77% "Aspiring A-Listers" Typically urban renters, Aspiring A-Listers are focused on their social lives. They are out and about often and **spend heavily on status brands and dining out**. They are all about convenience, shopping most often at drug stores and convenience stores.

Most clusters have high levels of educational attainment and high incomes. They engage in city-centered lifestyles, including high spending on trends in fashion as well as quality dining & entertainment

All of the segments in Alameda are prominent in the east bay as well; the wealthy clusters (Money & Brains; Young Digerati) are particularly well represented in the east bay area

Other segments include first generation Americans and multicultural families

Figure 8: Lifestyle Segments

Competitive Venues

Just over 40 competitive rental and performance spaces were identified within 20 miles of downtown Alameda. Spaces were reviewed for seating capacity, distance from Alameda and the type of management structure (i.e., commercial, educational, municipal, etc.).

Approximately 70% of those venues have between 99 and 600 seats, with 23 ranging in size from 200-600 seats. 18 of these venues are in Alameda or points north (Oakland, Berkeley). However, these venues are predominantly associated with public schools and universities, religious institutions, nonprofits, municipalities and private corporations (LLC). Further, those that are available for performing arts organizations to utilize are over 20+ miles from Alameda, including the Leshner Center for the Arts in Walnut Creek and the Bankhead Theater in Livermore. Recently, the Calvin Simmons Theatre reopened as part of the Henry J.

Regional Venues

We identified 42 competitive rental venues within 20 miles of downtown Alameda:

- 29 of the venues have 99-600 seats
- 83% of these venues are in Alameda or points north (Oakland, Berkeley, etc.)

Of the 29 venues, operators include:

- 5 educational institutions (public schools or universities)
- 3 religious institutions
- 14 nonprofits
- 2 municipalities
- 5 private corporations (LLC)

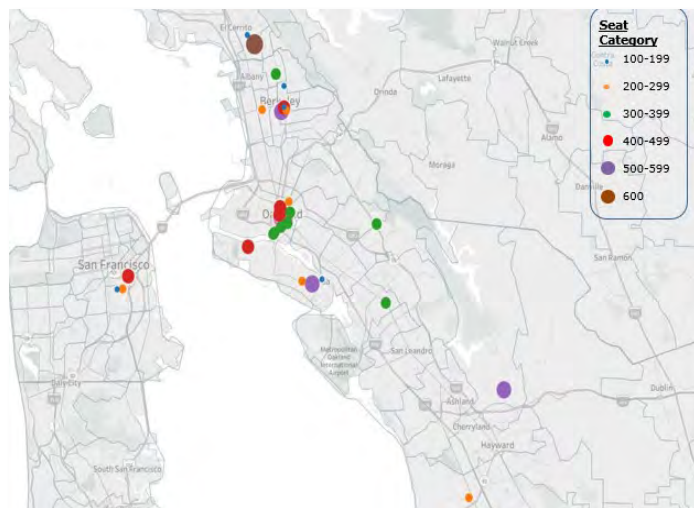


Figure 9: Regional Venue Inventory

Kaiser Center for the Arts in 2023 with a capacity of 1,500 seats, too large for many local performing arts groups. This underscores the need for a professionally operated, mid-sized venue located in the heart of the Bay Area’s population

center that is tailored for the needs of the region’s performing arts scene.

Facility Needs of the Performing Arts Sector

Interviews were conducted with community and arts leaders regarding the current state of the community’s performing arts programs, the perceived demand for arts programs, relevant background information useful to the Project, and the ideas and opinions about a new performing arts venue for the community. Stakeholders expressed overwhelming support for a new performing arts facility for the community.

Community arts leaders shared a need for suitable rehearsal and performing spaces as current facilities offer less than adequate space, inconsistent availability of dates and little to no technical capacity to produce quality work. This situation has hindered the growth of the arts organizations and depressed potential audience development.

In addition to stakeholder interviews, a survey was deployed (both in 2017 and again in May of 2024) to performing arts organizations identified in Alameda and the expanded market area asking about current facility use, additional unmet needs for performance space and their interest in and projected use of a new facility if one is built. There were 37 respondents to the 2024 survey. The highest share were performing arts organizations followed by arts education and culturally specific arts institutions.



The survey measured anticipated demand for utilization of the new facility for performance and rehearsal spaces. Findings were consistent between the 2017 and 2024 results and included:

- Strong interest in utilizing the new venue, with notably high demand for rehearsal and flexible spaces;

- The audience capacity most appropriate for the new facility was shown to be 400-600 seats in a fixed-seat, proscenium style (see figures 7 and 8);
- Physical accessibility and availability of appropriate theater equipment for lighting, sound, etc., is “very important” or “extremely important;”
- Safety of location, access to parking and public transportation is “very important” or “extremely important.”

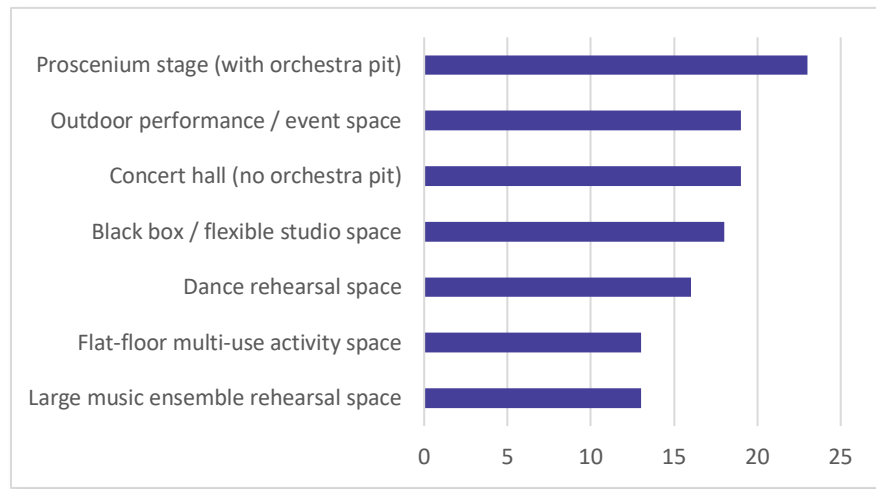


Figure 10: Highest Demand is for Fixed-Seat Proscenium Theater + Rehearsal Space (2024)

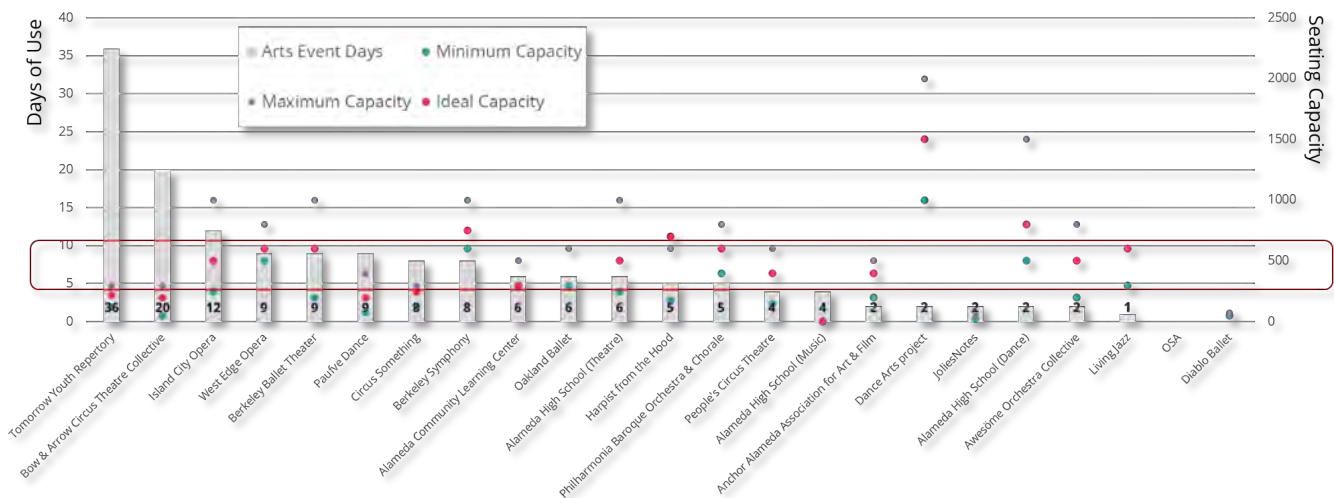


Figure 11: According to a survey of prospective facility users, the greatest demand for a theater at Alameda Point is in 400-600-seat range with 150 performance rental days (2024)

Exhibit D

Community Benefits Package



Community Benefits & Operational Benchmarks Statement

Introduction: The following terms will be included in the Lease Option and/or related documents to be entered into by and between the City of Alameda (“**City**”) and Radium Presents, Inc., a 501c3 not-for-profit corporation (“**Developer**”). The terms and conditions of the Community Benefits & Operational Benchmarks Statement (“**Statement**”) reflect the intent of Developer to operate as an organization that benefits the community by bringing arts and cultural programming to the residents of the City and the Bay Area at large, while also supporting the growth and development of other non-profit organizations and artists in the City, the region and throughout the world (collectively, the “**Mission**”). Terms used in and not otherwise defined in this Statement, will have the meaning given to them in the Ground Lease to be negotiated by City and Developer.”

This Statement also provides the City with assurance that (i) in leasing the Property to Developer for \$1 per year, City residents will have reasonable and regular access to the Property including, but not limited to, the lobby, second floor balcony and roof viewing areas, café and restaurant spaces, and plaza (ii) a calendar of performances and events will be regularly available to the public, and (iii) Developer will operate the Project in a professional and customary manner.

This Statement is organized into three sections: Operational Health, Utilization & Community Access, and Maintenance of Property & Project. Finally, **Table 1: Option Milestone Schedule** summarizes the key operational benchmarks that will be tracked throughout the Lease term and characterizes each milestone as Major or Minor.

Developer is required to adhere to each of the following requirements:

Operational Health:

- Developer will provide its annual audit and IRS form 990 to City’s third-party financial advisor by no later than the 15th day of the fifth month after the end of Developer’s fiscal year.
- Developer will undertake the following and provide evidence of such to City upon City’s written request:
 - remain in good standing with requirements of the Federal Internal Revenue Services (“**IRS**”) and California Secretary of State (“**SOS**”);
 - remain in good standing with the requirements of the California Attorney General’s Registry of Charitable Trusts; and
 - maintain its tax-exempt status with the IRS and the California Franchise Tax Board (“**FTB**”).
 - The Developer agrees to provide the City with any other relevant information when requested.



- Upon receipt from the City of a written notice of non-compliance with any of the above requirements, Developer will promptly commence to cure such non-compliance and give written notice to City of the notice of non-compliance and the status of the cure within thirty (30) days of receipt of the notice.
- During the Lease Term, the City will have the right to conduct periodic audits of the Developer's financial, performance and compliance records maintained in connection with the development and operations of the Project. In the event of such audit, Developer agrees to provide the City with access to the Developer's team and employees and make all such financial records available to the City. The City agrees to provide Developer with an opportunity to discuss and respond to any questions or findings prior to finalization of the audit report.
- Developer will demonstrate annually to City that it maintains a 90-day Operating Cash Reserve account (currently estimated to be ~\$750,000). Developer will provide the City with quarterly account statements confirming that this amount remains on deposit and available. In the event Developer defaults under the Lease or otherwise ceases operations of the Project, these funds will be immediately released to the City to cover ongoing maintenance and operations costs for the Project while a new operator is found. .
- If the Project utilizes debt, Developer will maintain a commercially reasonable viability ratio of 1.25 defined as expendable net assets divided by the amount of long-term debt where no debt would mean that the denominator is zero.
- No later than 60 days from the start of Developer's fiscal year ("FY"), and Developer will provide City its annual programming and operations plans for the upcoming year following approval by Developer's Board of Directors. The annual programming and operations plan will reflect Developer's then known schedule of events, performances, rentals and educational programs for the applicable FY.
- Within approximately 60 days of the start of a FY, Developer will provide to City an annual report on program utilization, participation and attendance as compared to the prior FY.
- Within 60-days following the end of every second fiscal year Developer will deliver to City a bi-annual report of its compliance with and continued operations under the "**Sustainable Business Plan**," which includes information sufficient to demonstrate the Project remains financially viable for forthcoming fiscal year, as measured in relation to other comparable non-profit organizations with a similar Mission; the plan will include the following elements: (i) programs and services offered; (ii) financial plan/revenue sources; and (iii) operational plan.
 - If Developer's Sustainable Business Plan includes all of the elements described above with a sufficient level of detail, City will approve the Sustainable Business Plan within 45 calendar days of its receipt.
 - If the Sustainable Business Plan does not include any of the elements described above or does not provide a sufficient level of detail with respect to any of the elements, then within 60 business days of receipt, City will identify for Developer in writing the missing or insufficient elements of the Sustainable Business Plan. Developer will have 60 business days to revise the Sustainable Business Plan, as requested by City and resubmit it to City.
 - If, after review by the City of the revised Sustainable Business Plan the City finds it still insufficient, then the City will schedule a meeting to discuss its findings with



the Developer and what changes are required to the Sustainable Business Plan moving forward.

- Due to confidential and sensitive nature of donor information, Developer will deliver to City an executive summary of donations, excluding personal information.

Utilization & Community Access

- Developer will ensure that the Project, including the plaza, is utilized for a minimum 200 uses per year. “Uses,” as used in this Statement, includes any use of a Project space for a rehearsal, class, performance, demonstration, meeting, reception, ticketed and non-ticketed event, community rental or private rental or other similar use. In addition to the 200 uses per year, the Plaza shall be utilized a minimum of five (5) uses per year.
- Developer will notify City of any extended closures of the Project that would likely impact the usage target, such as capital improvement projects, mandated closures of the Project (i.e., because of a pandemic), or other circumstances that would temporarily cause a closure of the facility and impact use of the Project.
- Public Access: Developer will provide access for the community to the public portions of the Project, including the plaza, second floor balcony, and rooftop terrace during regular operating hours to the extent such portions of the Project are not in use for events or performances.
- Training Programs: If Developer offers educational or training programs to young people, it will provide discounted passes for City residents to such programs. The number of discounted passes will be determined with reference to the cost of producing the program; Developer will not be required to offer an amount of discounted passes that causes it to be unable to recover all costs to produce the program.
- Developer will strive for 15% of jobs to be made available to formerly unhoused individuals, in collaboration with Alameda Point Collaborative or related collaborative partners, in alignment with the Standards of Reasonableness for Homeless Uses at Alameda Point (1999);
- Discounts: Developer will offer senior, student and active military discounts of 10% or more to Alameda residents on all Developer presented performances (as further defined in Operating Model section of Sustainable Operations Plan).
- Developer will provide Complimentary Admission Vouchers (“CAV”) to non-profit organizations serving Alameda Point include, but not limited to, the Alameda Point Collaborative, Operation Dignity, Building Futures for Women and Children, and The Village of Love Foundation (or their respective successor agencies). The vouchers are intended to benefit residents of Alameda Point that receive support from organizations provided CAVs. The number of vouchers will be determined with reference to seating availability, as well as Developer’s production and overhead costs as offset by ticket sales; Developer will not be required to offer an amount of vouchers that causes it to be unable to recover all its costs through ticket sales.
- If Developer is able to secure underwriting, funding from an endowment or donation to cover all or some of the discounted or complimentary tickets and vouchers referred to in this Statement, then Developer will provide such discounted and/or complimentary tickets and vouchers to the extent of such endowment, underwriting or donation.



- Subject to availability, City may utilize portions of the Project (including but not limited to main theater, studio theater, and plaza) up to 12 times per year at a cost equal to Developer’s actual cost.
- Developer will provide special discounted rental rates of 20% or more from the highest published rental rate for all areas of the Project for City of Alameda-based 501c3 not-for-profit organizations.
Developer will notify City of any extended closures of the Project that would likely impact the usage target, such as capital improvement projects, mandated closures of the Project (i.e., because of a pandemic), or other circumstances that would temporarily cause a closure of the facility and impact use of the Project.

Maintenance of Property & Project

- Capital Expenditure Account: Developer will maintain a Project maintenance, repair and replacement account to be established by reserving \$2.00 per ticket in a restricted account or by establishing an endowment fund, or by combination of the two. Funds in the account in excess of ten percent (10%) of the total construction cost of the Project will be unrestricted.
- Developer will maintain the Project in good order, condition and repair, and maintain, the leased premises, including the Building Systems (as herein defined). “Building Systems shall mean, any machinery, transformer, duct work, conduit, pipe, bus duct, cable, wires, and other equipment, facilities, and systems within the project , designed to supply heat ventilation, air conditioning and humidity or any other services or utilities, comprising or serving as any component or portion of the electrical, gas, steam, plumbing, sprinkler, communication, alarm, security, fire/life safety systems or equipment, or any other mechanical, electrical, electronic, computer, or other systems or equipment in or on the Leased Premises which service the Project in whole or part.”
- The Project will be subject to customary inspections by City and County of Alameda agencies with jurisdiction over the Project. Annual inspections may include, but are not limited to, Fire and Life Safety, Theatrical Systems (e.g. rigging), and Building Inspection (roof, windows, doors).



Table 1: Option Milestone Schedule

Operational Benchmark	Category	Schedule	Major/Minor
Radium will provide to the City an annual audit and IRS form 990	Organizational Health	No later than the 15th day of 5th month after end of FY	Minor
Radium will provide to the City a balance sheet for the Operating Cash Reserve	Organizational Health	Quarterly	Minor
Radium will demonstrate a Viability ratio of 1.25	Organizational Health	End of FY	Minor
Radium will submit the “Sustainable Business Plan”	Organizational Health	No later than 60 days from the start of every other FY	Minor
Radium will provide an Annual Program and Operations Plans for the upcoming year	Organizational Health	No later than 60 days from the start of the FY for the upcoming FY	Minor
Radium will provide a report on program utilization, participation and attendance	Organizational Health	Within 60 days from the start of FY for the prior FY	Minor
Radium will provide documentation of operational continuity (operations may not cease for more than 90 consecutive days)	Organizational Health	Every 90 days beginning first day of FY	Major
Radium will provide documentation of minimum 200 “use days” and minimum 5 “use days” for plaza per year	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor



Radium will provide documentation of Ticket Discounts	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor
Radium will provide documentation of Complimentary Admission Vouchers	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor
Public Access	Community Benefits	Radium will provide City annual inspection of facility to ensure continuity of access	Minor
Radium will provide documentation of access to Training Programs, if any.	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor
Radium will provide documentation of Discounts	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor
Radium will provide documentation of Job Placement	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor
Capital Expenditure Fund	Maintenance of Property & Project	Within 60 days from the start of FY for the prior FY	Minor

Material Defaults: Each of the following will be a material default by Developer if not adhered to (while Developer’s failure to perform other items described in this Statement will be considered minor and trigger only a notice and cure process which will be delineated in the Lease):

1. Loss of non-profit status, such as if Developer became disproportionately reliant on corporate or private for-profit rental use of the Project or other commercial activity, as opposed to the being operated for community benefit.
2. Bankruptcy.
3. Developer ceases operations and public programming for ninety (90) days’ or longer or permanently shuts down operations at the Project, excluding a cessation of operations caused by a force majeure event, such as act of God or government mandated closure, a closure due to a capital improvement, or other cause as approved by the City.
4. A material and sustained failure to maintain the Project resulting in a public nuisance.

Exhibit E
Form of Ground Lease

EXHIBIT E

GROUND LEASE

This GROUND LEASE (“**Lease**”) is dated for reference purposes as of this _____ day of _____ 20__ (“**Effective Date**”), by and between the City of Alameda, a California municipal corporation (“**City**”), and Radium Presents, Inc., a California 501(c)3 corporation (“**Developer**”). As used herein, the term “**Parties**” shall collectively mean City and Developer and the term “**Party**” shall refer to City or Developer, as applicable.

RECITALS

A. City is the owner of that certain real property in the City of Alameda, County of Alameda (“**County**”), State of California, consisting of approximately 1.72 acres of land, commonly referred to as Blocks 12 and 13 of the Site A project site, plus such other adjacent area as the Parties have determined necessary for the Project (defined below), located in an area commonly known and referred to as Alameda Point and as described on Exhibit A attached hereto and as depicted in the “**Site Plan**” set out on Exhibit A-1 attached hereto (“**Property**”).

B. Pursuant to that certain Lease Option between City and Developer, dated _____, 2026, as such may be or have been amended (collectively, “**Lease Option**”), City granted to Developer the option to ground lease the Property for the development and construction on the Property of a performing arts center with a Plaza (defined in Section 10(b)) on the Property that is open to the public (“**Project**”), following satisfaction by Developer of certain conditions precedent described in the Lease Option.

C. As further described in the Entitlements (defined in the Lease Option), the Project on the Property will consist of an approximately 62,000 square foot facility [*including up to a 600 seat main theater, a 210 seat studio theater, a rehearsal room, offices and shared spaces, an event space and ticketing and concession spaces, along with improvements to an approximately 40,000 square foot outdoor event space known as the outdoor public plaza, and all required utility and infrastructure improvements - update based on final Entitlements*] for the Project on the Property (“**Improvements**”).

D. In connection with the Project, Developer shall also be required by City to complete certain off-site improvement work, including (1) the road to the north of the Property between the Project and Building 77 and perpendicular to Pan Am Way (“**Plaza Road**”), as further discussed in Section 3(a) below and the Lease Option, and (2) the improvements to the south of the Property creating a linkage between the Project and the adjacent City public park, as both (1) and (2) above are shown on the Site Plan and further described on Exhibit B attached hereto and incorporated herein by reference and to be further refined during the design review process (collectively, “**Developer’s Off-Site Work**”).

E. In addition, City shall be required in connection with the Project to complete certain additional off-site improvement work, including the Project Parking Lot (defined in Section 1) all as shown on the Site Plan and as further described in the Schedule of Performance and on Exhibit C attached hereto and incorporated herein by reference and in accordance with customary City standards (“**City’s Off-Site Work**”).

F. City and Developer agree that each of its respective conditions, as set forth in the Lease Option have been satisfied, or waived by the applicable party, and City and Developer now desire to enter into this Lease, to provide for City to lease to Developer the Property and for Developer to design, develop, construct and operate the Project on the Property for use as a

performing arts center, including ancillary uses related thereto (collectively, “**Permitted Use**”), pursuant to the terms and conditions of this Lease.

G. During the Term (as defined below) of the Lease, as further described herein, Developer will be obligated to, among other obligations, provide evidence of Developer’s ongoing compliance with that certain: (i) Community Benefits & Operational Benchmarks Statement (“**Community Benefits Package**”), and (ii) Sustainable Operations Plan (“**Sustainable Operations Plan**”).

NOW, THEREFORE, in consideration of the foregoing, which are incorporated herein by reference, the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer agree as follows:

LEASE

1. Lease of Property. City hereby exclusively leases, transfers and demises to Developer, and Developer hereby exclusively leases and takes from City, the Property. Developer shall also have non-exclusive use of that certain temporary off-site publicly maintained and operated parking lot located to the west of the Project, as shown on the Site Plan, “**Parking Lot**”), pursuant to the terms and upon the agreements, covenants and conditions set forth in Section 12 of this Lease.

2. Term.

(a) Initial Term; City Right to Terminate. The initial term (“**Term**”) of this Lease shall commence on the Effective Date (“**Commencement Date**”), and shall expire on the sixty-sixth (66th) anniversary thereafter. Each period of twelve (12) full consecutive calendar months during the Term is referred to herein as a “**Lease Year.**”

(b) Memorandum of Lease. All terms of this Lease shall be in effect from and after the Effective Date of this Lease, and the Parties shall record the Memorandum of Lease (defined in Section 37 (Memorandum of Lease)) at the time stated in Section 37 (Memorandum of Lease).

(c) Confirmation of Lease Term. Promptly following execution of this Lease, the Parties shall execute the Confirmation of Lease Term attached hereto as Exhibit D and incorporated herein by reference, in order to establish beginning and ending dates of the Term.

(d) Expiration Date. The date upon which the Term expires is referred to as the “**Expiration Date.**” Upon the Expiration Date, Developer shall deliver to City a quitclaim or release sufficient to cause a title company to delete the Memorandum of Lease as a title exception encumbering the Property.

3. Purchase Option.

(a) Grant of Option. Subject to Section 3(b) below, City grants to Developer the exclusive option (“**Option**”) to purchase the Property, the Project, the Plaza, all Improvements, alterations, structures, buildings and personal property located on the Property, including access and use rights related to the Shared Public Access Areas, plus easements, rights, privileges and appurtenances belonging or pertaining to or serving any of the foregoing (collectively, “**Option Property**”), pursuant to the terms and conditions set forth in this Section 2 (Purchase Option).

The parties acknowledge and agree that the Plaza Road's inclusion within the Option Property is contingent upon the outcome of the MIP Amendment, as further described in Section 3.2 of the Lease Option between the Parties, such that: (i) if the MIP Amendment is approved and the Plaza Road is constructed as a private road, the Plaza Road shall be included within the Option Property; and (ii) if the MIP Amendment is not approved and the Plaza Road is instead constructed as a public road with Enhanced Improvements, it shall not be included within the Option Property, and public access will be secured through an easement, the form and substance of which shall be mutually acceptable to the Parties.

(b) Conditions Precedent to Exercise of Purchase Option. Developer shall have the option to purchase the Option Property by providing City with an Exercise Notice, provided that the following conditions precedent are fully satisfied by Developer, as reasonably determined by City in its sole discretion:

(i) Developer is not then in Default (beyond applicable notice and cure periods) under this Lease and no event has occurred which, with notice or the passage of time, would constitute a Developer default.

(ii) Developer has successfully operated the Project in accordance with the Sustainable Operations Plan, as reasonably determined by City, for a minimum period of ten (10) years. Prior to the ten (10) year period, Developer may submit a written request to City staff for City's consideration of an earlier sale date ("**Early Exercise Request**") at the Purchase Price (defined below). Except as expressly stated in this Section 3(b)(ii), the Early Exercise Request and subsequent sale, if approved, shall be subject to the process set forth in this Section 3. Upon receipt of Developer's Early Exercise Request, City staff shall promptly prepare a staff report to be heard at a City Council meeting within one hundred twenty (120) days of the Early Exercise Request, including its recommendations regarding the Early Exercise Request and applicable FMV at such time, for consideration by the City Council. The City Council shall have the absolute discretion to approve or deny Developer's Early Exercise Request. In the event City Council approves Developer's Early Exercise Request, City Council will, provided all other Developer conditions are satisfied, direct City staff to promptly proceed with the conveyance of the Option Property to Developer, including completion and execution of the Purchase Agreement, closing documents, and any other actions or documents required to complete the transaction.

(iii) Developer has recorded against the Property in the Official Records of Alameda County (or shall record in the Official Records at the closing on the Option Property prior to the grant deed transferring title to the Option Property to Developer), a restrictive covenant, in a form and substance reasonably acceptable to City ("**Covenant**") as set forth in Exhibit O, to ensure, among other things, that the Project is used in perpetuity for uses benefitting City and that Developer and its successors adhere to the Community Benefits Package.

(c) Option Period. Developer shall have the Option to purchase the Option Property following the date of satisfaction of all conditions precedent described in Section 3(b) (Conditions Precedent to Exercise of Purchase Option) and continuing for the duration of the Term ("**Option Period**"), unless earlier terminated.

(d) Option Consideration; Calculation; Purchase Price. If Developer properly exercises its Option during the Option Period, the purchase price of the Option Property shall be the fair market value ("**FMV**") of the Option Property. The FMV for purposes of the Option is the value of all of the Option Property on the date of the Exercise Notice (defined below) as an

unimproved, fee-simple parcel of land, and shall be determined by the parties consistent with the FMV Formula set forth in Exhibit N.

(e) Method of Exercise; Purchase and Sale Agreement. The Option must be exercised by the giving of written notice of exercise from Developer to City ("**Exercise Notice**"). The Exercise Notice must be delivered during the Option Period, together with a proposed purchase and sale agreement in the form attached hereto as Exhibit E ("**Purchase Agreement**"), executed by Developer, with the first paragraph of the Purchase Agreement completed by the insertion of the date on which the Exercise Notice is given and with Developer's initials inserted where indicated in the Purchase Agreement. Upon receipt of the Exercise Notice and proposed Purchase Agreement (and if applicable, the Early Exercise Request), City shall review the documents and confirm, to its reasonable satisfaction, that all of the conditions in this Section 3 have been satisfied. City shall have no obligation to execute the Purchase Agreement unless and until all such conditions are either: i) complete to City's reasonable satisfaction; or ii) waived by City in writing, and City Council has formally approved sale of the Option Property and the Purchase Agreement. Transfer of the Option Property from City to Developer and the closing on the Option Property transaction shall occur at the time and in the manner described in the Purchase Agreement. Upon closing on the Option Property, Developer shall hold fee title to the Option Property and this Lease shall automatically terminate and be of no further force and effect, except with respect to those provisions that expressly survive termination.

(f) Sole Option. City represents and warrants that it has the full right, power and authority to enter into this Lease and to grant the Option to Developer, and that City has not granted to any other person or entity other options or rights of first refusal to purchase or acquire the Option Property, or any part thereof or interest therein.

(g) Assignment. This Option is personal to Developer. Except as otherwise described in this Lease, Developer may not assign, convey or in any other manner transfer or encumber all or any part of this Lease, the rights and duties of Developer under this Lease or the Option granted under this Lease, without City's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

4. City Right of First Offer and Refusal. City shall have a Right of First Offer and Refusal ("**City Purchase Right**"), in the event Developer elects, at any time following Developer's acquisition of title to the Option Property, to voluntarily sell or otherwise transfer the Option Property ("**Subsequent Transfer**"). The terms of City's Purchase Right shall be set forth in the Covenant, attached hereto as Exhibit O. The City Purchase Right shall not be applicable to and shall not arise in connection with sales, transfers or assignments of the Option Property by Developer in connection with any entity or corporate changes or restructuring related to Developer's organization, provided that any such entity or corporate changes does not result in any change to Developer's majority controlling interest. City's Purchase Right in favor of City may not be assigned or transferred by City without Developer's prior written consent, which consent shall not unreasonably withheld if the assignment is to another governmental or public entity.

5. Rent. Developer shall pay to City as rental for the use and occupancy of the Property, at the times and in the manner described herein, the following sums of money:

(a) Rent. Beginning on the Commencement Date and continuing until the Expiration Date, Developer shall pay to City a yearly rent payment in the amount of One Dollar (\$1.00) ("**Rent**"). Developer may prepay to City the Rent for the entire Term, at its option.

(b) Location for Payment. All Rent and all other moneys and charges payable by Developer to City hereunder shall be paid by Developer to City in lawful money of the United States of America at City's address for notices hereunder, or to such other person or at such other place as City may from time to time designate by notice in writing to Developer.

6. Additional Obligations of Developer.

(a) Community Benefits. During the Term, Developer shall implement and maintain the community benefits described in the Community Benefits Package attached hereto as Exhibit F and incorporated herein by reference.

(b) Sustainable Operations Plan. During the Term, Developer shall operate pursuant to the terms and conditions of the Sustainable Operations Plan attached hereto as Exhibit G and incorporated herein by reference.

(c) Transportation Demand Management Fee and Benefits. To implement the Alameda Point Environmental Impact Report, as approved by City Council in 2014, and the Alameda Transportation Demand Management Plan, as approved by City Council in 2014, as amended, a copy of which is attached hereto as Exhibit M and incorporated herein by reference ("**TDM Plan**"), Developer shall pay, during the Lease Term in two (2) installments, due on October 31 and April 30, following receipt of an invoice from City for each installment, a Transportation Demand Management Fee ("**TDM Fee**") for each City Fiscal Year ("**FY**"), which begins on July 1 and continues until June 30. The TDM Fee shall be calculated based on the following for FY 2025-6 with respect to the "Business/Office/Retail" category of use on the Property: \$.267 per square foot with respect to the building on the Property, building size of 53,000 approximately square feet, resulting in an annual fee of \$14,151. The TDM Fee shall escalate annually effective July 1 by 5%, and shall be prorated on a monthly basis for partial FY's during the Term. Changes to the square footage of the building on the Property that have been agreed to in writing by City and Developer shall result in a recalculation of the TDM Fee, which shall be set out on each invoice that is delivered by City to Developer for the applicable FY. Subject to Developer's payment of the TDM fee, Developer and its employees shall be eligible for the programs administered by the Alameda Transportation Management Association or its successor, such as, among other things, free transit passes. Failure by Developer to timely and annually pay the full amount of the TDM Fee invoiced by City by October 31 and April 30, respectively, shall, subject to applicable notice and cure periods, constitute a Default pursuant to Section 25 this Lease.

(d) Transportation Management. Developer shall fully comply with all present or future legally compliant programs implemented or required by any governmental or quasi-governmental entity or City to manage parking, transportation, air pollution, or traffic in and around the Property and/or Alameda Point.

(e) Evidence of Financial Ability/Construction Loan Commitment. Within thirty (30) days following the Effective Date, Developer shall deliver to City any updates Developer has made (if any) to the Evidence of Financial Ability delivered to City pursuant to Section 6.1(g) of the Lease Option. In addition to the foregoing, Developer shall provide City with evidence of additional available funds in an amount not less than twenty percent (20%) of the total hard construction costs for the Project ("**Supplemental Assurance Amount**"). The Supplemental Assurance Amount requirement may be satisfied through one or more financing sources selected at Developer's discretion, including without limitation those described below. Further, the Supplemental Assurance Amount shall be reduced upon completion of certain portions of the Project, as certified in writing by Developer's architect, and payment in full for such work (except

for a reasonable reserve or retention), and specifically the Supplemental Assurance Amount shall be reduced as follows: (i) by twenty-five percent (25%) upon completion of twenty-five percent (25%) of the Project, (ii) by fifty percent (50%) upon completion of fifty percent (50%) of the Project, and (iii) by seventy-five percent (75%) upon completion of seventy-five percent (75%) of the Project.

(i) A payment and performance bond, in form and substance reasonably acceptable to City, for the Supplemental Assurance Amount separate and distinct from the construction surety bond required by Section 14(a)(iv);

(ii) An owner contingency fund which shall be replenished by Developer to its original balance of the Supplemental Assurance Amount within ten (10) business days after any draw;

(iii) An irrevocable letter of credit issued by a financial institution reasonably acceptable to City for the Supplemental Assurance Amount;

(iv) A bank line of credit or equivalent credit facility reasonably acceptable to City for the Supplemental Assurance Amount; and/or

(v) Such other funding source reasonably acceptable to City for the Supplemental Assurance Amount.

(f) Failure to Perform. Developer acknowledges that Developer's performance under this Section 6 is a key consideration and inducement for City in entering into this Lease. Subject to applicable notice and cure provisions, Developer shall perform all obligations, and remain in compliance with, the Community Benefits Package, Sustainable Operations Plan and Evidence of Financial Ability ("**Additional Obligations**") at all times. Upon City's written request, Developer shall provide City with evidence of compliance with the Additional Obligations in a form reasonably acceptable to City. Any material deviation from the approved Additional Obligations shall require City's prior written approval, which shall not be unreasonably withheld, conditioned or delayed. Failure to comply with or maintain the Additional Obligations shall be considered a Non-Material Default under Section 25(d) this Lease, subject to applicable notice and cure provisions.

7. Taxes and Assessments

(a) Taxes Paid by Developer. Developer covenants and agrees to pay and discharge, during the Term, before delinquency, all taxes, assessments, utility charges, sewer charges or other charges, general, special, ordinary, extraordinary and otherwise, of every kind and character which are or may during the Term be levied, charged, assessed or imposed upon or against the Property, or any buildings or improvements thereon, or against any of Developer's personal property located thereon. Except where Developer has exercised its Option to purchase, as of the Expiration Date, any such taxes, assessments and other charges to be paid by Developer shall be prorated on the basis of the fiscal year of the authority in question so that, at the Commencement Date and on the Expiration Date, Developer will pay only the proportion of such taxes, assessments and other charges for the period following the Commencement Date and preceding the Expiration Date.

(b) Taxes Paid by City. Notwithstanding anything herein to the contrary, Developer shall not be required to pay any net income tax measured by the income of City from

all sources, or any tax which may, at any time during the Term, be required to be paid on any gift, or demise, deed, mortgage, descent or other alienation of any part or all of the estate of City in and to the Property or any buildings, structures or improvements located thereon, except that any documentary transfer tax assessed upon the creation of a leasehold interest in the Property under this Lease shall be paid by Developer.

(c) Revenue & Taxation Code Section 107.6 Possessory Interest Tax. Developer recognizes and understands that this Lease may create a possessory interest subject to property taxes and that, in the event that a possessory interest is created, Developer shall be responsible for payment of any taxes levied against such possessory interest. Developer may apply for any applicable exemption or reduction in possessory interest property taxes and assessments.

(d) Evidence of Payment. Upon City's written request, Developer shall furnish evidence reasonably satisfactory to City that all taxes, assessments and other obligations to be paid by Developer under this Section 7 have been paid prior to delinquency.

8. Quiet Enjoyment. City covenants that upon payment by Developer of the Rent and upon performance and observance by Developer of all of the agreements, covenants and conditions herein contained on the part of Developer to be performed and observed, and so long as Developer is not in material default beyond any applicable notice and cure periods, Developer shall peaceably hold and quietly enjoy the Property during the entire Term without hindrance, molestation or interruption by City or by anyone lawfully claiming by, through or under City. Nothing in this Section shall be construed as a covenant against the exercise by City or any other governmental agency of its police power or regulatory authority.

9. Title to Buildings and Improvements.

(a) Title. Ground leasehold title to structures, alterations, buildings and the Improvements that now, or may from time to time constitute a part of the Project shall be and remain in Developer until the Expiration Date or any earlier termination of the Lease pursuant to the terms and conditions contained herein, including a termination as a result of the purchase by Developer of the Option Property. Upon the Expiration Date or any earlier termination date of the Lease, Developer may remove from the Property all machinery, equipment, personal property and fixtures located on or about the Property or the Project, but the Improvements and all alterations, buildings and fixtures shall be deemed to be and shall automatically become the property of City, without payment or further act by either Party, free and clear of all liens, encumbrances, or claims arising by, through, or under Developer, except in connection with a purchase of the Option Property by Developer in which event all Option Property shall, following the closing of that transaction, be owned by Developer. City agrees that Developer, at any time prior to the Expiration Date, may remove from the Property any and all personal property or equipment furnished by Developer, provided that: i) Developer shall repair any physical damage to the Property caused by the removal of such equipment and property; and ii) such removal does not materially impair the usefulness, safety or structural integrity of the Improvements or the Property.

(b) Leasehold Title Policy. Upon the recording of the Memorandum of Lease, Developer shall obtain the Title Policy described in the Lease Option.

(c) Surrender Condition. Upon the Expiration Date (other than in connection with Developer's purchase of the Option Property), Developer shall surrender the Property and

all Improvements to City in good order and repair, and free of all liens and encumbrances arising from Developer's ownership, construction, occupancy or operation.

10. Permits, Licenses, Etc.; Plaza Easement.

(a) City Cooperation. City will, from time to time during the Term, and upon Developer's written request, reasonably cooperate with Developer to execute and deliver, to the extent required by any municipal, county, state or federal authority or agency, or required in connection with the construction of the Project and Improvements and alterations on the Property, all (a) applications for permits, licenses or other authorizations, and (b) instruments required to grant rights-of-way and easements in favor of municipal and other governmental authorities or public utility companies incident to the installation of water lines, fire hydrants, sewers, electricity, telephone, gas, steam and other facilities and utilities. All such applications and instruments shall be prepared by Developer at Developer's sole cost, in form and substance reasonably acceptable to City. City's obligations under this Section 10(a) shall not be construed to impose any material cost, liability or other obligation on City. Nothing in this Section shall obligate City in its capacity as a governmental authority to grant, issue, or approve any permit, license or authorization.

(b) Plaza Easement. Prior to Developer's receipt of a temporary or final certificate of occupancy for the Project, Developer shall (i) execute in favor of City and the general public a public access and use easement ("**Plaza Easement**"), substantially in the form attached hereto as Exhibit Q and incorporated herein by reference, to allow for access to and use of by the general public the "**Plaza**," as shown on the Site Plan , and (ii) cause such Plaza Easement to be recorded in the Official Records.

11. Signs. During the Term, Developer may request City's approval, which shall not be unreasonably withheld, conditioned, or delayed, to install, maintain, replace and relocate one or more signs, monument signs directional signs and sign panels, subject to and in compliance with applicable municipal codes, affixed anywhere in or on the Property, Non-Exclusive Common Area or the Project. Developer shall obtain and pay for all permits and approvals related to such signs or required in connection therewith.

12. Parking. As specified in Exhibit C, the City's Off-Site Work includes the construction of the Project Parking Lot consistent with the TDM Plan, which is intended to provide off-site parking spaces sufficient for the Project.

(a) Available Public Parking. The parties acknowledge and agree that Project occupants, invitees, staff, employees, users, and visitors shall have a non-exclusive right to use any existing or future parking spaces within the general publicly available parking inventory serving the Property, including, without limitation, those located in the Project Parking Lot, subject at all times to the same rules, regulations, rates, fees, and responsibilities applicable to all users of such parking facilities.

(b) Minimum Public Parking. As a result of the temporary nature of the Project Parking Lot, the parties acknowledge that the location of parking for the Project may be changed by City during the Term of this Ground Lease. Notwithstanding the foregoing, City agrees that throughout the Term of the Ground Lease, it shall provide and make available within 1/4 mile of the Project site no less than one hundred sixty (160) non-exclusive, publicly available parking spaces ("**Minimum Off-Site Parking Requirement**"), which parking spaces, irrespective of location, shall be available for use by the Project and its occupants, invitees, staff, employees, users, and visitors, as described herein on a non-exclusive basis.

(c) Remedies for Inadequate Off-Site Parking Requirement. Insufficient Parking being available to the Project at any time during the Term may, depending upon surrounding conditions and available alternatives, result in harm to Developer due to (i) loss of revenues because of reductions in attendance at Project events resulting from customer dissatisfaction, thus interfering with Developer's ability to successfully operate the Project; and (ii) resulting reputational injuries, the extent of which may be difficult to ascertain or quantify. Therefore, the parties agree as follows:

(i) If Developer reasonably determines at any time during the Term that the Minimum Off-Site Parking Requirement is not being met by City because the number of available parking spaces is below the Minimum Off-Site Parking Requirement ("**Parking Deficiency**"), Developer shall deliver written notice to City stating the number of parking spaces below the Minimum Off-Site Parking Requirement (measured between the 10th and the 20th day of such month) including reasonable supporting data demonstrating a Parking Deficiency ("**Notice of Parking Deficiency**"). Within ten (10) days following City's receipt of the Notice of Parking Deficiency, the parties shall meet in good faith to confirm whether a Parking Deficiency exists. If a Parking Deficiency is confirmed by mutual agreement of the parties, City shall have thirty (30) days (subject to extension for any Force Majeure Delay) from the date of its receipt of the Notice of Parking Deficiency to cure the Parking Deficiency and cause the Minimum Off-Site Parking Requirement to be met.

(ii) During the thirty (30) day period following City's receipt of Developer's Notice of Parking Deficiency, the parties shall immediately engage in a mandatory meet and confer process to discuss the Parking Deficiency, explore feasible solutions and cure the Parking Deficiency. The parties' discussions may include, without limitation, potential solutions such as:

- (a) Leasing or licensing additional parking spaces from third-party property owners;
- (b) Partnering with transit or mobility service providers to offer shuttle services for Project patrons, staff, artists, and other invitees; or
- (c) Such other creative options as the parties may determine.

13. As-Is Condition of Property. Developer acknowledges that, prior to the Commencement Date, Developer had full and adequate opportunity to inspect and investigate the Property and the Non-Exclusive Common Area, enter the Property and the Non-Exclusive Common Area, and conduct tests, studies, and inquires thereon and otherwise satisfy itself regarding the physical, environmental, geotechnical, and legal condition of the Property and the Non-Exclusive Common Area and their suitability for Developer's intended use, development, construction, and operation of the Project. Developer's execution of this Lease constitutes Developer's acceptance of the Property in its "**AS-IS**" condition, with all faults.

14. Construction Commencement Conditions; Construction of the Project and Off-Site Work.

(a) Prior to commencement of construction, Developer shall meet each of the following conditions:

(i) Entitlements. Developer shall have obtained all Entitlements required in connection with the construction of the Project.

(ii) Approvals. Developer shall have provided City with copies of all approvals required by law for Developer to start and complete construction of the Project. If Developer desires to commence discrete portions of the Project consistent with the Schedule of Performance, Developer may do so provided the applicable approvals necessary to proceed with such discrete portion are obtained and provided to City prior to commencement of each discrete portion of the Project. **“Approvals”** shall mean any and all licenses, permits (including building, grading, demolition, alteration, use, and special permits), approvals, including applicable design review approval, consents, certificates (including certificate(s) of occupancy), rulings, variances, authorizations, or amendments to any of the foregoing as shall be necessary or appropriate under any applicable law or Governmental Requirements to commence, perform, or complete any construction, or for the use, occupancy, maintenance, or operation of the Project. Developer shall obtain all Building Permits necessary to commence vertical construction on or before the Building Permit Outside Date set forth in the Schedule of Performance.

(iii) Assignment of Construction Documents. Developer shall have conditionally assigned all construction documents and plans and specifications to City such that upon Default by Developer and following the expiration of applicable notice and cure periods, City may exercise all rights of Developer under and to such documents. **“Construction Documents”** shall include, but not be limited to, architectural contracts, construction contracts, and any other agreements or approvals (to the extent assignable) relating to construction of the Project. Such assignment shall include the benefit of all payments made on account of the construction documents, including payments made before the date of such assignment. Following City’s exercise of its rights under the assigned Construction Documents, if any, and if requested by the contractor under the assigned Construction Documents, City may assume all obligations accruing under the assigned Construction Documents from and after the date that City exercises its rights under such assignment. City’s exercise of its rights under the assigned Construction Documents and plans and specifications and any assumption of obligations under any such documents shall cause City to adhere to such Construction Documents and plans and specifications from and after the date of such assignment; provided, however, any such assumption shall not waive any right of City to pursue claims against Developer for actual amounts due under the construction documents prior to the date City exercises its rights under such assignment. Developer shall actively seek, request, negotiate for, and obtain, using its best efforts, provisions in all Construction Documents that expressly permit assignment to City in accordance with this Lease.

(iv) Construction Surety. Developer shall obtain and provide to City evidence of a construction surety in the form of a payment and performance bond guaranteeing lien-free performance of the Project construction. Such bond shall be in form and substance reasonably acceptable to City, for an amount not less than one hundred percent (100%) of the Project’s hard construction costs. The amount of each bond or guaranty shall be reduced upon completion of certain portions of the Project, as certified in writing by Developer’s architect, and payment in full for such work (except for a reasonable reserve or retention), and specifically each bond or guaranty shall be reduced as follows: (i) by twenty-five percent (25%) upon completion of twenty-five percent (25%) of the Project, (ii) by fifty percent (50%) upon completion of fifty percent (50%) of the Project, and (iii) by seventy-five percent (75%) upon completion of seventy-five percent (75%) of the Project.

(v) Supplemental Security Amount. Developer shall have provided City evidence of the Supplemental Security Amount described in Section 6(e) above.

(vi) Insurance. Developer shall have delivered to City evidence of such insurance required under Section 20.

(vii) Plans and Specifications. Developer shall have provided a copy of the plans and specifications for the Project.

(b) Construction of Project and Developer's Off-Site Work. Following the Commencement Date and Developer's satisfaction of conditions (i) through (v) above, Developer shall commence and diligently complete construction of the Project on the Property and construction of Developer's Off-Site Work in compliance with all Governmental Requirements within the times set out in the "Schedule of Performance" attached hereto as Exhibit H and incorporated herein by reference, subject to Force Majeure delays and extensions permitted by this Lease.

(c) Schedule of Performance. The outside dates by which Developer must achieve various milestones and benchmarks related to the Project are specified in the Schedule of Performance. Subject to Force Majeure and extensions, as may be permitted in this Lease, Developer shall satisfy all of Developer's obligations under this Lease within the times established in the Schedule of Performance. Developer's failure to timely satisfy its Schedule of Performance obligations within the times set forth therein shall be subject to the notice and opportunity to cure provisions contained in Section 25(i) (Notice of Breach; Cure Periods). Developer's failure to cure any Notice of Breach within the applicable time period, except as expressly waived by City in writing, shall constitute a Default under this Lease entitling City to exercise the remedies.

(d) City's Off-Site Work. City shall be responsible only for those items specifically designated as "**City's Off-Site Work**" identified in Exhibit C, and shall complete such work within the timeframes stated therein subject to Force Majeure delay. City shall have no obligation to construct or fund any improvements not expressly designed as City's Off-Site Work in Exhibit C.

(e) Force Majeure. Performance by either Party hereunder shall not be deemed to be in Default, and the outside dates for performance in the Schedule of Performance and all other dates and/or time periods specified in this Lease by which any event is scheduled to occur or expire or pursuant to which an act is required to be performed shall be extended on a day for day basis for the duration of any such delay during any period where the affected Party's performance is actually delayed due to events beyond the reasonable control of the affected Party, is not solely due to its fault or negligence, if resulting directly from: war; acts of terrorism; insurrection; labor disputes or strikes; lockouts; riots; natural disasters (including floods, fires, earthquakes, and other acts of God); unusually severe weather, but only to the extent that such weather or its effects (including, without limitation, dry-out time) result in delays that cumulatively exceed twenty (20) days during any season occurring after commencement of construction under this Lease; epidemics or pandemics; quarantine or travel restrictions; freight embargoes; government orders or restrictions; delay in obtaining approval of the Entitlements or any permits or any modifications thereto within the timeframes set forth in the Ground Lease to the extent such delay is caused by any government agency or department, excluding City provided that Developer has diligently pursued all such Entitlements or permits and timely responded to all follow up inquiries or requests for information from said government agency or department; the discovery, investigation and/or remediation of pre-existing Hazardous Materials in, on, under or about the Property; or any litigation, injunction, or other legal action that directly and actually prevents the affected party from performing its obligations under this Agreement, including any qualifying Legal Challenge (each, a "**Force Majeure Delay**"). For the avoidance of doubt, the

mere filing of a legal challenge, including but not limited to challenges under the California Environmental Quality Act (“**CEQA**”), related to any decision, action, or inaction of the City or other governmental authority in connection with the Property, the Project, or this Lease is not sufficient to constitute Force Majeure or a Force Majeure Delay (“**Legal Challenge**”), except to the extent that such Legal Challenge results in an injunction or other judicial or administrative order that expressly and directly restricts a party’s performance hereunder, in which event such Legal Challenge shall be considered a Force Majeure Delay. If a Force Majeure Delay occurs, the affected party shall provide written notice to the other party within thirty (30) days of the commencement of said delay detailing the nature of the Force Majeure event, the steps taken to mitigate delay, and the specific delay that said Force Majeure event has caused to that party’s performance as well as an anticipated date for resuming performance to the extent such date is known or can be estimated. Failure of any party to provide timely, compliant notice shall forfeit Force Majeure relief for the period prior to the provision of actual notice to the other party. Any extension of time granted under this section shall be limited to the actual period of delay caused by the Force Majeure event and shall commence from the date the Force Majeure event began. The parties shall use reasonable efforts to mitigate the effects of any Force Majeure Delay and to resume performance as soon as is reasonably practicable.

(f) Extended Legal Challenge. Notwithstanding the foregoing, if any Legal Challenge that does not constitute a Force Majeure Delay, as described in Section 14(e), continues for a period of eighteen (18) months or longer without a resolution that allows the Project, as described in this Lease, to continue to completion without material modification (meaning the Project could only move forward if it underwent major changes resulting in increased Project costs in excess of twenty percent (20%) of the total amount of Project hard costs) and Developer has not caused, initiated, supported or funded the Legal Challenge, Developer may terminate this Lease and the Project by delivering to City thirty (30) days written notice thereof, provided that Developer’s termination right, as described in this Section 14(f) (Extended Legal Challenge) shall be conditioned on Developer causing the Property to be in the following condition (as determined by City in its reasonable discretion) prior to the termination being effective: (1) the Property shall be fenced and secured so that the Property and any work therein is not accessible by any third party; (2) dangerous conditions existing on the Property shall be mitigated, including all excavations backfilled and compacted to City’s usual and customary standards; (3) Developer’s equipment and material shall be removed from the Property; (4) Developer shall remove any partially installed utilities, foundations, footings, or structural elements unless City elects in writing to accept all or any portion of such improvements; (5) no Hazardous Materials (excluding any pre-existing Hazardous Materials) shall be located on the Property; and (6) the Property shall not be encumbered with any liens caused by Developer, including, mechanic’s liens related to construction of the Project (collectively, the “**Termination Condition**”). Upon the date that Developer believes it has caused the Property to be in the Termination Condition, Developer shall deliver written notice thereof to City and within ten (10) days of City’s receipt of such notice (or such longer period as City may reasonably require, provided such period shall not exceed thirty (30) days), City shall inspect the condition of the Property with Developer at a mutually convenient day and time. Within five (5) Business Days following such inspection, City shall advise Developer in writing if it has reasonably determined that the Property is in the Termination Condition. City’s determination, as described herein, that the Property is in the Termination Condition in conformance with this Section 14(f) shall not constitute approval of the condition of the Property for any other purpose, or constitute a waiver of City’s regulatory or propriety rights or remedies. If City reasonably determines that the Property is not in the Termination Condition, City shall advise Developer of this determination in writing and shall describe in such writing the actions that Developer must take to cause the Property to be in the Termination Condition. Thereafter, Developer shall proceed with the work required to bring the Property into the Termination

Condition and following completion of such work, shall advise City in writing. Upon City's receipt of such additional notice from Developer, the process described above shall be repeated and adhered to by the parties and shall continue until City is reasonably satisfied that the Property is in the Termination Condition. Upon the date that such termination by Developer is effective, the parties shall have no further obligations to the other, except those obligations which expressly survive termination, as set out in this Lease.

(g) Extensions. Developer shall have the right to extend each of the following outside dates for performance set forth in the Schedule of Performance (except to the extent that the same may have been extended pursuant to Section 14(e) (Force Majeure) ("**Extendable Milestones**"): Building Permits Issued, Construction Start and Certificate of Occupancy. Developer shall have one (1) extension option of three (3) months for the Building Permits and Construction Start outside dates, and one (1) extension option of sixty (60) days for the Certificate of Occupancy outside date (each an "**Outside Date Extension**") for performance of each Extendable Milestone. Developer shall exercise an Outside Date Extension by delivering written notice to City of Developer's exercise of an Outside Date Extension with respect to specifically identified Extendable Milestone at least thirty (30) days prior the date on which the Extendable Milestone is to be met as described in the Schedule of Performance. If Developer is not then in Default beyond any applicable notice and cure periods, the Outside Date Extension shall commence upon the day immediately after the applicable date for performance described in the Schedule of Performance. Upon such extension, the Schedule of Performance shall be deemed amended to capture the additional period of time for Developer to perform the particular Extendable Milestone. In the event that Developer's performance of any other milestones are impacted by the Extendable Milestone, Developer shall identify said milestones in its written request and the Milestone Schedule shall be adjusted accordingly.

(h) Good and Workmanlike Construction. All work done in connection with the construction of the Project and Improvements shall be done promptly and in a good and workmanlike manner and in compliance with all applicable laws, codes, permits, approvals, ordinances, orders, rules, regulations and requirements of all federal, state and municipal governments and agencies (collectively, "**Governmental Requirements**").

(i) Cost of Project and Off-Site Work.

(i) All work on the Project located on the Property shall be at the sole cost and expense of Developer.

(ii) All work on Developer's Off-Site Work shall be at the sole cost and expense of Developer.

(iii) All work on City's Off-Site Work shall be at the sole cost and expense of City.

15. Ongoing Maintenance Obligations; Hazardous Materials.

(a) Maintenance. Developer shall, during the Term, at its own cost and expense:

(i) Keep and maintain the Property and Project (including all appurtenances thereto) in safe, sanitary, good order and repair consistent with a well-maintained,

project of similar type and character in Alameda County, and shall allow no nuisances to exist or be maintained therein;

(ii) Comply with all Governmental Requirements affecting the Property and the Project, or any use, activity or condition thereon;

(iii) Not commit or permit waste upon the Property; and

(iv) Promptly make all necessary repairs and replacements (structural and nonstructural) to keep the Property and the Project in the condition required by this Section.

(b) Hazardous Materials. Developer will not cause or permit any Hazardous Materials (defined below) to be released in, on, under or about the Property or the Non-Exclusive Common Area and shall promptly, at Developer's sole cost and expense, comply with all Governmental Regulations with respect to any contamination of the Property or the Non-Exclusive Common Area that was caused, permitted or materially contributed to by Developer or involving any Hazardous Materials brought onto the Property or the Non-Exclusive Common Area during the Term by or for Developer or any third party at the direction of Developer. As used herein, the term, "**Hazardous Materials**" shall mean any substance, material or waste or any pollutant or contaminant or infectious or radioactive material which is (1) defined as "hazardous waste," "hazardous material," "hazardous substance," "extremely hazardous waste," or "restricted hazardous waste" under any provision of California law; (2) asbestos; (3) polychlorinated biphenyls; (4) radioactive materials; (5) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. § 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. section 1317); (6) defined as a "hazardous substance" pursuant to of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA") 42 U.S.C. §9601, et seq. or the California Hazardous Substance Account Act, Cal. Health and Safety Code §25300 et seq. or the Porter-Cologne Water Quality Act, Cal. Water Code §13000 et seq. or the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; (7) any "**hazardous waste**" within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; or (8) any other substance, chemical, waste, toxicant, pollutant or contaminate regulated by any federal, state or local law, statute, rule, regulation or ordinance for the protection of health or the environment, including, without limitation, any petroleum products or fractions thereof. Developer will defend, indemnify and hold City free and harmless from and against any and all claims, damages and liabilities with respect to any such contamination of the Property or the Non-Exclusive Common Area with Hazardous Materials that occurs following the Commencement Date. During the Term, Developer will notify City within three (3) Business Days¹ if Developer: i) becomes aware of any actual or suspected release of Hazardous Materials in, on, under or about the Property or Non-Exclusive Common Area; ii) receives written notice of any governmental inquiry, investigation or notice relating to Hazardous Materials at the Property or Non-Exclusive Common Area; or iii) receives any written claim or threatened claim relating to Hazardous Materials on the Property or Non-Exclusive Common Area.

16. Damage or Destruction. The provisions of this Section 16 (Damages or Destruction) shall govern the rights of the Parties in the event of any full or partial destruction of the Project. Developer hereby waives the provisions of Civil Code Section 1932(2) and Civil Code

¹ For the purposes of this Lease, Business Days means: means any day other than Fridays, Saturdays, Sundays and days on which Federal or California state-chartered banks are closed for business.

Section 1933(4) with respect to any destruction of the Project. For the purposes of this Section 16, the term “**Date of Casualty**” shall mean the date on which the damage or destruction occurs, as reasonably determined by Developer and confirmed in writing to City within five (5) Business Days after such occurrence, together with a description of the nature and extent of the damage; provided that if City fails to timely confirm the Date of Casualty, the Date of Casualty shall be as determined by Developer.

(a) Restoration; Early in Term. If, during the first ten (10) years of the Term (i.e., before the tenth (10th) anniversary of the Commencement Date), the Improvements located on the Property are totally or partially destroyed from any cause, this Lease shall not terminate and Developer shall, at its sole cost and expense, restore the destroyed Improvements to substantially the same condition as they were in immediately before the Date of Casualty subject to the conformance by Developer with then applicable Governmental Requirements and with Developer retaining all insurance proceeds payable as a result of such damage or destruction. The work of repair and restoration shall be commenced by Developer as soon as reasonably possible, but in no event later than One Hundred Eighty (180) days after the Date of Casualty. Developer shall diligently prosecute such restoration work to completion no later than two (2) years from the date the restoration work is commenced.

(b) Later in Term. Notwithstanding any other provision to the contrary in this Lease, if Improvements within the Project are damaged or destroyed at any time after the tenth (10th) anniversary of the Commencement Date and in excess of thirty-three percent (33%) or more of the full replacement cost of the Improvements, Developer may elect, by written notice to City within ninety (90) days from the Date of Casualty, either: (i) to restore or re-construct the destroyed Improvements to substantially the same condition as they were in immediately before the Date of Casualty; or (ii) not to restore the Improvements and terminate this Lease. If Developer elects clause (i), then such construction or restoration shall be subject to then-applicable Governmental Requirements, and Developer shall be entitled to retain all insurance proceeds payable as a result of such damage or destruction. If Developer elects clause (ii), then City shall be entitled to receive and retain all insurance proceeds payable as a result of such damage or destruction, except that Developer shall be entitled to retain that portion of insurance proceeds which is directly attributable to Developer’s personal property, fixtures and equipment and the unamortized value of the building on Developer’s books.

17. Transfers; Short-Term Rental.

(a) Assignment/Subleasing. Except as provided in Section 18 (Mortgage of Leasehold), Section 19 (Protection of Lender) and with respect to Permitted Subleases and Permitted Transfers (both defined below), Developer shall not assign, transfer, encumber or sublet its interest in this Lease or sublet all or any portion of the Property or the Improvements thereon without the prior written consent of City, which consent shall not be unreasonably withheld, conditioned or delayed. It shall not be unreasonable for City to withhold its consent where the proposed assignee or sublessee (“**Proposed Transferee**”): (i) lacks sufficient financial strength, operational capacity or relevant experience, in the exercise of City’s reasonable business judgment, to perform Developer’s obligations under the Lease, (ii) is not a non-profit entity, or (iii) where the Proposed Transferee will engage in a business involving toxic and Hazardous Materials. Any Proposed Transferee shall be considered by City only if no Default (beyond applicable notice and cure periods) exists in the performance or observance of any agreement, covenant or condition of this Lease on the part of Developer to be performed or observed at the time of the proposed transfer. Developer shall provide a full package of information thirty (30) days in advance of any proposed transfer accompanied by all financial, organizational and operational

information reasonably requested by City to evaluate the Proposed Transferee. City's consent to any Proposed Transferee shall be conditioned on the following: (i) the assignment or sublet shall be in writing, duly executed and acknowledged by Developer and the Proposed Transferee, in a form reasonably satisfactory to City, providing that the intended use by the Proposed Transferee is consistent with the Permitted Use and that the Proposed Transferee expressly assumes and agrees to perform and observe all covenants and obligations of Developer under the Lease from and after the effective date of such transfer, and (ii) an executed original of such assignment shall be delivered to City. No transfer shall relieve Developer of its obligations under this Lease unless City expressly releases Developer in writing.

(b) Licensing. Notwithstanding Section 17(a) (Assignment/Subleasing), Developer may, from time-to-time during the Term, in its reasonable discretion and without the consent of City, license portions of the Project to: 1) production or theater companies; 2) to private individuals or companies for a wedding, party or celebration ("**Private Events**"); or 3) to other third parties for a conference, meeting, film event, gala, video game competition (i.e., "e-sports") or the like, provided that: (i) such license agreements are a maximum duration of six (6) months; (ii) such license agreements are set forth in a written contract containing the minimum standards included in Exhibit P, and (iii) such licensee agrees to use the facility subject to the terms of this Lease ("**Event License Agreement**"). Notwithstanding the forgoing, the number of Private Events shall be limited such that community access and public programming remain the primary use of the Project. Private Events shall not materially interfere with, displace, limit, or reduce availability or frequency of public programming.

(c) Permitted Transfers. Notwithstanding any provisions of this Section 17 (Transfers) to the contrary, any assignment(s) in connection with the following shall be deemed a "**Permitted Transfer**" and shall not be in violation of this Section 17 (Transfers): (1) financing permitted under this Lease, including the grant of a Leasehold Mortgage by Developer to secure funds necessary for construction of all or a portion of the Improvements and the Project or to fund an other improvements and alterations for the Project, and/or (2) any assignment resulting from the foreclosure of a Leasehold Mortgage or transfer in lieu of foreclosure, including where a Lender (defined below) or its affiliate or designee is the immediate transferee pursuant to such foreclosure or transfer in lieu of foreclosure, and to a subsequent transferee, so long as such subsequent transferee is required to assume in writing all of Developer's rights and obligations under this Lease from and after the date of such assignment.

18. Mortgage of Leasehold. Developer shall have the right to encumber the leasehold estate created by this Lease by a mortgage, deed of trust or other security instrument, including, without limitation, an assignment of the rents, issues and profits from the Property ("**Leasehold Mortgage**"), to secure repayment of any loan to Developer, and associated obligations from any lender ("**Lender**"), so long as the same is authorized to do business in the state of California and has experience in financing real estate assets. Developer covenants and agrees that, during the term of this Lease, City's fee title in the Property or its reversionary interest in the Improvements shall not be subject or subordinate to the lien of any loans, mortgages, deeds of trust, liens and encumbrances placed by Developer on Developer's leasehold interest created herein. Any loan, mortgage, deed of trust, lease, lien or encumbrance placed by Developer under this Section, shall be subject to the provisions of this Lease. Any lien on Developer's interest herein shall terminate on or before the last day of the Term (unless Developer exercises its Option to purchase the Property). Developer shall promptly give City written notice of any Leasehold Mortgage and shall accompany such notice with a copy of such Leasehold Mortgage.

19. Protection of Lender. During the continuance of any Leasehold Mortgage and until such time as the lien of any Leasehold Mortgage has been extinguished:

(a) Consent of Lender. City shall not accept any surrender of this Lease, nor shall City consent to any amendment or modification of this Lease, without the prior written consent of any Lender.

(b) Notice to Lender. Notwithstanding any Default by Developer in the performance or observance of any agreement, covenant or condition of this Lease on the part of Developer to be performed or observed, City shall have no right to terminate this Lease or interfere with the occupancy, use, and enjoyment of the Property unless (i) a Default has occurred and is continuing, (ii) provided City has received notice of the Leasehold Mortgage from Developer in accordance with Section 18, City has given any Lender written notice of such Default, and (iii) Lender(s) has failed to remedy the Default, acquire Developer's leasehold estate created hereby, or commence foreclosure or other appropriate proceedings, all as set forth in, and within the time specified by, this Section 19 (Protection of Lender).

(c) Rights of Lender. Any Lender shall have the right, but not the obligation, at any time prior to termination or expiration of this Lease, without payment of any penalty and subject to the terms of this Lease, to pay all of the rents due hereunder, to effect any insurance, to pay any taxes and assessments, to make any repairs and improvements, to do any other act or thing required of Developer hereunder, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions hereof to prevent termination of this Lease and to protect the Property and Project. All payments so made and all things so done and performed by Lender shall be to prevent a termination of this Lease and to preserve and protect the Property and Project as if the same had been made, done and performed by Developer instead of Lender.

(d) Cure Rights. Should any event of Default under this Lease occur, any Lender shall have sixty (60) days after receipt of written notice from City setting forth the nature of such Default, within which to remedy the Default; provided that in the case of a Default which cannot with due diligence be cured within such sixty (60) day period, Lender(s) shall have the additional time reasonably necessary to accomplish the cure, provided that (i) such Lender has commenced the curing within such sixty (60) days, and (ii) thereafter diligently prosecutes the cure to completion. If the Default is such that possession of the Property may be reasonably necessary to remedy the Default, Lender(s) shall have a reasonable additional time after the expiration of such sixty (60) day period, within which to remedy such Default, provided that (i) Lender(s) shall have fully cured any Default in the payment of any monetary obligations of Developer under this Lease within such sixty (60) day period and shall continue to pay current such monetary obligations as and when the same are due, and (ii) Lender(s) shall have acquired Developer's leasehold estate or commenced foreclosure or other appropriate proceedings seeking such acquisition within such period, or prior thereto, and is diligently prosecuting any such proceedings. If a Lender is in possession of the Property, the Lender shall operate and maintain the Property in accordance with the terms of this Lease.

(e) Intentionally Omitted.

(f) Time Extensions. If a Lender is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Developer from commencing or prosecuting foreclosure or other appropriate proceedings, then the times specified in subsections (d) and (e) above for

commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition; provided that Lender shall have fully cured any default in the payment of any monetary obligations of Developer under this Lease and shall continue to pay currently such monetary obligations as and when the same fall due.

(g) Notice to Lender. Provided City has received notice of the Leasehold Mortgage from Developer in accordance with Section 18, City shall mail by certified or registered post, return receipt requested, or personally deliver to any Lender a duplicate copy of any and all default notices in writing which City may from time to time give to or serve upon Developer pursuant to this Lease, and such copy shall be mailed or delivered to any Lender at, or as near as possible to, the same time such notices are given or served by City. Upon the execution of any Leasehold Mortgage, City shall be informed in writing of the vesting of the security interest evidenced by the Leasehold Mortgage and of the address to which all notices to Lender are to be sent.

(h) Foreclosure. Foreclosure of the Leasehold Mortgage or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the leasehold mortgage, or any assignment or conveyance of the leasehold estate created by this Lease from Developer to a Lender or other purchaser through, or in lieu of, foreclosure or other appropriate proceedings of a similar nature shall not constitute a breach of any provision of or a Default under this Lease. Upon such foreclosure, sale or conveyance City shall recognize Lender, or any other foreclosure sale purchaser, as Developer hereunder, provided that in such event Lender promptly gives notice to City in writing of such transfer, setting forth the name and address of Lender and the effective date of the foreclosure, sale or conveyance, together with a copy of the document by which such transfer was made, and provided further that such Lender expressly agrees in writing to perform all of the terms, covenants and conditions on the part of Developer to be performed hereunder from and after the date of such transfer. In the event a Lender becomes Developer under this Lease, such Lender shall be liable for the obligations of Developer which accrue under this Lease only for the period of time that such Lender remains Developer. Such Lender shall have the right to assign this Lease at any time after becoming Developer, provided that in such event the assignee or transferee (a "**Subsequent Transferee**") promptly gives notice to City in writing of such transfer, setting forth the name and address of the Subsequent Transferee and the effective date of the transfer or assignment, together with a copy of the document by which such assignment or transfer was made, and provided further that such Subsequent Transferee expressly agrees in writing to perform all of the terms, covenants and conditions on the part of Developer to be performed hereunder from and after the date of such transfer. In no event shall Developer be released from its obligations under this Lease in the event of foreclosure under this Section 19(h), except as otherwise required by law.

(i) New Lease. Should City terminate this Lease by reason of any default by Developer hereunder, City shall, upon written request by a Lender given within thirty (30) days after such termination, immediately execute and deliver a new lease of the Property to such Lender, or its nominee, purchaser, assignee or transferee, for the remainder of the Term with the same agreements, covenants and conditions (except for any requirements which have been fulfilled by Developer prior to termination) as are contained herein and with priority equal to that hereof, provided that Lender cures all non-monetary Defaults that can be reasonably cured by Lender. Lender's right to possession of the Property under the new lease shall commence only upon Developer's vacating of the Property

20. Insurance. During the Term, Developer shall have and maintain the following policies of insurance:

(a) Property Insurance. During the Term, Developer shall maintain, or cause to be maintained, commercial property insurance that covers the Property on a replacement cost basis. The commercial property insurance policy shall, at a minimum, insure against the perils included in the ISO special causes of loss form CP 10 30 and any amendments or “all-risk” coverage, including but not limited to loss or damage due to fire and the risks normally included in extended coverage (e.g., flood, windstorm, earthquake, and terrorism).

(b) Liability Insurance. During the Term, Developer shall, at its own expense and at all times, maintain in effect a commercial general liability insurance policy (“CGL”) for the Property against claims occurring on, in, or about the Property for the joint benefit of City and Developer, with deductibles or self-insured retentions reasonably acceptable to City. The CGL shall be written on an “occurrence” policy form (not a “claims made” form) providing coverage in substance at least as broad as that supplied by ISO Form CG 00 01, including coverage for bodily injury, death, property damage, and personal and advertising injury. The CGL must provide contractual liability coverage consistent with Developer’s indemnity obligations under this Lease, to the extent insurable, treating this Lease as an insured contract. The CGL may not, without City approval, be endorsed to restrict the definition of an insured contract (in a manner that varies from any provision of this Lease) or to require that the insured occurrence arise out of operations or culpable conduct of any named insured. The CGL must provide limits of liability of not less than Four Million Dollars (\$4,000,000) for each occurrence, and Six Million Dollars (\$6,000,000) in general aggregate limit per annum.

(c) Automobile Liability Insurance. During the Term, Developer shall, at its own expense and at all times, maintain in effect an automobile liability insurance on ISO Form CA 00 01, for all owned, non-owned, leased, rented, or hired vehicles (and any mobile equipment subject to compulsory insurance or financial responsibility laws), with deductibles or self-insured retentions reasonably acceptable to City, and providing coverage with a combined single limit of at least \$1 million. This coverage must be endorsed to: (i) recognize the City as an additional insured on ISO Form CA 20 48; (ii) provide primary and noncontributory liability coverage on ISO Form CA 04 49; and (iii) include a waiver of subrogation.

(d) Worker’s Compensation Insurance. During the Term, Developer shall at its own expense maintain in force for the joint benefit of City and Developer, worker’s compensation and disability benefits insurance, and employer’s liability insurance for all persons whom Developer employs in strict compliance with the requirements of the most current and applicable worker’s compensation insurance laws in effect from time to time. The workers’ compensation insurance policy must be endorsed with a waiver of subrogation endorsement with respect to and for the benefit of any covered parties and the covered parties’ respective successors and assigns.

(e) Property Insurance. During the Term, Developer shall, at its own expense and at all times, maintain in effect insurance for damage to or loss or destruction of all Improvements including all buildings, equipment, furnishings, fixtures, and other of Lessee’s personal property located at the Property (the “**Property Insurance**”). The Property Insurance must provide coverage for one hundred percent (100%) of replacement cost (not actual cash value), except excavations, foundations, and footings, without deduction for depreciation, and in an amount (or with an agreed value endorsement) sufficient to prevent coinsurance. The Property Insurance must cover all losses caused by the perils covered by the broadest type of property insurance coverage available from time to time consistent with applicable insurance practices. As of the Commencement Date, this means an ISO Form CP 10 30 “Causes of Loss—Special Form” or other “open peril” policy form. The Property Insurance must cover at least losses from fire,

lightning, sprinkler or other water leakage, and wind. The Property Insurance must also cover losses from these perils, subject to City’s reasonable approval: (i) earthquake, earth movement, and subsidence; (ii) named storm insurance, including storm surge; and (iii) flood and rising water. If the Property is located in flood zone A or V, Developer must maintain at least the maximum flood insurance coverage available from the National Flood Insurance Program. The Property Insurance must cover, by endorsement or otherwise: (i) equipment or mechanical breakdown, including explosion of steam and pressure boilers; (ii) debris removal, demolition, and increased cost of construction (ordinance or law coverage); (iii) waiver of subrogation; (iv) civil authority; and (v) loss of business income insurance. Loss of business income coverage must cover continuing ordinary operating expenses, including fixed rent and taxes, for at least twelve (12) months, with a twelve (12) month extended period of indemnity. None of this coverage may be subject to co-insurance.

(f) Pollution Liability Insurance.

(1) Prior to commencement of construction of the Project, Developer shall, at Developer’s cost, a real estate environmental liability policy (a “**Pollution Liability Policy**”) covering pre-existing conditions with a term of at least ten (10) years and new conditions with a term of at least five (5) years with Developer as the named insured with the right to control the policy, and the City, its Council, boards, commissions, officials, employees, and agents as additional insureds. The Pollution Liability Policy shall cover the Property, shall meet the requirements of Section 20(i), shall include a Fifteen Million (\$15,000,000) policy per claim and in the aggregate coverage limit and a maximum deductible of Two Hundred Fifty Thousand Dollars (\$250,000) or other amount agreed to by the City, and shall provide the following types of coverage, to the extent such coverage is available:

- (i) Pollution legal liability for claims by third parties;
- (ii) On-site and off-site clean-up costs arising from unknown pre-existing and new pollution conditions released on, at, under, or from the insured property;
- (iii) Non-owned disposal Site;
- (iv) In-bound and out-bound contingent transportation;
- (v) Legal defense expenses; and
- (vi) Business interruption for Developer, including soft-costs and construction delays.

(2) Developer shall confer with and consider in good faith the input of the City in connection with procurement of the Pollution Liability Policy. The Developer shall pay the premiums and any other costs of procuring the Pollution Liability Policy, and any required deductible amount to activate the Pollution Liability Policy in the event of a claim.

(g) Evidence of Insurance. Developer shall furnish certificates of insurance to City evidencing all of the above-described insurance policies prior to or upon execution of this Lease and annually thereafter, but not later than ten (10) Business Days after the expiration of each policy. All policies shall provide that not less than thirty (30) days prior written notice of cancellation or non-renewal shall be given to City. All policies shall name the City, its Council, boards, commissions, officials, employees, and agents as additional insureds.

(h) Additional Insurance. In addition to the insurance required above, during any construction work on the Property, Developer shall secure, pay for and maintain the following insurance, or cause Developer's contractors to secure, pay for and maintain the following insurance:

(1) "All-risk" builder's risk insurance for the full insurable value of the work (including all stored material and equipment), as approved by City. This insurance shall include the interests of City and Developer (and their respective contractors and subcontractors of any tier to the extent of any insurable interest therein) in the work and shall insure against physical loss or damage including, without duplication of coverage, theft, vandalism and malicious mischief. If any materials or equipment will be stored offsite or will be in transit to the job site and are not covered under said "all-risk" builder's risk insurance, then Developer shall effect and maintain similar property insurance on such materials and equipment. Any loss insured under said "all-risk" builder's risk insurance shall be adjusted with City and Developer and made payable to City, as trustee for the insured, as their interests may appear.

(2) General Liability Insurance, on an "occurrence" basis with a limit of not less than Two Million Dollars (\$2,000,000) per occurrence and in the aggregate.

(3) Commercial Automobile Liability Insurance, on an "occurrence" bases with a limit of not less than One Million Dollars (\$1,000,000) per occurrence and in the aggregate.

(4) Workers' Compensation Insurance, including Employers Liability for all persons whom it employs strict compliance with the requirements of the most current and applicable workers' compensation insurance laws in effect from time to time.

(5) Pollution Liability Insurance. Developer shall also cause its general contractor to obtain and maintain a Pollution Liability Policy covering the general contractor and all subcontractors for claims and cleanup costs arising from known and unknown pre-existing pollution conditions exacerbated or disturbed by contractor's activities on the site and new pollution conditions released by the contractor or its subcontractors on, at, under, or from the portion of the Property on which the contractor or its subcontractors are performing work in an amount of not less than Ten Million Dollars (\$10,000,000) with a maximum deductible of One Hundred Thousand Dollars (\$100,000) with coverage continuing for ten (10) years after completion of construction.

(6) The liability policies required above shall be endorsed to include all additional insured required or permitted herein with coverage equivalent to that provided by ISO form CG 20 10 11 85. Such additional insured endorsements shall be separate from the certificates of insurance required herein.

(7) All other policies in this paragraph (except the worker's compensation policy) shall be endorsed to include City, its Council, boards, commissions, officials, employees, and agents as additional insureds. All insurance policies shall provide that additional insureds shall be given thirty (30) days' prior written notice of any reduction, cancellation or non-renewal of coverage (except that ten (10) days' notice shall be sufficient in the case of cancellation for non-payment of premium) and shall provide that the insurance coverage afforded to the additional insured shall be primary to any insurance carried independently by said additional insured.

(8) Developer shall be solely responsible for ensuring the compliance of all contractors with the requirements contained in this Lease, including naming City, its Council,

boards, commissions, officials, employees, and agents as additional insureds insured to the contractor's policies. Developer shall require Developer's contractors to provide an endorsement evidencing that each required policy herein contains a waiver of subrogation in favor of the additional insured required or permitted herein.

(i) All insurance companies issuing policies pursuant to this Section 20 shall have a rating of A/VI, or higher, in the most currently available "Best Insurance Guide".

21. Mechanics' and Other Liens.

(a) Discharge of Liens. Developer shall keep the Property free from any liens arising out of work performed and shall promptly discharge or remove by bond or otherwise prior to foreclosure thereof any and all mechanics', materialmen's and other liens for work or labor done, services performed, materials used or furnished in or about the Property for or in connection with any construction of the Project, which Developer may make, permit or cause to be made, or any future work or construction by, for or permitted by Developer on or about the Project within forty-five (45) days after notice. Developer shall indemnify, save and hold City and all of the Property and all buildings and improvements thereon free and harmless of and from any and all such liens and claims of liens and suits or other proceedings pertaining thereto. If Developer fails to timely discharge, bond over or otherwise with respect to any such lien or encumbrance, City shall have the right but no obligation to satisfy any such liens or encumbrances. In such event, Developer shall immediately reimburse Developer for the reasonable amount paid by City in connection with such lien or encumbrance.

(b) Contest. Developer shall have the right to contest with due diligence the amount or validity of any lien of the nature set forth in this Section 21 (Mechanics' and Other Liens) or the amount or validity of any tax, assessment, charge, or other item to be paid by Developer under Section 7 (Taxes and Assessments) hereof by giving City written notice of Developer's intention to do so within twenty (20) days after the recording of such lien or at least ten (10) days prior to the delinquency of such tax, assessment, charge or other item, as the case may be. Before or concurrently with initiating any such contest, Developer shall furnish to City a surety bond, letter of credit, or other security reasonably acceptable to City in an amount not less than one hundred twenty-five percent (125%) of the amount being contested. Such security shall ensure that City and the Property are fully protected against foreclosure, sale, or loss and shall provide funds to discharge the lien, tax, or charge if the contest is unsuccessful. Developer's contest shall not subject the Property or City's fee estate to any unreasonable risk of sale, forfeiture or loss or impair or cloud City's title. Developer shall prosecute the contest continuously and diligently to final resolution. If at any time City reasonably determines that: (i) the lien, tax, or charge may materially endanger City's fee title; or (ii) Developer has failed to maintain required security or prosecute the contest diligently, City may, upon ten (10) days' written notice to Developer during which Developer may resolve such concern of City, pay, bond, or otherwise discharge the lien, tax, or charge, the reasonable cost of which shall be promptly reimbursed by Developer. Within ten (10) days after the final determination of the amount or validity thereof, Developer shall satisfy and discharge such lien or pay such tax, assessment, charge or other item to the extent held valid and all penalties, interest and costs in connection therewith; provided, however, that the satisfaction and discharge of any such lien shall not, in any case, be delayed until execution is had upon any judgment rendered thereon, nor shall the payment of any such tax, assessment, charge or other item, together with penalties interest, and costs, in any case be delayed until sale is made or threatened to be made of the whole or any part of the Property on account thereof, and any such delay shall be a default of Developer hereunder. In the event of any such contest,

Developer shall protect and indemnify City against all loss, cost, expense, and damage resulting therefrom.

(c) Notice of Non-Responsibility. City shall, at any and all times during the Term, have the right to post and maintain on the Property and to record any notice or notices of non-responsibility.

22. Indemnity.

(a) Indemnification of City. Developer hereby agrees to indemnify and hold harmless City and its elected and appointed officials, employees, agents, directors and contractors (“**Indemnified Parties**”) from and against all third party claims, demands, losses, liabilities, damage, liens, obligations, interest, injuries, penalties, fines, lawsuits or other proceedings, judgments and awards and costs and expenses (including reasonable attorneys’ fees and costs, consultant fees and costs and court costs) (collectively “**Losses**”) arising from or as a result of, Developer’s conduct, acts, omissions, negligence or willful misconduct in connection with development of the Project or the Property, use of the Property, or performance or non-performance of Developer’s obligations under this Lease, except to the extent such Losses are caused by the gross negligence or willful misconduct of City.

(b) Insurance. The obligation of Developer to indemnify, defend and hold harmless the Indemnified Parties shall not be limited by the existence or availability of insurance required under this Lease or as otherwise maintained by Developer. Insurance shall be maintained as a primary and noncontributory source of recovery for covered matters. If and to the extent that insurance proceeds are available and collectible with respect to any loss, claim, or liability, such proceeds shall be first applied to satisfy the indemnity obligations hereunder. If the liability related to any such matter shall exceed the amount of the effective and collectible insurance in question, the obligation of Developer to indemnify and hold harmless the Indemnified Parties shall apply to such excess.

(c) Defense of Claim. In case any claim, demand, action, suit or proceeding is initiated or made against an Indemnified Party by reason of any losses specified in Section 22(a) (Indemnification of City), Developer, upon notice from the Indemnified Party, shall, at Developer’s sole cost, defend such claim, demand, action, suit or proceeding, but Developer may make or cause to be made such investigation of the claim, demand, action, suit or proceeding as Developer or its insurers shall deem expedient; provided, however, that Developer shall not settle any claim, demand, action, or proceeding without the prior written consent of the City. Developer shall not admit liability on behalf of the Indemnified Party and shall obtain City’s written consent of all releases and settlement documents.

(d) Survival. Developer’s obligations under this Section 22 (Indemnity) shall survive the expiration of the Term or the earlier termination of this Lease.

23. Condemnation.

(a) Definitions. Wherever used in this Section 23 (Condemnation), the following words shall have the definitions and meaning hereinafter set forth:

(i) “**Condemnation proceedings**” means any action or proceedings brought for the purpose of any Taking (defined below) of Developer’s Interest (defined below) in the Property or any part thereof or any other property interest therein or any Improvements

thereon by competent authority as a result of the exercise of the power of eminent domain, including a voluntary sale to such authority either under threat of condemnation or while such action or proceeding is pending.

(ii) **“Developer’s Interest”** means the value of Developer’s ground leasehold interest in the Property and Improvements for the remainder of the Term (for such purposes, the Term shall not be deemed to have terminated and such determination shall account for all pre-paid Rent, if any), as further described in Section 23(d) (Apportionment of Award on Termination).

(iii) **“City’s Interest”** means the value of City’s interest in the Property and reversionary interest in the Improvements, as encumbered by this Lease, as further described in Section 23(d) (Apportionment of Award on Termination).

(iv) **“Net Awards and Payments”** means awards and other payments on account of a condemnation with respect to the Property and Improvements or a portion thereof, less costs, fees and expenses incurred, including reasonable attorneys’ fees and costs, in the collection thereof.

(v) **“Qualified Appraiser”** means an appraiser licensed in the State of California who (i) is a member of the Appraisal Institute; (ii) has at least 10 years’ experience in Alameda County and/or San Francisco County valuing commercial, industrial, or multiple occupancy residential properties as applicable, depending on the allowed uses of the Property; (iii) is a principal in either a national or regional firm with offices in California.

(vi) **“Taken”** means the event and date of vesting of title to the fee interest in the Property or any part thereof or any other property interest therein or any Improvements thereon pursuant to the condemnation proceedings.

(b) Entire Taking. If the whole of the Property shall be taken or condemned for any public or quasi-public use under any statute or by right of eminent domain or by private purchase in lieu thereof (**“Taking”**), then this Lease shall automatically terminate as of earlier of the date an immediate possession order is entered or title vests in a condemning authority. In the event this Lease shall so terminate or shall be terminated, the Rent for the year in which the Taking occurs shall, if and when necessary, be prorated to the day of the Taking, and (b) neither Party shall have any further rights or liabilities hereunder, except as expressly provided in this Lease.

(c) Major Partial Taking. If at any time during the Term there is a partial Taking of the Property, this Lease shall remain in effect; provided, however, if there is a partial Taking of the Property such that the remaining portion of the Property are rendered unsuitable (as defined herein) for Developer’s continued use for the purposes contemplated by this Lease, then Developer shall have the right to terminate this Lease as of the earlier of the date that title vests in the condemnor or the date that the condemnor shall take possession of the property so Taken, by giving written notice of such termination to City within ninety (90) days after notice to Developer of such Taking. In such event, the annual Rent payable for the year in which the Taking occurs shall be prorated to the date of such termination. The remaining portion of the Property shall be deemed “unsuitable” for Developer’s continued use if, assuming a reasonable amount of reconstruction, Developer’s business on the Property could not be operated at a commercially reasonable economic level taking into consideration the amount of funds, if any, in excess of the condemnation award, necessary to continue such operation.

(d) Apportionment of Award on Termination.

(i) If this Lease shall terminate pursuant to the provisions of Section 23(b) (Entire Taking) or Section 23(c) (Major Partial Taking), then the Net Awards and Payments shall be divided between City and Developer on a pro rata basis, as nearly as practicable, based upon City's Interest and Developer's Interest.

(ii) City's Interest and Developer's Interest shall be established by the same court of law or other trier of fact that establishes the amount of the condemnation award, but if there is no court of law available or willing to so determine City's Interest and Developer's Interest, the same shall be determined as set forth below. If City and Developer cannot agree as to City's Interest and Developer's Interest within thirty (30) days after the determination of the total condemnation award with respect to the Taking then:

(iii) Within ten (10) days after the expiration of such thirty (30) day period, each Party shall select a Qualified Appraiser. If a Party fails to appoint its Qualified Appraiser within such ten (10) day period, then the first appointing Party may send a written notice to such other Party (which written notice shall set forth clearly in bold and all capital letters on the face of such notice that it is being submitted for purposes of requesting that the applicable Party select their Qualified Appraiser in accordance with this Section 23(d)(iii) and that the failure to respond within five (5) Business Days shall result in the first appointing Party's Qualified Appraiser being deemed the appraiser to determine City's Interest and Developer's Interest in accordance with this Section 23(d), and if such other Party still fails to appoint a Qualified Appraiser within five (5) Business Days from delivery of such notice, then the Qualified Appraiser appointed by the first appointing Party alone shall determine City's Interest and Developer's Interest (which it shall do within thirty (30) days following its appointment).

(iv) If both Parties timely appoint a Qualified Appraiser in accordance with Section 23(d)(iii), then within thirty (30) days following appointment of both such Qualified Appraisers, each Qualified Appraiser shall determine City's Interest and Developer's Interest, and shall deliver to each of the Parties its written report as to such City's Interest and Developer's Interest.

(v) Within ten (10) Business Days after the delivery of the last Qualified Appraiser's written report, the Qualified Appraisers shall jointly select another Qualified Appraiser ("**Final Independent Appraiser**"). If the Qualified Appraisers fail to agree upon and appoint such third Qualified Appraiser within such (10) Business Day period, either Party, upon written notice to the other Party, may apply to the superior court in Alameda, California to appoint such third Qualified Appraiser meeting the qualifications set forth herein to act as the Final Independent Appraiser.

(vi) Within ten (10) Business Days following its appointment, the Final Independent Appraiser shall select the determination of the Qualified Appraiser that the Final Independent Appraiser believes more accurately represents City's Interest and Developer's Interest (i.e., a "baseball arbitration" style selection), and shall deliver to each of the Parties its written report as to such selection and the reasons for such selection and such determination shall be binding upon the Parties as the final determination of City's Interest and Developer's Interest.

(vii) Each Party shall be responsible for paying the cost of its own Qualified Appraiser, and the costs of the Final Independent Appraiser, if required, shall be split

evenly between the Parties. If only one (1) Qualified Appraiser is used because a Party fails to timely select a second Qualified Appraiser, the cost thereof shall be split evenly by the Parties.

(e) Apportionment of Award in Partial Taking.

(i) If a portion of the Property is Taken and this Lease is not otherwise terminated as set forth above, (i) this Lease shall continue in full force and effect as to the portion of the Property not Taken, (ii) Developer shall commence and proceed with reasonable diligence to repair or reconstruct the remaining Improvements and building(s) on the Property as nearly as possible to its value, condition and character immediately prior to such Taking, taking into account, however, any necessary reduction in size or other change resulting from the Taking, and in any event to the extent proceeds of the condemnation award are available therefor, and (iii) the ongoing annual Rent payments payable by Developer hereunder from and after the date of the Taking, if any, shall be reduced during the unexpired portion of this Lease to that proportion of the Rent which the value of the part of the Property not Taken bears to the value of the total of the Property, such values to be determined using the “**Income Approach**” (as described below) and as of the date when Developer is disturbed in its possession as a result of the Taking. As used herein, the “**Income Approach**” means the “income approach” or “income capitalization approach” to property valuation, as defined in the then most current edition of The Dictionary of Real Estate Appraisal and/or the then most current edition of The Appraisal of Real Estate, published by the Appraisal Institute or any successor organization.

(ii) If a portion of the Property is Taken and this Lease is not otherwise terminated as set forth above, then the Net Awards and Payments shall be divided between City and Developer on a pro rata basis, as nearly as practicable, based upon City’s Interest and Developer’s Interest. City’s Interest and Developer’s Interest shall be determined in accordance with Section(d) (Apportionment of Award on Termination).

(f) Temporary Taking. In the event of a temporary Taking of all or any portion of the Property by any competent authority in the exercise of the power of eminent domain, the foregoing provisions of this Section 23 (Condemnation) shall be inapplicable and this Lease shall continue in full force and effect without reduction or suspension of Rent and Developer shall be entitled to make claim for and recover any award or awards, whether in the form of rental or otherwise, recoverable in respect of such temporary possession or occupancy. The temporary Taking award shall be paid to Developer; provided that if any portion of the award is intended to cover the cost of restoring the Property or Improvements to the condition they were in prior to such temporary possession or occupancy or to make any repairs occasioned by or resulting from such possession or occupancy, such portion shall be so applied.

(g) Participation in Condemnation Proceeding. In any condemnation proceedings affecting the Property, both Parties and any Lenders shall have the right to appear in and defend against such action as they deem proper in accordance with their own interests. Without limiting the foregoing, City shall not, without consulting with, and obtaining the consent (which shall not be unreasonably withheld, conditioned or delayed) of Developer, or any Lender, (a) make any settlement with the condemning authority, (b) convey any portion of the Property to such authority in lieu of condemnation, unless required by Law to do so, or (c) consent to any Taking. Furthermore, in any condemnation proceedings affecting the Property, both Parties and any Lender shall have the right to appear in and defend against such actions as they deem proper in accordance with their own interests. Issues between City and Developer required to be resolved pursuant to this Section 23 (Condemnation) shall be joined in any such condemnation proceedings to the extent permissible under the applicable procedural rules of such court of law

or equity for the purpose of avoiding multiplicity of actions and minimizing the expense of the Parties. Notwithstanding the foregoing, Developer shall have the exclusive right to assert claims for any trade fixture and personal property so taken which were the sole property of Developer and for relocation expenses of Developer and all awards and damages in respect thereof shall belong to Developer.

24. City's Right of Inspection. City shall have the right to enter and inspect the Project upon prior reasonable notice (except in the case of emergency in which no notice to Developer is required) to Developer to enter the Property at reasonable times to inspect the condition of the Property and project to confirm compliance with this Lease, provided that such entry does not unreasonably interfere with Developer's operations. City inspection's or lack of inspection shall not limit or waive Developer's obligations under this Section.

25. Default And Remedies.

(a) Material Defaults and Non-Material Defaults. Subject to Force Majeure and extensions provided for in this Lease, failure by either Party to perform any action or covenant required by this Lease within the time periods provided herein (i.e., following written notice and expiration of any applicable cure period) shall constitute a "**Default**" under this Lease.

(b) Material Defaults. Because a certain subset of Defaults by Developer are more serious than other Defaults and could significantly impair the benefits that City anticipates the Project will create, those more serious Defaults are referred to as Material Defaults in this Lease and give rise to City's termination remedy set forth in Section 25(c) (Termination of Material Defaults). The following are Defaults constituting "**Material Defaults**" under this Lease:

(i) Developer Defaults in its obligation to commence construction of the Project or complete construction of the Project by the applicable outside date set forth in the Schedule of Performance, as the same may be extended pursuant to the terms of this Lease.

(ii) A court having jurisdiction made or entered any final and non-appealable decree or order: (a) adjudging Developer to be bankrupt or insolvent, or (b) approving a petition by it seeking reorganization of Developer or seeking any arrangement for Developer under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (c) appointing a receiver, trustee, liquidator, or assignee of Developer in bankruptcy or insolvency or for any of their properties, or (d) directing the winding up or liquidation of Developer.

(iii) Developer assigned its assets for the benefit of its creditors (other than pursuant to a Lender or a Permitted Transfer under Section 17(c) (Permitted Transfers) and Section 18 (Mortgage of Leasehold)).

(iv) Developer completes an assignment (other than pursuant to a Permitted Sublease, Permitted Transfer or as otherwise permitted under Section 17(c) (Permitted Transfers) and Section 18 (Mortgage of Leasehold)).

(v) Developer's Default constitutes misappropriation of funds, willful misconduct, bad faith or fraud in the performance of any of Developer's obligations under this Lease.

(vi) Developer Defaults on an obligation deemed a Major Default under the Community Benefits Package, as described in Table 1: Option Milestone Schedule.

(vii) Any loss or change in Developer's non-profit or IRC 501(c)(3) status.

(c) Termination for Material Defaults. Except as otherwise provided herein and subject to any applicable notice and cure provisions in Section 25(i) (Notice of Breach; Cure Periods) and subject to the rights of Lenders set forth in Section 19 (Protection of Lender), in the event of Material Default (but not in the event of any Non-Material Default) by Developer, City shall have the right to terminate this Lease by providing written notice of such termination to Developer. In the event City terminates this Lease pursuant to this Section 25(c) (Termination for Material Defaults), this Lease shall terminate, and neither City nor Developer shall have any further rights against or liability to the other under this Lease, except for those obligations which by their terms survive termination hereof.

(d) Non-Material Defaults. A "**Non-Material Default**" shall be any breach of this Lease that does not constitute a Material Default in Section 25(b) (Material Defaults) and does not materially impair: i) City's fee interest in the Property; or ii) the health, safety or welfare of the public.

(e) Failure to Cure Non-Material Defaults. In the event that any Non-Material Default under this Lease is not cured within any applicable notice and cured period as set forth in Section 25(i) (Notice of Breach; Cure Periods), Developer shall request the matter to be placed on the agenda of the next regularly scheduled City Council meeting. At such meeting Developer shall present to the City Council:

(i) A description of the nature of the Non-Material Default;

(ii) The reasons Developer has been unable to cure the Non-Material Default within the applicable cure period; and

(iii) A written plan ("**Compliance Plan**") proposing one of the following for City Council's consideration and approval: 1) a timetable and method for curing the Non-Material Breach; or 2) a modification or relief from the applicable Lease requirement.

(f) Board Review. In the event a Non-Material Default remains uncured after expiration of the applicable time period following City Council's approval of a Compliance Plan or if agreement cannot be reached between Developer and City on Developer's proposed Compliance Plan, Developer shall cause the matter to be placed on the agenda of a duly noticed meeting of Developer's board of directors ("**Board**") within thirty (30) days of the applicable City Council meeting at which time, Developer shall present:

(i) A description of the nature of the Non-Material Default;

(ii) The actions required to cure or address such Non-Material Default;

(iii) City Council's direction or feedback; and

(iv) A proposed course of action.

Following such meeting of the Board, Developer shall provide City Council with written documentation evidencing the board's consideration of the Non-Material Default and identifying any directives, resolutions, or corrective actions adopted by the Board for City Council's review and further consideration of final determination.

(g) Arbitration of Unresolved Disputes. If, following completion of City Council's review process and, if applicable, the Board review described herein, City and Developer remain unable to reach agreement regarding resolution of a Non-Material Default, either Party may submit the matter to binding arbitration in accordance with this Section. Said arbitration shall be conducted in Alameda County, California before one (1) arbitrator selected in accordance with procedures set forth below. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules. The arbitrator shall be chosen from a list of seven (7) names submitted by JAMS to the Parties in accordance with the applicable JAMS rule for selecting arbitrators, and the proposed arbitrators shall, to the extent possible, have relevant arbitration experience in the subject matter of the arbitration under this Lease. Judgment on the arbitrator's award may be entered in any court having appropriate jurisdiction. The Parties will share equally the administrative costs of the arbitration and the arbitrator's fees. This Section shall not preclude the Parties from seeking provisional remedies, including injunctive relief, in aid of arbitration or otherwise from a court of appropriate jurisdiction.

(h) Failure to Comply with Non-Material Default Procedures. Developer's failure to timely engage in the process set forth in this Section 25(d) shall, following City's delivery to Developer of written notice demanding Developer's participation in such process within thirty (30) days of the date of such notice and the expiration of such thirty (30) day cure period without Developer's participation or engagement, itself constitute a Material Event of Default, without further notice or cure, and shall entitle City to exercise any and all rights and remedies available under this Lease.

(i) Notice of Breach; Cure Periods.

(i) The non-breaching Party may give written notice of the breach to the breaching Party, specifying in reasonable detail the nature of the breach and the actions that are required to cure the breach. Failure or delay in giving such notice shall not constitute a waiver of any breach. Except as otherwise expressly provided in this Lease, any failures or delays by either Party in asserting any of its rights and remedies as to any breach of this Lease shall not operate as a waiver of any breach or of any such rights or remedies. Delays by either Party in asserting any of its rights and remedies shall not deprive such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies as are permitted by this Lease.

(ii) If a monetary breach occurs, prior to exercising any remedies hereunder, the non-breaching Party shall give the breaching Party written notice of such breach. The breaching Party shall have a period of five (5) Business Days after such notice is received within which to cure the breach prior to the breach becoming a Default that gives rise to the right to exercise remedies by the non-breaching Party. Notwithstanding the foregoing, if any payment is not received by the injured Party within five (5) Business Days following the due date thereof, then in addition to the remedies conferred upon such Party pursuant to this Lease, a late charge of ten percent (10%) of the amount due and unpaid will be added to the delinquent amount to compensate the injured Party for the expense of handling the delinquency.

(iii) If a non-monetary breach of this Lease occurs, prior to exercising any remedies hereunder, the non-breaching Party shall give the breaching Party written notice of such breach. If the breach is reasonably capable of being cured within thirty (30) calendar days after such notice is received, the breaching Party shall have thirty (30) calendar days after such notice is received within which to cure the breach prior to the breach becoming a Default that gives rise to the right to exercise remedies by the non-breaching Party; provided, however, if the breach is such that it is not reasonably capable of being cured within thirty (30) days and the breaching Party (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure thereafter, then breaching Party shall have such additional time as is reasonably necessary to cure the breach.

(iv) Notwithstanding anything to the contrary contained herein, with respect to any Default arising out of Developer's failure to continue operations or provide public programming for any period of one hundred eighty (180) days or longer under Exhibit F, Developer shall be entitled to no more than one (1) opportunity to cure such Default in any calendar year. Upon the occurrence of such Default, City shall provide written notice and Developer shall have sixty (60) days thereafter to cure. If Developer timely cures such Default and subsequently fails to continue operations or provide public programming for a period of sixty (60) days or more within the same calendar year, such second occurrence shall constitute an immediate and incurable Default. Developer shall have no right to additional notice or any further cure period, and the second Default shall give City immediate grounds to terminate the Lease.

(j) Remedies Generally. Subject to the notice and cure provisions of Section 25(i) (Notice of Breach; Cure Periods), upon the occurrence of a Default, either Party shall have the right, in addition to any other rights or remedies, to institute any action at law or in equity to cure, correct, prevent or remedy any Default, or to recover actual damages. Notwithstanding any other provisions of this Lease to the contrary, under no circumstances shall either Party be entitled to recover any consequential, special or punitive damages against the other. Furthermore, in the event of a Default for Developer's failure to commence construction of the Project by the outside date for commencement of construction of the Project set forth in the Schedule of Performance, as such date may be extended pursuant to the terms of this Lease, City's sole remedy under this Lease for such Default shall be, following expiration of any applicable notice and cure period, to terminate this Lease. Furthermore, and in addition to Developer's other rights and remedies, in the event of a Default by City which actually materially impacts Developer's ability to timely perform its obligations under this Lease, Developer's performance shall be tolled until such time as the City has cured the Default.

26. Nonwaiver. If any action or proceeding is instituted or if any other steps are taken by City or Developer, and a compromise part payment or settlement thereof shall be made, either before or after judgment, the same shall not constitute or operate as a waiver by City or Developer of any agreement, covenant or condition of this Lease or of any subsequent Default thereof. No waiver of any Default under this Lease shall constitute or operate as a waiver of any subsequent Default hereunder, and no delay, failure or omission in exercising or enforcing any right, privilege, or option under this Lease shall constitute a waiver, abandonment or relinquishment thereof or prohibit or prevent any election under or enforcement or exercise of any right, privilege, or option hereunder. No waiver of any provision hereof by City or Developer shall be deemed to have been made unless and until such waiver shall have been reduced to writing and signed by City or Developer, as the case may be.

27. Representations and Warranties.

(a) City. The representations and warranties of City in this Section 27 (Representations and Warranties) are a material inducement for Developer to enter into this Lease. Developer would not agree to enter into this Lease without such representations and warranties of City. City represents and warrants to Developer as of the date of this Lease as follows:

(i) Authority. City is a charter city and municipal corporation. City has full power and authority to enter into this Lease and perform its obligations hereunder.

(ii) No Broker. City has not dealt with any real estate broker or finder in connection with this Lease.

(iii) No Conflict. To City's Representatives' Knowledge (defined below), the execution of this Lease and the incurrence of the obligations set forth herein do not violate any order or ruling of any court, law or regulation binding on City or any provision of any indenture, agreement or other agreement to which City is a party and that is applicable to the Property.

(iv) Pending Litigation. To City's Representatives' Knowledge, City has not been served with nor received any written notice regarding any action, suit, or proceeding affecting the Property or affecting the right, power or authority of City to enter into and perform this Lease in accordance with its respective terms, or which question the validity or enforceability of this Lease in any court or before any governmental authority, domestic or foreign.

(v) Violations of Law. To City's Representatives' Knowledge, City has received no written notice of any material violations of federal, state, or local laws currently outstanding and specifically applicable to the Property.

(vi) Condemnation. To City's Representatives' Knowledge, City has not received written notice of any pending condemnation or eminent domain proceeding against the Property.

(vii) Governmental Proceedings. To City's Representatives' Knowledge, City has received no written notice of any condemnation, environmental, CEQA, zoning or other land use regulation proceedings specifically directed to the Property or the development of the Project, nor any notice of any special assessment proceedings affecting the Property.

(viii) Contracts and Other Agreements. Except as listed on Exhibit I, there are no service or maintenance contracts relating to the Property that will bind Developer after Closing.

(ix) Other Contracts to Convey Property. To City's Representatives' Knowledge, City has not entered into any agreements (oral or written) with any party or person other than Developer pursuant to this Lease regarding a conveyance of any form of the Property.

(x) Hazardous Material. To City's Representatives' Knowledge, City has received no written notice of the existence of Hazardous Materials on, in or under the Property, except for the Hazardous Materials disclosed in the reports listed on Exhibit J.

(xi) Condition of Property. Except as expressly stated herein, City makes no representation or warranty as to the physical or environmental condition of the Property, and Developer acknowledges it is accepting the Property "as-is, where-is."

For purposes of this Section 27 (Representations and Warranties) the term "**City's Representatives' Knowledge**" refers to the current, actual knowledge of the Base Reuse and Economic Development Director, with regard to the Property and the Project, with no imputation of knowledge and no duty of investigation or inquiry. City's representative named in this section shall have no personal liability under this Option Agreement by virtue of acting as a representative of City for the purpose of this definition.

(b) Developer. The representations and warranties of Developer in this Section 27 (Representations and Warranties) are a material inducement for City to enter into this Lease. City would not enter into this Lease for the Property with Developer without such representations and warranties of Developer. Developer represents and warrants to City as of the date of this Lease as follows:

(i) Authority. Developer is a 501(c)3 non-profit organization, duly formed and validly existing and in good standing under the laws of the State of California. Developer is qualified to do business and is in good standing in the State of California. Developer has full power and authority to enter into this Lease and perform its obligations hereunder. The execution, delivery and performance of this Lease by Developer have been duly and validly authorized by all necessary action on the part of Developer and all required consents or approvals have been duly obtained. This Lease is a legal, valid and binding obligation of Developer, enforceable against Developer in accordance with its terms, subject to the effect of applicable bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws affecting the rights of creditors generally.

(ii) No Broker. Developer has not dealt with any real estate broker or finder in connection with this Lease.

(iii) No Violation. The execution of this Lease and the inurrence of the obligations set forth in this Lease do not violate any order or ruling of any court binding on Developer or any provision of any indenture, agreement or other instrument to which Developer is a party or may be bound. Neither the entry into nor the performance of this Lease will result in the violation, or conflict with, or invalidate, cancel or make inoperative, or constitute a default under, any charter, bylaw, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, credit agreement, franchise, permit, judgment, decree, order, easement, restriction or other charge, right or interest applicable to Developer.

(iv) Bankruptcy. Developer has not (a) made a general assignment for the benefit of creditors; (b) filed any voluntary petition for bankruptcy or suffered the filing of any involuntary petition by its creditors; (c) suffered the appointment of a receiver to take possession of all or substantially all of its assets; or (d) suffered the attachment or other judicial seizure of all or substantially all of its assets.

(v) Threatened Actions. There are no pending, and to Developer's actual, present knowledge, none threatened in written notice to Developer, actions, suits, arbitrations, claims or proceedings at law, in equity, or otherwise, that would adversely affect Developer's ability to perform its obligations under this Lease.

28. No Merger. For so long as any Leasehold Mortgage shall be in effect, there shall be no merger of (a) City's fee title to the Property, on the one hand, with (b) this Lease and Developer's leasehold interest, on the other hand, notwithstanding that said fee title and this Lease or the leasehold interest may be owned by the same person or persons. Notwithstanding the foregoing, if Developer exercises the Option for the Option Property and closes on such conveyance, than upon recordation of the deed in connection therewith, the leasehold estate shall be merged with the fee estate in the underlying land and Developer shall hold fee title thereto.

29. No Partnership. It is expressly understood and agreed that City does not by executing this Lease, become a partner of Developer in the conduct of Developer's business, or otherwise, or a joint venturer or a member of a joint enterprise with Developer.

30. Covenants Run with Land.

(a) Run with the Land. The agreements, covenants and conditions in this Lease contained are and shall be deemed to be covenants running with the Property and shall be binding upon and shall inure to the benefit of City and Developer and their respective successors and assigns.

(b) Successors and Assigns. All references in this Lease to "**Developer**" or "**City**" shall be deemed to refer to and include successors and assigns of Developer or City, respectively, without specific mention of such successors or assigns.

31. Notices. Except as otherwise provided hereunder; any notice or communication to City, Developer shall be in writing and be mailed by certified mail, postage prepaid. Notices or communications shall be addressed to City at:

If to City: City of Alameda
Alameda City Hall
2263 Santa Clara Ave
Alameda, CA 94501
Tel: (510) 748-4509 Attn:
City Manager
Email:
manger@alamedaca.gov

one copy to: Attn: Director of the Base Reuse and
Economic Development Director
Email: athornelyman@alamedaca.gov

second copy to: Attn.: City Attorney
Email: yshen@alamedacityattorney.org

With a copy to: Best Best & Krieger LLP
Attn: Jessica Lomakin, Esq.
2855 E. Guasti Rd., Suite 400
Ontario, CA 91761
Email: jessica.lomakin@bbklaw.com

If to Developer: Radium Presents, Inc.
1201 Sherman Street
Alameda, CA 94501
Attn: Christopher Seiwald
Email: christopher@seiwald.com

With a copy to: Burke, Williams & Sorensen, LLP
1999 Harrison Street, Suite 1650
Oakland, CA 94612
Attn: Lisa N. Maxwell, Esq.
Email: lmaxwell@bwsllaw.com

or such other address or addresses as Developer shall from time to time designate, or to such agent of Developer as it may from time to time designate, by notice in writing to City. Notices or communications to Lender shall be addressed to Lender at such address as Lender shall from time to time designate by notice in writing to City. Any notice mailed in the manner above set forth shall be deemed to have been received unless returned to the sender by the post office.

32. Estoppel Certificates. Developer or City, as the case may be, will execute, acknowledge and deliver to the other and/or to Lender, within twenty (20) days of request, its certificate certifying (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which the Rent, and other monetary obligations have been paid, (c) whether there are then existing any charges, offsets or defenses against the enforcement by City of any agreement, covenant or condition hereof on the part of Developer to be performed or observed (and, if so, specifying the same), (d) whether any notice has been given to either Party of any Default which has not been cured, and (e) other factual matters with respect to the Lease reasonably requested by either Party. Any such certificate may be relied upon by a

prospective purchaser, mortgagee or trustee under a leasehold deed of trust of the Property or any part thereof.

33. Holding Over. This Lease shall terminate without further notice upon the Expiration Date, and any holding over by Developer after the Expiration Date shall not constitute a renewal hereof or give Developer any rights hereunder or in or to the Property, except as otherwise herein provided, it being understood and agreed that this Lease cannot be renewed, extended or in any manner modified except in writing signed by City and Developer.

34. Severability. In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Lease, but this Lease shall be construed as if such invalid, illegal, or unenforceable provisions had not been contained herein.

35. Time. Time is of the essence of each provision of this Lease. Wherever under this Lease there is a day or time period established for performance and such day is or such time period expires on a Saturday, Sunday or holiday, then such time for performance shall be automatically extended to the next Business Day.

36. Consents. Whenever in this Lease the consent or approval of either City or Developer is required or permitted, the Party requested to give such consent or approval will act promptly and will not unreasonably withhold, delay or condition its consent or approval.

37. Memorandum of Lease. Contemporaneously with the execution of this Lease, City and Developer will execute and caused to be recorded in the Official Records, a Memorandum of Lease in the form of Exhibit K hereto ("**Memorandum of Lease**").

38. Intentionally Omitted.

39. Integration. This Lease constitutes the entire agreement between City and Developer with respect to the subject matter hereof and supersedes all prior offers and negotiations, oral or written.

40. Amendments. This Lease may not be amended or modified in any respect whatsoever except by an instrument in writing signed by City, Developer and, if required by any Lender, by Lender.

41. Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the Parties have executed this Lease as of the date first written above.

CITY OF ALAMEDA, a charter city and municipal corporation

By: _____
Name: _____
Its: _____

Approved as to form:

By: _____
Name: _____
Its: Assistant City Attorney

RADIUM PRESENTS, INC., a California 501(c)(3) corporation

By: _____
Christopher Seiwald, CEO

Exhibit A

To Ground Lease

Legal Description of Property

JANUARY 16, 2026
JOB NO.: 1087-010

**LEGAL DESCRIPTION
RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA**

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

BEING A PORTION OF DESIGNATED REMAINDER 2, AS SAID DESIGNATED REMAINDER 2 IS SHOWN AND SO DESIGNATED ON THE FINAL MAP FOR TRACT 8696, ENTITLED "WEST MIDWAY LARGE LOT", RECORDED JULY 31, 2025 IN BOOK 373 OF MAPS, AT PAGE 85, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERN CORNER OF SAID DESIGNATED REMAINDER 2;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE SOUTHERN LINE OF SAID DESIGNATED REMAINDER 2, NORTH 85°08'27" WEST 75.00 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID SOUTHERN LINE, NORTH 85°08'27" WEST 405.96 FEET;

THENCE, LEAVING SAID SOUTHERN LINE, NORTH 04°51'33" EAST 104.00 FEET;

THENCE, NORTH 85°08'27" WEST 30.00 FEET;

THENCE, NORTH 04°51'33" EAST 90.00 FEET;

THENCE, SOUTH 85°08'27" EAST 435.96 FEET;

THENCE, SOUTH 04°51'33" WEST 194.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 1.87 ACRES OF LAND, MORE OR LESS.

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

END OF DESCRIPTION



Sabrina Kyle Pack 16 JAN 2026
SABRINA KYLE PACK, P.L.S.
L.S. NO. 8164

Exhibit A-1
To Ground Lease

Site Plan



16 JAN 2026

SCALE: 1"=100'



PARCEL TWO
DN. 2022-128360

N04°51'33"E 539.90'

75.00'

POINT OF
COMMENCEMENT

S04°51'33"W 194.00'

POINT OF BEGINNING

405.96'

N85°08'27"W 1122.14'

S85°08'27"E 435.96'

N04°51'33"E 90.00'

N85°08'27"W 30.00'

N04°51'33"E 104.00'

RADIUM THEATER SITE

1.87 AC±

PARCEL 1
(PORTION)
28 RS 14

PARCEL A
338 M 9

SEAPLANE (NORTH)

DESIGNATED
REMAINDER 2
373 M 85

PHASE 1 AGREED TRUST LANDS PARCEL NINE
DN 2014-154596

PLAT TO ACCOMPANY LEGAL DESCRIPTION

RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA

JANUARY 16, 2026

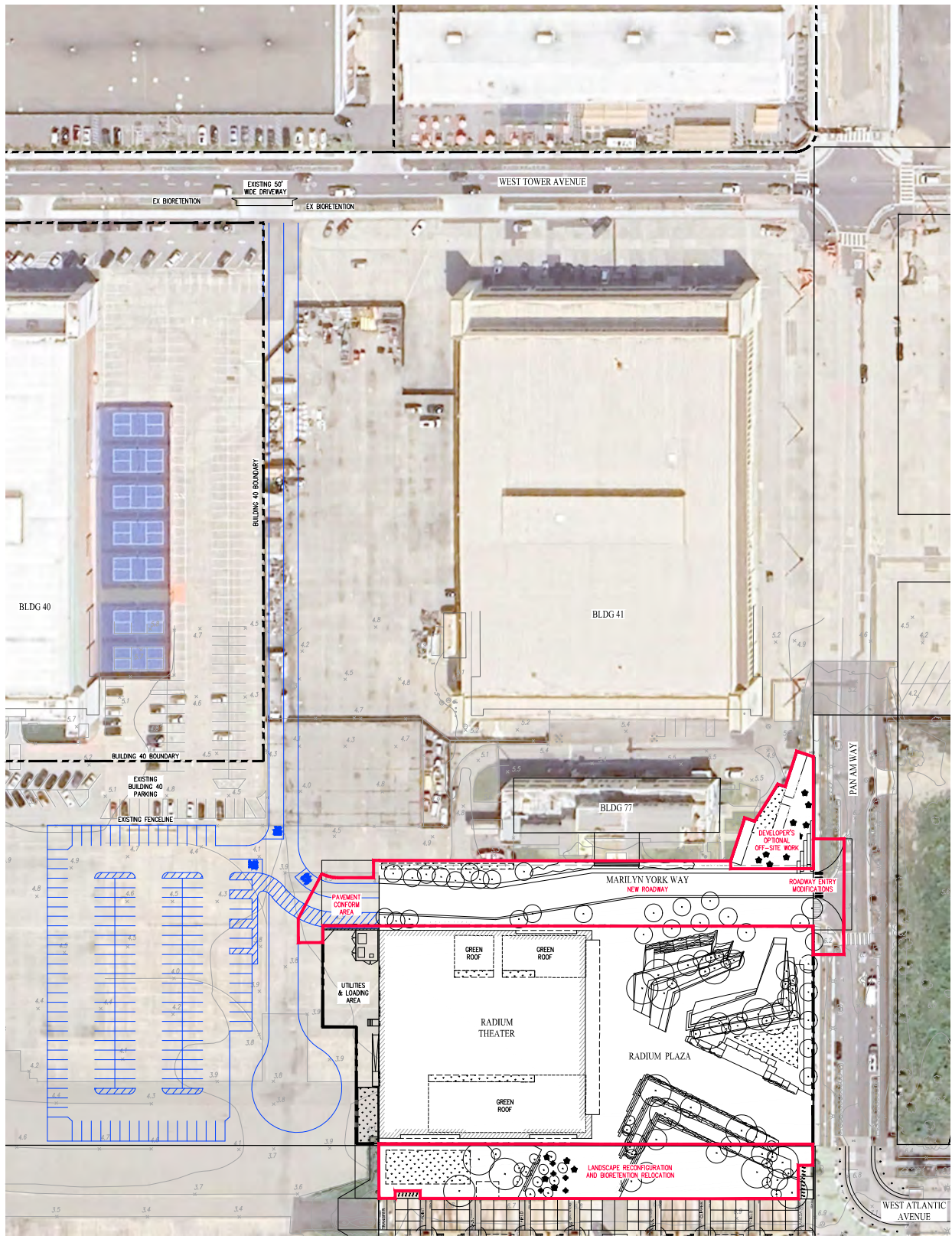


SAN RAMON (925) 866-0322
ROSEVILLE (916) 788-4456
WWW.CBANDG.COM

CIVIL ENGINEERS • SURVEYORS • PLANNERS

SHEET 1 OF 1

Exhibit B
To Ground Lease
Developer's Off-Site Work

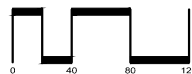


LEGEND

APPROXIMATE LIMITS OF DEVELOPER'S OFF-SITE WORK

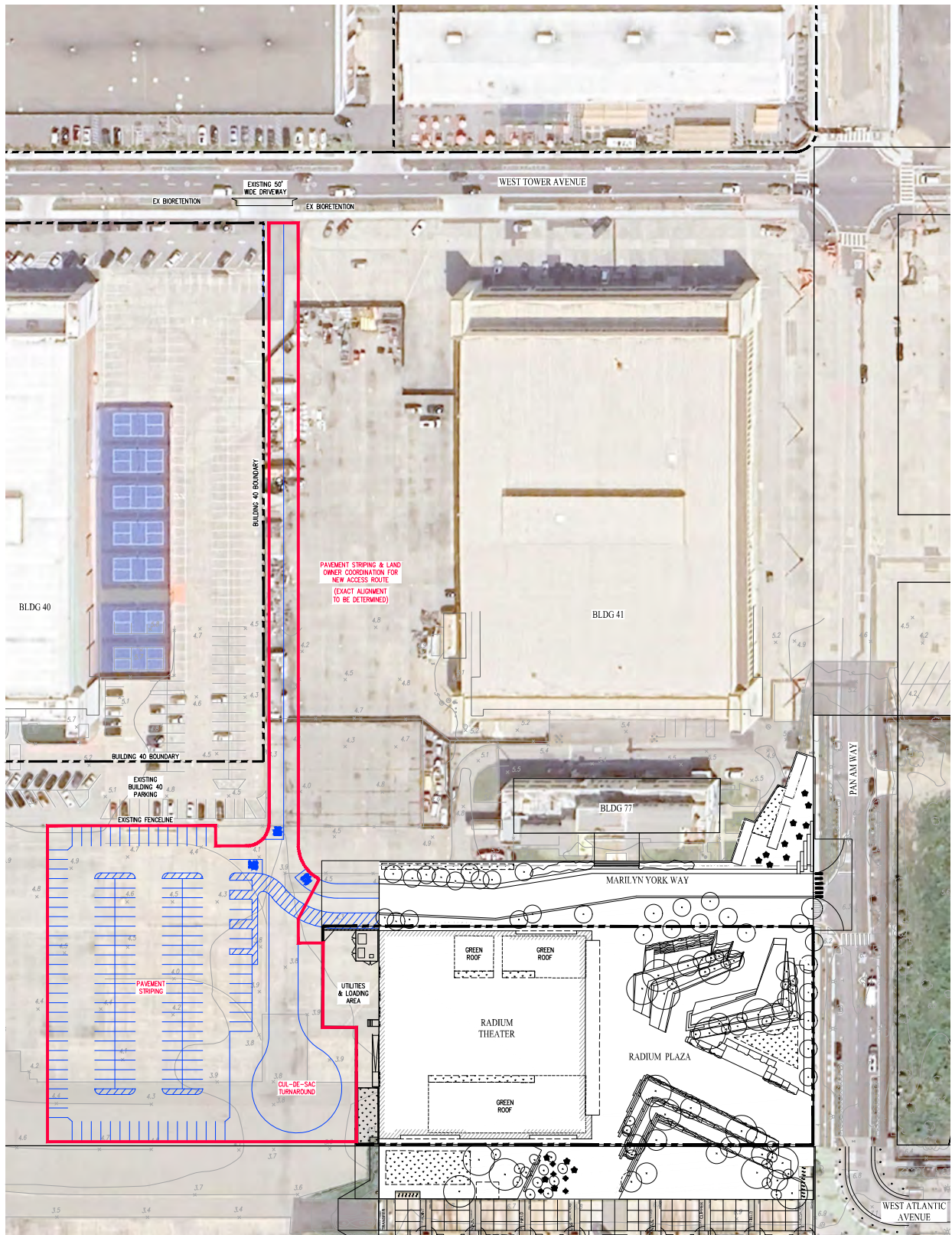
**RADIUM THEATER
EXHIBIT B
DEVELOPER'S OFF-SITE WORK**

CITY OF ALAMEDA ALAMEDA COUNTY CALIFORNIA
SCALE: 1" = 40' DATE: JANUARY, 2026



SAN RAMON (925) 866-0322
SACRAMENTO (916) 375-1877
WWW.CBANDCO.COM

Exhibit C
To Ground Lease
City's Off-Site Work

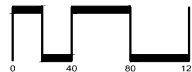


LEGEND

APPROXIMATE LIMITS OF CITY OF ALAMEDA'S OFF-SITE WORK

**RADIUM THEATER
EXHIBIT C
CITY OF ALAMEDA'S OFF-SITE WORK**

CITY OF ALAMEDA ALAMEDA COUNTY CALIFORNIA
SCALE: 1" = 40' DATE: JANUARY, 2026



SAN RAMON (925) 866-0322
SACRAMENTO (916) 375-1877
WWW.CBANDCO.COM

Exhibit D
To Ground Lease

Confirmation of Lease Term

This Confirmation of Lease Term is made by and between the City of Alameda, a charter city and California municipal corporation, as landlord ("**City**"), and Radium Presents, Inc., a California 501(c)(3) corporation, as tenant ("**Developer**"), who agree as follows:

1. City and Developer entered into a Ground Lease dated _____, 20__ ("**Lease**"), in which City ground leased to Developer and Developer ground leased from City the Property (as defined in the Lease).

2. City and Developer agree to confirm the following:

a. _____, 20__, is the Commencement Date.

b. _____, 20__, is the Expiration Date.

3. Developer hereby confirms that the Lease is in full force and effect and that the Lease has not been modified, altered or amended, except as follows:

_____;

4. The provisions of this Confirmation of Lease Term shall inure to the benefit of, or bind, as the case may require, the parties and their respective successors, subject to the restrictions on transfer and subleasing contained in the Lease.

CITY OF ALAMEDA, a charter city and municipal corporation

By: _____
Name: _____
Its: _____

RADIUM PRESENTS, INC., a California 501(c)(3) corporation

By: _____
Christopher Seiwald, CEO

Exhibit E
To Ground Lease
Purchase Agreement

AGREEMENT OF PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS

This AGREEMENT OF PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS (“**Agreement**”) is entered into as of _____, ____ (“**Effective Date**”), by and between the City of Alameda, a California municipal corporation (“**Seller**”), and Radium Presents, Inc., a California 501(c)3 corporation (“**Buyer**”). Buyer and Seller shall be referred to herein from time-to-time as the “**Parties**.”

RECITALS

A. Seller is the owner of that certain real property in the City of Alameda, County of Alameda (“**County**”), State of California, consisting of approximately 1.72 acres of land, commonly referred to as Blocks 12 and 13 of the Site A project site, plus other adjacent property located in an area commonly known and referred to as Alameda Point, including access to certain parking, as described and shown on Exhibit A attached hereto and incorporated herein and as depicted in the “**Site Plan**” set out on Exhibit A-1 attached hereto and incorporated herein (“**Property**”).

B. Pursuant to that certain Ground Lease dated _____, ____ between Seller and Buyer (“**Lease**”), Seller leased the Property to Buyer for the development and construction of the Project (as defined in Section 1.1), including a performing arts center with a plaza that is open to the public. The Lease included a purchase option (“**Option**”) in favor of Buyer with respect to the Project, which Option was subject to certain conditions precedent described in the Lease.

C. Seller has determined that Buyer has satisfied or with respect to the Covenant (as defined in Section 6.2(a)), will satisfy at the time of Closing (as defined in Section 4.2) the conditions precedent entitling Buyer to exercise the Option.

D. Buyer has timely and effectively exercised the Option during the Option Period (as defined in the Lease).

E. Pursuant to the formula and calculation process contained in the Lease, the Parties have determined the Project’s FMV (as defined in the Lease), and will use the FMV as the Purchase Price (as defined in Section 2) of the Project, as further described in this Agreement.

F. Seller desires to sell and Buyer desires to purchase the Project upon the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing, which are incorporated herein by reference, and the mutual covenants and agreements herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

AGREEMENT

1. Purchase; Reserved Easement; Right of First Offer and Refusal.

1.1 Agreement to Sell and Buy the Project. Seller agrees to sell and Buyer agrees to buy, without warranty, upon the terms and conditions set forth herein:

- a. The Property;
- b. All rights, privileges, rights of way and easements appurtenant to, belonging to or serving the Property, including access and use rights related to the Project Parking Lot (as defined in the Lease and shown on the Site Plan) (“**Appurtenants**”);
- c. All personal property located on or about the Property (“**Personal Property**”); and
- d. All improvements, alterations, structures and buildings located on the Property (“**Improvements**”).

The Property, Appurtenants, Personal Property and Improvements are collectively referred to herein as the “**Project**”. The Property, Appurtenants and Improvements are collectively referred to herein as the “**Real Property**.”

1.2 Reserved Easement. Notwithstanding the forgoing, at Closing, Seller will retain for the benefit of Seller and the general public, the Plaza Easement (as defined in Section 10 the Lease), as shown on the Site Plan, which was recorded on _____ in the “**Official Records**” of the County as Document No. _____.

1.3 Seller Right of First Offer and Refusal. As set forth in Section 4 of the Lease, Seller shall have a Right of First Offer and Refusal (“**Purchase Right**”), in the event Buyer elects to voluntarily sell the Project following the date on which Buyer takes title thereto. This Purchase Right shall be described in detail in the Covenant (as defined in Section 6.2 below) to be recorded prior to the Grant Deed.

1.4 Parking. As required under the Lease, Seller has constructed the Project Parking Lot consistent with the Alameda Point Transportation Demand Management Plan (2014), as amended, to provide off-site parking spaces sufficient for the Project.

a. Available Public Parking. The parties acknowledge and agree that Project occupants, invitees, staff, employees, users, and visitors shall have a non-exclusive right to use any existing or future parking spaces within the general publicly available parking inventory serving the Property, including, without limitation, those located in the Project Parking Lot, subject at all times to the same rules, regulations, rates, fees, and responsibilities applicable to all users of such parking facilities.

b. Minimum Public Parking. As a result of the temporary nature of the Project Parking Lot, the parties acknowledge that the location of parking for the Project may be changed by Seller during the term of this Agreement or following Closing. Notwithstanding the foregoing, Seller agrees that during the term of this Agreement and in perpetuity following Closing, it shall provide and make available within 1/4 mile of the Project site no less than one hundred sixty (160) publicly available and managed parking spaces (“**Minimum Off-Site Parking Requirement**”), which parking spaces, irrespective of location, shall be available for use by the Project and its occupants, invitees, staff, employees, users, and visitors, as described herein.

c. Remedies for Inadequate Off-Site Parking Requirement. Insufficient Parking being available to the Project at any time may, depending upon surrounding conditions and available alternatives, result in harm to Buyer due to (i) loss of revenues because

of reductions in attendance at Project events resulting from customer dissatisfaction, thus interfering with Buyer's ability to successfully operate the Project; and (ii) resulting reputational injuries, the extent of which may be difficult to ascertain or quantify. Therefore, the parties agree as follows:

i. If Buyer reasonably determines at any time that the Minimum Off-Site Parking Requirement is not being met by Seller because the number of available parking spaces is below the Minimum Off-Site Parking Requirement ("**Parking Deficiency**"), Buyer shall deliver written notice to Seller stating the number of parking spaces below the Minimum Off-Site Parking Requirement (measured between the 10th and the 20th day of such month) including reasonable supporting data demonstrating a Parking Deficiency ("**Notice of Parking Deficiency**"). Within ten (10) days following Seller's receipt of the Notice of Parking Deficiency, the parties shall meet in good faith to confirm whether a Parking Deficiency exists. If a Parking Deficiency is confirmed by mutual agreement of the parties, Seller shall have thirty (30) days (subject to any Force Majeure Delay) from the date of its receipt of the Notice of Parking Deficiency to cure the Parking Deficiency and cause the Minimum Off-Site Parking Requirement to be met.

ii. During the thirty (30) day period following Seller's receipt of Buyer's Notice of Parking Deficiency, the parties shall immediately engage in a mandatory meet and confer process to discuss the Parking Deficiency and explore feasible solutions to cure the Parking Deficiency. The parties' discussions may include, without limitation, potential solutions such as:

(a) Leasing or licensing additional parking spaces from third-party property owners;

(b) Partnering with transit or mobility service providers to offer shuttle services for Project patrons, staff, artists, and other invitees; or

(c) Such other creative options as the parties may determine.

d. Survival. This provision this Section 1.4 shall survive Closing in all respects and continue in full force and effect in perpetuity hereafter.

1.5 Purchase Price. The purchase price ("**Purchase Price**") for the Project is the FMV of _____ and 00/100 Dollars (\$ _____), as determined by the Parties pursuant to the Lease.

1.6 Payment of Purchase Price and Independent Consideration. The Purchase Price and Independent Consideration (as defined below) for the Project shall be payable by Buyer as follows:

1.7 Deposit. Within five (5) business days after the full execution of this Agreement, Buyer shall deposit with Escrow Holder (as defined in Section 4.1), in cash, by certified or bank cashier's check made payable to Escrow Holder, or a confirmed wire transfer of funds, the sum of Fifty Thousand and 00/100 Dollars (\$50,000) ("**Deposit**"). The Deposit shall be deposited in an interest-bearing escrow account and all interest thereon shall be deemed part of the Deposit. If the transaction contemplated herein does not close, the Deposit and all interest accrued thereon shall be refunded to Buyer, this Agreement and the Escrow shall

terminate and the Parties shall have no further obligations to one another with respect to this Agreement, except as otherwise expressly provided for herein.

1.8 Independent Consideration. Upon the Opening of Escrow (as defined in Section 4.1), Buyer shall deposit with Escrow Holder, in cash, by certified or bank cashier's check made payable to Escrow Holder, or a confirmed wire transfer of funds, the sum of One Hundred and 00/100 Dollars (\$100.00) ("**Independent Consideration**"). Buyer and Seller have bargained for and agree that the Independent Consideration is consideration for Buyer's rights under this Agreement. Upon receipt, the Escrow Holder shall immediately release the Independent Consideration to Seller, and notwithstanding any provision in this Agreement to the contrary, the Independent Consideration shall be nonrefundable to Buyer in all circumstances.

1.9 Purchase Price Balance. Provided all of the other conditions precedent to Buyer's obligation to purchase the Project are timely satisfied, prior to the Close of Escrow, Buyer shall deposit with Escrow Holder by cash, wire transfer, cashier's check, or other immediately available funds the difference between (i) the Purchase Price and (ii) the Deposit ("**Purchase Price Balance**"), plus such other funds as described in Sections 8.1 and 9.

1.10 Community Facilities District. Buyer acknowledges that the Property is located within Community Facilities District No. 17-1 ("**CFD 17-1**"), formed by the City of Alameda to finance annual public services and transportation demand management services associated with Alameda Point development. Buyer further acknowledges that, following the Close of Escrow, all special taxes and assessments levied by CFD 17-1 against the Property, including any future increases, annexations, or modifications to the Rate and Method of Apportionment ("**RMA**") as adopted by the City, shall be the sole responsibility of Buyer.

2. Escrow.

2.1 Opening of Escrow. Within two (2) business days after the Effective Date, Buyer shall open an escrow ("**Escrow**") with First American Title Insurance Company, Attention: Ted V. Bigornia, located at 1280 Civic Drive, Suite 104, Walnut Creek, CA 94596 ("**Escrow Holder**"), by providing Escrow Holder a fully executed Agreement or Buyer's and Seller's signed counterparts of this Agreement ("**Opening of Escrow**"). Escrow Holder shall acknowledge the date of the Opening of Escrow by signing and returning the Escrow Holder Receipt at the end of this Agreement. Buyer and Seller agree to execute, deliver and be bound by any reasonable or customary supplemental escrow instructions of Escrow Holder or other instruments as may reasonably be required by Escrow Holder in order to consummate the transaction contemplated by this Agreement. In addition, Buyer and Seller may execute such supplemental Escrow instructions as may be reasonable and appropriate to enable Escrow Holder to comply with the terms of this Agreement, provided such supplemental Escrow instructions are not in conflict with this Agreement as it may be amended in writing from time to time. Any such supplemental instructions shall not conflict with, amend or supersede any portions of this Agreement. If there is any inconsistency between such supplemental instructions and this Agreement, this Agreement shall control.

2.2 Close of Escrow. For purposes of this Agreement, "**Close of Escrow**" or "**Closing**" shall be defined as the date that the grant deed, the form of which is attached hereto as Exhibit B ("**Grant Deed**"), conveying the Real Property to Buyer, is recorded in the Official Records of the County. The date upon which the Close of Escrow actually occurs shall sometimes be referred to herein as the "**Closing Date.**" The Closing Date shall be fifteen (15)

days following satisfaction or written waiver of all conditions set forth in Section 5, Section 6.1 and Section 6.2, or such other date as the Parties may mutually agree.

3. Title to the Real Property.

3.1 Permitted Exceptions to Title. At the Close of Escrow, title to the Real Property shall be conveyed to Buyer by Seller subject only to the following matters (collectively, "**Permitted Exceptions to Title**"):

a. Those exceptions to title approved by Buyer or otherwise deemed Permitted Exceptions pursuant to Section 6.1 below;

b. The standard printed exceptions set forth in the ALTA Standard Policy;

c. General and special real property taxes and assessments for the current fiscal year, a lien not yet due and payable; and

d. Any exceptions directly or indirectly caused by Buyer (including, without limitation, any documents or instruments to be recorded as part of any financing for the acquisition of the Project by Buyer).

3.2 Title Policy. As a condition to the Close of Escrow, Title Company (as defined in Section 6.1.a) shall issue to Buyer a commitment to issue an ALTA Standard Coverage Owner's Policy of Title Insurance ("**ALTA Standard Policy**") in the amount of the Purchase Price naming Buyer as proposed insured, which ALTA Standard Policy shall provide title insurance subject only to the Permitted Exceptions to Title.

(1) Buyer shall have the right to procure an ALTA Extended Coverage Owner's Policy of Title Insurance ("**ALTA Extended Policy**"). Buyer shall pay for the increased cost of such ALTA Extended Policy, the cost of any survey that the Title Company requires for issuance of an ALTA Extended Policy and for the cost of any other endorsements or increase in the amount or scope of title insurance if Buyer elects to increase the amount or scope of title insurance coverage.

(2) The costs associated with the ALTA Standard Policy shall be paid as provided in Section 9, provided, however, that Buyer may elect to obtain extended coverage and/or have any endorsements provided by the Title Company so long as (i) such endorsements (or amendments) shall be at no cost or additional liability to Seller; and (ii) Buyer shall use commercially reasonable efforts to secure such endorsements from the Title Company prior to Closing. The ALTA Standard Policy or the ALTA Extended Policy, as selected by Buyer, plus such endorsements and amendments as required by Buyer shall be collectively referred to as the "**Title Policy.**"

4. Conditions to Close of Escrow.

4.1 Conditions to Buyer's Obligations. Buyer's obligation to consummate the transaction contemplated by this Agreement is subject to the satisfaction of the following conditions for Buyer's benefit (or Buyer's waiver thereof in its sole and absolute discretion) on or prior to the dates designated below for the satisfaction of such conditions:

a. Title Review. Within five (5) business days of the Effective Date, Buyer shall, at its sole cost, obtain: (i) a preliminary report or title commitment (“**Preliminary Report**”) prepared by Escrow Holder’s affiliated underwriter (“**Title Company**”); and (ii) copies of all matters of record described therein (“**Underlying Documents**”) in order to review and approve or object to the condition of title to the Real Property as set forth on the Preliminary Report (“**Title Review Period**”). In the event that Buyer objects to Seller’s title for any reason or to any other item disclosed by the Preliminary Report, Buyer shall have ten (10) business days following receipt of the Preliminary Report to deliver written notice (“**Buyer’s Title Notice**”) to Seller specifically identifying all objections to any such item or to the condition of Seller’s title. Failure of Buyer to provide a Buyer’s Title Notice shall be deemed approval by Buyer of the condition of title to the Real Property as set forth in the Preliminary Report, and all matters shown thereon shall be deemed Permitted Exceptions to Title. Seller shall, within seven (7) business days following receipt of Buyer’s Title Notice, deliver written notice (“**Seller’s Title Notice**”) to Buyer informing Buyer whether or not Seller elects, in its sole discretion, to attempt to eliminate or cure any such matter to which an objection has been raised. In the event Seller advises Buyer in Seller’s Title Notice that Seller will not eliminate or cure the matter(s) to which Buyer has objected, Buyer shall, within seven (7) business days after receipt of Seller’s Title Notice either: (i) accept title subject to the matters to which Buyer has objected, which matters shall be then deemed Permitted Exceptions to Title; or (ii) terminate this Agreement with written notice to Seller, in which event the Deposit and all interest accrued thereon shall be refunded to Buyer and the Parties shall have no further obligations to each other under this Agreement, except for obligations which expressly survive the termination of this Agreement. In the event that Seller advises Buyer in Seller’s Title Notice that Seller will attempt to eliminate or cure any matter to which an objection is made, Buyer’s right to terminate this Agreement will be suspended, and Seller shall use reasonable efforts to do so prior to the Closing Date. If Seller is unable to eliminate or cure any such matter that Seller has agreed to attempt to eliminate or cure, despite Seller’s reasonable efforts to do so, Buyer shall have the right to either: (A) terminate this Agreement, in which event the Deposit and all interest accrued thereon shall be refunded to Buyer and the Parties shall have no further obligations to each other under this Agreement except for obligations which expressly survive the termination of this Agreement; or (B) waive such failure by Seller in writing, and accept condition of title to the Real Property subject to the matters to which Buyer has objected and Seller was unable to eliminate or cure prior to the Closing Date, and those matters shall then become Permitted Exceptions to Title. Notwithstanding any other provision of this Section 6.1.a, on or before the Closing Date, Seller shall remove of record any monetary liens or encumbrances voluntarily created by Seller that affect title to the Real Property, including without limitation, mortgages, deeds of trust, judgment liens, or mechanic’s or materialmen’s liens (excluding any liens arising from Buyer’s acts or omissions), which shall all be considered Unpermitted Exceptions to Title (as defined below). In lieu of removal, Seller may, at its option cause the Title Company to agree to insure over any such lien, but only to the extent the Title Company is willing to do so without cost, bond, or indemnity to Seller and provided such is acceptable to Buyer in its reasonable discretion. Except as provided herein, no voluntary liens, including without limitation, deeds of trust, loan or lender agreements, tax liens for delinquent real estate taxes, other liens for unpaid assessments or fees, or leases (recorded or unrecorded), shall be included within the Permitted Exceptions to Title unless specifically approved in writing by Buyer, and all such liens shall be deemed Unpermitted Exceptions to Title. Seller agrees to work cooperatively with Buyer and Title Company to remove or address any outstanding title issues, to Buyer’s reasonable satisfaction, prior to and as a condition of Closing (“**Unpermitted Exceptions to Title**”).

b. No Material Representation Change. There shall be no Material Representation Change (as defined in Section 10.15).

c. No Material Adverse Change. There shall be no Material Adverse Change (as defined in Section 10.15).

d. Seller's Obligations. As of the Close of Escrow, Seller shall have performed all of the obligations required to be performed by Seller under this Agreement.

e. Seller's Representations and Warranties. All of Seller's representations and warranties set forth in Section 12 shall be true and correct in all material respects at the time as of which the same is made and as of the Close of Escrow.

4.2 Conditions to Seller's Obligations. For the benefit of Seller, the Close of Escrow shall be conditioned upon the occurrence and/or satisfaction of each of the following conditions (or Seller's waiver thereof in its sole and absolute discretion):

a. Covenant. Buyer has prepared and will cause to be recorded in the Official Records at the Close of Escrow, prior to recordation of the Grant Deed, a restrictive covenant, in a form and substance as reasonably approved by Seller in a form consistent with Exhibit O of the Parties' Lease ("**Covenant**"), to ensure, among other things, that the Project is used in perpetuity for uses benefitting Seller and that the Community Benefits Statement is adhered to by Buyer.

b. Buyer's Obligations. As of the Close of Escrow, Buyer shall not be in material default and this Agreement and shall have timely performed all of the obligations required by the terms of this Agreement to be performed by Buyer including, without limitation, the timely deposit of all monies required to be deposited by Buyer under this Agreement.

c. Buyer's Representations and Warranties. All of Buyer's representations and warranties set forth in Section 14 hereof shall be true and correct in all material respects at the time as of which the same is made and as of the Close of Escrow.

5. Deposits by Seller. At least one (1) day prior to the Close of Escrow, Seller shall deposit or cause to be deposited with Escrow Holder the following documents and instruments:

5.1 Grant Deed. The Grant Deed, signed and acknowledged by Seller.

5.2 Bill of Sale. A bill of sale ("**Bill of Sale**") in the form attached hereto as Exhibit C, executed by Seller transferring to Buyer at Closing all Personal Property on the Real Property, which Bill of Sale shall include an exhibit describing the Personal Property.

5.3 Seller's Certificate. A certificate of non-foreign status ("**Seller's Certificate**"), completed and signed by Seller and acceptable to Title Company.

5.4 Closing Statement. A closing statement prepared by the Title Company and approved by Seller and Buyer ("**Closing Statement**"), signed by Seller.

5.5 California Form 593. A Form 593, completed and signed by Seller and acceptable to Title Company.

5.6 An Owner's Affidavit. If required by the Title Company and reasonably acceptable to Seller, an Owner's Affidavit acceptable to the Title Company, completed and signed by Seller.

5.7 Other Documentation. Such other documentation and/or instruments required hereunder or reasonably required by Buyer or the Title Company for the Close of Escrow, provided that Seller and Buyer shall not be required to execute or deliver any document or instrument that materially increases any of either party's obligations or materially decreases either party's rights under the terms and provisions of this Agreement.

6. Deposits by Buyer. At least one (1) day prior to the Close of Escrow, Buyer shall deposit or cause to be deposited with Escrow Holder the following monies, documents and instruments:

6.1 Funds. The Purchase Price Balance, plus funds to cover Buyer's share of the Costs and Expenses set forth in Section 9.

6.2 Covenant. The Covenant to be executed by Seller and recorded as an encumbrance on title to the Project.

6.3 Closing Statement. The Closing Statement, signed by Buyer.

6.4 PCOR. Any transfer tax or change of ownership form, affidavit or declaration required by any laws with respect to the transfer of title to the Project, signed by Buyer in form for filing with the applicable governmental authority.

6.5 Other Documentation. Such other documentation and/or instruments required hereunder or reasonably required by Seller or the Title Company for the Close of Escrow (it being understood that Seller and Buyer shall not be required to execute or deliver any document or instrument that materially increases any of either party's obligations or materially decreases either party's rights under the terms and provisions of this Agreement).

7. Costs and Expenses.

7.1 Seller. Seller shall pay: (a) the title insurance premiums and charges for the ALTA Standard portion of the Title Policy; (b) one-half of the escrow fees; and (c) all costs and expenses incurred in removing or resolving Unpermitted Exceptions to Title to the extent Seller has agreed to so remove.

7.2 Buyer: Buyer shall pay: (a) the cost and expense of the Title Report, the premium payable in connection with Buyer's obtaining an ALTA Extended Policy, including updating or obtaining an ALTA survey of the Real Property, and the cost of all endorsements to the Title Policy, that are desired by Buyer; (b) one-half of the escrow fees; (c) the recording fees; and (d) all costs and expenses incurred in connection with obtaining any financing for the purchase of the Real Property, including title, escrow, documentation and appraisal costs relating thereto, and the cost of any lender's policy of title insurance.

7.3 Other Expenses. Except as provided in this Section 9, each party will pay its own expenses incurred in connection with this Agreement and the transactions contemplated hereby, including, without limitation: (a) all costs and expenses stated herein to be borne by a party, and (b) all of their respective consulting, accounting, legal and appraisal fees.

7.4 Seller is Public Agency. The Parties acknowledge that Seller is a public agency and, as such, is exempt from all recording fees and documentary transfer taxes.

7.5 Custom. All other Closing Costs shall be paid in the manner customary in Alameda County.

7.6 The provisions of Section 9 shall survive the Close of Escrow.

8. Prorations. Water, sewer, utility charges, other recurring expenses normal to the operation and maintenance of the Project and taxes shall be paid by Buyer and Seller at Closing as set out in the Lease.

9. Disbursements and Other Actions by Escrow Holder. Upon the Close of Escrow, the Escrow Holder shall promptly undertake all of the following in the manner indicated:

9.1 Recording. Cause first the Covenant, then the Grant Deed and any other documents which the Parties hereto may mutually direct, to be recorded in the Official Records of the County in the order set forth above.

9.2 Funds. Disburse from funds deposited by Buyer with Escrow Holder toward payment of all items chargeable to the account of Buyer, as set out on the Closing Statement, including, without limitation, the payment of the Purchase Price to Seller, and disburse the balance of such funds, if any, to Buyer.

9.3 Document Delivery. Deliver originals and conformed copies of all documents to Seller and Buyer as appropriate.

9.4 Title Policy. Cause the Title Company to issue the Title Policy to Buyer.

10. Seller Representations and Warranties.

10.1 Authority. Seller is a charter city and municipal corporation. Seller has full power and authority to enter into this Agreement and to perform this Agreement.

10.2 Foreign Person. Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and the Income Tax Regulations thereunder.

10.3 No Broker. Seller has not dealt with any real estate broker or finder in connection with the sale of the Real Property to Buyer or this Agreement.

10.4 No Conflict. To Seller's Representatives' Knowledge (as defined below), the execution of this Agreement and the incurrence of the obligations set forth in this Agreement do not violate any order or ruling of any court, law or regulation binding on Seller or any provision of any indenture, agreement or other agreement to which Seller is a party and that is applicable to the Project.

10.5 Pending Litigation. To Seller's Representatives' Knowledge, Seller has not been served with nor received any written notice regarding any action, suit, or proceeding affecting the Project or affecting the in accordance with its respective terms, or which question the validity or enforceability of this Agreement, in any court or before any governmental authority, domestic or foreign.

10.6 Violations of Law. To Seller's Representatives' Knowledge, Seller has received no written notice of any material violations of federal, state, or local laws currently outstanding and specifically applicable to the Project.

10.7 Eminent Domain. To Seller's Representatives' Knowledge, Seller has not received written notice of any pending eminent domain proceeding against the Project.

10.8 Governmental Proceedings. To Seller's Representatives' Knowledge, Seller has received no written notice of any condemnation, environmental, CEQA, zoning or other land use regulation proceedings specifically directed to the Project or the development of the Project, nor any notice of any special assessment proceedings affecting the Project.

10.9 Contracts and Other Agreements. Apart from CFD 17-1, there are no service or maintenance contracts relating to the Project that will bind Buyer after Closing.

10.10 Other Contracts to Convey Project. To Seller's Representatives' Knowledge, Seller has not entered into any agreements (oral or written) with any person or entity other than Buyer pursuant to this Agreement regarding a conveyance of any form of the Project.

10.11 Hazardous Material. To Seller's Representatives' Knowledge, Seller has received no written notice of the existence of Hazardous Material on, in or under the Real Property, except for the Hazardous Materials disclosed in the reports listed on Exhibit D. The term "**Hazardous Material**" as used herein shall mean any hazardous or toxic substances, materials, chemicals, or wastes in any form and in any concentration that is or becomes, prior to the Close of Escrow, regulated by the United States or any state or local government authority having jurisdiction over the Project (including any present order or agreement imposing liability or standards concerning any such substances, materials, chemicals, or wastes and any future such order or agreement that becomes effective prior to the Close of Escrow), and includes without limitation: any "hazardous substance," as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 United States Code sections 9601-9675); any "hazardous waste," as that term is defined in the Resource Conservation and Recovery Act of 1976 (RCRA) (42 United States Code sections 6901-6992k); petroleum products; volatile organic compounds; radioactive materials; asbestos and lead paint, in any form or condition; and substances or compounds containing PCBs. The term "**Environmental Law**" as used herein shall mean any federal, state, or local law, ordinance or regulation, or any order, demand or guidance document of any governmental agency, relating to Hazardous Materials. Buyer shall rely solely upon its own investigation and inspection of the Project and its improvements thereon and upon the aid and advice of Buyer's independent expert(s) in purchasing the Project, and shall take title to the Real Property without any warranty, express or implied, by Seller or any employee or agent of Seller with respect to Hazardous Materials in, on or under the Property. Seller's knowledge and disclosures regarding Hazardous Materials are limited to the contents of Seller's Deliveries.

10.12 Condition of Real Property. Except as expressly stated herein, Seller makes no representation or warranty as to the physical or environmental condition of the Real Property, including but not limited to its fitness for a particular use, and Buyer acknowledges it is in possession of the Real Property pursuant to the Lease and is accepting the Real Property "as-is, where-is."

10.13 Bankruptcy. Seller has not (a) made a general assignment for the benefit of creditors; (b) filed any voluntary petition for bankruptcy or suffered the filing of any involuntary petition by its creditors; (c) suffered the appointment of a receiver to take possession of all or substantially all of its assets; or (d) suffered the attachment or other judicial seizure of all or substantially all of its assets.

10.14 Seller Representatives. For purposes of this Section 12, the term "**Seller's Representatives' Knowledge**" refers to the current, actual knowledge of the Base Reuse and Economic Development Director, with regard to the Real Property and the Project, with no imputation of knowledge and no duty of investigation or inquiry. Seller's representative named in this section shall have no personal liability under this Agreement by virtue of acting as a representative of Seller for the purpose of this definition.

10.15 Material Representation Change; Material Adverse Change. If, prior to the Closing Date, Seller becomes aware of any fact or circumstance that would (i) materially change a representation or warranty of Seller in this Agreement ("**Material Representation Change**") or (ii) constitute a material adverse change in the Project or its future use or operation ("**Material Adverse Change**"), then Seller shall promptly, and in all events at least five (5) days prior to the Closing Date (and the Closing Date shall be extended if necessary to give Buyer five(5) days to review such Material Adverse Change), give written notice of such Material Representation Change or Material Adverse Change to Buyer.

10.16 Survival. Seller's representations set forth in this Section 12 shall survive the Close of Escrow for a period of twelve (12) months after the Close of Escrow and shall not be merged into or defeated by the execution, delivery, or recordation of the Grant Deed. Notwithstanding anything to the contrary in this Agreement, in no event shall Buyer or Seller be liable to the other for any consequential, special, incidental, punitive, exemplary, speculative, remote, or indirect damages, including without limitation loss of profits, loss of use, diminution in value, or business interruption damages, arising out of or relating to any breach of any representation, warranty, covenant, or obligation of the other under this Agreement, whether arising in contract, tort, statute, or otherwise. Buyer's and Seller's respective damages, if any, for any such breach shall be limited solely to Buyer's or Seller's respective actual, direct damages. The limitations in this Section shall survive the Close of Escrow for the same period as the representations and warranties of each party shall survive, as described herein.

11. Seller's Covenants. Seller agrees as follows:

11.1 Non-Solicitation. Seller shall not list or market the Project for sale or lease or otherwise solicit or entertain any offer to purchase or lease the Project while this Agreement is in effect.

11.2 Leases; Agreements for Use or Possession. Seller shall not, without Buyer's prior written approval, enter into any lease, license, occupancy agreement or easement or other agreement with any party conveying the right to use or possess the Project, between the Effective Date and the earlier of Close of Escrow or termination of this Agreement.

11.3 Litigation. Seller shall immediately notify Buyer of any lawsuits, condemnation proceedings, rezoning, or other governmental order or action, or any threat thereof, known to Seller which might affect the Project or any interest of Buyer.

12. Buyer Representations and Warranties.

12.1 Authority. Buyer is a 501(c)3 non-profit organization, duly formed and validly existing and in good standing under the laws of the State of California. Buyer is qualified to do business and is in good standing in the State of California. Buyer has full power and authority to enter into this Agreement and to perform this Agreement. The execution, delivery and performance of this Agreement by Buyer have been duly and validly authorized by all necessary action on the part of Buyer and all required consents or approvals have been duly obtained. This Agreement is a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to the effect of applicable bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws affecting the rights of creditors generally.

12.2 No Broker. Buyer has not dealt with any real estate broker or finder in connection with the sale of the Real Property from Seller or Agreement.

12.3 No Violation. The execution of this Agreement and the incurrance of the obligations set forth in this Agreement do not violate any order or ruling of any court binding on Buyer or any provision of any indenture, agreement or other instrument to which Buyer is a party or may be bound. Neither the entry into nor the performance of this Agreement will result in the violation, or conflict with, or invalidate, cancel or make inoperative, or constitute a default under, any charter, bylaw, partnership agreement, trust agreement, mortgage, deed of trust, indenture, contract, credit agreement, franchise, permit, judgment, decree, order, easement, restriction or other charge, right or interest applicable to Buyer.

12.4 Bankruptcy. Buyer has not (a) made a general assignment for the benefit of creditors; (b) filed any voluntary petition for bankruptcy or suffered the filing of any involuntary petition by its creditors; (c) suffered the appointment of a receiver to take possession of all or substantially all of its assets; or (d) suffered the attachment or other judicial seizure of all or substantially all of its assets.

12.5 Threatened Actions. There are no pending, and to Buyer's actual knowledge, none threatened in written notice to Buyer, actions, suits, arbitrations, claims or proceedings at law, in equity, or otherwise, that would adversely affect Buyer's ability to perform its obligations under this Agreement.

12.6 As-Is. Subject to Seller's representations, warranties and express obligations contained herein, Buyer's election to purchase the Real Property will be based upon and will constitute evidence of Buyer's independent investigation of the Property, its use, development potential and suitability for Buyer's intended use, including (without limitation) the following: the feasibility of continuing to develop the Real Property for the purposes intended by Buyer and the conditions of approval for any subdivision map (if applicable); the size and dimensions of the Real Property; the availability, cost and adequacy of water, sewage and any utilities serving or required to serve the Real Property; the presence and adequacy of current or required infrastructure or other improvements on, near or affecting the Real Property; any surface, soil, subsoil, fill or other physical conditions of or affecting the Real Property, such as climate, geological, drainage, air, water or mineral conditions; the condition of title to the Real Property; the existence of governmental laws, statutes, rules, regulations, ordinances, limitations, restrictions or requirements concerning the use, density, location or suitability of the Property for any existing or proposed development thereof including but not limited to zoning, building, subdivision, environmental or other such regulations; the necessity or availability of any general or specific plan amendments, rezoning, zoning variances, conditional use permits, building permits, environmental impact reports, parcel or subdivision maps and public reports,

requirements of any improvement agreements; requirements of the California Subdivision Map Act, and any other governmental permits, approvals or acts (collectively "Permits"); the necessity or existence of any dedications, taxes, fees, charges, costs or assessments which may be imposed in connection with any governmental regulations or the obtaining of any required Permits; the presence of endangered plant or animal species upon the Real Property; and all of the matters concerning the condition, use, development or sale of the Real Property. Seller will not be liable for any loss, damage, injury or claim to any person or property arising from or caused by the development or operation of the Real Property by Buyer.

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

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

Buyer's Initials: _____ Seller's Initials: _____.

12.7 Material Representation Change. If, prior to the Closing Date, Buyer becomes aware of any fact or circumstance that would constitute a Material Representation Change, then Seller shall promptly, and in all events at least five (5) days prior to the Closing Date (and the Closing Date shall be extended if necessary to give Buyer five (5) days to review such Material Adverse Change), give written notice of such Material Representation Change or Material Adverse Change to Buyer.

12.8 Survival. Buyer's representations set forth in this Section 14 shall survive the Close of Escrow for a period of twelve (12) months after the Close of Escrow and shall not be merged into or defeated by the execution, delivery, or recordation of the Grant Deed.

13. Default.

13.1 Buyer Default; Liquidated Damages; Limitation on Liability. **IF CLOSE OF ESCROW DOES NOT OCCUR DUE TO BUYER'S DEFAULT UNDER THIS AGREEMENT, INCLUDING THE FAILURE OF ANY CONDITION SET FORTH IN SECTION 4.2, WHICH BUYER FAILS TO PERFORM PRIOR TO THE CLOSE OF ESCROW AND FAILS TO CURE ANY SUCH BREACH WITHIN A REASONABLE PERIOD OF TIME FOLLOWING WRITTEN NOTICE FROM SELLER, AND SELLER IS READY, WILLING AND ABLE TO CONSUMMATE THE SALE CONTEMPLATED HEREIN AND SELLER IS NOT IN DEFAULT OF ITS OBLIGATIONS HEREUNDER, THEN SELLER AND BUYER AGREE THAT THE DEPOSIT AND ANY ACCRUED INTEREST EARNED ON THE DEPOSIT SHALL BE DISBURSED TO AND RETAINED BY SELLER. THE PARTIES AGREE SELLER'S RETENTION OF THE DEPOSIT MADE BY BUYER AS SET FORTH HEREIN IS NOT A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT SHALL BE AND IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677 (AS SAID LAWS MAY BE MODIFIED, REPLACED AND SUPPLEMENTED). THE PARTIES HEREBY ACKNOWLEDGE AND AGREE SELLER'S ACTUAL DAMAGES, IN THE**

EVENT OF A DEFAULT HEREUNDER BY BUYER, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THE AMOUNT OF THE DEPOSIT MADE HAS BEEN AGREED UPON, AFTER NEGOTIATION AND TAKING INTO CONSIDERATION ALL CIRCUMSTANCES EXISTING AS OF THE AGREEMENT DATE, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES, AND SUCH SUM SHALL BE PAID TO AND RETAINED BY SELLER AS SELLER'S SOLE AND EXCLUSIVE REMEDY AGAINST BUYER, AT LAW OR IN EQUITY, IN THE EVENT OF A MATERIAL DEFAULT BY BUYER UNDER THIS AGREEMENT. THE PARTIES HEREBY WAIVE THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. IN PLACING THEIR INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION AT THE TIME THIS AGREEMENT WAS MADE.

SELLER: _____

BUYER: _____

13.2 Seller's Default. In the event the sale of the Project as contemplated hereunder is not consummated due to Seller's default hereunder, including the failure of any condition set forth in Section 6.1, which Seller fails to perform prior to the Close of Escrow and fails to cure any such breach within a reasonable period of time following written notice from Buyer, Buyer may, as its sole remedy, either elect (i) to receive the return of the Deposit, plus interest accrued thereon, which return shall operate to terminate this Agreement and release Seller from any and all liability hereunder (with Buyer thereby waiving any other remedy, including, specific performance, which Buyer may have against Seller), or (b) to enforce specific performance of Seller's obligation to convey the Project to Buyer in accordance with the terms of this Agreement, provided that Buyer files suit for specific performance on or before one hundred eighty (180) days following the date upon which Closing was to have occurred.

14. No Personal Liability. None of the principals, members, officers, directors, agents, or employees of Seller or Buyer shall be personally or individually liable under this Agreement and the other party shall not look to any of the principals, members, officers, directors, agents, or employees of Seller or Buyer personally or individually for the satisfaction of any claim under this

15. Damage or Condemnation Prior to Closing. Prior to the Close of Escrow, both Buyer and Seller shall promptly notify the other upon becoming aware of any casualty affecting the Project, and Seller shall promptly notify Buyer of any written notice of condemnation affecting the Project. If any such damage or proceeding relates to or may result in the loss of any material portion of the Real Property, then Buyer shall, at its option, elect in writing to Seller and Escrow Holder not later than two (2) days prior to the scheduled date for the Close of Escrow as determined pursuant to Section 4.2 hereof, either to: (a) terminate this Agreement, in which event the Deposit and all other funds deposited by Buyer into and remaining in Escrow together with any interest accrued thereon shall be returned to Buyer and neither party shall have any further rights or obligations hereunder (except those obligations of this Agreement that by their terms survive termination); or (b) continue the Agreement in effect without adjustment to the Purchase Price and Seller shall have no obligation for any repair or restoration to the Real Property, in which event upon the Close of Escrow, Buyer shall be entitled to any compensation, insurance proceeds, awards or other payments or relief resulting from such casualty or condemnation proceeding relating to the Project.

16. Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be sent by certified mail, postage prepaid, return receipt requested or by a recognized overnight courier to address for the party set forth below and shall be deemed received upon the date of delivery to the address of the person to receive such notice as evidenced by the return receipt or proof of delivery slip of such overnight courier. In addition, notice may be provided by electronic transmission (email), in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by certified mail, postage prepaid, return receipt requested, or sent by express delivery or overnight courier service. Any notice given by email shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a non-business day.

To Seller:

City of Alameda
Alameda City Hall
2263 Santa Clara Ave
Alameda, CA 94501
Tel: (510) 748-4509
Attn: City Manager
Email: Manager@alamedaca.gov

and,

Attn: Director of the Base Reuse and Economic
Development Director
Email: athornelyman@alamedaca.gov

and,

Attn.: City Attorney
Email: yshen@alamedacityattorney.org

With an additional copy to:

Best Best & Krieger LLP
Attn: Jessica Lomakin, Esq.
2855 E. Guasti Rd., Suite 400
Ontario, CA 91761
Email: jessica.lomakin@bbklaw.com

To Buyer:

Radium Presents, Inc.
1201 Sherman Street
Alameda, CA 94501
Attn: Christopher Seiwald
Email: christopher@seiwald.com

With an additional copy to:

Burke, Williams & Sorensen, LLP
1999 Harrison Street, Suite 1650
Oakland, CA 94612
Attn: Lisa N. Maxwell, Esq.
Email: lmaxwell@bwslaw.com

17. No Recovery of Legal Fees or Costs. In the event of any litigation or administrative or arbitration proceeding relating to this Agreement, the parties and litigants shall bear their own attorney's fees and costs. No party or litigant shall be entitled to recover any attorneys' fees or costs from any other party or litigant, regardless of which party or litigant might prevail.

18. Miscellaneous.

18.1 Required Actions of Buyer and Seller. Buyer and Seller agree to execute such instruments and documents and to diligently undertake all actions pursuant to the provisions hereof in order to consummate the purchase and sale herein contemplated and shall use their commercially reasonable efforts to accomplish the Close of Escrow in accordance with the provisions hereof; provided, however, Seller and Buyer shall not be required to execute or deliver any document or instrument that materially increases any of either party's obligations or materially decreases either party's rights under the terms and provisions of this Agreement.

18.2 Time of Essence. Time is of the essence of each and every term, condition, obligation and provision hereof.

18.3 Counterparts; Electronic Signatures. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. All executed counterparts shall constitute one agreement and each counterpart shall be deemed an original. The Parties hereby acknowledge and agree that facsimile signatures or signatures transmitted by electronic mail in so-called "pdf" format shall be legal and binding and shall have the same full force and effect as if an original of this Agreement had been delivered. Seller and Buyer (i) intend to be bound by the signatures on any document sent by facsimile or electronic mail, (ii) are aware that the other party will rely on such signatures, and (iii) hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signatures.

18.4 Captions. Any captions to, or headings of, the sections, subsections, paragraphs or subparagraphs of this Agreement are solely for the convenience of the Parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

18.5 No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the Parties to any person or entity other than the Parties to this Agreement. The Parties do not intend, and this Agreement shall not be construed, to create a third-party beneficiary status or interest in, nor give any third-party beneficiary rights or remedies to, any other person or entity not a party to this Agreement.

18.6 Exhibits. The Exhibits attached hereto are hereby incorporated herein by this reference.

18.7 Amendment to this Agreement. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the Parties.

18.8 Waiver. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

18.9 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to its choice of laws rules, and venue shall be in Alameda County.

18.10 Entire Agreement. This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between Buyer and Seller as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of either party shall be of any effect unless it is in writing and executed by the party to be bound thereby.

18.11 Partial Invalidity. If any portion of this Agreement as applied to either party or to any circumstances shall be adjudged by a court to be void or unenforceable, such portion shall be deemed severed from this Agreement and shall in no way effect the validity or enforceability of the remaining portions of this Agreement.

18.12 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

18.13 Preparation of Agreement. Buyer and Seller acknowledge that the provisions and language of this Agreement have been negotiated, and agree that no provision of this Agreement shall be construed against either party by reason of such party having drafted such provision or this Agreement.

18.14 Execution of Agreement. This Agreement is transmitted for examination only and does not constitute an offer, and the Agreement shall not become effective until a fully executed original hereof shall be delivered to Buyer and Seller.

18.15 Next Succeeding Business Day. In the event the date on which Buyer or Seller is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day. "Business day" means a day other than a Friday, Saturday, Sunday, or legal holiday in the State of California.

[Signature Page to follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

BUYER:

RADIUM PRESENTS, INC., a California
501(c)(3) corporation

By: _____
Christopher Seiwald, CEO

SELLER:

CITY OF ALAMEDA, a charter city and
municipal corporation

By: _____
Name: _____
Its: _____

Approved as to form:

By: _____
Name: _____
Assistant City Attorney

ESCROW HOLDER RECEIPT

The undersigned Escrow Holder hereby acknowledges receipt of a fully executed version of this Agreement. The Escrow Holder agrees to hold and disburse the Deposit in accordance with the provisions of this Agreement. The Escrow Holder further agrees that it shall be responsible for all reporting to the Internal Revenue Service relating to the transaction contemplated by this Agreement that is required under Section 6045 of the Internal Revenue Code of 1986, as amended.

EXECUTED as of the _____ day of _____ 202__.

First American Title Insurance Company

By: _____

Escrow Officer

Name: _____

Exhibit A

To Purchase Agreement

Legal Description

JANUARY 16, 2026
JOB NO.: 1087-010

**LEGAL DESCRIPTION
RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA**

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

BEING A PORTION OF DESIGNATED REMAINDER 2, AS SAID DESIGNATED REMAINDER 2 IS SHOWN AND SO DESIGNATED ON THE FINAL MAP FOR TRACT 8696, ENTITLED "WEST MIDWAY LARGE LOT", RECORDED JULY 31, 2025 IN BOOK 373 OF MAPS, AT PAGE 85, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERN CORNER OF SAID DESIGNATED REMAINDER 2;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE SOUTHERN LINE OF SAID DESIGNATED REMAINDER 2, NORTH 85°08'27" WEST 75.00 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID SOUTHERN LINE, NORTH 85°08'27" WEST 405.96 FEET;

THENCE, LEAVING SAID SOUTHERN LINE, NORTH 04°51'33" EAST 104.00 FEET;

THENCE, NORTH 85°08'27" WEST 30.00 FEET;

THENCE, NORTH 04°51'33" EAST 90.00 FEET;

THENCE, SOUTH 85°08'27" EAST 435.96 FEET;

THENCE, SOUTH 04°51'33" WEST 194.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 1.87 ACRES OF LAND, MORE OR LESS.

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

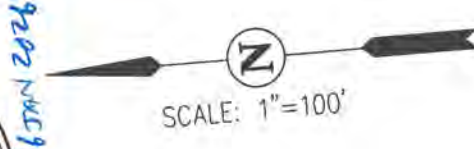
END OF DESCRIPTION



Sabrina Kyle Pack 16 JAN 2026
SABRINA KYLE PACK, P.L.S.
L.S. NO. 8164

Exhibit A-1
To Purchase Agreement

Site Plan



PARCEL TWO
DN. 2022-128360

N04°51'33"E 539.90'

POINT OF
COMMENCEMENT

75.00'

S04°51'33"W 194.00'

POINT OF BEGINNING

405.96'

N85°08'27"W 1122.14'

S85°08'27"E 435.96'

N04°51'33"E 90.00'

N85°08'27"W 30.00'

N04°51'33"E 104.00'

RADIUM THEATER SITE
1.87 AC±

PARCEL 1
(PORTION)
28 RS 14

PARCEL A
338 M 9

SEAPLANE (NORTH)

DESIGNATED
REMAINDER 2
373 M 85

PHASE 1 AGREED TRUST LANDS PARCEL NINE
DN 2014-154596

SHEET 1 OF 1



SAN RAMON (925) 866-0322
ROSEVILLE (916) 788-4456
WWW.CBANDG.COM

CIVIL ENGINEERS • SURVEYORS • PLANNERS

PLAT TO ACCOMPANY LEGAL DESCRIPTION

RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA

JANUARY 16, 2026

Exhibit B

To Purchase Agreement

Grant Deed

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

Radium Presents, Inc.,
1201 Sherman Street
Alameda, CA 94501
Attn: Christopher Seiwald

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is acknowledged, the City of Alameda, a municipal corporation ("**Grantor**"), grants to Radium Presents, Inc., a California 501(c)3 corporation, County of Alameda, State of California described in **Attachment No. 1** attached hereto, including all appurtenance related thereto and improvements located thereon (collectively, "**Property**"),

GRANTOR

THE CITY OF ALAMEDA, a
California municipal corporation

By: _____
Name: _____
City Manager

Approved as to form:

By: _____
Name: _____
Assistant City Attorney

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____

On _____ before me, _____ Notary Public, personally appeared who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to me within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Attachment No. 1

Exhibit C
To Purchase Agreement

Bill of Sale

This Bill of Sale ("**Bill of Sale**") is from the City of Alameda, a municipal corporation ("**Seller**"), in favor of Radium Presents, Inc., a California 501(c)(3) corporation ("**Buyer**").

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, stipulated and agreed, Seller hereby absolutely and unconditionally sells, bargains, transfers and assigns to Buyer all of Seller's right, title and interest in all furnishings, fixtures, equipment, and any other tangible personal property (collectively, "**Personal Property**") located at that certain real property in the County of Alameda, State of California, commonly known as the Alameda Point and further identified as Assessor Parcel No. _____, which comprises approximately 1.72 acres ("**Real Property**"), including without limitation all items (if any) identified on Exhibit 1 attached hereto.

Seller hereby represents and warrants that it holds the Personal Property and is transferring it to Buyer free and clear of all liens, claims and encumbrances, and that it has full right, title and authority to transfer the Personal Property to Buyer as provided in this Bill of Sale. Except as expressly provided herein or in the Purchase and Sale Agreement between Buyer and Seller ("**Purchase Agreement**"), Seller hereby disclaims, and Buyer, by its receipt of this Bill of Sale hereby acknowledges that Seller has disclaimed, all representations and warranties relating to the Personal Property. Except As expressly provided herein or in the Purchase Agreement, Buyer is acquiring the Personal Property on an "As-Is, Where-Is" basis.

This Bill of Sale shall be governed by California law, may be signed in counterparts and shall be effective from and after the recordation, in Alameda County of the deed conveying fee title to the Real Property to Buyer.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the date set forth below, to be effective as set forth above.

Dated: _____, 20__

SELLER:

The City of Alameda, a municipal corporation

By: _____

Name:

Its:

Date:

Exhibit D

To Purchase Agreement

Hazardous Materials Reports

Exhibit F
To Ground Lease
Community Benefits Package



Community Benefits & Operational Benchmarks Statement

Introduction: The following terms will be included in the Lease Option and/or related documents to be entered into by and between the City of Alameda (“**City**”) and Radium Presents, Inc., a 501c3 not-for-profit corporation (“**Developer**”). The terms and conditions of the Community Benefits & Operational Benchmarks Statement (“**Statement**”) reflect the intent of Developer to operate as an organization that benefits the community by bringing arts and cultural programming to the residents of the City and the Bay Area at large, while also supporting the growth and development of other non-profit organizations and artists in the City, the region and throughout the world (collectively, the “**Mission**”). Terms used in and not otherwise defined in this Statement, will have the meaning given to them in the Ground Lease to be negotiated by City and Developer.”

This Statement also provides the City with assurance that (i) in leasing the Property to Developer for \$1 per year, City residents will have reasonable and regular access to the Property including, but not limited to, the lobby, second floor balcony and roof viewing areas, café and restaurant spaces, and plaza (ii) a calendar of performances and events will be regularly available to the public, and (iii) Developer will operate the Project in a professional and customary manner.

This Statement is organized into three sections: Operational Health, Utilization & Community Access, and Maintenance of Property & Project. Finally, **Table 1: Option Milestone Schedule** summarizes the key operational benchmarks that will be tracked throughout the Lease term and characterizes each milestone as Major or Minor.

Developer is required to adhere to each of the following requirements:

Operational Health:

- Developer will provide its annual audit and IRS form 990 to City’s third-party financial advisor by no later than the 15th day of the fifth month after the end of Developer’s fiscal year.
- Developer will undertake the following and provide evidence of such to City upon City’s written request:
 - remain in good standing with requirements of the Federal Internal Revenue Services (“**IRS**”) and California Secretary of State (“**SOS**”);
 - remain in good standing with the requirements of the California Attorney General’s Registry of Charitable Trusts; and
 - maintain its tax-exempt status with the IRS and the California Franchise Tax Board (“**FTB**”).
 - The Developer agrees to provide the City with any other relevant information when requested.



- Upon receipt from the City of a written notice of non-compliance with any of the above requirements, Developer will promptly commence to cure such non-compliance and give written notice to City of the notice of non-compliance and the status of the cure within thirty (30) days of receipt of the notice.
- During the Lease Term, the City will have the right to conduct periodic audits of the Developer's financial, performance and compliance records maintained in connection with the development and operations of the Project. In the event of such audit, Developer agrees to provide the City with access to the Developer's team and employees and make all such financial records available to the City. The City agrees to provide Developer with an opportunity to discuss and respond to any questions or findings prior to finalization of the audit report.
- Developer will demonstrate annually to City that it maintains a 90-day Operating Cash Reserve account (currently estimated to be ~\$750,000). Developer will provide the City with quarterly account statements confirming that this amount remains on deposit and available. In the event Developer defaults under the Lease or otherwise ceases operations of the Project, these funds will be immediately released to the City to cover ongoing maintenance and operations costs for the Project while a new operator is found. .
- If the Project utilizes debt, Developer will maintain a commercially reasonable viability ratio of 1.25 defined as expendable net assets divided by the amount of long-term debt where no debt would mean that the denominator is zero.
- No later than 60 days from the start of Developer's fiscal year ("FY"), and Developer will provide City its annual programming and operations plans for the upcoming year following approval by Developer's Board of Directors. The annual programming and operations plan will reflect Developer's then known schedule of events, performances, rentals and educational programs for the applicable FY.
- Within approximately 60 days of the start of a FY, Developer will provide to City an annual report on program utilization, participation and attendance as compared to the prior FY.
- Within 60-days following the end of every second fiscal year Developer will deliver to City a bi-annual report of its compliance with and continued operations under the "**Sustainable Business Plan**," which includes information sufficient to demonstrate the Project remains financially viable for forthcoming fiscal year, as measured in relation to other comparable non-profit organizations with a similar Mission; the plan will include the following elements: (i) programs and services offered; (ii) financial plan/revenue sources; and (iii) operational plan.
 - If Developer's Sustainable Business Plan includes all of the elements described above with a sufficient level of detail, City will approve the Sustainable Business Plan within 45 calendar days of its receipt.
 - If the Sustainable Business Plan does not include any of the elements described above or does not provide a sufficient level of detail with respect to any of the elements, then within 60 business days of receipt, City will identify for Developer in writing the missing or insufficient elements of the Sustainable Business Plan. Developer will have 60 business days to revise the Sustainable Business Plan, as requested by City and resubmit it to City.
 - If, after review by the City of the revised Sustainable Business Plan the City finds it still insufficient, then the City will schedule a meeting to discuss its findings with



the Developer and what changes are required to the Sustainable Business Plan moving forward.

- Due to confidential and sensitive nature of donor information, Developer will deliver to City an executive summary of donations, excluding personal information.

Utilization & Community Access

- Developer will ensure that the Project, including the plaza, is utilized for a minimum 200 uses per year. “Uses,” as used in this Statement, includes any use of a Project space for a rehearsal, class, performance, demonstration, meeting, reception, ticketed and non-ticketed event, community rental or private rental or other similar use. In addition to the 200 uses per year, the Plaza shall be utilized a minimum of five (5) uses per year.
- Developer will notify City of any extended closures of the Project that would likely impact the usage target, such as capital improvement projects, mandated closures of the Project (i.e., because of a pandemic), or other circumstances that would temporarily cause a closure of the facility and impact use of the Project.
- Public Access: Developer will provide access for the community to the public portions of the Project, including the plaza, second floor balcony, and rooftop terrace during regular operating hours to the extent such portions of the Project are not in use for events or performances.
- Training Programs: If Developer offers educational or training programs to young people, it will provide discounted passes for City residents to such programs. The number of discounted passes will be determined with reference to the cost of producing the program; Developer will not be required to offer an amount of discounted passes that causes it to be unable to recover all costs to produce the program.
- Developer will strive for 15% of jobs to be made available to formerly unhoused individuals, in collaboration with Alameda Point Collaborative or related collaborative partners, in alignment with the Standards of Reasonableness for Homeless Uses at Alameda Point (1999);
- Discounts: Developer will offer senior, student and active military discounts of 10% or more to Alameda residents on all Developer presented performances (as further defined in Operating Model section of Sustainable Operations Plan).
- Developer will provide Complimentary Admission Vouchers (“CAV”) to non-profit organizations serving Alameda Point include, but not limited to, the Alameda Point Collaborative, Operation Dignity, Building Futures for Women and Children, and The Village of Love Foundation (or their respective successor agencies). The vouchers are intended to benefit residents of Alameda Point that receive support from organizations provided CAVs. The number of vouchers will be determined with reference to seating availability, as well as Developer’s production and overhead costs as offset by ticket sales; Developer will not be required to offer an amount of vouchers that causes it to be unable to recover all its costs through ticket sales.
- If Developer is able to secure underwriting, funding from an endowment or donation to cover all or some of the discounted or complimentary tickets and vouchers referred to in this Statement, then Developer will provide such discounted and/or complimentary tickets and vouchers to the extent of such endowment, underwriting or donation.



- Subject to availability, City may utilize portions of the Project (including but not limited to main theater, studio theater, and plaza) up to 12 times per year at a cost equal to Developer’s actual cost.
- Developer will provide special discounted rental rates of 20% or more from the highest published rental rate for all areas of the Project for City of Alameda-based 501c3 not-for-profit organizations.
Developer will notify City of any extended closures of the Project that would likely impact the usage target, such as capital improvement projects, mandated closures of the Project (i.e., because of a pandemic), or other circumstances that would temporarily cause a closure of the facility and impact use of the Project.

Maintenance of Property & Project

- Capital Expenditure Account: Developer will maintain a Project maintenance, repair and replacement account to be established by reserving \$2.00 per ticket in a restricted account or by establishing an endowment fund, or by combination of the two. Funds in the account in excess of ten percent (10%) of the total construction cost of the Project will be unrestricted.
- Developer will maintain the Project in good order, condition and repair, and maintain, the leased premises, including the Building Systems (as herein defined). “Building Systems shall mean, any machinery, transformer, duct work, conduit, pipe, bus duct, cable, wires, and other equipment, facilities, and systems within the project , designed to supply heat ventilation, air conditioning and humidity or any other services or utilities, comprising or serving as any component or portion of the electrical, gas, steam, plumbing, sprinkler, communication, alarm, security, fire/life safety systems or equipment, or any other mechanical, electrical, electronic, computer, or other systems or equipment in or on the Leased Premises which service the Project in whole or part.”
- The Project will be subject to customary inspections by City and County of Alameda agencies with jurisdiction over the Project. Annual inspections may include, but are not limited to, Fire and Life Safety, Theatrical Systems (e.g. rigging), and Building Inspection (roof, windows, doors).



Table 1: Option Milestone Schedule

Operational Benchmark	Category	Schedule	Major/Minor
Radium will provide to the City an annual audit and IRS form 990	Organizational Health	No later than the 15th day of 5th month after end of FY	Minor
Radium will provide to the City a balance sheet for the Operating Cash Reserve	Organizational Health	Quarterly	Minor
Radium will demonstrate a Viability ratio of 1.25	Organizational Health	End of FY	Minor
Radium will submit the “Sustainable Business Plan”	Organizational Health	No later than 60 days from the start of every other FY	Minor
Radium will provide an Annual Program and Operations Plans for the upcoming year	Organizational Health	No later than 60 days from the start of the FY for the upcoming FY	Minor
Radium will provide a report on program utilization, participation and attendance	Organizational Health	Within 60 days from the start of FY for the prior FY	Minor
Radium will provide documentation of operational continuity (operations may not cease for more than 90 consecutive days)	Organizational Health	Every 90 days beginning first day of FY	Major
Radium will provide documentation of minimum 200 “use days” and minimum 5 “use days” for plaza per year	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor

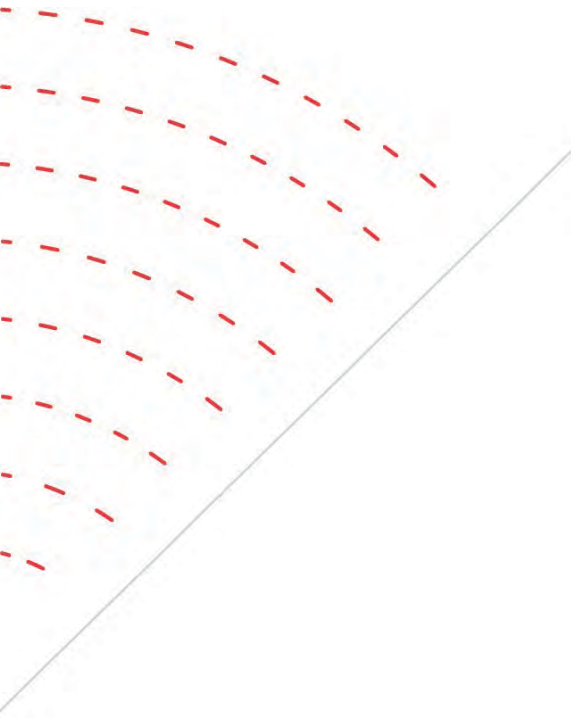


Radium will provide documentation of Ticket Discounts	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor
Radium will provide documentation of Complimentary Admission Vouchers	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor
Public Access	Community Benefits	Radium will provide City annual inspection of facility to ensure continuity of access	Minor
Radium will provide documentation of access to Training Programs, if any.	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor
Radium will provide documentation of Discounts	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor
Radium will provide documentation of Job Placement	Community Benefits	Within 60 days from the start of FY for the prior FY	Minor
Capital Expenditure Fund	Maintenance of Property & Project	Within 60 days from the start of FY for the prior FY	Minor

Material Defaults: Each of the following will be a material default by Developer if not adhered to (while Developer’s failure to perform other items described in this Statement will be considered minor and trigger only a notice and cure process which will be delineated in the Lease):

1. Loss of non-profit status, such as if Developer became disproportionately reliant on corporate or private for-profit rental use of the Project or other commercial activity, as opposed to the being operated for community benefit.
2. Bankruptcy.
3. Developer ceases operations and public programming for ninety (90) days’ or longer or permanently shuts down operations at the Project, excluding a cessation of operations caused by a force majeure event, such as act of God or government mandated closure, a closure due to a capital improvement, or other cause as approved by the City.
4. A material and sustained failure to maintain the Project resulting in a public nuisance.

Exhibit G
To Ground Lease
Sustainable Operations Plan



RADIUM

P R E S E N T S

Sustainable Operations Plan

October 2025

Radium Presents

Purpose

To make the power of art accessible.

Vision

A state-of-the-art performance venue for local and international artists that champions the power of art to build community, inspire compassion and create uplifting social change.

Mission

To build community and access to the arts through world-class performance, serving as a center of creative innovation for all.



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Introduction

The Radium Presents project (defined as the development of a performing arts facility at Alameda Point, hereafter known as “Project”) is not merely a space; it is a dynamic cultural hub that seeks to elevate the arts to new heights and, in turn, elevate the City of Alameda and its vibrant community. The purpose of this document, prepared by AMS Planning & Research (AMS) an arts management consulting firm, is to educate potential stakeholders and supporters on the intent and opportunities surrounding the proposed Radium Presents project in Alameda, California. This plan outlines the elements that will be necessary to build and sustainably operate the performing arts center at Alameda Point. The plan outlines the feasibility of the Project, including the rationale for its size and scale, envisioned programming, operating structure, and forecast of annual operating expenses.

Project Goals

We firmly believe that art has the capacity to transcend boundaries, ignite imaginations, and bridge divides.

Cultural Enrichment: We aspire to provide a platform for artistic expression, cultural exchange, and creative exploration. By hosting a variety of performances, exhibitions, and events, our performance venue will celebrate the rich diversity of art forms, including music, dance, theater, visual arts, and more. The Center will be an inclusive space that welcomes artists from various backgrounds and disciplines, fostering an environment that reflects the vibrant tapestry of the Bay Area arts community.

Foster Community Engagement: The Center will be a gathering place for residents, visitors, and artists, serving as a catalyst for community engagement and interaction. Through curated programs and outreach initiatives, we will actively involve local schools, community organizations, and residents, providing educational opportunities, workshops, and performances that inspire creativity, empathy, and cultural understanding. We believe that by actively involving the community, we can create a sense of ownership and pride in the venue, establishing it as a central hub for civic and cultural activities.

Promote Social Change: We firmly believe in the transformative power of art to create positive social change. Our Project seeks to showcase



performances and exhibitions that challenge societal norms, spark conversations, and inspire audiences to think critically about important issues. By promoting uplifting messages, empathy, and compassion through artistic expressions, we aim to contribute to the growth of a more inclusive and equitable society.

Stimulate Economic Growth: Our proposed performance venue is not only a cultural asset but also a driver of economic growth. By collaborating with local businesses and organizations, we will strive to create partnerships that support the local economy and foster sustainable development. We anticipate that by attracting local and international artists, as well as visitors from neighboring communities, Radium will generate increased tourism, stimulate local businesses, and serve as a cornerstone of Alameda Point's transformation into a vibrant waterfront destination within the Bay Area.

Provide a State-of-the-Art Facility: The Center will include a world-class performance venue that meets the highest standards in terms of design, acoustics, technology, and sustainability. We will prioritize the incorporation of environmentally friendly practices, utilizing energy-efficient systems, and sustainable materials wherever possible. Our goal is to create an iconic architectural landmark that not only enhances the cityscape but also reflects the City of Alameda's commitments to environmental responsibility and honoring the historic character of Alameda Point.



Operating Model

There are generally three business models for performing arts centers:

Four-Wall Rental: A four-wall rental refers to a business model where the venue is rented out to clients or resident companies. The venue provides the space, and the renter is responsible for all aspects of the production, including marketing, ticket sales, and production costs. This model allows the venue to generate revenue from rental fees while minimizing financial risk.

Presenting Facility: A presenting facility is a venue that hosts performances and events produced by external organizations or artists. The venue is responsible for selecting and booking the performances, marketing the events, and managing ticket sales. This model allows the venue to offer a diverse range of performances without the financial risk of producing the events themselves.

Producing Facility: A producing facility is a venue that is typically home to a single organization that creates and produces its own performances and events. The venue takes on the responsibility of all aspects of the production, including artistic direction, casting, rehearsals, set design and construction, in addition to the typical tasks of marketing, ticket sales, fundraising, etc. This model allows the venue to have greater control over the creative content and artistic vision but also involves higher financial risk due to the costs associated with producing performances. Radium will not operate in this manner.

Radium's operating model will be a hybrid of the Presenting and Four-Wall Rental models. A common practice, this hybrid model will allow Radium to spread the financial risk across business segments by a wide variety of content providers to access the space, while also maintaining control of the brand of the venue through its presenting activities.

Programming

Radium will partner with Bay Area and international artists and arts organizations to bring world-class programming to its stage. In addition, the Theater will become a cultural hub for Alameda-based community arts organizations with several already working with The Theater's leadership in the planning of the new building.

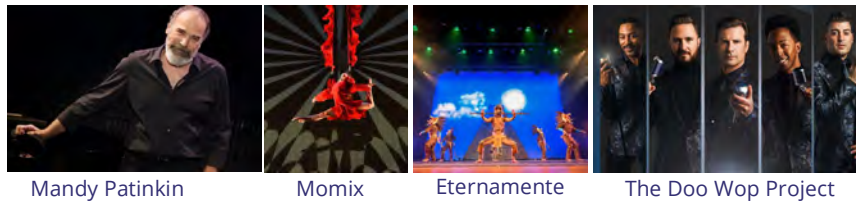
Radium will draw its audiences primarily from Alameda and the greater East Bay region. Radium is committed to engaging the diverse community of this region and offering inclusive programming and engagement opportunities.

To that end, based on analysis of the market and surveys of Alameda and East Bay arts and cultural organizations, the early business modeling for a normalized year of operations forecasts over 300 performances and events representing a mix of opera, dance, theater, music, lectures, educational programs, rehearsals, and rentals.

The Radium’s programming activity will be divided into three areas:

Radium Presents: Signature touring artists from around the globe in the genres of music, dance, theater, and film presented directly by Radium. These performances could include, for example, some of the following:

- Modern dance performances like *Momix Dance*
- Multi-cultural performances like *Eternamente: A Dia de los Muertos Spectacular*
- Family friendly performances like *Mummenschanz* mask and mime theater troupe from Switzerland
- Nostalgic music performances like *The Doo Wop Project*
- Star performers like *Mandy Patinkin in Concert*



Rentals: Artists and arts companies from Alameda and the East Bay, along with local promoters and other presentations (film series, speaker series, etc.) Local and regional arts organizations such as the Island City Opera, West Edge Opera, Tomorrow Youth Repertory, and AXIS Dance Company, will likely be frequent renters at the facility.



Education Programs: Radium will work with facility renters, touring artists, and local schools and non-profits to offer unique opportunities to learn about the performing arts, experience performances on field trips, and gain hands-on training. Programs such as master classes, technical theater internships, performing arts summer camp programs, and afterschool classes and workshops will all take place at the new performing arts center.

The Facility

Radium's facility will be an approximately 62,000 square foot performing arts center with two theatres, an inviting, patron-friendly lobby, full backstage and scenery-handling capabilities including orchestra pit, professional-grade production capabilities and acoustics, with patron amenities and administrative and other functionalities. A 24,000 square foot multi-use, public outdoor plaza is also planned for the site.

- *Patron Amenities:* Ticket office, lobby, concession areas, - including a rooftop bar - and restrooms.
- *Mainstage Theatre:* A proscenium style stage with 600 fixed seats, outfitted with state-of-the art lighting, sound and other theatre equipment, with Green Room and dressing rooms.
- *Second "Studio" Theatre:* A "studio" type space with flexible seating and a flat floor, to be used for rehearsals and for performances that are enhanced by a smaller, more intimate space, such as solo concerts, dance performances and other presentations.
- *Rehearsal Room:* The Center includes a Rehearsal Room with a sprung floor, matching the dimensions of the mainstage's performing area. This allows performers to rehearse while another event occupies the stage. Adjacent to the lobby on the ground floor, the Rehearsal Room becomes an excellent space for educational purposes such as dance, music, and movement classes, as well as community gatherings.
- *Administrative Facilities:* Executive offices, event offices, reception/open office space, work and storage areas, staff lounge, conference room.
- *Other Facilities:* Catering kitchen and prep area, janitorial and building operations.
- *Public Plaza:* The Project will include an approximately 24,000 square foot outdoor public plaza that can accommodate a range of uses such as performances and be widely accessible to the public on a daily basis.

- *Publicly Accessible Viewing Areas:* The current design of the Project includes a lobby, second floor balcony, and roof viewing areas which could be accessible to the public.

Staffing

To accomplish the mission and support the planned level of activity, the following senior level staff positions are anticipated. Radium anticipates having a staff of 14 full-time equivalent staff members. Forecasted staffing is based on industry standards for comparable facilities.

Executive & Artistic Director: the chief executive officer of Radium. Also primarily responsible for selecting Radium’s presenting series artists and maintaining relationships with artists, agents, and community arts organizations.

Business Manager / Bookkeeper: maintains financial records, fiscal reports, human resources, and contracts.

Development Director: oversees and coordinates all fundraising activities.

Marketing Director: oversees and coordinates all marketing, communications, and community engagement.

Operations Director: oversees and coordinates all aspects of theatrical and facility operations.

Operating Considerations & Community Benefits

In addition to the activity provided to the community through Radium’s programming, the organization is committed to providing some specific benefits and achieving certain operational benchmarks as part of a land lease agreement with the City of Alameda for a site at Alameda Point. The complete *Operations & Benefits Statement* offered by Radium to the City is included in the appendices (Appendix V).

Operations

Operating Revenues

30% of revenues will be derived from ticket sales from shows presented directly by Radium Presents (approximately \$1million annually). These performances would include signature artists from around the globe in the genres of music, dance, theater, and film. Like many performing arts centers, patrons will be able to purchase season packages, flex-tickets,

and single event tickets at varying price points (including the redemption of over 100 complimentary ticket vouchers per year provided to Alameda Point-based not-for-profit organizations noted in the *Operations & Benefits Statement* and shown on page 8 of Appendix IV). AMS has established a conservative ticket price range of \$25 - \$100 with an overall average of \$54, which is in-line with similar programs in the Bay Area. Ticket prices will be adjusted as market conditions and costs fluctuate over time. The typical array of discounted tickets will also be made available for senior citizens, students, veterans, etc.

Additional earned revenue streams include rentals (\$348,000; 10%) by area arts and non-profit groups (which will occupy the largest number of annual use days), related fees for chargebacks (fees charged for labor, equipment and other supplementary items; \$376,000; 11%), and ancillary income from ticket fees and concessions (\$745,500; 21%).

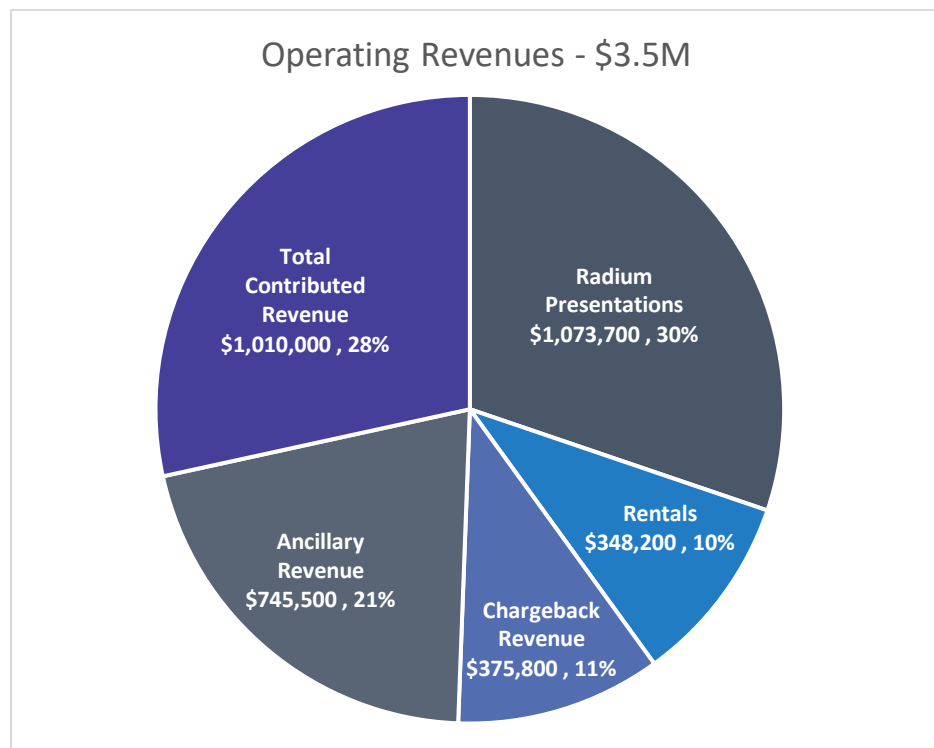


Figure 1: Revenue Sources

Performing arts centers also require contributions and other forms of 'given support' to meet their expenses and Radium Presents will be no different. Contributed revenue sources will include a mix of sponsorships, grants, government contributions, endowment earnings, individual

donations, and special event proceeds. Contributed revenue of \$955,000, (28%) plus \$2.45 million in earned revenue equates to a total income of \$3.5 million in a normalized year of operation (assumed to begin the third year following building opening). Earned and contributed income will be sufficient to cover annual operational expenses.

Operating Expenses

Program and personnel expenses necessarily drive costs. Radium’s season of featured performances and touring events will have direct costs in the range of \$1million (or 28% of total expenses), which includes artist fees, marketing costs, and other production costs directly related to shows. Personnel costs are projected at \$1.45million (41%), which will support a staff of 14 full-time equivalent employees. The remaining costs are split between general & administrative overhead, occupancy costs (for utilities, property insurance, maintenance, security, and cleaning) and a 5% expense contingency bringing total expenses to over \$3.5million.

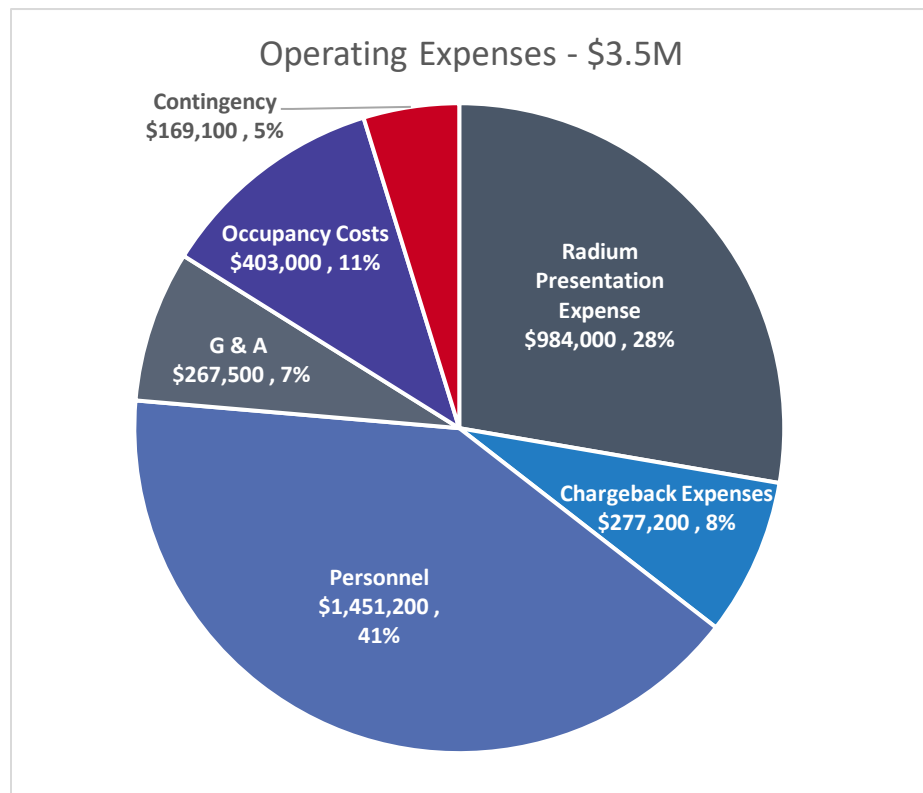


Figure 2: Expenses

Operating Net Results

So long as an adequate level of fundraising occurs, the current projections result in a break-even budget. This equates to an earned-to-contributed revenue ratio of roughly 70% earned to 30% contributed. This ratio places somewhat greater reliance on earned revenue than many performing arts organizations, which commonly have 60-40 or 50-50 ratios. But we believe this is still a conservative and reasonable ratio given the rentable spaces of Radium Presents, its special location facing the San Francisco Bay, documented high demand for space in the market, and the unique nature and accessibility to arts users of the facility in the East Bay market.

The financial forecast summary on the next page, with related information found in Appendix IV, shows a Capital Expenditure Account as denoted in the *Operations & Benefits Statement*. This special account will be funded by a \$2 per ticket fee, which will generate over \$212,000 per year based on current ticket sales estimates. Using this as a basis, this special account would make approximately one million dollars available for major repairs and replacements every five years.

A complete summary of the operating financial forecast for a Base Year of operations (typically the third year after opening) is below, with full details appended.

Radium Presents	
SCHEDULE 2: SUMMARY BASE PRO FORMA	BASE YEAR
Earned Revenue	
Radium Presentations	\$1,073,700
Rentals	\$348,200
Chargeback Revenue	\$375,800
Ancillary Revenue	\$745,500
<i>Total Earned Revenue</i>	\$2,543,200
Contributed Revenue	
Individuals / Families	\$560,000
Grants / Sponsorships	\$450,000
<i>Total Contributed Revenue</i>	\$1,010,000
TOTAL OPERATING REVENUES	\$3,553,200
Operating Expenses	
Radium Presentation Expense	\$984,000
Chargeback Expenses	\$277,200
Personnel	\$1,451,200
G & A	\$267,500
Occupancy Costs	\$403,000
<i>Subtotal Operating Expenses</i>	\$3,382,900
Contingency	\$169,100
TOTAL OPERATING EXPENSES	\$3,552,000
TOTAL ANNUAL RESULT:	\$1,200
Capital Expenditure Account	\$212,100
% Earned Revenue	72%
% Contributed Revenue	28%
Total Annual Attendance	117,860

Figure 3: A top-line summary of the financial forecast. The detailed pro forma has been attached as Appendix IV. Figures rounded.

The operating forecast above represents a summary Profit and Loss statement. It does not include bank balances or other balances that would be represented on a Balance Sheet. The forecast has accounted for non-profit rental rates, ticket discounts, redeemed ticket vouchers, staffing to allow public access, and other operational factors.

Current Status

Over the last two years, the Radium Presents Governing Board of Directors has worked to further develop the organization's direction, establishing a purpose, and updating its vision and mission. This work has allowed the Board to consider its philosophical underpinnings and explore the Theater's proposed activity mix, location, potential partners, and evolution. In 2022, the Board launched an outdoor performing arts series, known as Radium Runway, as a "proof of concept." The series recently completed its third season.

Board committees are currently driving organizational development initiatives. From utilizing community input to inform critical Project decisions, to establishing criteria for continued board recruitment, their planning framework, as illustrated below, represents an iterative and overlapping process which allows the organization to advance in a holistic way. Most recently, the Board commissioned a fundraising feasibility study and has commenced a capital campaign.

Economic Impact

The Americans for the Arts (AFTA) "Arts and Economic Prosperity" study proves a powerful tool for arts and cultural organizations as they communicate their value to their communities. According to AFTA, approximately 79% of Americans believe that the arts are "important to their community's businesses, economy, and local jobs." ¹

The most recent Americans for the Arts study finds that in the United States, the nonprofit arts and culture industry generated \$151.7 billion in total economic activity – \$73.3 billion in spending by arts and cultural organizations and an additional \$78.4 billion in event-related spending by their audiences. These expenditures represent \$101 billion in resident household incomes, \$29.1 billion in government revenue, and 2.6 million in full-time equivalent jobs.

¹ *Arts & Economic Prosperity 6* (September 2023); 2022 data.



In its calculations, AFTA accounts for direct audience spending through admission costs, as well as indirect audience spending. The latter represents the total financial contribution arts audiences make to local businesses and people, over and above the dollars spent at the arts organization itself; this may include dining out, paying for parking, or compensating for childcare. AFTA found that on average, arts and cultural patrons spend \$38.46 per event in addition to the cost of admission.

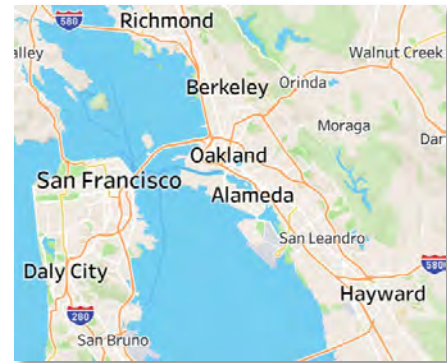
Along with its national aggregated data, AFTA provides an [“Economic Impact Calculator”](#) for individual entities to measure their potential impact. When estimated Radium audiences and expenditures were entered, the calculator projected total expenditures, jobs, household income, and government revenues, revealing potential economic impact upwards of \$5 million per year.

The data demonstrates that total economic impact is not driven by population, but by content, therefore showing that continued investment in the arts will result in higher impact for Alameda and advance the quality of life for residents and visitors alike.



Project History & Market Context

In May 2017 AMS Planning & Research and The Shalleck Collaborative, theater consultants, were engaged to conduct a feasibility study for a new theater for the community of Alameda, California, a city in the San Francisco Bay area that borders the City of Oakland and is directly across the Bay from San Francisco.



The consulting team was charged with examining existing community arts assets, testing key assumptions and producing recommendations for strategies to promote the new facility and to promote the community as an attractive destination for experiencing the arts and culture.

AMS conducted research, solicited input from the community, studied the needs of prospective theater users, and evaluated existing cultural resources. In addition, case studies of comparable facilities in similar communities were researched and documented to provide examples of community performing arts facilities' management structures, programming and operations and as exemplars of best practices in the field that might have potential application to the development of the new facility in Alameda. These case studies also provided the basis, in part, for some of the recommendations in the feasibility study.

The feasibility of developing a new and successful performing arts center in Alameda was supported by the findings of the study. In short, it was found that building a new performing arts facility is a beneficial investment in the community, for the community. The benefits of the arts to the local economy, to building a sense of community, to education, to promoting cross-cultural understanding and cohesiveness in Alameda would be greatly enhanced with the development of a new performing arts center. Upon conclusion of the feasibility study the not-for-profit, 501(c)3 corporation, currently named Radium Presents was formed and is leading the planning and development of the Project.

A Strong Market for Arts & Culture

Not-for-profit performing arts programs are for everyone. The Radium Project will exist to serve residents from near and far, from all socioeconomic strata, and be a true community benefit for the region. This will be reflected in programming choices, pricing strategies, public access policies, and marketing and communications campaigns.

AMS conducted a regional exploration of both the current market for the arts and the potential for growth in demand resulting from the development of the new facility and expected population growth. Based on the presence of relatively high-income levels, educational attainment, and interest in social engagement, 85% of the residents of Alameda provide a ready market for an expansion of performing arts programs in the community that the new facility will make possible. Further, in a single year, an estimated:

% of HH	# of HH	Lifestyle attribute
52%	14,000	Will watch PBS
50%	13,500	Will go to the zoo
36%	9,700	Will attend live theater
33%	8,800	Will do photography
26%	6,900	Will visit an art museum
26%	6,900	Will attend a paid music concert
25%	6,800	Will attend a rock concert

Figure 4: Cultural Consumption in Primary Market

In addition to the current ready market for the arts in the existing population, there is a slight projected population growth of 0.14% expected in Alameda County between 2024 to 2026². However, the number of households in the expanded market (Alameda and Contra Costa Counties) had a 3% growth between 2020 to 2023³, which includes

² California Department of Transportation (2023); County-Level Economic Forecast

³ U.S. Census Bureau (May 2024); Population Division

the housing developments in Alameda Point⁴. The projected growth in well-educated, high-income individual, who are likely to have a strong interest in the performing arts, will require an expansion in the availability of performing arts programs to meet the growth in population and will be a strong contributing factor in the viability of a new performing arts facility.

With an increasing population and potential audience, the new performing arts venue will meet a growing demand that will continue to build an audience for the performing arts throughout all segments of the market to become an accessible community benefit for all.

Market Analysis

A market analysis was conducted based on both U.S. Census Bureau⁵ statistics and the proprietary [PRIZM Premier](#) Market Segmentation System developed by AMS’s research partner, Claritas, a division of the Nielson Company. The demographic data for both the identified primary market and an expanded market area was analyzed and compared to state and national market data.

The Primary Market Area was defined as the City of Alameda (Figure 2). The Expanded Market Area includes the East Bay counties of Alameda and Contra Costa (Figure 3). San Francisco is excluded which is not expected to be a significant part of the market for the new facility.

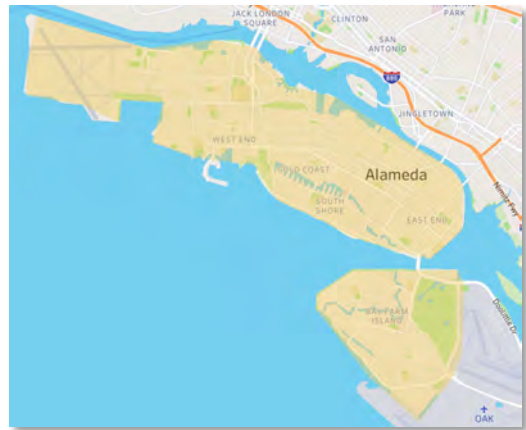


Figure 5: Primary Market - City of Alameda

⁴ California Department of Transportation (2023); County-Level Economic Forecast

⁵ U.S. Census Bureau (2022); ACS 1-year Estimates

In 2022, the population in Alameda was estimated to be 76,039, comprising only 3% of the 2,785,963 inhabitants in the expanded East Bay market area. The number of primary market area households is estimated to be 27,630 and in the expanded market area there are an additional 1,011,808 households (inclusive of households in the primary market area) that constitute the viable market for the programs of the proposed new facility.



Figure 6: Expanded Market - Alameda & Contra Costa Counties

Key Demographics:

The market population is predominantly White and Asian, generally middle-aged, highly educated, have relatively high incomes, and are very socially engaged. All positive predictors of high interest and participation in arts and cultural activity.

- In the primary market 57.6% of the population has bachelor’s degree or higher, which is slightly higher than the expanded market (49.3%), and significantly higher than the state (37.0%) and national rate of education (35.7%).
- The median household income in the primary and expanded market areas is 32.3% higher than the State of California and 62.0% higher than the US median income. The median household income in the primary market is \$131,116 and slightly lower \$121,110 per year in the expanded market area.

While these demographics suggest a viable and robust market for the arts, Radium’s programming and marketing will engage the region’s diverse populations and truly be an inclusive cultural resource for all.

In order to understand consumer behaviors of the area population, in 2017 when AMS was first commissioned to conduct a feasibility study, it used the PRIZM Premier market segmentation system, developed by The Nielsen Company, to categorize the households in the primary and

expanded markets based on demographic profiles and consumer research into psychographic and consumption patterns⁶. The PRIZM Premier Market profiling and segmentation system is a micro-geographic consumer targeting system that segments every household in the United States into one of 68 unique clusters based on similar demographic and behavioral attributes. The clusters are numbered from 1 to 68 in order of socioeconomic affluence, taking into account factors including income, assets, age, occupation, technology usage, and family structure.


This research places 38% of the population of the East Bay into the five, dominant consumer segments, all of which have moderate to strong interest in arts and cultural activities.

Cultural Consumers – Primary Market – Segmentation Summary




- ★ Common segments in Alameda are **affluent, middle aged, and highly educated** with few or no kids
- ★ The majority of segments in Alameda live **upscale lifestyles**: traveling abroad, purchasing luxury vehicles, and engaging in cultural activities
- ★ Find your favorites at: [My Best Segments](#)


Figure 7: Consumer Lifestyles in the Primary Market




#4, 14.48% "Young Digerati" Young Digerati are tech-savvy and live in fashionable neighborhoods on the urban fringe. **Affluent and highly educated**, Young Digerati communities are typically filled with **trendy apartments and condos, fitness clubs and clothing boutiques, casual restaurants and all types of bars**--from juice to coffee to microbrew. Many have chosen to start families while remaining in an urban environment.




#7, 24% "Money & Brains" The residents of Money & Brains seem to have it all: **high incomes, advanced degrees, and sophisticated tastes** to match their credentials. Many of these city dwellers are **married couples with few children** who live in fashionable homes on small, manicured lots.



#17, 20.9% "Urban Elders" Urban Elders—a segment located in the downtown neighborhoods of such metros as New York, Chicago, Las Vegas, and Miami—are more likely to be renters than other households in their age cohort. They enjoy the cultural options available to them in their communities, **frequently attending musical performances and other live events**.



#31, 9.61% "Connected Bohemians" A collection of mobile urbanites, Connected Bohemians represent the nation's most liberal lifestyles. Its residents are a progressive mix of **tech savvy, young singles, couples, and families ranging from students to professionals**. In their funky row houses and apartments, Bohemian Mixers are the early adopters who are **quick to check out the latest movie, nightclub, laptop, and microbrew**.



#40, 15.77% "Aspiring A-Listers" Typically urban renters, Aspiring A-Listers are focused on their social lives. They are out and about often and **spend heavily on status brands and dining out**. They are all about convenience, shopping most often at drug stores and convenience stores.

Most clusters have high levels of educational attainment and high incomes. They engage in city-centered lifestyles, including high spending on trends in fashion as well as quality dining & entertainment

All of the segments in Alameda are prominent in the east bay as well; the wealthy clusters (Money & Brains; Young Digerati) are particularly well represented in the east bay area

Other segments include first generation Americans and multicultural families

Figure 8: Lifestyle Segments

Competitive Venues

Just over 40 competitive rental and performance spaces were identified within 20 miles of downtown Alameda. Spaces were reviewed for seating capacity, distance from Alameda and the type of management structure (i.e., commercial, educational, municipal, etc.).

Approximately 70% of those venues have between 99 and 600 seats, with 23 ranging in size from 200-600 seats. 18 of these venues are in Alameda or points north (Oakland, Berkeley). However, these venues are predominantly associated with public schools and universities, religious institutions, nonprofits, municipalities and private corporations (LLC). Further, those that are available for performing arts organizations to utilize are over 20+ miles from Alameda, including the Leshner Center for the Arts in Walnut Creek and the Bankhead Theater in Livermore. Recently, the Calvin Simmons Theatre reopened as part of the Henry J.

Regional Venues

We identified 42 competitive rental venues within 20 miles of downtown Alameda:

- 29 of the venues have 99-600 seats
- 83% of these venues are in Alameda or points north (Oakland, Berkeley, etc.)

Of the 29 venues, operators include:

- 5 educational institutions (public schools or universities)
- 3 religious institutions
- 14 nonprofits
- 2 municipalities
- 5 private corporations (LLC)

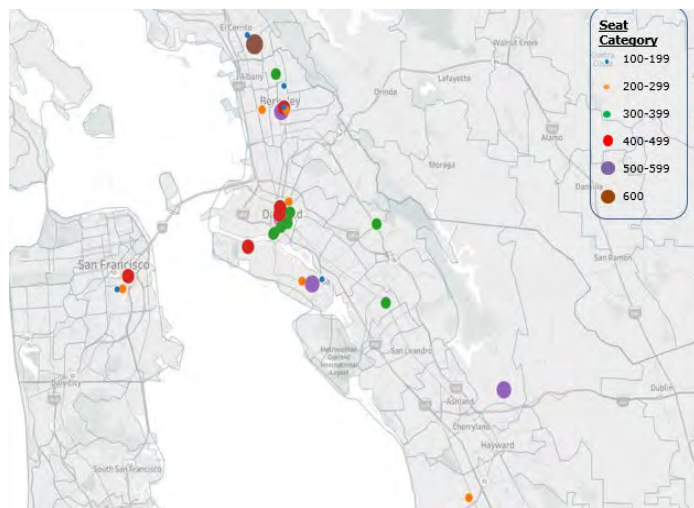


Figure 9: Regional Venue Inventory

Kaiser Center for the Arts in 2023 with a capacity of 1,500 seats, too large for many local performing arts groups. This underscores the need for a professionally operated, mid-sized venue located in the heart of the Bay Area’s population

center that is tailored for the needs of the region’s performing arts scene.

Facility Needs of the Performing Arts Sector

Interviews were conducted with community and arts leaders regarding the current state of the community’s performing arts programs, the perceived demand for arts programs, relevant background information useful to the Project, and the ideas and opinions about a new performing arts venue for the community. Stakeholders expressed overwhelming support for a new performing arts facility for the community.

Community arts leaders shared a need for suitable rehearsal and performing spaces as current facilities offer less than adequate space, inconsistent availability of dates and little to no technical capacity to produce quality work. This situation has hindered the growth of the arts organizations and depressed potential audience development.

In addition to stakeholder interviews, a survey was deployed (both in 2017 and again in May of 2024) to performing arts organizations identified in Alameda and the expanded market area asking about current facility use, additional unmet needs for performance space and their interest in and projected use of a new facility if one is built. There were 37 respondents to the 2024 survey. The highest share were performing arts organizations followed by arts education and culturally specific arts institutions.



The survey measured anticipated demand for utilization of the new facility for performance and rehearsal spaces. Findings were consistent between the 2017 and 2024 results and included:

- Strong interest in utilizing the new venue, with notably high demand for rehearsal and flexible spaces;

- The audience capacity most appropriate for the new facility was shown to be 400-600 seats in a fixed-seat, proscenium style (see figures 7 and 8);
- Physical accessibility and availability of appropriate theater equipment for lighting, sound, etc., is “very important” or “extremely important;”
- Safety of location, access to parking and public transportation is “very important” or “extremely important.”

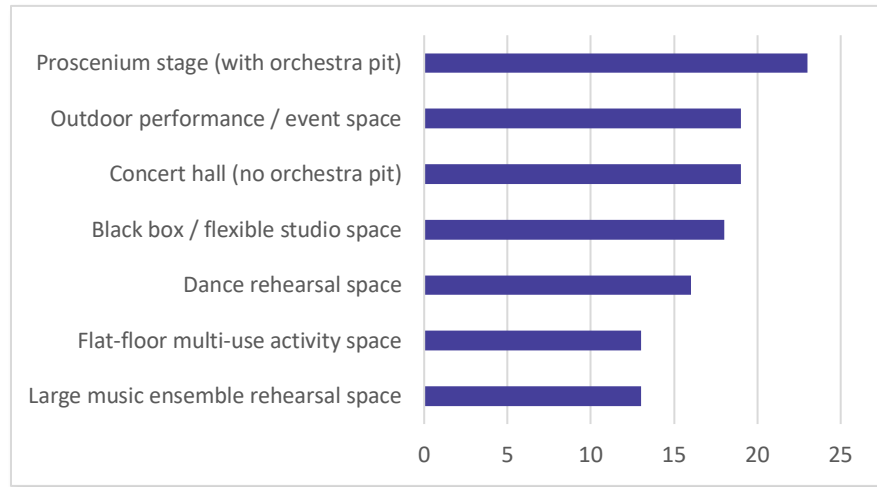


Figure 10: Highest Demand is for Fixed-Seat Proscenium Theater + Rehearsal Space (2024)

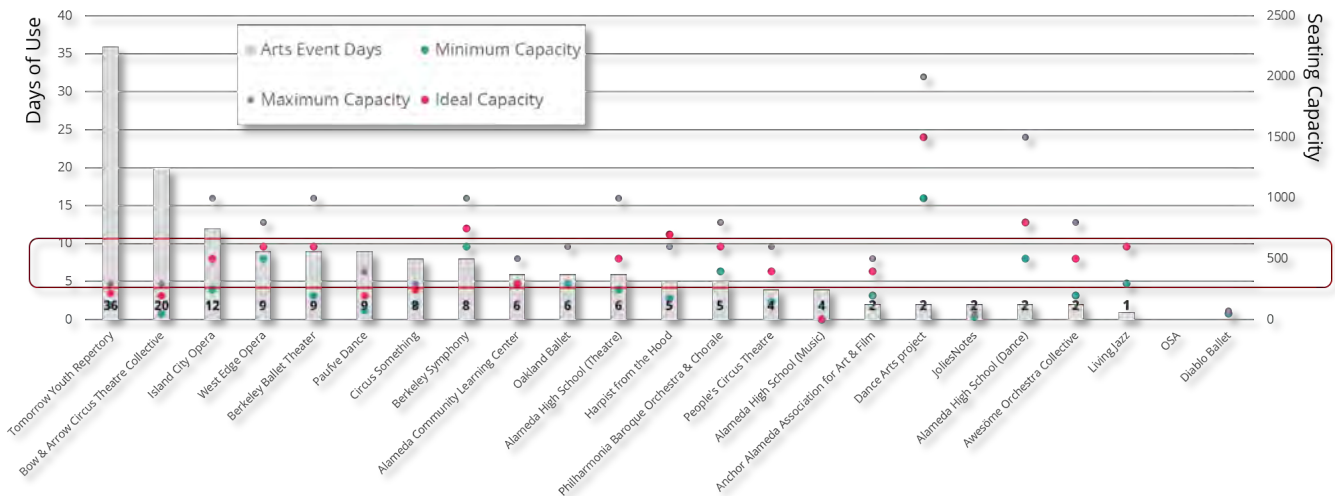


Figure 11: According to a survey of prospective facility users, the greatest demand for a theater at Alameda Point is in 400-600-seat range with 150 performance rental days (2024)

Exhibit H
To Ground Lease
Schedule of Performance

EXHIBIT H: SCHEDULE OF PERFORMANCE

MILESTONE	DESCRIPTION	REFERENCE	RESPONSIBLE PARTY	TIME AFTER LEASE OPTION EXECUTED (unless extended or noted otherwise)	Major / Minor (See Lease Option paragraph 2.2)
Execute Lease Option	Lease Option fully executed (Effective Date)		City & Developer		Major
General Submissions	Developer submits General Submissions to City	Lease Option paragraph 2.3	Developer	2 years + 6 months	Minor
Feasibility Submissions	Developer submits Feasibility Submissions to City	Lease Option paragraph 2.4	Developer	2 years + 6 months	Minor
(Optional) First Extension	One-year extension if at least thirty-five (35%) of required funds raised	Lease Option paragraph 1.3b	Developer	3 years	Major
(Optional) Second Extension	One-year extension if at least thirty-five (60%) of required funds raised	Lease Option paragraph 1.3b	Developer	4 years	Major
(Optional) Third Extension	One-year extension if at least thirty-five (85%) of required funds raised	Lease Option paragraph 1.3b	Developer	5 years	Major
Site A Grading Obligation - completion date notice	Developer submits required completion date notice to City	Lease Option paragraph 2.7a	Developer	When Developer reaches 50% fundraising.	Minor
Site A Grading Obligation - completion date notice response	City responds to required completion date notice	Lease Option paragraph 2.7b & c	City	30 days after completion date notice	Minor
Site A Grading Obligation - Developer response	If City assigns Infrastructure Removal Right to Developer, Developer must notify City if they elect to terminate the project or construct the Block 12/13 grading	Lease Option paragraph 2.7d	Developer	60 days after City response	Minor
MIP Amendment	City amends MIP to allow Plaza Road to function as extension of Plaza	Lease Option paragraph 3.2	City	3 years	Minor
Additional Pre Option Exercise Obligations & Conditions Precedent	All satisfied (includes Pre-Development Entitlements, Updated Financial Feasibility Study and Sustainable Operations Plan, Building Permit Submittal, evidence of sufficient funds, and negotiated PSA)	Lease Option Articles II and VI	City & Developer	3 years	Conditions Precedent
Evidence of Insurance	Developer submits Evidence of Insurance	Ground Lease 20g	Developer	3 years	Minor
Execute Ground Lease	66-Year Ground Lease fully executed		City & Developer	3 years	Major
Building Permits Issued	Building Permits approved for Project	Ground Lease paragraph 14a.2	City & Developer	4 years	Minor
Schedule of Performance Update	Update of construction and performance timeline following building permit approval and fundraising completion.	Lease Option paragraph 2.2	Developer	4 years + 3 months	Minor
Construction Start	Construction activities commence	n/a	Developer	4 years + 3 months	Minor
Interim Construction Milestones	To be completed in Updated Schedule of Performance	Lease Option Article II	Developer	TBD	Minor
Certificate of Occupancy Notification	Developer notifies City of expected date of Certificate of Occupancy	n/a	Developer	5 years	Minor
Developer's Offsite Work	Developer completes construction of Off-Site Work	Ground Lease paragraph E	Developer	Concurrent with or prior to expected date of Certificate of Occupancy. Subject to discretion of City Manager or designee.	Major
City's Offsite Work	City completes construction of Offsite Work	Ground Lease paragraph E	City	Concurrent with or prior to expected date of Certificate of Occupancy. Subject to discretion of City Manager or designee.	Major
Certificate of Occupancy	Completion of Construction Certificate of Occupancy issued	n/a	City & Developer	6 years + 3 months	Minor

Exhibit I
To Ground Lease

Service/Maintenance Contracts

This Exhibit summarizes certain service, maintenance, and operations contracts currently in effect for the Property.

Service Provider	Scope of Services
Citiguard Inc.	Security services at Alameda Point
BSM Facility Services Group	Facilities maintenance and services at Alameda Point
Gothic Landscape Inc.	Commercial and residential landscape services at Alameda Point (note: services performed on taxiway on an as-needed basis through purchase order)
Lincoln Property Company	Property management for City of Alameda properties

Exhibit J
To Ground Lease
Hazardous Materials

Exhibit J: Hazardous Materials Report

January 2000 – IT Corporation Zone Analysis Data Summary, Phase 2A Sampling, Zone 4: The Runway Zone, Alameda Point (IT Corporation)

April 19, 2013 – Final Finding of Suitability to Transfer (FOST) for Former Naval Air Station Alameda, Alameda Point, Alameda, California (*Prepared for: Base Realignment and Closure Program Management Office West, San Diego, CA | Prepared by: Tetra Tech EM, Inc., as subcontractor to Trevet, Inc. | Contract No.: N62473-10-C-4408*)

March 10, 2017 – State Water Resources Control Board Geo Tracker:
https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000009981

June 29, 2020 – Draft Preliminary Assessment Report, Basewide Investigation of PFAS, Former NAS Alameda (submitted to DTSC; final version dated May 2021)

August 21, 2020 – DTSC Comments on Draft PA Report (Yun-hu Hsu)

March 16, 2021 – DTSC Geological Services Unit Memorandum, Responses to Comments on Draft PA Report (Marikka Hughes, PG)

May 2021 – Final Preliminary Assessment Report, Basewide Investigation of PFAS, Former NAS Alameda (Multi-MAC JV / NAVFAC SW BRAC PMO West)

May 26, 2021 – Navy Transmittal Letter, Final PA Report to EPA/DTSC/RWQCB (David C. Darrow, BRAC Environmental Coordinator)

June 25, 2021 – DTSC Approval Memorandum, Final PA Report (Yun-hu Hsu, DTSC)

June 2022 – Final Sampling and Analysis Plan (SAP) for Site Inspection, Former NAS Alameda (Multi-MAC JV) (referenced in the SI Report as the governing field document)

June 13–29, 2022 – SI Fieldwork conducted at Former NAS Alameda (soil and groundwater sampling at IR Sites 2, 4, 5, 6, 10, 26 and AOIs 1–5)

September 30, 2022 – Site Management Plan Alameda Point, Alameda, California (Final Revised)(Terraphase Engineering)

August 2023 – Final Site Inspection Report, Per- and Polyfluoroalkyl Substances at Areas of Interest, Former NAS Alameda (Multi-MAC JV / NAVFAC SW BRAC PMO West; signed August 11, 2023)

August 11, 2023 – Navy Transmittal Letter, Final SI Report to EPA/DTSC/RWQCB (David C. Darrow, BRAC Environmental Coordinator)

August 30, 2023 – DTSC Approval Memorandum, Final SI Report (Yun-hu Hsu, DTSC)

November 21, 2024 – Final Work Plan Remedial Investigation for Per- and Polyfluoroalkyl Substances (PFAS), Installation Restoration Sites 4, 5, 6, 10, and 26, and Areas of Interest 1, 2, 3, 4, and 5, Former Naval Air Station Alameda, Alameda, California (*Serial: BPMOW/245 | Reference: 5000-33B | Issued by: U.S. Department of the Navy, NAVFAC BRAC Program Management Office West*)

February 18, 2025 – DTSC Review Memorandum re: Final Work Plan Remedial Investigation for Per- and Polyfluoroalkyl Substances, Installation Restoration Sites 4, 5, 6, 10 and 26, and Areas of Interest 1, 2, 3, 4, and 5, Former Naval Air Station Alameda (*From: Yun-hu Hsu, Hazardous Substance Engineer/Project Manager | To: Alameda Point File | Issued by: California Department of Toxic Substances Control*)

Exhibit K

To Ground Lease

Memorandum of Lease

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO

City of Alameda
Attn: City Clerk
2263 Santa Clara Avenue
Alameda, CA 94501

MEMORANDUM OF LEASE

This Memorandum of Lease ("**Memorandum of Lease**") is made as of _____, 20__ between the City of Alameda, a charter city and California municipal corporation ("**City**"), and Radium Presents, Inc., a California 501(c)(3) corporation ("**Developer**"), collectively referred to as "**Parties**" and agree as follows:

1. The Lease. City and Developer are parties to that certain Ground Lease dated _____, 2025, pursuant to which City leases to Developer, and Developer leases from City that certain real property in the City of Alameda, County of Alameda ("**County**"), State of California, consisting of approximately 1.72 acres of land, commonly referred to as Blocks 12 and 13 of the Site A project site, plus such other adjacent area as the Parties have determined necessary for the Project (defined below), located in an area commonly known and referred to as Alameda Point and as more particularly described on Attachment 1 attached hereto and as depicted in the "**Site Plan**" set out on Attachment 2 attached hereto ("**Property**").

2. Property and Shared Public Access Areas. Developer exclusively leases from City the Property and shall have the non-exclusive right to use the Shared Public Access Areas, both of which comprise a certain portion of the Property which are the subject of the Lease and which are more particularly shown in Attachment 2 attached hereto and incorporated herein by reference.

3. Term. The initial term ("**Term**") of this Lease shall commence on the Effective Date ("**Commencement Date**"), and shall expire on the sixty-sixth (66th) anniversary thereafter.

4. Purpose of Memorandum. This Memorandum of Lease is prepared for the purpose of notice and recordation. This Memorandum of Lease does not and is not intended to modify the provisions of the Lease.

CITY OF ALAMEDA, a charter city and
municipal corporation

By: _____
Name: _____
Its: _____

RADIUM PRESENTS, INC., a California
501(c)(3) corporation

By: _____
Christopher Seiwald, CEO

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Attachment 1 to Memorandum of Lease

Legal Description

JANUARY 16, 2026
JOB NO.: 1087-010

**LEGAL DESCRIPTION
RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA**

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

BEING A PORTION OF DESIGNATED REMAINDER 2, AS SAID DESIGNATED REMAINDER 2 IS SHOWN AND SO DESIGNATED ON THE FINAL MAP FOR TRACT 8696, ENTITLED "WEST MIDWAY LARGE LOT", RECORDED JULY 31, 2025 IN BOOK 373 OF MAPS, AT PAGE 85, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERN CORNER OF SAID DESIGNATED REMAINDER 2;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE SOUTHERN LINE OF SAID DESIGNATED REMAINDER 2, NORTH 85°08'27" WEST 75.00 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID SOUTHERN LINE, NORTH 85°08'27" WEST 405.96 FEET;

THENCE, LEAVING SAID SOUTHERN LINE, NORTH 04°51'33" EAST 104.00 FEET;

THENCE, NORTH 85°08'27" WEST 30.00 FEET;

THENCE, NORTH 04°51'33" EAST 90.00 FEET;

THENCE, SOUTH 85°08'27" EAST 435.96 FEET;

THENCE, SOUTH 04°51'33" WEST 194.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 1.87 ACRES OF LAND, MORE OR LESS.

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

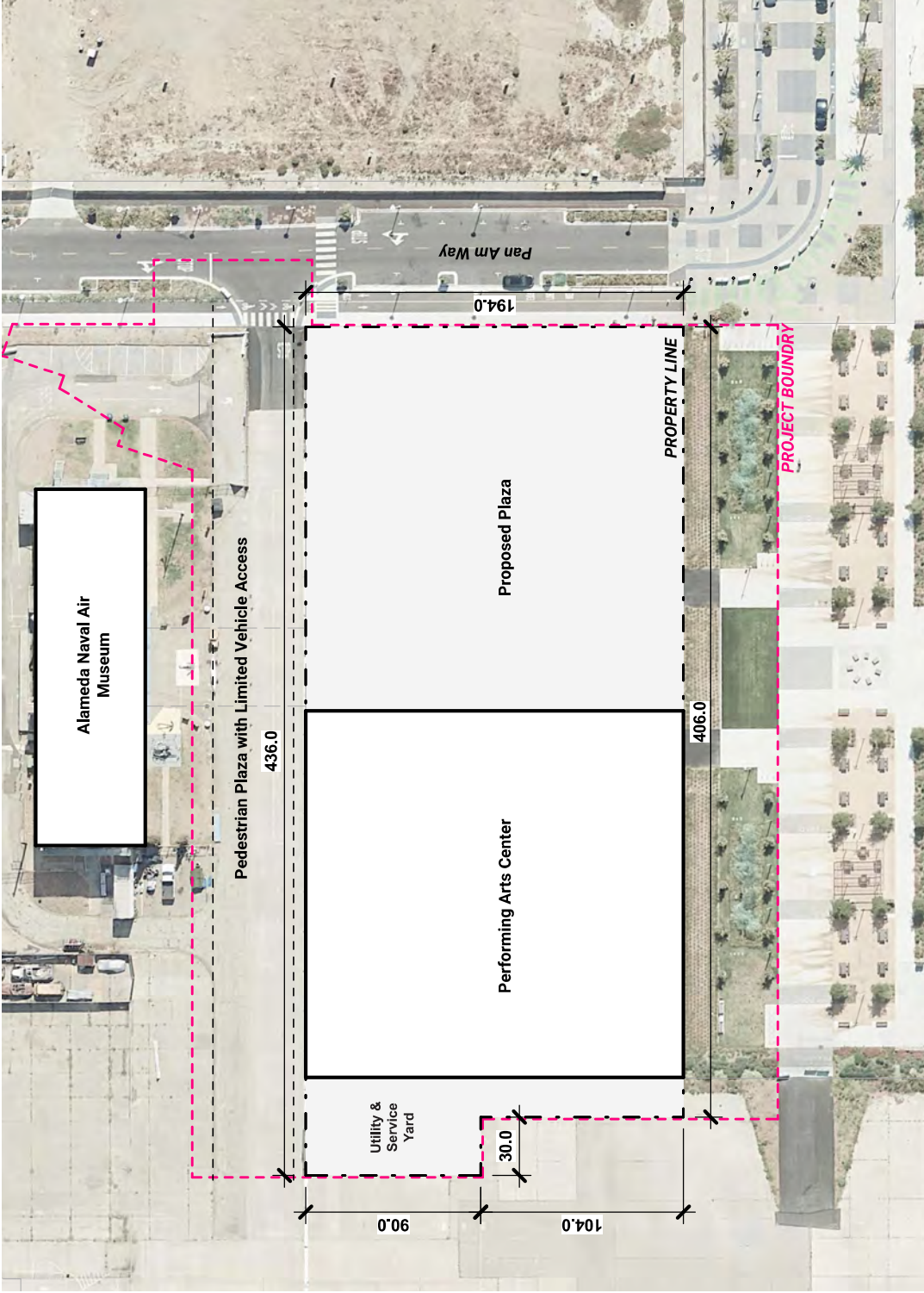
END OF DESCRIPTION



Sabrina Kyle Pack 16 JAN 2026
SABRINA KYLE PACK, P.L.S.
L.S. NO. 8164

Attachment 2 to Memorandum of Lease

Site Plan and Non-Exclusive Area



SITE INFORMATION:
 LOT SIZE: 194' X 436'
 ACRES: 1.9 ACRES
 SQUARE FOOTAGE: 81,464 GSF

SITE PLAN - PROJECT BOUNDARY

RADIUM THEATRE

ALAMEDA, CA



SITE DEVELOPMENT PLAN
November 7th, 2025

Exhibit L
To Ground Lease

Reserved

Exhibit M

To Ground Lease

Alameda Point Transportation Demand Management Plan (2014), as amended

FINAL REPORT

ALAMEDA POINT
TRANSPORTATION DEMAND
MANAGEMENT PLAN

May 20, 2014




Revised Draft Report Alameda Point Transportation Demand Management Plan

Prepared for:
City of Alameda

May 20, 2014

Prepared by:
Kimley-Horn and Associates, Inc.
6150 Stoneridge Mall Road
Pleasanton, CA 94588
(925) 398-4840

 Kimley-Horn
and Associates, Inc.

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1. INTRODUCTION & OVERVIEW

1.1. Purpose of the Plan

This Transportation Demand Management (TDM) Plan is a tool and a resource for existing and future development on the former Alameda Naval Air Station (Alameda Point) at the western end of Alameda. The Plan defines a procedure for implementing strategies and measures designed to reduce automobile travel, particularly single-occupant-vehicles (SOVs), generated by development within Alameda Point.

The need to reduce automobile travel is instinctual to those who reside and work in the island community of Alameda. With its limited access to the mainland, Alameda has little capacity for growth and economic development without addressing the associated traffic issues. It is also necessary for regulatory reasons including:

- 1) to comply with the policies of the General Plan to reduce automobile trips by shifting travel to other modes of transportation to maintain and improve the quality of life enjoyed in Alameda;
- 2) to mitigate the potential traffic-related impacts on local and regional transportation systems as required under the California Environmental Quality Act (CEQA) and identified in the Environmental Impact Report (EIR) certified for Alameda Point (February 2014); and
- 3) to help achieve the Bay Area's goal for reducing greenhouse gas (GHG) emissions as required under SB 375 by developing Alameda Point as a walkable, transit-oriented, "complete community" requisite of Alameda Point's designation as a Priority Development Area (PDA).

Ultimately, the strategies recommended in this Plan need to successfully change human travel behavior. Not a science, but an art that uses combinations of incentives, disincentives, convenient and high quality services, and skillful education, marketing, and promotion that results in a paradigm shift about the sustainability of our pattern of development and associated travel habits. Changing human behavior also requires time and funds, so this Plan addresses phasing and equitable ways for Alameda Point to fund the Plan's recommendations over the long-term.

1.2. Goals of the Plan

This Plan adopts the automobile trip reduction goals established in Policy 4.6.1.a of the General Plan that state:

Identify, develop, and implement travel demand management strategies to reduce demand on the existing transportation system.

1. Establish peak hour trip reduction goals for all new developments as follows:

- 10 percent peak hour trip reduction for new residential development*
- 30 percent peak hour trip reduction for new commercial developments*

Progress towards meeting the General Plan trip reduction goals is measured against forecasts of Alameda Point's traffic generation. The forecasts are based on the traffic projections developed for use in the Alameda Point EIR to determine traffic impacts for the 2035 cumulative build out scenario. Annual monitoring of the actual traffic generated by development on Alameda Point compared to the EIR projections is an intrinsic part of the Plan.

Monitoring measures progress towards meeting trip reduction goals and can identify problems requiring adjustments to the Plan's strategies and programs. Monitoring actual traffic generation is augmented by resident and employee surveys—going directly to the users of the Plan regarding its effectiveness and how it may be improved.

1.3. Overview of the Alameda Point TDM Plan

The Plan is part of a regional program of strategies designed to optimize the efficiency of the existing Bay Area multimodal transportation network. While other parts of the program focus on how people travel in vehicles to maximize the limited capacity of streets and highways, this Plan includes strategies that focus on changing people's travel behavior and specifically targets shifting travel away from SOVs and into more sustainable modes of transportation. The strategies in the Plan not only reduce traffic locally within Alameda, but regionally as well, helping to prolong the effective lifespan of the Bay Area's bridges and highways.

The Plan has two major components: (1) a series of services and programs that provide, or support, alternatives to driving alone provided by the TMA, as well as individual users (e.g., developers, employers and resident associations) described in Chapter 4; and (2) a parking management strategy designed to discourage everyday use of SOVs, which is presented in Chapter 5.

1.3.1. Cornerstones of Effective TDM

1.3.1.1. What does it take to make TDM work and keep working?

Effective TDM strategies reduce motor vehicle trips by one or more of the following means:

1. Accommodating the same number of people in fewer motor vehicles (e.g. transit, carpooling/vanpooling, and cycling/walking).
2. Eliminating trips entirely (e.g. working at home, or at a satellite business center)
3. Shifting the timing of trips from the most congested periods to less busy times (e.g. employer flextime, compressed work weeks)
4. Retain the trip internal to Alameda Point (i.e., development of a mixed-use land use environment that allows people to live, work, shop and recreate near home).

1.3.1.2. What are the most effective TDM strategies?

Rarely will a single strategy be highly effective in of itself. A combination or methods is the most effective, and are usually packaged as a complementary group targeting a specific market such as office commuters, college students, afternoon shoppers, etc.

Although the effectiveness of a TDM Plan is highly dependent on the characteristics of the Plan's area of influence and its target markets, national research on TDM strategies have shown that the following "groups" of strategies, on average, are the most cost-effective:

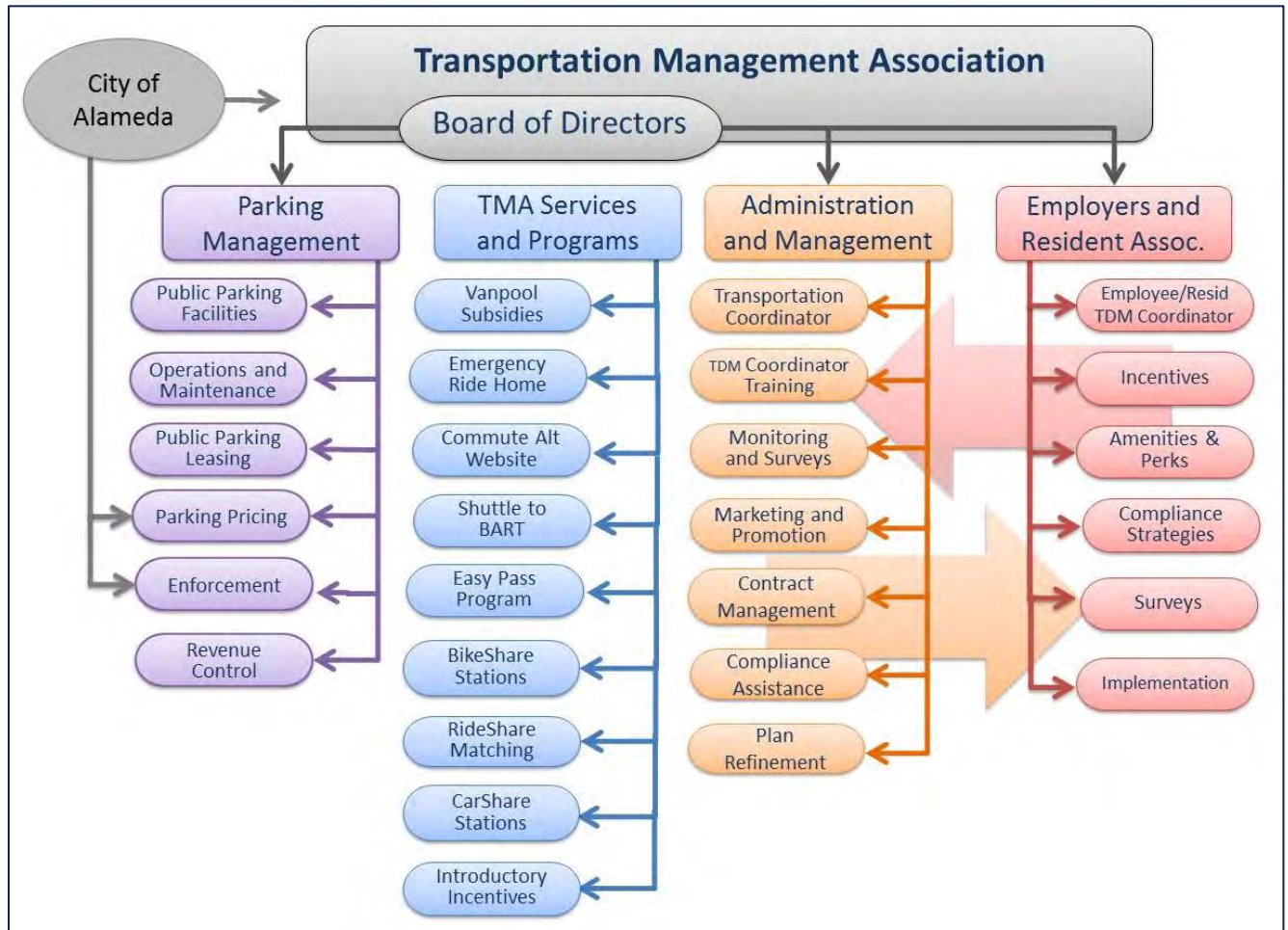
1. **Financial incentives** (commuter subsidies for not driving in a single-occupant-vehicle).
2. **Financial disincentives** such as parking charges.
3. **Bicycle and walking programs, facilities and subsidies**, particularly those offered as a "complete start to finish" package (see sidebar).
4. **Parking management** including reducing supply of available parking and charging market rate fees.

This Plan attempts to address these cornerstones of effectiveness.

1.3.2. Overview of Plan Structure and Management

The chart in **Figure 1** identifies the various components of the Plan, which can be divided into two fundamental categories, 1) actions which fall under the responsibility of the TMA, such as a shuttle to BART, and 2) actions for which end users, such as employers and resident associations are responsible. In some cases, the City of Alameda is responsible for implementing certain aspects of the Plan, such as the policies and actions required for enforcing the parking standards in the Alameda Point zoning code, and managing the public parking supply and pricing.

Figure 1: Overview of the TDM Plan Structure, Management, and Components



1.3.3. Compliance with the TDM Plan

As required by the Mitigation Monitoring and Reporting Program (MMRP) from the Alameda Point EIR, and the Alameda Point Zoning District in Section 30-4.24, all new development at Alameda Point will be required to comply with this Plan as part of any Disposition and Development Agreement (DDA) between the City and a developer, and as a condition of approval for any planning approval, including Development Plan, use permit, or design review. Any DDA and condition of approval will require that all property owners pay a special tax to fund the Plan and require through covenants, conditions and restrictions, or other enforceable real property interest, that run with the land that all commercial tenant associations, major employers,

residential tenant association, and homeowner's associations join the TMA, file a Compliance Strategy with the TMA consistent with this Plan, implement their Compliance Strategy, and refine it, as necessary.

1.3.4. Modifications to the TDM Plan

The TMA will be responsible for managing the successful implementation of this Plan with annual reporting to the City's Transportation Commission. The actual implementation of this Plan requires flexibility to respond to evolving and unexpected development, demographic, market and technological conditions. As a result, the TMA has the discretion to implement the Plan in substantial conformance with the intent and strategies outlined in this Plan, but is not required to adhere literally to every proposed aspect of the Plan. It is expected and necessary that the TMA make modifications to the Plan as new development occurs and more information exists about the type, amount and location of new development and its associated traffic patterns.

That said, the TMA must perform a 5-year review with the City Council and Transportation Commission, to determine if any amendments to the major components of the Plan are warranted. For instance, if the project is approaching buildout and the actual traffic counts remain significantly less than the trip reduction goals, what role should the TMA continue to play? Additionally, the TMA can request approval by the City Council (with a recommendation from the Transportation Commission) of a major modification to the TDM Plan at any other time deemed necessary by the TMA.

1.4. Alameda Point Development Program

Alameda Point has a development capacity allowing 1,425 housing units and about 5.5 million square feet of commercial uses including office, retail, and manufacturing. It is anticipated that Alameda Point will reach build out of its development program over a 30-year period. The residential component of the Alameda Point development program is expected to build out in a significantly shorter timeframe (approximately 10 years) than the commercial component (approximately 30 years).

1.5. Organization of the Plan

- This **Chapter 1** provides an overview of the plan; outlines the organization of the Plan; and summarizes the proposed development program for Alameda Point.
- **Chapter 2** gives an overview of forming the Transportation Management Association (TMA) that manages the implementation of the TDM Plan and defines the roles and responsibilities of staff and the Board.
- **Chapter 3** explains the trip reduction goals and requirements of the Plan.
- **Chapter 4** describes the TDM services and programs that are recommended in the Plan to be provided by the TMA; identifies the TMA's "essential" strategies implemented in the initial phases of development and the ultimate services and programs proposed for build out; and discusses how end users will prepare Compliance Strategies consistent with the Plan that may include enhanced TDM services.
- **Chapter 5** describes the parking management strategy in detail and explains how it works with the existing zoning and the TMA's services and programs.
- **Chapter 6** describes the monitoring and reporting program; and the recommended steps to measure the Plan's performance.

- **Chapter 7** describes the implementation of the Plan, including the proposed cost and funding of the Plan, the compliance and modification process, and the steps necessary to implement the Plan at startup and through build out of the development.
- The **Appendix** contains supporting tables for the Plan; a copy of “The TMA Handbook”, a comprehensive guide to creating and operating a successful TMA; and other supporting documentation.

2. MANAGING THE PLAN: ALAMEDA POINT TRANSPORTATION MANAGEMENT ASSOCIATION

The Alameda Point Transportation Management Association (TMA) will be responsible for administering and managing the Alameda Point TDM Plan presented in this report. This Chapter provides an overview of formation of the TMA and describes the evolving roles and responsibilities of the TMA over time. **Appendix C** provides a handbook on creating successful TMAs.

2.1. Defining the TMA

The definition of a TMA that follows is one of the most relevant definitions as to what a TMA at Alameda Point is expected to be and why:

“...public/private partnerships formed so that employers, developers, building owners, and government entities can work collectively to establish policies, programs and services to address local transportation problems. TMAs realize their potential in addressing traffic congestion, air quality, and occasionally, employment issues through TDM strategies. TMAs are established within a limited geographical area to address the transportation management needs of their members. TMAs are expected to obtain private sector financing in addition to public funding.”¹

2.2. Overview of TMA Formation

The City, in conjunction with developers, and other key stakeholders, will form an organization called a TMA to which all residential and commercial entities within Alameda Point are members. The TMA is responsible for implementing and monitoring the Plan and ensuring the membership is using the TMA’s services to their fullest extent.

The Plan may be managed in the initial phase by a predecessor of the TMA that will be formed later. This initial TMA is created and led by the City of Alameda and is comprised of key stakeholders of Alameda Point. Others may be invited to participate in the TMA’s meetings as needed such as transit service providers

The Expanding Roles of Today’s TMAs

If the TMA only had to simply manage the programs and services it provides, it would require limited staffing. But today, much more is expected of the TMA’s because the field of transportation has become complicated and traffic impacts caused by new development can trigger unexpected opposition to projects. While not part of any official definition, the role the TMA of today includes:

- Broker or provider of services
- Consultant
- Watchdog
- Information clearinghouse
- Forum for consensus-building
- Advocate
- Educator
- Regulatory Monitor

¹ Source: Center for Urban Transportation Research, College of Engineering, University of South Florida. TMA Handbook. 2001.

[e.g., AC Transit, Water Emergency Transportation Authority (WETA), Bay Area Rapid Transit (BART), private operators], City of Alameda law enforcement, bicycle advocacy groups, or other regional transportation agencies.

TMA's in the formation stage usually focus on the following activities:

- Establishing a core membership and steering committee.
- Formalizing the initial funding mechanisms.
- Establishing legal and organizational structure.
- Initiating marketing and membership development.
- Selecting the most effective strategies and eliminating the least effective.
- Generating awareness and interest among targeted markets.
- Fostering public-private relationships.

Composition of the Initial Alameda Point TMA Board of Directors

- City staff serving as acting director and technical support of the TMA;
- A City of Alameda Transportation Commissioner;
- Representatives of property owners, developers, employers, and resident associations. and
- Transit service provider representatives.

There are several options for the organizational structure of a TMA. The interim TMA core group or a steering committee may elect to organize an ad hoc group or create a committee within another established private organization. The steering committee may feel the TMA would function well under the organizational formality of a private, nonprofit organization. Additionally, the interim TMA may explore the possibility of teaming up with an existing TMA in the City of Alameda, if their goals and objectives are aligned.

The City can assist the TMA in reviewing their options and the pros and cons of various organizational structures. If, however, the steering committee believes that a more formal organizational structure is needed, and that a Board of Directors is needed to guide the ever-increasing complexity of the TMA, then formal incorporation may be the best way to organize. Then articles of incorporation and bylaws must be drawn up, and a Board of Directors must be established for which a statement of duties should be devised. The formation of the official TMA takes between 12 and 18 months and will build upon the work conducted by an interim TMA during the initial years before significant development has occurred.

Other tasks at this stage of the TMA's formation will include developing office procedures, defining the roles and responsibilities of the Board of Directors and staff, identifying an Executive Director either as a combination of staff, a consultant, or creation of the position and recruiting to fill the position. Additionally, the TMA will need to establish an office and set up an accounting system.

2.3. TMA Board of Directors

The official TMA is led by a Board of Directors comprised of Alameda Point employers and employee representatives, resident associations, City staff and a representative of the Transportation Commission, and potentially regional transit service providers, such as AC Transit and WETA.

The Board of Directors provides high level direction to the TMA staff, and approves the TMA's budget and the selection of supportive services offered to its members. The Board makes recommendations to the City Council on City controlled strategic decisions related to parking management such as raising or lowering

parking charges and deciding when to build additional public parking facilities. As described above, any major modifications to the Plan would be initiated by the TMA and need to be approved by the City Council.

2.4. TMA Operations

Once a legal and organizational structure has been established, the TMA begins its operational stage. Operations includes two primary categories of activities: administration and service delivery. Administration refers to the ongoing efforts needed to maintain membership and funding, running the office and serving the Board of Directors. Service delivery refers to providing services to members and other selected markets. Operation is characterized by a maturation of the organization, development of stable, ongoing, funding from special tax revenue, and a track record of service delivery. The primary activities of an operational TMA are:

- Developing and delivering member services.
- Keeping the membership informed and enthusiastic.
- Advising the City on key policy decisions related parking management and major modifications to the Plan.
- Maintaining office functions, keeping records and an accounting system.
- Monitoring and evaluating program and service progress ongoing and annually.

3. TRIP REDUCTION REQUIREMENTS

This Chapter summarizes the trip generation goals of the Alameda Point TDM Plan highlighted in Chapter 1 and describes the types of trips that the Plan aims to reduce.

3.1. Trip Reduction Goals

The trip reduction goals established in the Plan are required by the General Plan, the Alameda Point EIR and City's zoning ordinance. All new development within Alameda Point is required to fund and to participate in the TMA, and develop and implement a Compliance Strategy that includes a trip reduction plan consistent with this Plan. The Plan's established trip reduction goals are a:

- 30 percent reduction in peak hour trips for commercial development; and
- 10 percent reduction in peak hour trips for residential development.

The goals are measured against the estimation of automobile trips projected in the 2035 "buildout scenario" in the Alameda Point EIR.

As described in detail in Chapter 6, the TMA will annually monitor Alameda Point automobile trip generation and survey residents and employees to determine conformance with the established trip reduction goals, and to identify the strategies and measures that have the greatest impact on reducing single-occupant automobile trips. If Alameda Point, at the aggregate level, is found to be out of conformance, the TMA may require refinement or replacement of trip reduction strategies provided by the TMA and individual end users. The revised strategies are to be re-implemented, and monitored in subsequent years.

3.2. Types of Trip Reductions

Trips that travel to Alameda Point from off-island and vice versa are the type of trip that causes the greatest impact because these trips use up the limited capacity of Alameda's bridges and the Posey and Webster Tubes. The type of trip that causes the second greatest impact are trips that travel external to Alameda Point but stay on the island. These trips contribute traffic to intersections that are at or nearing the limit of their capacity.

These two types of trips are the target of the trip reduction requirement, but only if they travel during the morning or afternoon peak hours when congestion is at its worst, and primarily if the trips are by single-occupant-vehicle (SOV). Based on this narrow window of trips targeted by the Plan there are multiple ways of achieving the trip reduction as described below:

- **Trips shifted to transit or non-motorized modes of transportation.** This is the ideal method of trip reduction because it removes the automobile from the roadway network altogether.
- **Trips shifted from SOV to high-occupancy-vehicles (HOV) such as vanpools and carpools.** Not only does this type of trip improve conditions in Alameda, it improves regional traffic conditions, and has the added bonus of using the HOV facilities that exist nearly everywhere in the Bay Area.
- **Trips remain internal to Alameda Point.** Internally captured trips do not leave Alameda Point and do not impact external roads and intersections. Internal capture is the result of having a diverse mix of land uses in the community so that residents and employees can run errands, dine, drop children at school or day care, or shop without leaving Alameda Point and potentially can make these trips without using an automobile.

- **Trips travel during non-peak periods and therefore do not contribute to congestion.** This is the least desirable trip reduction because it means a vehicle remains on the island and available to travel during the peak hours should the driver choose to do so.

The TMA will also use surveys to identify which of these trip types are predominant in Alameda Point so that TMA provided services and programs, and marketing and promotional initiatives are tailored to target these types of trips.

4. TDM SERVICES AND PROGRAMS

The Alameda Point TDM Plan relies on the active participation of Alameda Point’s residents, employees and employers and needs to effectively persuade residents and employees to use public transportation, carpool or vanpool for commuting to work, and/or walk or bicycle to work and for other trips made throughout the day.

As a result, the Plan proposes extensive services and programs to be provided by the TMA, including shuttle/transit services that are intended to be within a quarter-mile of all major new development areas, as well as requires developers, employers and resident associations to prepare a TDM Compliance Strategy (Compliance Strategy) to demonstrate how end users will comply with the goals set forth in this Plan. These Compliance Strategies may result in end users instituting their own policies and programs in addition to those provided by the TMA to help change travel behavior and to meet their share of reducing trips which contributes to meeting Alameda Point’s overall goals. There are no limitations placed on the strategies that the TMA offers to its members or that employers may want to adopt for their own strategies.

4.1. TMA vs. End User Provided Services

The Plan relies on residents and employees to reduce SOV travel by either utilizing the services offered by the TMA or developing customized programs, with unique incentives (or disincentives) to persuade residents and employees to change travel behavior. How each entity proposes to reduce their trips through use of TMA services and/or their own specific programs is outlined in the Compliance Strategy that every developer, employer, commercial association, and resident association is required to prepare. The Compliance Strategy is an action plan that provides the TMA with basic information about the entity and identifies the types of services, programs, and incentives the entity will implement or use in order to comply with this Plan. The rest of this Chapter is divided two parts: (1) a description of TMA provided services and programs, and (2) a discussion of Compliance Strategies and the

New Bicyclist Commuter Program

Example “Start to Finish” Incentive Strategy

An example of a start to finish program that provides all of the necessary support for someone who wouldn’t have selected such an alternative mode without the comprehensive program. The program might be comprised of:

- Sign-up cash incentive or high value non-monetary incentive (e.g., one year membership to a popular health club or a top of the line bicycle helmet);
- Initial training on safe bicycling to Alameda Point;
- Proper equipment and gear selection and discounted sales;
- Training in maintaining equipment;
- Best route selection from home to worksite based on skill level, and maps of bicycle parking, locker rooms and showers ;
- Follow-up progress reporting with rewards or recognition for reaching milestones;
- Pairing with a “commute buddy”—an experienced bicycle commuter for first couple of months.

services and programs that could be provided by users, such as developers, employers and resident associations.

4.2. TMA Provided Services and Programs

4.2.1. TMA Services and Programs in the Near-Term

Initially, only the Plan's most essential services are implemented for reasons of economy. Essential services are those necessary to achieve a minimal level of transit service and supportive services considered very important to encourage alternative modes of travel, such as shuttle service to BART, AC Transit Easy-Passes for all employees and residents, a commute alternatives website, and other marketing and supportive services. Implementation of the initial essential services are triggered by a relatively small amount of new development, 100 new dwelling units or 100,000 square feet of new commercial development. **Table 1** compares the "essential services" provided by the TMA that comprise the initial implementation of the Plan with those proposed to be implemented as Alameda Point nears buildout.

4.2.2. TMA Services and Programs in the Long-Term

Implementation of the full Plan may take as long as 20 or 30 years, and some of the components may never have to be implemented. However, the Plan's components, and the cost of the components, must assume full implementation of the Plan, or TDM funding may fall short in the long-term. As development continues on Alameda Point, and traffic increases, the TMA provided services become significantly more robust to achieve trip reduction goals. The proposed near-term and long-term services and programs represent "bookends" for the Plan and what is offered between these two points in time will be determined by the TMA. The cost and funding of these services and detailed implementation steps are described in Chapter 7.

Again, **Table 1** provides a side-by-side comparison of the "essential" services offered in the initial phases of development and the long-term services proposed to be developed and managed by the TMA. Many of the services in the initial phase remain on the list of long-term services, but are more comprehensive and robust. **Table 2** describes each TMA core services in detail, and **Table 3** describes each contracted service.

Table 1: Proposed Near-Term and Long-Term TMA Provided Services and Programs

Service	Initial (Near-Term) Services	Long-Term (Buildout) Services
Shuttle (or Transit Service) to 12 th Street BART Station	<p>Shuttle service provided by AC Transit or private operator. Essential commuter service only for economy:</p> <ul style="list-style-type: none"> Operates during weekday peak periods (5:00 – 9:00 am / 3:00 – 7:00 pm) No weekend service 30-minute headways (accommodated by one vehicle and one driver) No stops outside of Alameda Point and 12th Street BART 	<p>Shuttle service operated by AC Transit or private operator. Near-maximum service coverage:</p> <ul style="list-style-type: none"> Operates during weekday peak periods (5:00 – 9:00 am / 3:00 – 7:00 pm), 15-minute headways Operates during weekday non-peak periods (9:00 am - 3:00 pm / 7:00 pm - 1:00 am), 30-minute headways Saturday (6:00 am – midnight) Sunday (8:00 am – 10:00 pm) 30-minute headways all day weekends Additional stops on route between Alameda Point and 12th Street BART [1]
Core Support Services	<p>Summary of select core services (see Tables 2 and 3):</p> <ul style="list-style-type: none"> General administrative and management duties Provide new resident/tenant travel options kit Information about trip reduction goals and the Plan’s services to all new residents/tenants Establish and manage funds for TMA provided services, and public parking operations, maintenance and enforcement Disseminate guidelines for preparing Compliance Strategies Review and approve Compliance Strategies Provides limited introductory incentives for ride sharing, walk and bike commuting, transit, etc. Develop and implement select components of annual marketing and promotion plan In initial phase (years 1-3) develop and refine a pilot program for the trip reduction monitoring and employee /resident survey. Annually present progress to the Transportation Commission 	<p>Summary of select core services (see Tables 2 and 3):</p> <ul style="list-style-type: none"> General administrative and management duties Conduct training of volunteer and part-time Transportation Coordinators Provide new resident/tenant travel options kit Information about trip reduction goals and the Plan’s services to all new residents/tenants Manage funds for TMA provided services, and public parking operations, maintenance and enforcement Review and approve compliance strategies Manage Pooled-TDM services for small employers Provide assistance to end user in developing Compliance Strategies Provide introductory incentives for commuting using alternative modes Develop bicycle Commute Startup Program Develop registered Vanpool Subsidy Program Offer a school Commute Transportation Program Develop and implement annual marketing and promotion plan Manage, analyze, and report trip reduction monitoring and employee/resident survey findings and recommendations to Transportation Commission
Contract Services	<p>Select contract services:</p> <ul style="list-style-type: none"> AC Transit Easy-Pass Program Pilot TMA sponsorship of one Bikeshare station Carshare stations (provision of space in public facilities for contractor to house vehicles) Develop and maintain basic Commute Alternatives website Annual traffic monitoring and employee/resident surveys (service contracted to consultant) 	<p>Select contract services:</p> <ul style="list-style-type: none"> AC Transit Easy-Pass Program TMA sponsorship of Bikeshare stations (3 stations) Carshare stations (provision of space in public facilities for contractor to house vehicles) Expand and maintain Commute Alternatives interactive website, add trip planner, TDM compliance App, on-line rideshare matching service, and links to other commute sites (e.g., 511.org) Annual traffic monitoring and employee/resident surveys (service contracted to consultant)

Table 1: Proposed Near-Term and Long-Term TDM Services and Programs (Continued)

Service	Initial (Near-Term) Services	Long-Term (Buildout) Services
Implementation Threshold	TDM Plan implemented when development reaches: 100 new dwelling units OR 100,000 square feet of new commercial development	Continuous; TMA services are introduced or modified after reviewing monitoring results, projected demand and available revenue for the following year
Plan Mgmt. [2]	City of Alameda or contract staff serving part time. May be combination of senior and mid-level staff. [Full Time Equivalent = 0.57 employees]	TMA staff hired by the Board, a consulting firm, or City employees serving as TMA staff directed by a Board of Directors as described in this Plan. [Full Time Equivalent = 1.8 employees]
<p>Notes:</p> <p>[1] In the long-term, the shuttle stops at key destinations along route in Alameda and Oakland. AC Transit shuttle service has potential to convert to a Rapid Bus or BRT line route with expanded stop coverage and high frequencies, without reduction in desired shuttle-quality service to/from the 12th Street BART station.</p> <p>[2] TMA staff may be exclusively full-time to the operation of the Alameda Point TMA or be comprised of Alameda Public Works and/or Planning Department staff sharing the responsibilities of operating the TMA on a part-time basis.</p> <p>Kimley-Horn and Associates, Inc., 2014.</p>		

Table 2: Description of the Alameda Point TMA Provided Services and Programs

TMA Core Service	Description of Service	NT	LT
Administrative / Coordination / Management / Training Services			
General Administrative and Management Duties	Overall management of the TMA's core and contracted services and day to day operations, general accounting, scheduling, and tracking of members through records of leases, new development, and tenants.	Y	Y
Bicycle Commute Startup Program	Training and advice for both Alameda Point residents and employees on route planning, safety, gear and equipment, bike maintenance and repair, bike parking, and shower/locker room information.	N	Y
Bikeshare Station (3) Sponsorship	The TMA may sponsor up to three (3) Bikeshare Stations for use by Alameda Point residents and employees.	Limited	Y
Carshare Program	The TMA will actively solicit Carshare providers to establish stations on public or private property in Alameda Point. The TMA will serve as "broker" for homeowner associations and employers seeking Carshare services for their residents and employees.	Y	Y
Commute Alternatives website	The TMA will develop the content for updating the website as well concepts for development by professional website designers. Interactive functions such as an individual Trip Planner feature, an Alameda Point Trip Reduction Compliance Assistance application for use by any residential or commercial entity, an on-line rideshare matching service for registered users, on-line training programs for resident and employee volunteer or part-time Transportation Coordinators, or on-line bicycling safety training for everyone are examples of concepts that may be developed.	Y Basic Features	Y Adv Features
Emergency Ride Home Program	Centralized service for dispatching taxis and managing reimbursements to the TMA.	Y	Y
Employer and HOA Compliance Strategy Assistance	Provide guidelines and advice, material and support for employers, businesses, homeowners associations, and individuals in preparing the required Compliance Strategy. For a fee, the TMA will develop a Compliance Strategy based on interviews and information provided by the entity requesting assistance.	N	Y
On-Site TDM Coordinator	Duties concurrent with other responsibilities of the TMA's core services.	Part-Time	Y
Provide New Resident and Commercial Tenant Travel Options Kit	Develop and disseminate a kit of information and tools explaining trip reduction goals, parking management, and the Alameda Point TDM Plan's services available to new residents, businesses, employers, employees.	Y	Y
Rideshare Matching Service	The TMA will maintain a database of registered participants interested in ridesharing. The service is available at the TDM Coordinator's office and on the Commute Alternatives website.	N	Y

Table 2: Description of the Alameda Point TMA Provided Services and Programs (Continued)

TMA Core Service	Description of Service	NT	LT
Administrative / Coordination / Management / Training Services			
Guidelines for Preparing Residential and Commercial Compliance Strategies	A handbook of guidance for residential and commercial tenants (or individuals) to develop a Compliance Strategy including a menu of measures and guidelines for their use; example Strategies, estimating effectiveness, overview of pre-tax payroll deductions, parking cash-out programs and tax implications of certain incentives; includes forms for developing Compliance Strategies. Handbook includes steps for submitting Compliance Strategies for approval, implementing Strategies, and participating in the annual monitoring and surveys. Handbook will be updated regularly and reside on the Commute Alternatives website.	Y	Y
Review and Approve Residential and Commercial Tenant Compliance Strategies	Employers, residential complexes, or associations are required to prepare and submit a Compliance Strategy for approval. Compliance Strategies outline tenant plans to meet trip reduction requirements. Provides basic tenant information and demographics, current travel modes, special requirements (e.g., shift overlaps or senior / disabled needs); describes the TMA services, incentives and programs tenant will promote internally, identifies Transportation Coordinator. Tenants may submit their own comprehensive TDM program if they prefer. The TMA reviews Strategies for reasonableness, cost-effectiveness, and awareness and effective use of available TMA services.	Y	Y
School Commute Transportation Program	Recognizing that school trips make up a significant proportion of morning peak hour automobile trips, the TMA will coordinate with schools to provide information to parents and older students about alternatives to driving to school. Information and material may include descriptions and maps of "safe walking and biking routes to schools", and parent or school initiated programs such as "school walk-pools", "bike-pools", student transit passes, etc.	N	Y
TMA Funds	Manage accounting of TMA Funds which include special tax revenues that comprise TMA membership dues, and parking revenues, that fund TMA provided services, and public parking operations, maintenance, and enforcement.	Y	Y
Transportation Coordinator Training Program	TMA sponsored training programs, seminars, and webinars for designated part-time Resident or Employee Transportation Coordinators who represent their HOA, residential complex, company or business; the TMA will develop and disseminate training and educational material for Transportation Coordinators to assist resident associations or employers in preparing a Compliance Strategy, and inform neighbors and co-workers of their travel options.	Limited	Y
Visitor Clipper Card Program	This program provides temporary pre-paid Clipper Cards available from the TMA for businesses to offer to traveling visitors, or for residents and employees to offer to family members, guests, etc., avoiding the need to rent automobiles to travel to/from Alameda Point. The short-term multi-day Clipper Cards include limited value fare (approx. \$15 to \$20.00) for use on AC Transit and BART (serving the San Francisco International Airport) plus fare for the Oakland Airport connector for the convenience of business travelers or traveling guests. The TMA will keep a limited quantity of these Clipper Cards on hand.	Limited	Y

Table 2: Description of the Alameda Point TMA Provided Services and Programs (Continued)

TMA Core Service	Description of Service	NT	LT
Incentives and Services Related to Mode Shift			
Introductory Incentives for Alternative Commute Modes: - Vanpool sign-up Incentives - Carpool sign-up Incentives - Bikeshare group subscription incentive	The TMA will periodically offer introductory incentives to residents and employees who currently travel by single-occupant-vehicle and who commit to using an alternative mode for an introductory period of time and a minimum number of days per week/month during the introductory period. Incentives are typically in the form of vouchers for vanpool fees, fuel, or parking but may also include premium preferential parking spaces, vouchers for services or goods from local shops, restaurants, health clubs, etc. Incentives may be adjusted to reflect tax implications based on the value of the incentive.	Limited	Y
Pooled Employer/ Resident Association-Funded Incentive Program	By pooling resources on a regular basis, Alameda Point’s property owners, employers, tenant associations, and HOA’s can provide incentives of substantial value available in frequent drawings to employees or residents who travel by alternative modes. This type of program typically gives away moderate value vouchers, products, services or cash weekly and high value winnings in quarterly drawings. Oftentimes, the winnings being given away are significant enough to convince people to use an alternative mode at least during the drawing period.	Limited	Y
Registered Vanpool Subsidy	A vanpool subsidy is typically provided to the driver or all members of the vanpool to defray the cost of vacant seats for which the other members must compensate. A subsidy, along with increased promotion of the empty seats by the TMA and employers, acts as an incentive to retain existing vanpoolers while recruiting passengers to fill vacant seats.	N	Y
Marketing and Promotion of TDM Plan			
Annual Marketing and Promotion Plan	Annually, the TMA will develop a budget and implementation plan for the marketing and promotion of services in the following year. These plans may emphasize an under-utilized service that has been demonstrated to be effective, or continue to promote the most effective services. Promotions may include "branding" of services or adopting a particular "theme" that catches the attention of future transit users. The plan must receive Board approval before implementation. Initially, the marketing and promotion budgets will be small. But with intensified development, the increase in budget may warrant contracting the development of promotions to a professional marketing firm.	Limited	Y

Table 3: Description of TMA Provided Contracted Services

TMA Contracted Services	Description of Service	NT	LT
AC Transit Easy-Pass Program	This program leverages the purchasing power of every resident and employee in Alameda Point to contract with AC Transit to provide pre-paid transit passes to every resident and employee. In the initial phases of development, the number of passes purchased will be relatively small. As development intensifies and the number of purchased passes increases, the TMA will benefit from a reduction in the cost per pass.	Limited	Y
Shuttle (or Transit Service) to 12th Street BART Station	One of the most essential of the services provided to Alameda Point: a high frequency dedicated shuttle route that can transfer employees and residents to and from the 12th Street BART station in 15 minutes. In the initial phases of development, the shuttle is targeted at commuters and thus only runs during a four hour peak period in the morning and a four hour peak period in the afternoon. For economy, the shuttle's headways in the initial phases of development are 30-minutes. As development intensifies and demand for the shuttle increases, the shuttle will target trip purposes beyond the commute, thus, headways will decrease to 15-minutes, non-peak period service will be added comprising 20-hour weekday service, and Saturday service will be added. If the cost of the shuttle can be kept low, Sunday service will be added as well. Other users who are not paid for by the special tax can use the shuttle for a fee as long as their use does not reduce the frequency of headways or undermine the effectiveness of the service. Although not the goal of this Plan, the TMA should look to develop relationships with tenants at Alameda Point and other potential partners or TMAs in the City, who may be willing to fund and supplement the shuttle service or routes during off-peak hours. At some point once sufficient development exists, it may make sense for AC Transit to provide a new transit service along this same route, which could be subject to a performance-based contract with the TMA, if special tax revenue were to be used to supplement AC Transit's fare box revenues.	Y	Y
Annual Traffic Monitoring and Employee/Resident Surveys	Determining the effectiveness of the TMA's services and the compliance strategies requires regular performance evaluation. Annually, daily and peak period traffic counts (min. of 3 days) will be collected at Alameda Point gateway intersections and measured against trip reduction goals. Augmenting traffic data is an annual employee and resident transportation survey to collect data on modes of travel, frequency of the use of those modes, trip purposes, distance traveled, cost, opinions on effective and ineffective TDM services, reasons for not using services, suggested improvements, and demographic information for cross-referencing. Survey will utilize a multi-media approach to maximize the return rate (e.g., online, mail-in, intercept). The TMA will work with a contractor to develop data collection and survey methods.	Y	Y

Table 3: Description of TMA Provided Contracted Services (Continued)

Develop, Update, Enhance and Maintain Alameda Point Commute Alternatives Website	The TMA will develop the content for updating the website as well develop concepts for website designers to enhance with functional interactivity. These services may be provided by contracted professionals or City in-house expertise if available. Interactive functions may include an individual Trip Planner feature (or link to existing trip planners), an Alameda Point Compliance Strategy-Builder application for use by end users, an on-line rideshare matching service for registered users, on-line training programs for employee TDM Coordinators or on-line bicycling safety training for everyone are examples of concepts that may be developed. TMA staff will work with a contracted website developer to implement features, if necessary	Limited	Y
<p><i>NT=Near-term implementation of services in early phases of development.</i> <i>LT=Long-term implementation of services at, or near, buildout of Alameda Point's development program.</i></p> <p>Kimley-Horn and Associates, Inc., 2014</p>			

4.3. End User Provided Services and Programs

Any DDA and condition of approval for new development at Alameda Point will require that all property owners require through covenants, conditions and restrictions, or other enforceable real property interest, that run with the land that all commercial tenant associations, major employers, residential tenant association, and homeowner's associations join the TMA, file a Compliance Strategy with the TMA consistent with this Plan, implement their Compliance Strategy, and refine it, as necessary.

TDM services and programs provided by end users, such as employers or resident associations, via their Compliance Strategy are tailored combinations of measures and services selected specifically to meet the travel needs of the employees assigned to the site, or services that best match the needs of most residents in a particular development. As stated above, all end users will be required to prepare a Compliance Strategy to demonstrate to the TMA how they will use and implement services for its employees and residents to reduce traffic in compliance with this Plan. The TMA Board has authority to review and approve Compliance Strategies prepared by employers and resident associations and the authority to require significant refinements should annual monitoring and resident / employee surveys reveal that an entity's Compliance Strategy is ineffective. **Table 4** provides a list of potential services that an end user could provide in addition to TMA provided services.

Some employers may relocate to Alameda Point with long standing trip reduction plans that are demonstrated to be effective. These employers will simply continue with their programs and may take advantage of the TMA's other available services. However, the majority of employers and resident associations locating in Alameda Point will have never developed a TDM plan or Compliance Strategy. Some employers or associations may have so few potential participants that it is not cost-effective to develop a strategy for such a small group. In these cases, the TMA steps up to assist the entity in developing a Compliance Strategy most likely tailored to using primarily the TMA's existing services and programs or to pooling together similar small entities in order to create cost efficiencies. Many of the TMA services listed in this Chapter may be identified in a Compliance Strategy, possibly with adjustments that make the service more specific to their needs. It is not the individual measures within a Compliance Strategy that makes it successful, it is the combination of measures that underscores and complements the entity's culture and philosophy that creates successful behavioral change, particularly if the employees or residents view the strategy as consistent with their collective values. Later in this Chapter a sidebar presents a case study of an employer-based TDM program using a combination of strategies tailored to the company's personnel.

End users can package TDM services to target specific markets or specific modes of travel, and a "commuter club" packages of services can provide increasing perks and incentives the longer the user travels using alternative modes or collects "points" for each day using alternate modes. **Appendix E** shows figures that provide examples of TDM services packaged to target alternative modes of transportation; site design and land use strategies combined with certain services to create a high-reward "club" incentive program; and TDM strategies that work well for residential developments are often managed by property managers or a resident association. Additionally, **Appendix D** provides information on how to attract residents to transit-oriented developments.

Table 4: Additional Services that Could Be Provided by End Users

TDM Services and Programs
Discount vouchers for bicycle or electric bicycle purchases, and related equipment
Periodic events and commute alternatives competition between tenants and residents (tangible rewards to top performers)
Employee and resident relocation information and services (rental finder / matching website or resource library)
Company vehicle available to employees who commute using alternative modes for mid-day use or off-site business related travel
CommuterCheck® or similar pre-tax payroll deduction for purchasing transit fare
Pre-paid transit fare (e.g., Clipper Card) for employees or households in residential developments. [1]
Employer sponsored vanpools
Company provided pool of bicycles and safety equipment for running errands or visiting nearby places
Company vehicle and preferential parking provided full time to volunteer drivers in return for commitment to carpooling
Employer provided membership benefit not normally provided to employees for commitment to alternate modes at least one day a week (e.g., Pre-Paid Legal services, Costco Membership, etc.).
Concierge services provided to workers and residents with errand services that enable them to avoid vehicle trips
<p>Notes:</p> <p>[1] Note that the Easy-Pass service offered by the TMA is only available for the AC Transit system. The pre-paid transit fare would be in the form of pre-loaded full-fare pass such as a Clipper Card usable on multiple transit systems such as BART, AC Transit, and Caltrain, and may be distributed or as a reward for consistently using alternate modes.</p>

4.3.1. Alternative Work Schedules and Remote Sites

Flexible working arrangements or facilities offered by end users can also help meet Alameda Point’s trip reduction goals. The following provides examples of these strategies that could be used by employers and residential developers/resident associations:

- **Business Centers.** Business centers are typically part of a residential development and are centrally located, available to all residents, and offer a quiet location for working, printing, faxing, and accessing the Internet. Business Centers are meant to facilitate teleworking.
- **Compressed Workweeks.** This type of flexible work arrangement maintains a 40-hour work week but compresses the week into in 4 days at 10 hour each day or 80 hours in 9 days. These programs allow employees to avoid work commutes once a week or once every two weeks and essentially cut employee trips by 20 percent.
- **Flexible Work Schedules.** This type of scheduling allows employees some latitude in their shift start and end times which may adjust these times by as little as 15 minutes to as much as 2 hours. Flexible work schedules allow employees to adjust their work schedules to better match transit schedules, as well as to avoid periods of peak traffic volumes.
- **Teleworking.** Formerly termed “tele-commuting,” this alternative work schedule allows employees to work from home or from a distant business center closer to their home than to their workplace. Successful TDM programs assist workplaces with the design of telework programs by informing management on issues regarding liability, rules of participation, and technology issues.

Employer-Based TDM Plans: A Case Study of the Nike Corporation

The State of Oregon's Department of Environmental Quality established a commute trip reduction mandate aimed at employers. Beginning in 1996, employers were required to provide incentives and programs for employee use of alternative commute options, and reduce single-occupancy-vehicle (SOV) commuting by 10 percent over three years. Nike's program is summarized below:

- Nike introduced an incentive-based program giving away prizes and Nike Buck vouchers good at the Nike cafeteria and at Nike stores at a large quarterly drawing, and at smaller monthly drawings.
- The program was promoted through Nike's on-site employee Transportation Coordinator and at transportation fairs, newsletters, flyers, and posters, which raised interest in the prizes and an increase in alternative modes usage.
- Nike encouraged rail use by sponsoring a shuttle to transport employees to and from a light rail station, about ½-mile from the Nike campus.
- Nike subsidized transit by paying 72% of the cost of an annual bus/rail pass.
- Nike promoted carpooling through the use of an in-house rideshare matching list and preferential carpool parking.
- All pass holders were eligible for the Guaranteed Ride Home program, administered by the local transit authority, TriMet.
- Nike supported a flextime policy allowing employees to work with their supervisors to develop schedules most appropriate for them and their workload.
- Nike provided services for bicycle commuters, and interested bicycle commuters including helping employees map out safe bicycle routes, providing regional and local bicycle resources and information, and promoting bicycle specific events to all employees.
- Bicycle commuters had access to Nike's two fitness centers and use of the showers and locker room.
- Bicycle racks were installed around the campus and bicycle cages were built in the fitness center area.
- Employees were allowed to bring bicycles into the building and store them in their offices.
- Bicycle commuters were eligible to participate in the monthly and quarterly drawings.
- Nike's campus has on-site amenities designed to limit SOV and vehicle usage during the workday.
- Nike employees can access quality childcare at one of the two on-campus childcare centers.
- Employees that need childcare for only a short time can utilize the Nike Tykes drop off program.
- Other on-site amenities and services include two sundry stores, dry cleaning service, beauty salon, an ATM and on-site movie ticket sales.

Nike's SOV rate in 1996 was 98%. Since implementing the TDM program, Nike's SOV rate has reduced to 78% with employees using other modes at 10% carpool, 2% bike, 5% bus / rail, and 5% flextime. During annual monitoring of the TDM program, employees provide Nike with feedback and ideas for program improvement and the Transportation Coordinator is given flexibility from Nike management to make appropriate changes to the TDM program.

5. PARKING MANAGEMENT STRATEGY

5.1. Objectives of the Strategy

The parking management strategy for Alameda Point is not a separate or stand-alone plan, but an essential component of the Alameda Point TDM Plan that supports the overall objectives of the Plan. The parking strategy has its own objectives as well. The objectives are:

- 1) To limit the supply of private parking and control the pricing of public parking to encourage the use of alternative modes of transportation, as part of a series of strategies that comprise the Plan with an overall objective of significantly reducing the number of automobile trips generated by Alameda Point land uses.
- 2) To ensure that Alameda Point has a sufficient parking supply, meeting the needs of its businesses, employers and residents, within the context of a compact, walkable and transit-oriented community.

5.2. Overview of the Parking Strategy

Alameda Point’s parking strategy employs current best practices for urban parking management where land values are high and traffic capacity is limited. The parking strategy uses three common methods of controlling parking that results in sufficient, but not excessive, parking for all users in the context of a compact, walkable, and transit-oriented community. The three methods, including zoning and development standards; a system of public parking facilities; and parking pricing, are described below. **Figure 2** summarizes the three methods of achieving successful parking management and **Table 5** below provides a summary of the phasing of the Parking Management Strategy over the near- and long-term.

5.2.1. Alameda Point Zoning Code and Development Standards for Parking

Alameda Point's zoning controls the amount of private parking that can be built within new development by eliminating conventional "minimum" parking requirements and, instead, imposing a limit on the amount of private parking in new development. The development standards in the zoning code results in more efficient use of parking because the supply is limited without guarantee of locating a vacant space, and the alternative (public parking) charges a fee.

Although not stated in the zoning code, the parking strategy hinges on the use of public parking (either on-street or in off-street lots and garages operated by the City) when demand exceeds the supply of parking in private development. When this happens frequently enough, drivers consider alternate modes to avoid the hassle of search for a vacant parking space and the cost and inconvenience of having to park off-site.

Most Effective Combination of Conditions and for Successful Parking Management

- High level of public transit in vicinity (such as AC Transit’s Line 51 and BART)
- Restricted parking supply
- Parking fees
- Moderate to high level of employer or resident association-provided transportation services (e.g., shuttle to BART)

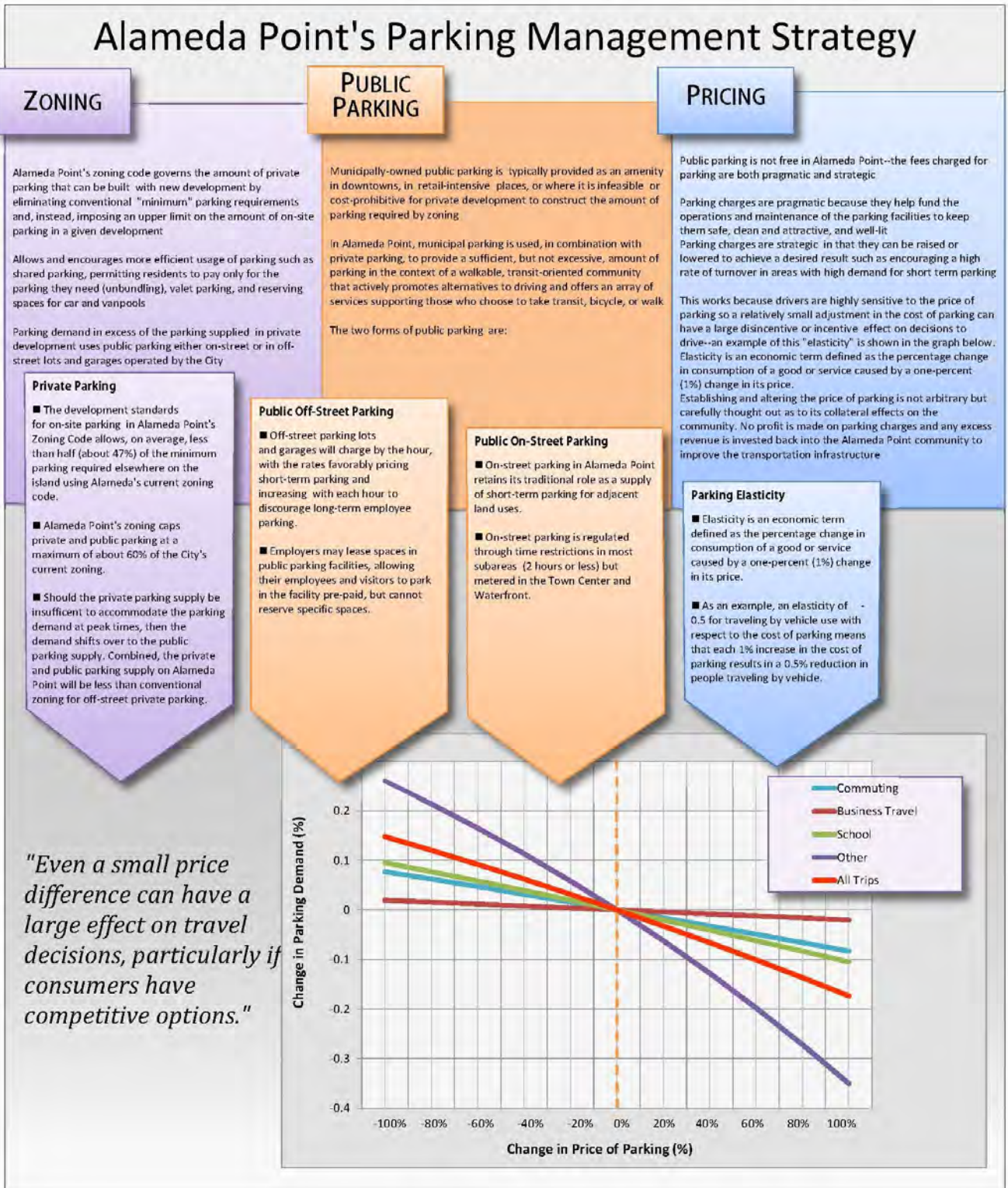


Figure 2: Alameda Point's Parking Management Strategy. The parking strategy uses zoning, a system of public parking, and pricing as one of the primary foundations of the Transportation Demand Management Plan.

5.2.2. Alameda Point's Public Parking System

Municipally-owned public parking is typically provided as an amenity in downtowns, in retail-intensive places, or where it is infeasible or cost-prohibitive for private development to construct the amount of parking required by zoning. In Alameda Point, municipal parking is used to meet parking demand that exceeds the private parking supply, and as a source of parking for businesses that would prefer to lease rather than build parking that is likely to be underutilized in the future.

Alameda Point's public parking system has on and off-street parking facilities. On-street parking retains its traditional role as a supply of short-term parking for adjacent land uses. On-street parking is regulated through time restrictions in most subareas but metered in high-demand areas like the Town Center and Waterfront Sub-district. Off-street parking lots and garages will charge by the hour, with the rates favorably pricing short-term parking and increasing with each hour to discourage employee parking. Additionally, a monthly parking pass program for employees may be employed if determined to be appropriate. Also, near-term developments may require short-term leases for additional land for temporary parking until key TDM services and programs become more evolved and robust.

A system of public parking requires the City of Alameda to retain, in City ownership, select properties to be reserved for off-street public parking in perpetuity. Parcels of land for public parking should not be located in prime locations but should be within a ¼-mile walking distance of anticipated concentrations of development. **Figure 3** shows seven sites identified by the City as potential public parking facilities and **Figure** illustrates the walking coverage associated with the seven parking sites.

Although expected to be generally consistent with this Plan, the exact location and size of these public parking lots will be determined as part of the Development Plan approval process initiated by developers for larger areas that include one or more of these public parking locations. In certain areas, the City may be responsible for initiating the process of seeking approval for the development of a public parking lot from the Planning Board and City Council.

5.2.3. Parking Pricing

Public parking will not be free in Alameda Point—the fees charged for parking are both pragmatic and strategic. Parking charges are pragmatic because they help fund the operations and maintenance of the parking facilities to keep them safe, clean and attractive, and well-lit. They are strategic in that charges can be raised or lowered to achieve a desired result such as encouraging a high rate of turnover in areas with high demand for short term parking.

The effect of pricing works because drivers are highly sensitive to the total cost of travel and, in particular, the cost of parking. Because of this sensitivity, a relatively small adjustment in the cost of parking can have a large disincentive or incentive effect on decisions to drive.

Table 5: Summary of Parking Management Strategy in Near- and Long-Term

Near-term	Long-term
<ul style="list-style-type: none"> • City implements and enforces zoning parking requirements for new development • City may negotiate with new property owners/ tenants to provide near-by public parking or short-term leased private parking, if owner/ tenant needs more parking than zoning allows • City/developer constructs surface public parking lots as necessary to meet obligations of development agreements and leases (see Figure 3 for parking locations) • As necessary, City implements on-street parking time restrictions on new and reconstructed streets per MIP • City charges a nominal fee in all public parking facilities to establish parking fees on Alameda Point as permanent 	<ul style="list-style-type: none"> • City continues to implement and enforce zoning parking requirements for new development • City may continue to negotiate with new development for proximate public parking until all public parking sites are constructed • City/developer constructs public parking lots and/or structures as necessary to meet projected demand, and obligations of development agreements and leases • City enforces off-street payment and on-street parking time restrictions on new streets per MIP • City, in consultation with TMA annually review the TDM monitoring results and parking conditions to determine if parking fees will remain at current state or be subject to an increase or decrease depending on specific goals



Figure 3: Locations of Alameda Point's Potential Public Parking Facilities

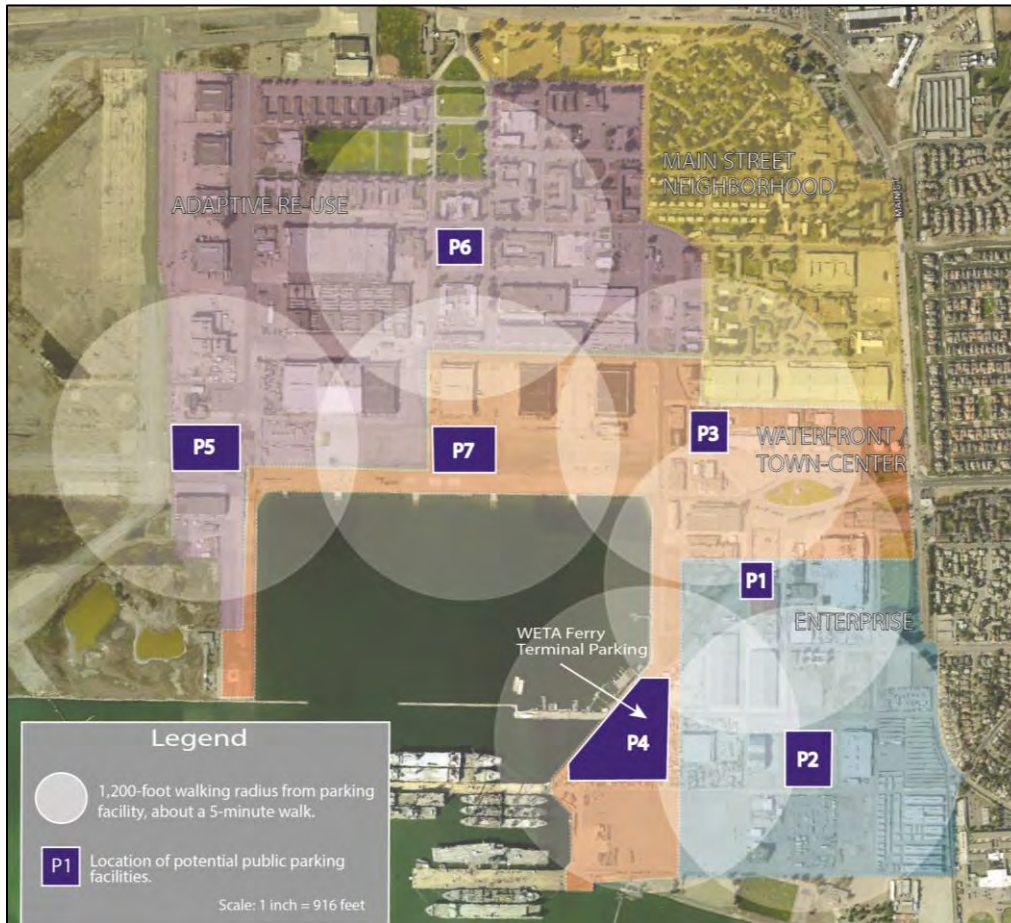


Figure 4: Walking Coverage from Alameda Point’s Potential Public Parking Facilities

5.3. Regulatory Controls on Private Parking in Development

The relevant regulatory components of the parking management strategy, provided through the zoning code, include:

- No minimum parking requirements permits developers to decide based on cost and market factors without the mandate to absorb the cost of expensive structured parking that might make the development infeasible. This is a particularly important advantage to developers who want to build quality projects, but find the cost of structured parking on small or constrained sites a significant obstacle.
- On-site parking spaces cannot exceed the code’s maximum limit.
- Unbundled parking, where the cost of parking is separated from the purchase or lease of housing is required for all multi-family housing units.

Parking demand that cannot be accommodated within private development (spillover) may park on-street (short-term parking) and in off-street public parking facilities (long-term) that are funded by parking charges.

Finally, the parking strategy emphasizes the value of the parking space which, when subsidized by employers, is taken for granted by employees. The strategy associates a value to public parking spaces—which may be a nominal value in the initial stages of development and may gradually increase as the level of development intensity increases and as the transit, bicycle, and pedestrian systems become increasingly robust and convenient.

5.4. Supportive Parking Strategies that may be Implemented by Property Owners, Employers or Resident Associations

Owners of buildings, individual tenants and employers, or resident associations can participate in, and contribute to, the trip reduction programs by implementing the following or similar parking-related strategies:

1. **Preferential Parking.** As an incentive to attract employees into trying rideshare options, building owners and employers may reserve parking spaces in desirable locations relative to the entries of commercial buildings, typically within a parking structure, adjacent to the building entrance or elevators, and marked reserved for registered carpool or vanpool vehicles.
2. **Carshare Facilities.** Owners and building managers may reserve one or more parking spaces in a private parking facility and designate the parking for housing commercial Carshare vehicles for use by tenants of the building, or nearby buildings.
3. **Bikeshare Facilities.** Owners and building managers may reserve an area on-site for installation of a private Bikeshare facility.
4. **Parking Cash-out Program.** California law requires employers who rent parking for their employees, and who subsidize the employee's cost to use the rented parking, offer their employees the option to choose taxable cash in lieu of any parking subsidy offered. The cash in lieu of parking subsidy can be used to pay for alternative modes of transportation. Separation of the cost of parking from the cost of floor area allows employers to reduce expenses by not renting parking spaces for each employee who chooses not to drive.
5. **Other Supportive Strategies.** Owners and building managers, or employers may offer services that offset concerns about not having an automobile available while at work such as an emergency ride home program, Carshare membership, and on-site services such as ATM's, dry cleaners, and fitness centers.

5.5. Projections of the Private and Public Parking Supply at Buildout of Alameda Point

The private parking supply and the public parking supply at Alameda Point are linked. Not officially linked through zoning, but through the approach to parking management in this Plan. The linkage was intentional so that the amount of private parking, and the cost of public parking, could be controlled.

The amount of public parking the City provides will be dependent on the choices development makes regarding on-site parking. For example, if at one extreme, development leans towards as little private parking as possible, the City will need to make up the difference and provide more public parking than anticipated, increasing the amount of land required for public parking as well as increasing the cost to construct public

parking. The advantage to the City under this scenario is an increase in their control of parking supply and pricing.

At the other extreme, if development chooses to maximize on-site parking, the City spends less to build public parking but also loses some of their control since development will be less dependent on the public supply. Projecting the private and public parking supply for planning purposes assumes neither extreme, but seeks the middle ground for conservancy.

An estimate of the public parking supply at buildout of Alameda Point is based on assumptions about the amount of private parking that will be provided by developers (not to exceed the maximum parking ratios adopted in the Alameda Point zoning regulations). **Appendix A** provides supporting information on these estimates. Based on these assumptions, it is estimated that Alameda Point will need to provide approximately 2,400 public spaces (excluding on street parking spaces) in the potential locations depicted in **Figure 3**. The sum of the private off-street and public off-site parking supply is approximately 70 percent less than the minimum off-street parking requirements in Alameda’s conventional zoning. The chart in **Figure 5** illustrates the difference between Alameda Point’s zoning requirements and conventional zoning. **Appendix B** provides a detailed comparison of these requirements.

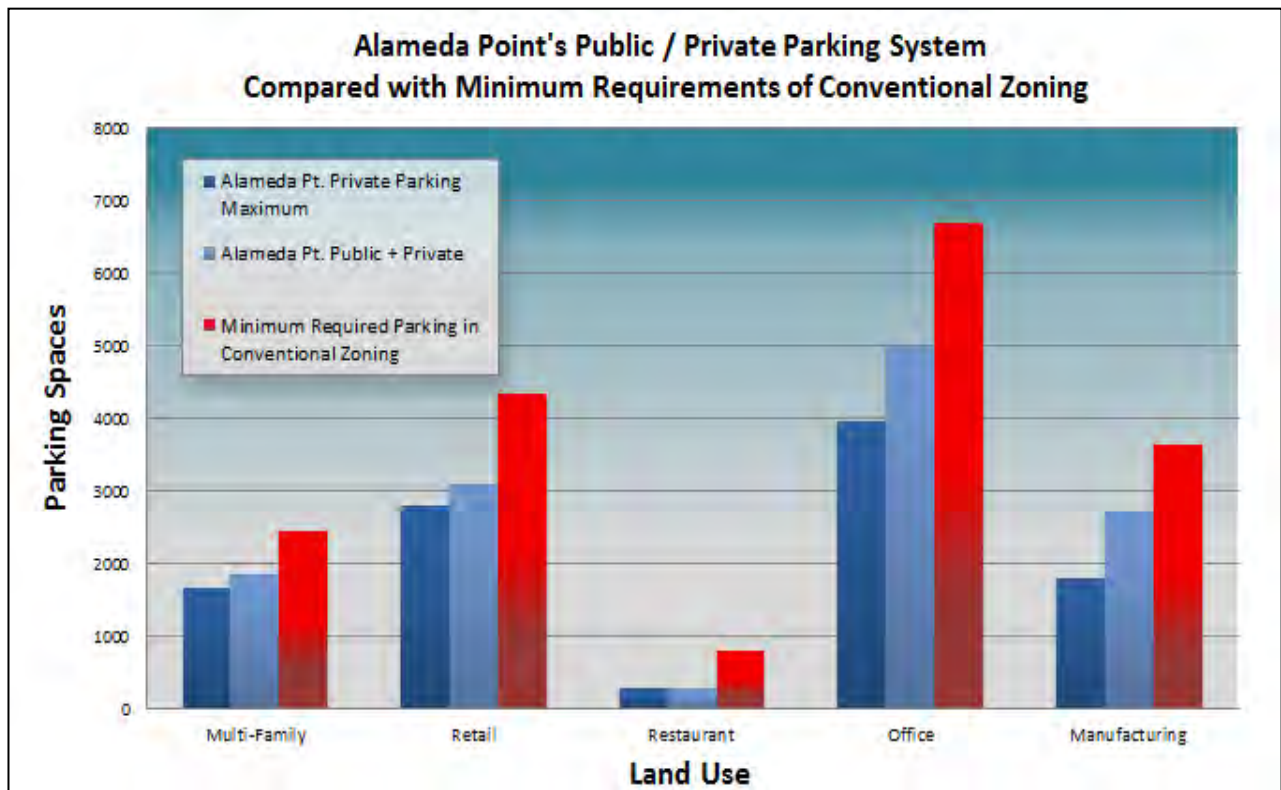


Figure 5: Alameda Point vs. Conventional Parking Requirements: Alameda Point's zoning does not require a minimum level of parking and instead places a maximum on parking. Public parking facilities serve as part of development's parking supply. The sum of Alameda Point's private and public parking is, on average, about 70% of the minimum parking required under Alameda's conventional zoning.

5.6. Justification for Reducing Alameda Point's Parking Requirements

There is no existing standard parking ratio for land uses in compact, dense, walkable and transit-oriented environments whether highly urban or moderately suburban. Further, there is no guidance on determining whether a particular reduction factor would be considered conservative or aggressive. The 70 percent parking standard reduction factor for Alameda Point, however, was not selected arbitrarily. It is selected based on current best practices planning and designing transit-oriented-developments throughout the United States. Research on the travel characteristics of infill and transit-oriented-development at the regional, statewide and national scales support the practice of reducing parking requirements both as a disincentive to driving and because studies show that transit-oriented-developments are frequently “over-parked” when they provide parking under conventional zoning requirements.

The concept of reducing conventional parking standards for transit-oriented-development is supported by the policies and best practices adopted by the Metropolitan Transportation Commission (MTC) in its publication *Reforming Parking Policies to Support Smart Growth: A Toolbox/Handbook of Parking Best Practices and Strategies for Supporting Transit Oriented Development in the San Francisco Bay Area (2007)* which explicitly encourages local municipalities to reduce parking requirements, encourage shared parking, use parking pricing to manage demand, and implement transportation demand management programs to reduce automobile travel.

MTC's Resolution 3434 Transit-Oriented Development (TOD) Policy for Regional Transi Expansion Projects affects development around regional transit facilities including ferry terminals. This resolution requires that agencies applying for transit expansion funding prepare plans for development around transit stations that must include: “TOD-oriented parking demand and parking requirements for station area land uses, including consideration of pricing and provisions for shared parking.”

Empirical evidence supporting the magnitude of the parking ratio reduction proposed in the Off-Street Parking Requirements of the Alameda Point Zoning District can be obtained by comparing the proposed Alameda Point parking ratios with currently adopted parking ratios in comparable municipalities in the Bay Area. A comparison shows that areas with denser land uses and walkable, bicycle-friendly transportation networks served by high frequency transit (e.g., similar to the vision for Alameda Point) have, on average, off-street parking requirements that are only 46 percent and 60 percent of the requirements applied to development in conventional suburban environments². Based on this evidence, a factor reducing Alameda's conventional parking standards by 30 percent would appear to be conservative.

² Based on a comparison of off-street parking requirements between cities classified under MTC's “area type” criteria as low-suburban (Mountain View, Redwood City, Union City, Vallejo, Walnut Creek, and Alameda) and those classified as high-suburban (El Cerrito, Berkeley, and San Mateo). In the comparison, high-suburban retail, office and multifamily residential parking requirements averaged respectively 46%, 54%, and 55% to 60% of the parking requirements for the same land uses in low-suburban communities. Source: CDA Smith. *Existing Bay Area Parking Policies – Technical Paper for the Reforming Parking Policies to Support Smart Growth Study*. Metropolitan Transportation Commission, 2007.

6. MONITORING AND REPORTING

This Chapter presents a plan for monitoring and reporting the Alameda Point TDM Plan's success at achieving the trip reduction goals outlined in Chapter 3.

6.1. Objectives of Monitoring and Reporting

The objectives of annually monitoring traffic and alternative modes of transportation, and annually surveying employees and residents are:

- 1) To measure progress towards achieving, or retaining, compliance with the Plan goals to reduce automobile trips; and
- 2) To identify the most effective TDM strategies, and the least effective strategies (as well as the reasons why), so that the former can be strengthened and the later can be replaced or significantly improved.

By these objectives, the monitoring program is both a “gauge” of performance, and a “tool” for improving the Plan by soliciting objective feedback from its users. The findings of the annual monitoring are based on empirical data collected in multiple ways. Data may come from counts or from records that can be tallied such as traffic volume; transit passenger, bicyclist and pedestrian volumes; parking occupancy; number of participants in programs such as rideshare matching, vanpools, and employee parking cash-out. Data on travel characteristics and demographics are gathered from employee/resident surveys, as does user preference or disinclination of the TMA offered services and programs.

The data described above can be analyzed and cross-referenced to derive information such as by what mode employees and residents of Alameda Point travel for various trip purposes; the frequency of travel by a mode other than the single-occupant-vehicle; or which TDM services employees and residents use and why (and vice versa). This data can be further cross-referenced with demographic data to classify travel characteristics by personal and household characteristics such as occupation, income, vehicle ownership, vehicle availability, place of residence, and household size. Cross-referencing is valuable in targeting specific groups with programs designed to meet their needs.

The data, analysis, findings and recommendations are consolidated into a report and presented to the Alameda Transportation Commission. The objectives of reporting the results of the annual monitoring are:

- 1) To hold the TMA and its member employers accountable for the performance of the Plan in meeting the trip reduction goals established for Alameda Point; and
- 2) To document the evolution of the Plan over time, as well as to record the performance and efficacy of the strategies being monitored which, when compiled over time, will serve as a guideline for future members of the TMA when developing or revising a TDM plan.

6.2. Approach to Monitoring the Alameda Point TDM Plan

Monitoring the Plan is a cycle of tasks that occur annually. The tasks that comprise the monitoring plan represent the “self-enforcing” element of a continuously improving TDM Plan. The tasks are listed below and their cyclical application is shown in **Figure 6**.

1. Monitor
2. Analyze
3. Report
4. Refine
5. Implement



Figure 6: The cycle of steps conducted annually in monitoring the TDM Plan.

There are four groups of steps comprising the annual monitoring plan. Each are described below:

- 1) **Develop a plan for monitoring Alameda Point.** A new plan outlining data collection and employee and resident surveys needs to be developed each year. New development and more people in Alameda Point may have affected travel characteristics and data collection points may need to be relocated, or new points added.

The survey questions need to be developed and tailored to obtain information from new users and rating of the services and programs introduced in the past year. The annual monitoring plan is a logistics plan that spells out the type of data to be collected, how it will be collected, when the data collection will occur, and who is responsible for obtaining the data and performing quality control checks. The Plan budgets for the TMA to contract many of the planning and data collection tasks to a consultant.

- 2) **Collect and analyze the data.** The primary goal of analyzing the data is to determine how the Plan is performing in terms of achieving the trip reduction targets. This is done by comparing actual trip generation (from counts) against expected trip generation based on the projections in the Alameda Point EIR. Analysis of the survey data should provide a picture of how well the TMA’s services are being utilized and how well individual employer Compliance Strategies are working. The survey results should make it clear which services or programs are popular and why, identify unforeseen obstacles to using certain services, and identify personal reasons why people choose not to participate in the Plan, so that the

revised Plan can address the reasons with new or improved services, if feasible. The TMA may want to include some aspects of the data analysis and interpretation in the consultant contract.

- 3) **Report the findings.** TMA staff are responsible for compiling and condensing the data and analysis into a concise annual monitoring report which is presented to the TMA Board of Directors and the Transportation Commission (potentially at a joint meeting). The annual monitoring report may be combined with the TMA's annual business report. Whether two separate reports or combined, the reports should include the following information:

TMA Annual Business Report

- An introduction of the Board of Directors, current roles, and their backgrounds (the Board rotates its official roles annually or semi-annually but Board members step down or term-out periodically).
- A summary of the actions taken and key decisions made by the Board of Directors during the year.
- A summary of Alameda Point land development and leasing activity to date and cumulatively.
- Brief introductions of the new businesses and employers that have located in Alameda Point during the year, and a high level overview of their Compliance Strategies.
- A description of the new TMA provided services introduced during the year, and introductory biographies of any new TMA staff.
- An overview of the state of the Parking Management Strategy, including a tally of private and public spaces built and brief discussion of enforcement statistics and issues.
- A summary annual budget report including financial statements as required by the Board (e.g., Statement of Activities, Statement of Position, Income Statements, etc.)

Annual Trip Reduction Monitoring Report

- Introductory section reviewing the goals of the TDM Plan and a chronological summary of past performance.
- Presentation of the key findings from the analysis of the data and surveys, particularly the current status of vehicle trips relative to the trip reduction targets, and the rate of progress toward meeting the goals (if not being met), or the rate of regression away from the goal if that is the case.
- Overview of the survey results, and interpretation of the general employee / resident opinion of the effectiveness of individual services and the Plan as a whole.
- Staff recommendations for refining, adding to, or eliminating the TMA's services and programs in response to the monitoring findings and the survey responses.
- Staff's recommended annual update to the marketing and promotion plan, the implementation of planned major programs, and scheduled upgrades to the website, shuttle services, etc.
- Staff's recommendations for improving specific employer-based Compliance Strategies based on the survey responses (employers have access to the survey responses as well).

- 4) **Refine the Plan as appropriate and re-implement.** The final step in the annual monitoring of the Plan is to follow the direction of the Board in regards to the recommendations presented in the annual monitoring report. If necessary, use the analysis of the data collected and survey information to develop a detailed refinement plan. It's important to re-implement the Plan as soon as feasible, followed by notification to users of the changes in the Plan, either through a newsletter, website, meeting, or a comprehensive marketing initiative if the changes are significant.

6.3. Definition of Performance Measures

There are a number of measures that can be used to evaluate the effectiveness and performance of the Plan, including the already stated: reduction of peak hour vehicle trips. These can be measured as part of the annual monitoring and reporting process, as necessary, to assist in the successful implementation of the Plan.

Vehicle trip reduction (VTR): The number or percentage of automobiles removed from traffic during specific time periods such as the AM or PM peak hours. This measure is determined by comparing current vehicle trip counts to counts conducted previously or to a derived baseline calculation vehicle trips.

Mode split: The proportion of trips made by each form of transportation serving Alameda Point. Mode split indicates which form of transportation is being used compared with driving alone. Mode split, by itself, doesn't indicate whether the trip reduction goals are being met. Mode split needs to be compared to a baseline condition because it is the *change* in mode that is used as a performance measure.

Mode split can be determined for the aggregate of all trips, but is more useful if determined for specific trip purposes such as commute to work, or take children to school, etc. This information is useful in prioritizing TDM programs for improvement. Mode split data is collected by surveys.

Reduction in parking utilization. Parking utilization is defined as the number of accumulated vehicles parked in a lot or garage, a district or sub-area, or any scale of geographic area, at a given point in time as a proportion of the parking capacity. For example, seventy five vehicles parked in a 100-space parking lot at 1:00 pm is a parking utilization of 75% ($75/100 = 0.75$) at 1:00 pm.

If utilization is measured every hour over a 24-hour period the hour with the most parked vehicles is the "peak hour of parking demand", or just parking demand. If the parked vehicles can be segregated by the specific land uses they serve then the data represents the peak parking demand for that particular land use.

A reduction in the average parking utilization means that, compared to the same time period in the past, the percent of spaces utilized by a parked vehicle is lower. This type of measure does not replace actual traffic counts, but it is an effective measure of the number of vehicles that "accumulate" in Alameda Point over the course of a day.

Cost-effectiveness: This is a measure of the efficiency of the Plan or individual services. An inefficient TDM Plan may be achieving its goals, but at great cost which is unlikely to be sustainable over time. Cost-effectiveness is primarily determined by dividing the cost of the Plan or service by the unit of change (for Alameda Point, the unit of change is per vehicle trip reduced). Under some circumstances cost-effectiveness may include intangible benefits to the community such as improved health, improved regional air quality, or contributing to economic development growth. Other benefits may be used to justify retention of a program or service even if it ranks low in its financial cost-effectiveness.

TDM Plan Awareness: This measure is an indicator of how well the Plan is being marketed and promoted. It measures the number of potential users who are aware of a program or service as a result of the Plan's forms of communication and promotion.

Participation: The final measure of how well the Plan is doing is the number of people participating in the Plan's programs and services. It may also measure the number of people who responded to an outreach effort or promotion, or have requested to participate in a program.

6.4. Monitoring Process

Although employee and resident surveys will be performed annually, collecting traffic data is the single-most essential measurement in the monitoring plan. Vehicle counts are monitored at entry and/or exit points to and from Alameda Point. Vehicle counts are used to determine the actual number of vehicles generated by the site; or removed from site-related traffic as the Plan takes effect, and can be used to confirm if Alameda Point is achieving its trip reduction goals. The monitoring plan contained in this Chapter proposes a four step process:

- **Step 1: Annual Traffic Counts.** Each year annual traffic counts are taken at the gateways to Alameda Point to determine the total number of actual trips entering and leaving Alameda Point during the AM and PM peak-hour. Although the annual traffic counts are compared to the ultimate trip reduction goals from the Alameda Point EIR inclusive of the traffic generated from existing uses (as described below), it is recommended that traffic counts be taken prior to implementation of the Plan to establish a baseline condition.
- **Step 2: Estimates of Residential and Commercial Traffic.** The breakdown of these actual trips by residential and commercial uses is estimated for both the AM and PM peak-hour based on trip generation rates from the Institute of Transportation Engineers (ITE) and other local data.
- **Step 3: Quantify Trip Reduction Goals.** The total number of trips projected from Alameda Point during the AM and PM peak hours in the Alameda Point EIR for the 2035 Cumulative Project or “build out scenario” are assigned to residential and commercial land uses using ITE rates and local data. Then, these projected commercial and residential trips at build out are reduced by 30 percent and 10 percent, respectively, consistent with the City’s trip reduction goals, to create the overall trip reduction goals for the AM and PM peak hours. In other words, the Alameda Point TDM Plan’s goal is to implement improvements, services and programs that keep traffic generated from residential and commercial development during the AM and PM peak-hours below these overall thresholds.

Additionally, these quantified residential and commercial trip reduction goals for built out are divided by the number of housing units and commercial square footage assumed at build out (i.e., 1,425 units and 5.5 million square feet of commercial) to estimate a “per-unit” or “per square foot” trip reduction goal, respectively, that can be applied to the cumulative interim amount of development, to each year’s development, and/or to an individual development to assess how well the Plan or a particular development is doing over time in meeting its fair-share of the overall trip reduction goals. As a result, it is crucial to keep track of the annual and cumulative amount of development built at Alameda Point.

- **Step 4: Compare Trip Reduction Goals to Actual Annual Counts.** Once the trip reduction goals have been quantified, the actual traffic counts taken in Step 1 should be compared to at least two different permutations of the trip reduction goals developed in Step 3:
 1. **Overall Goals by Land Use.** Residential and commercial peak-hour traffic counts should be compared to the overall residential and commercial peak-hour trip reduction goals for build out. In the early years, there should be a large difference between these numbers with the trip reduction goals far exceeding traffic counts.

2. **Cumulative Goals by Land Use.** Residential and commercial peak-hour traffic counts should be compared to the “per-unit” and “per-square-foot” trip reduction goals applied to the cumulative amount of development phased in to date at Alameda Point to assess how well development is doing in meeting the goals on an interim basis. Since new development takes time to fully and effectively use TDM services and programs, it should not be surprising if in some years the actual traffic counts from cumulative development exceed the interim goals. However, if they do, this should be an important indicator to the TMA that there may be a problem that needs to be addressed by potential refinements to the Plan.

While the TMA will use survey data collected annually to improve the effectiveness of their services and programs every year, if traffic count data indicate that traffic is increasing faster than expected or consistently exceeding interim trip reduction goals, the TMA will, most importantly, use the survey data to help identify the problem and, if necessary, refine or modify the services and programs offered by the TMA and/or end users.

6.5. Other Notes on Monitoring

1. **Survey control groups to account for extraneous factors.** At the same time the initial baseline traffic counts are being conducted, the City should identify and survey at least one commercial and one residential control group before the Plan is implemented. The control groups would take essentially the same survey that will be conducted at the first annual monitoring about 12-months later. The survey would help clarify the true impacts of the TDM program versus other external factors that affect travel behavior (gas prices, time of year variations, the rate of growth in Alameda Point, etc.).
2. **Ensure consistency between performance measures that are repeated before and after.** It is important to gather data in the same way or using the same or nearly the same tools before and after the Plan is implemented. This will allay concerns that the before and after data are comparing apples and oranges. For example, the vehicle count program, the primary means of collecting actual traffic data, is the tool used to monitor the impact of a TDM program, a vehicle count using the same methods of collection and analysis would also need to be taken before the Plan is implemented.
3. **Ancillary data collection.** In addition to the traffic counts at Alameda Point’s gateway intersections, and employee and resident surveys, other useful data may be collected.
 - a. **Auto occupancies** can be collected through spot manual 60-minute counts at key gateway intersections before and after implementation of the Plan. This information will be useful in determining through observation, increases in car and vanpooling.
 - b. **Bicycle and pedestrian counts** of cyclists and pedestrians entering or exiting the boundary of Alameda Point can be collected at the gateway intersections at the same time vehicle counts are being conducted.

- c. **Truck counts.** Although truck movements are not explicitly included as a performance measure in the Plan, the amount of manufacturing building space planned on Alameda Point may warrant collection of truck movement data, in the event the magnitude of truck traffic eventually triggers the need to TDM strategies related to freight movement.

6.6. Consequences of Failing to Meet Trip Reduction Targets

The issue of whether the Plan should contain penalties for failing to achieve trip reduction goals was raised as part of the public process in preparing this Plan. The discussion included financial penalties such as increases in TMA taxes or membership dues, or fines for individual businesses or residential developments that failed to achieve reduction goals, but also included methods that rewarded or incentivized goal achievement in the form reducing TMA taxes or membership dues, etc. The approach recommended in this Plan is to allow the Plan to be self-enforcing, as proposed through annual monitoring, reporting and Plan refinement.

The monitoring and reporting element of the Plan requires that, should the monitoring show that the development is failing to achieve its trip reduction goals, the TMA and its members, commercial and residential entities, prepare and implement a refined Plan with new or substantially revised strategies, and continue to monitor the effectiveness of the changes. This requirement in itself constitutes a form of financial penalty since the cost of revising the Plan and introducing new strategies along with marketing and promoting the strategies can be an incentive to implement robust strategies in the initial Plan and avoid the cost of revising the Plan, or implementing more costly strategies.

7. ALAMEDA POINT TDM PLAN IMPLEMENTATION

This Chapter outlines the implementation of the Alameda Point TDM Plan, including the process for complying with and modifying the Plan, an approach to funding the Plan, as well as an outline of the near- and long-term steps necessary to implement the Plan.

7.1. TDM Plan Compliance and Modifications

7.1.1. Compliance with the TDM Plan

As required by the Mitigation Monitoring and Reporting Program (MMRP) from the Alameda Point EIR, and the Alameda Point Zoning District in Section 30-4.24, all new development at Alameda Point will be required to comply with this Plan as part of any Disposition and Development Agreement (DDA) between the City and a developer, and as a condition of approval for any planning approval, including Development Plan, use permit, or design review. Any DDA and condition of approval will require that all property owners pay a special tax to fund the Plan and require through covenants, conditions and restrictions, or other enforceable real property interest, that run with the land that all commercial tenant associations, major employers, residential tenant association, and homeowner's associations join the TMA, file a Compliance Strategy with the TMA consistent with this Plan, implement their Compliance Strategy, and refine it, as necessary.

7.1.2. Modifications to the TDM Plan

The TMA will be responsible for managing the successful implementation of this Plan with annual reporting to the City's Transportation Commission. The actual implementation of this Plan requires flexibility to respond to evolving and unexpected development, demographic, market and technological conditions. As a result, the TMA has the discretion to implement the Plan in substantial conformance with the intent and strategies outlined in this Plan, but is not required to adhere literally to every proposed aspect of the Plan. It is expected and necessary that the TMA make modifications to the Plan as new development occurs and more information exists about the type, amount and location of new development and its associated traffic patterns.

That said, the TMA must perform a 5-year review with the City Council and Transportation Commission, to determine if any amendments to the major components of the Plan are warranted. For instance, if there is a reason to re-evaluate the trip reduction goals. Additionally, the TMA can request approval by the City Council (with a recommendation from the Transportation Commission) of major modifications to the TDM Plan at any other time deemed necessary by the TMA.

7.2. Costs and Funding of the TDM Plan

The costs of the Plan include capital costs and operations and maintenance expenses, which will vary over time. In the near-term, costs will be lower due to limited development and associated revenues sources. As development occurs, demand for facilities and services and associated revenues will grow. The revenues to fund the Plan will include numerous private and public sources of funds that will vary over time as well.

7.2.1. Capital Costs and Funding

All capital costs associated with implementation of the Plan, including public parking lots, on-street meters, shuttles, etc. are estimated and included in the MIP, which was approved by the City Council in 2014. Funding for the infrastructure and major capital facilities at Alameda Point included in the MIP will include

impact/infrastructure fees, community facilities district financing, grants, land sale proceeds and private developer contributions. **Appendix A** provides supporting tables for this section.

7.2.2. Operations and Maintenance Costs and Funding

The operations and maintenance costs associated with the Plan, including the TMA provided services and programs and public parking facilities are estimated for both the near- and long-term in **Table 6** consistent with the proposed TMA services described in Chapters 4 and 5. Funding for these services will come from special taxes that all new development at Alameda Point will be required to pay annually, parking charges, parking enforcement revenues, lease revenues, developer contributions, transit agency support, and grants. As a result, employees and residents will not have to pay to use the TMA provided core services and programs every time they use them. In general, the property owners will have already paid for the core services as part of an annual special tax assessment. In certain instances, however, members of the TMA may pay a user fee for enhanced services that the TMA offers.

The near- and long-term “net total” amounts provided in **Table 6** are the amounts that must be funded through non-parking related funds in the near-term when just essential services are provided and in the long-term when the development is built out. In the near-term with limited development at Alameda Point and minimal special tax revenue, this amount will need to be paid for from developer contributions, lease revenues, and grants. As greater development occurs and special tax revenues increase, it is expected that special tax revenue will fund the full “net total” amount. All development pays the same tax (adjusted for assessed value of the subject property) regardless of whether the development occurs in the first phase or in thirty years—a special tax that in aggregate is sufficient to fund the TMA’s services and programs at buildout of Alameda Point, as provided in **Table 6** under long-term “net total”. The projected revenue shown in **Table 6** is based on conservative assumptions, especially in the near-term, which are summarized in the **Appendix A**.

7.2.3. Other Funding Opportunities

In addition to special taxes paid annually by property owners to fund the Plan, it is the responsibility of the TMA staff to regularly seek additional sources of funds, which may be available from federal, state, and regional sources. Some of these sources are described in this section.

A 2003 survey (Hendricks and Pederson-Stahl, 2004) of TMAs in the United States found that TMA program budgets included the following revenue sources:

- Membership dues (56 percent).
- Federal grants (48 percent).
- Local grants (28 percent).
- State grants (27 percent).
- In-kind donations (25 percent).
- Service contracts (19 percent).
- Fees for services (16 percent).
- Developer contributions (9 percent).
- Business improvement districts (BIDs) (7 percent).

More than half the U.S. TMAs receive funding from its membership in the form of dues or through improvement districts. However, grants form the largest source of funds for TMA’s. Many grant programs are

**Table 6: Estimated Capital and Annual Costs of the Alameda Point TDM Plan
(Near-term and Long-term)**

TDM Plan Service or Measure	Near-Term		Long-Term	
	Initial Capital Cost	Annual Expenditures and Revenues	Capital Costs	Annual Expenditures and Revenues
EXPENDITURES				
Capital Costs				
Surface Parking Lots - Construction (See Tables A-3a and A-3b) [1] Funded by: MIP [2]	\$ 1,352,000		\$ 8,579,109	
Structured Parking- Construction (See Table A-3a and A-3b) [1] Funded by: Future Parking Revenues	\$ -		\$ 19,344,000	
Parking Meters and Enforcement Vehicles (See Table A-4) Funded by: MIP [2]	\$ 498,000		\$0	
Total Capital Costs	\$ 1,850,000		\$ 27,923,109	
Annual Operations and Maintenance (O&M) Costs				
TMA Provided Services & Programs (see Table A-1 and A-2a) Funded by: Enterprise Fund [3]		\$ 321,878		\$ 1,366,465
Parking Operations & Maintenance (See Tables A-3a) [4] Funded by: Enterprise Fund [3]		\$ 78,000		\$920,349
Parking Enforcement (See Table A-4) Funded by: Enterprise Fund [3]		\$ 12,081		\$ 166,914
Total Annual O&M Costs		\$ 411,960		\$ 2,453,728
REVENUES				
Parking Fees (See Table A-5a)		\$ 39,146		\$ 1,240,245
Parking Enforcement (See Table A-4)		\$ 12,081		\$ 166,914
Total Annual Revenues		\$ 51,228		\$ 1,407,159
Net Total (Revenue - Expenditures) [5]		\$ (360,732)		\$ (1,046,568)

Notes:

[1] Near-term public parking costs assume the construction of 260 parking spaces located in surface lots distributed over Alameda Point. The capital cost shown in this table is the sum of the hard and soft cost to construct 260 surface parking spaces. No structures are assumed to be constructed in the near-term scenario. Long-term public parking costs assume the construction of the balance of surface parking lots and structures identified in **Table A-3b**. The capital cost shown in this table is the sum of the hard and soft cost to construct 1,653 surface parking spaces and 700 structured parking spaces.

[2] MIP = Master Infrastructure Plan

[3] Enterprise Fund = Accounts funded through special taxes exacted on Alameda Point property, parking charges and enforcement revenues, and used exclusively for funding the TMA's services and programs, contracted services, and the operation and maintenance of public parking facilities.

[4] The cost of O&M for parking facilities assumes \$300 per space per year for surface parking lots and \$600 per space per year for structured parking facilities.

[5] The net total represents the amount that will be funded through special taxes exacted on Alameda Point property as described in footnote 4.

Kimley-Horn and Associates, Inc. 2014.

a reliable source of funds, but some are highly competitive. Sources of grants for Bay Area TDM programs are described in the following sections.

7.2.3.1. Federal Grants: CMAQ Funding

The primary purpose of the Congestion Mitigation and Air Quality Improvement (CMAQ) program is to fund projects and programs that reduce transportation-related emissions in air quality nonattainment and maintenance areas, such as the Bay Area and Central Valley regions. Eligibility for CMAQ grants requires demonstrating that the TDM Plan can effectively contribute to the region attaining national ambient air quality standards. TDM programs that consistently remove vehicles from the road (such as carpools and vanpools and the parking cashout program) can easily demonstrate this requirement.

CMAQ funds can be used to support transportation control measures identified by the Bay Area Air Quality Management District (BAAQMD) as alternative-mode incentive programs, transit improvements, bicycle and pedestrian programs, and ridesharing projects. Funds have been used to purchase vans and buses, to subsidize bus operations, and to develop and implement ridesharing programs.

7.2.3.2. BAAQMD's Strategic Incentives Funding

In addition to allocating CMAQ funds, the BAAQMD manages other funding programs including The Strategic Incentives Division (SID) which provides incentive funding for projects that reduce or eliminate pollution from cars, trucks, marine vessels, locomotives, agricultural equipment, construction equipment and for projects that encourage the use of low emissions or zero emissions transportation such as shuttles and ride sharing, bicycle lanes and pedestrian paths. This program has awarded over \$400 million in grant funding to public agencies, private companies, and Bay Area residents since 1992.

7.2.3.3. Fee-for-Service Initiatives

Some of the enhanced services proposed to be provided by the TMA may generate additional income for the Plan from charging fees to private companies that participate in the TMA's enhanced programs or services. According to a recent survey of TMA executive directors, over 40 percent of the 47 TMAs surveyed reported having some form of a fee-based program. This can be an important source of private funding. Examples of services that may be charged a fee include conducting customized employee surveys; developing customized trip reduction plans; implementing a comprehensive telework program; and offering customized training of employees who serve as part-time TDM coordinators for their employer.

The Emery Go-Round Shuttle

The Emery Go-Round Shuttle is a great example of a very successful fee-for-service initiative in which a free shuttle service is provided to local residents and workers by the Emeryville Transportation Management Association. It started in 1998 managing shuttle services for seven members, including the City of Emeryville.

The city initially funded 50 percent of the shuttle's budget, and the remainder was funded by fees collected from large employers and developers in the shuttle's service area.

In 2001, a business improvement district (BID) was formed, and today this district continues to fund the shuttle operations. The shuttle has been a popular program, and property owners renewed the BID in 2006 with a strong majority vote.

The district is currently composed of over 400 members, and its 2007 cost of services was approximately \$1.27 million (Silvani 2008).

7.2.3.4. One Bay Area Plan Grants and Funding for Priority Development Areas

The San Francisco Bay Area’s unique long-range strategy for creating a sustainable integrated land use and transportation future identifies TDM as an important tool. The One Bay Area Plan introduces a new approach to allocating federal and regional transportation funding—an approach that has more flexibility for local municipalities including funding for programs, and in particular, funding for capital and program improvements for Priority Development Areas (PDAs)—a designation that has been bestowed upon Alameda Point.

As an example of program funding, the Bay Area Plan includes, in its final long-range project list, implementation of Alameda County's Transportation Demand Management (TDM) and Parking Management program which includes Guaranteed Ride Home, Safe Routes to School, Safe Routes to Transit, Travel Choice, Travel Training, Walk/Bike Promotions, and parking cash out. The Alameda Point TMA may seek direct funding for some of its services through this regional funding source, or may be able to participate in Alameda County’s TDM program.

7.3. Summary of Recommended Implementation Steps

The following provides the detailed steps necessary to implement the Plan in the near- and long-term.

7.3.1. Implementation Steps for Startup and Initial Phases of Development

The implementation steps described in this section include the early startup tasks for the TMA in establishing authority and funding mechanisms, as well as the most essential services and programs. As development and revenue grow, services will be expanded until nearly all programs have implemented.

The Plan takes effect when the threshold of 100 new dwelling units and/or 100,000 square feet of new commercial development. Revenue will be short in the early phases of development, where the essential services include some of the most costly, such as the BART shuttle and the AC Transit Easy-Pass program. The following are the startup tasks:

1. Adopt this Transportation Demand Management Plan as a regulatory document, which every new development at Alameda Point is required to comply with consistent with the General Plan, certified Environmental Impact Report for Alameda Point, and Zoning Ordinance Amendment.
2. Establish policies, procedures or protocol, and authority to ensure that all new development, new leasing agreements, and renewals of existing leasing agreements subsequent to the adoption of this Plan are required to comply with this Plan.
3. Manage a contract with a transit service provider to operate a shuttle service between Alameda Point and the Oakland City Center 12th Street BART station, as described in Chapter 4.

Thresholds for Implementing the TDM Plan

The Alameda Point TDM Plan will be implemented when development levels reach a minimum of either 100 new residential units and/or 100,000 square feet of new commercial development.

4. Plan the funding, and construction of the initial public surface parking lots to serve new development consistent with Chapter 5, although the exact location of these surface lots is dependent on where new development occurs.
5. Establish an interim TMA, staffed by a combination of City staff and contract employees, who are responsible for the following:
 - a. Pursue a contract to operate a shuttle system between Alameda Point and BART.
 - b. Negotiate and contract with AC Transit to supply Alameda Point with annual Easy-Passes for all employees and residents of Alameda Point, and administer the distribution of Easy-Passes to Alameda Point transit users when requested.
 - c. Pursue a contract or allocate in-house staff resources to develop and maintain the initial version of the Alameda Point Commute Alternative website.
 - d. Serve the functions of a part-time Transportation Coordinator including:
 - i. Management of items (a), (b), and (c) described above.
 - ii. Develop plans for conducting the annual traffic monitoring and preparing and implementing the employee and resident survey.
 - iii. Select consultant(s) to perform the data collection and analysis tasks, as described in Chapter 6.
 - iv. Develop the content for a basic Alameda Point Commute Alternative website and work with the designer to develop and implement the website.
 - v. Provide a centralized service for dispatching taxis and managing employer reimbursement to the TMA for the Emergency Ride Home program.
 - vi. Develop and disseminate to employers and resident associations (or developers/managers of residential developments) a handbook for employers (or individuals) and residential developments on how to develop Compliance Strategies.
 - vii. Develop a package of services and programs for individuals, businesses, and residents that initially constitutes a minimum of supportive TDM services. Add to the services as budget permits.
 - viii. Develop and disseminate information and tools explaining trip reduction goals, parking management, and the Plan's services available to new employers, employees and residents.
 - ix. Review and assist in refining draft Compliance Strategies prepared by employers and resident associations. Reviews plans for reasonableness, cost-effectiveness, and awareness and effective use of the available TMA services and programs.
 - x. Develop and conduct limited training for designated part-time Transportation Coordinators representing large employers and resident associations; and develop and disseminate training and

educational material for Transportation Coordinators to assist employer and co-workers to develop travel options.

- xi. Contact Bikeshare operators and negotiate to sponsor one (1) Bikeshare Station for use by Alameda Point residents and employees.
- xii. Solicit Carshare providers to establish stations on public or private property in Alameda Point.
- xiii. With budget permitting and programs available from other sources, offer incentives to residents and employees to commit to using an alternative mode for an introductory period of time.
- xiv. With budget permitting, manage a program pooling resources from employers and residential developments of Alameda Point for drawings to registered employees and residents who travel by alternative modes.
- xv. Develop marketing material and promotions for the initial services available to residents and employees. At a minimum, include this material in the Alameda Point Commute Alternatives website.

7.3.2. Implementation of Long-Term Services and Programs

The crucial administrative framework for the TDM Plan is established in the initial phases of development. Implementation of the long-term services and programs described in the tables in Chapter 4, or any new TDM strategies will be at the recommendation of the TMA staff in their annual report to the Board of Directors and Transportation Commission.

Long-term implementation of TDM Strategies focuses on the following activities:

- Reviewing the results of the annual monitoring analyses and determining how existing service may be improved or replaced by more effective services.
- Preparing and implementing the annual marketing plan and promotions for individual services and programs.
- Seeking out innovative new ways to capture the attention of residents and employees who continue to drive single occupant vehicles for every trip they make. This may include the Pooled Employer-Funded Incentive Program.
- Assisting employers in preparing individualized Compliance Strategies for their employees and assisting resident associations develop strategies for their residents.
- Managing the day to day operations of the shuttle system or new transit service, if provided by AC Transit; the Easy-Pass program; rideshare-matching services; and managing the use and content updates of the Commute Alternatives website.

7.4. TDM Plan Flexibility in Initial Phases of Development

Transportation Demand Management plans, by their very nature, require flexibility to respond to changes in travel patterns, the real estate market, transportation costs, and changes in the economy and its effect on jobs and housing.

The Plan needs to be particularly flexible in the initial phases of development in Alameda Point because it will be the first TDM plan of its comprehensiveness implemented in Alameda. The characteristics of the employers, employees and residents attracted to Alameda Point are not fully understood yet, the TMA services and programs proposed in this Plan may not precisely match the needs of new employees and residents, and some of the policies and strategies may seem out of place initially to some potential developers.

7.4.1. Flexibility in Collaborating with Development to Meet Their Needs

At a time when Alameda wants to attract catalyst development and new tenants to Alameda Point, how can the Plan be flexible without breaking its own rules and setting poor precedents? The City needs to uphold the principles upon which the Plan is based, but is willing to work with developers or companies to satisfy their needs. Will the City allow a development to exceed the maximum private parking ratio established in zoning? No, but they are willing to lease them existing paved areas for parking on a short-term temporary basis; to construct new public parking lots as close to the development as possible; and to offer the development an option for monthly leasing of public parking.

7.4.2. Flexibility in Implementing Alternate Services Needed to Support New Development

Another area of flexibility is in which programs are implemented in any given timeframe. There are a few essential services that must be implemented as soon as practicable because these essential services represent the primary strategies to which most other services are supportive. The essential services include the high-frequency shuttle to BART, the AC Transit Easy-Pass program for all Alameda Point residents and employees, the Alameda Point Commute Alternatives website, and important supportive services like the Emergency Ride Home program, upon which the transit and shuttles users rely on and without such a service would drive alone to Alameda Point. Many of the remaining services are part of a “menu” of possible strategies to implement if they can be determined to be cost-effective. The menu concept allows the TMA and employers who prepare their own plans a choice in which strategies they believe will serve their needs best.

7.4.3. Flexibility in the Schedule for Achieving Trip Reduction Goals

The final area of flexibility is in the schedule for reaching the full trip reduction goals of 10 percent for residential development, and 30 percent for commercial development. As a rule, TDM strategies require time to become established and become fully effective. Some strategies require 18 to 24 months before they can be objectively assessed for effectiveness. Further, Alameda Point’s infrastructure supports many of the strategies. For example, completing the pedestrian and bicycle networks and creating attractive environments is crucial for the Plan’s shuttle strategy. Yet Alameda Point’s infrastructure may take many years to complete. Therefore, the trip reduction goals need to be phased in so that they remain realistic and achievable.

Exhibit N
To Ground Lease

Fair Market Value Formula

“**Fair Market Value**” of the Property and “**FMV**” shall be determined as follows. Defined term used herein and not otherwise defined shall have the meaning given to them in the Lease.

Not later than thirty (30) days after the date of delivery of the Exercise Notice, Developer and City shall attempt to agree in good faith upon a single appraiser to determine the FMV not later than sixty (60) days after the date of delivery of the Exercise Notice. The FMV shall be determined based on the following:

- Value stemming from roadway improvements shall be considered, except that roadways and related improvements constructed and paid for by Developer shall not be considered.
- Vertical and Plaza improvements made by the Developer shall not be considered.
- Restrictive Covenant (Exhibit O) imposed on the Property shall be considered, including the duration of such Restrictive Covenant and the duration of the City Purchase Right contained therein.
- Reporting, programming and operations requirements outlined in the Sustainable Operations Plan and the Community Benefits Package shall be considered.

If Developer and City are unable to agree upon a single appraiser within such time period, then Developer and City shall each appoint one appraiser not later than seventy-five (75) days after the date of delivery of the Exercise Notice. If either Developer or City fails to appoint its appraiser within the prescribed time period, the single appraiser appointed shall determine the FMV. If both parties fail to appoint appraisers within the prescribed time periods, then the first appraiser thereafter selected by a party shall determine the FMV. Each party shall bear the cost of its own appraiser and the parties shall share equally the cost of the single appraiser, if applicable. All appraisers referred to in this Exhibit N shall be Certified General Real Estate Appraisers licensed in the State of California and have at least ten (10) consecutive years’ experience in the appraisal of commercial properties and/or civic uses in Alameda County.

If each party appoints an appraiser, such appraisers shall, within forty-five (45) days after the appointment of the last appraiser to be appointed, complete their determinations of FMV and furnish a written purchase price FMV report (“**FMV Report**”) to Developer and City. If the low valuation varies from the high valuation by twenty five percent (25%) of the low valuation or less, the FMV shall be the average of the two valuations. If the low valuation varies from the high valuation by more than twenty five percent (25%), the two appraisers shall, within ten (10) days after submission of the last FMV Report, appoint a third appraiser who shall meet the qualifications set forth in this Exhibit N. If the two appraisers are unable to agree on the selection of a third appraiser in a timely manner, then a real estate arbitrator shall appoint the third appraiser. The third appraiser, however selected, shall be a person who has not previously acted in any capacity for or against either party, and satisfies the same requirements for the initial two appraisers. The third appraiser shall, within thirty (30) days after appointment, make a determination of FMV by selecting the opinion of FMV, as set out in each FMV Report, which most closely matches the third appraiser’s opinion of FMV. The FMV shall be the FMV selected by the third appraiser. All fees and costs of the third appraiser in connection with the determination of FMV shall be paid one-half by Developer and one-half by City.

Exhibit O

To Ground Lease

Covenant, Conditions and Restrictions

RECORDING REQUESTED BY:

City of Alameda

WHEN RECORDED MAIL TO:

City of Alameda

Exempt from Recording Fees per Govt. Code §27383
Space above this line for Recorder's Use

COVENANT, CONDITIONS AND RESTRICTIONS

This Covenant, Conditions and Restrictions ("**Covenant**") is made by and between Radium Presents, Inc., a California 501(c)3 corporation ("**Developer**"), the tenant of the property located in the City of Alameda, County of Alameda ("**County**"), State of California, consisting of approximately 1.72 acres of land, commonly referred to as Blocks 12 and 13 of the Site A project site, plus such other adjacent area as determined necessary for the project, located in an area commonly known and referred to as Alameda Point and as described on Attachment A attached hereto and as depicted in the "**Site Plan**" set out on Attachment A-1 attached hereto ("**Property**"), and the City of Alameda, a municipal corporation ("**City**"), and the owner and landlord of the Property. This Covenant shall become effective upon its execution by City and Developer and recordation in the "**Official Records**" of the recorder's office of Alameda County, California ("**Effective Date**").

ARTICLE I

RECITALS

1.1 On _____, Developer and City entered into that certain Ground Lease ("**Lease**"), pursuant to which Developer agreed to lease from City and City agreed to lease to Developer the Property for a term of sixty-six (66) years. The Lease includes, among other things, a purchase option in favor of Developer, as further described therein.

1.2 As a condition of City entering into the Lease with Developer, City required that Developer agree that (a) the Property may only be used for Improvements (as defined in Section 2.1) that primarily benefit the community, with a portion of such Improvements being accessible to and able to be used by the community, including by way of example, but without

limitation, a performing arts center, a theatre, practice spaces for performing artists, meeting rooms and ancillary uses, such as a restaurant, café and open space (collectively, "**Community Use**"), (b) City be granted a Right of First Offer and Refusal ("**City's Purchase Right**") prior to any sale of the Property, (c) there be ongoing cooperation between City and any future Property owner (Developer or otherwise) as it relates to certain Additional Obligations, as that term is defined in the Lease, and (d) a document be recorded against the Property evidencing these Additional Obligations related to the Property.

1.3 The purpose of this Covenant is reaffirm the requirements of the Lease, to comply with the City's requirements described in Section 1.2 above and to establish the document that shall encumber and bind the Property such that it will be used in perpetuity for the Community Use.

ARTICLE II

DEFINITIONS

2.1. "**Event License Agreement**" means a license, occupancy agreement, use agreement or rental agreement or any other document that creates a right to use or occupy all or any portion of the Property for an event at the Property.

2.2. "**Improvements**" includes, but is not limited to buildings, facilities, structures, driveways, walkways, landscaped areas, plaza, parking areas, open spaces and all infrastructure, utilities and other public or private improvements required in connection therewith.

2.3. "**Occupant**" or "**Occupants**" means Developer and any person or entity now or in the future entitled by ownership, leasehold, license or other occupancy agreement to use or occupy any portion of the Property.

ARTICLE III

GENERAL PROVISIONS

3.1. Runs with the Land. This Covenant sets forth restrictions that apply to and encumber the Property and every portion thereof no matter how it is improved, held, used, occupied, leased, sold or hypothecated. This Covenant: (a) runs with the land pursuant to Civil Code Section 1471; (b) inures to the benefit of and passes with a conveyance of all or any portion of the Property; (c) is for the benefit of and enforceable by City; and (d) is imposed upon the entire Property.

3.2. Binding upon Developer and Occupants. This Covenant: (a) binds Developer, and (b) all current and future Occupants of the Property, their heirs, successor and assignees. Pursuant to Civil Code section 1471, all current and future Occupants of the Property are expressly bound hereby for the benefit of City.

3.4. Incorporation into Deeds and Leases. This Covenant shall be incorporated by reference in each and every subsequent deed and/or Event License Agreement for all or any portion of the Property.

ARTICLE IV

NON-PROFIT ENTITY AND COMMUNITY USE

4.1. Non-Profit Entity. Developer agrees to operate the Improvements and manage the Property as a non-profit entity. In no event shall either the Property or the Improvements be leased or sold to a for-profit entity.

4.2. Community Use. City and Developer agree that the Property may only be used for Improvements that serve the Community Use.

4.3. Recordation. This Covenant shall be recorded in the Official Records as an encumbrance on title to the Property and such date of recordation shall be the Effective Date.

4.4. Additional Obligations; Annual Meeting. Developer (and each successor owner of the Property, including any successors and assigns) recognize the existence of certain Additional Obligations (as more fully described in the Lease, including but not limited to, the Community Benefits Package attached the Lease as Exhibit F and the Sustainable Operations Plan attached to the Lease as Exhibit G) and shall meet with the City at least annually at a time mutually agreed upon by Developer and City, to discuss and facilitate ongoing coordination, cooperation, and enforcement of the Additional Obligations applicable to the Property. Failure to comply with the obligation set forth in this section including failure to attend and/or participate in the annual meetings in good faith, shall constitute a breach of this Covenant.

ARTICLE V

CITY'S PURCHASE RIGHT

5.1. Right of First Offer. Subject to the terms and conditions specified in this Article 5, if any fee owner of the Property (other than City and including but not limited to Developer) ("**Property Owner**") proposes, at any time following Property Owner's acquisition of title to the Property, to voluntarily sell or otherwise transfer the Property ("**Subsequent Transfer**"), prior to listing, marketing or offering the Property for sale, it shall first offer to sell the Property to City in accordance with the following provisions of this Article 5:

(i) Property Owner shall deliver written notice ("**Offer Notice**") to City stating (i) its good faith intention to sell the Property, and (ii) the proposed purchase price at the then FMV calculated pursuant to the formula set forth in Exhibit N attached to the Lease, and the material terms and conditions on which it proposes to make a Subsequent Transfer.

(ii) By written notification given by City ("**Acceptance Notice**"), within thirty (30) calendar days after receipt of a Property Owner's Offer Notice, City may elect to purchase the Property on the terms and conditions specified in the Offer Notice, or on other terms as may be mutually agreed upon in writing.

(iii) If the Acceptance Notice is not given or not given within said thirty (30) calendar day period, then Property Owner may, during the three hundred sixty (360) day period ("**Permitted Sale Period**") following the expiration of said thirty (30) day period, offer to sell the Property to any person or persons at a price not less than, and on terms and conditions substantially no more favorable than, those specified in the Offer Notice. If Property Owner does not complete the sale of the Property before the end of the Permitted Sale Period, City's Purchase Right shall be deemed to be revived and a Subsequent Transfer may not occur unless the Property is first re-offered to City in accordance with this Article 5.

(b) Third Party Offer. If at any time Property Owner receives a proposal or offer from a third party to purchase any or all of the Property, Property Owner shall first provide City with the option to purchase the Property on the same terms and conditions proposed by said third party and shall adhere to the procedures and requirements of this Article 5.

(c) Survival of City's Purchase Right. City's Purchase Right herein shall not be terminated, extinguished, or otherwise affected by transfer or attempted transfer of the Property or any interest therein, whether voluntary or involuntary, and shall continue in full force and effect unless and until expressly released by City in a written instrument duly executed and recorded in the Official Records of the County.

ARTICLE VI

ENFORCEMENT

6.1. Enforcement. Failure of Developer or any Occupant to comply with either the terms of the Lease or the requirements of this Covenant shall be grounds for City to pursue enforcement of this Covenant, to the fullest extent permitted by law.

ARTICLE VII

TERM

7.1. Term. This Covenant shall continue in effect in perpetuity unless otherwise agreed by City.

ARTICLE VIII

MISCELLANEOUS

8.1. Recordation. Upon execution hereof, this Covenant shall be recorded on title to the Property in the Official Records.

8.2. Notices. Whenever any person gives or serves any notice, each such notice shall be in writing and shall be deemed effective: (a) when delivered, if personally; or (b) one (1) day after being sent by commercial overnight courier:

To City:

City of Alameda
Alameda City Hall
2263 Santa Clara Ave
Alameda, CA 94501
Tel: (510) 748-4509
Attn: City Manager Email:
Manager@alamedaca.gov

Attn: Director of the Base Reuse and Economic
Development Director
Email: athornelyman@alamedaca.gov

Attn.: City Attorney
Email: yshen@alamedacityattorney.org

With a copy to:

Best Best & Krieger LLP
Attn: Jessica Lomakin, Esq.
2855 E. Guasti Rd., Suite 400
Ontario, CA 91761
Email: _____

To Developer:

Radium Presents, Inc.
1201 Sherman Street
Alameda, CA 94501
Attn: Christopher Seiwald
Email: christopher@seiwald.com

With a copy to:

Burke, Williams & Sorensen, LLP
1999 Harrison Street, Suite 1650
Oakland, CA 94612
Attn: Lisa N. Maxwell, Esq.
Email: lmaxwell@bwslaw.com

Any party may change its address or the individual to whose attention a notice is to be sent by giving advance written notice in compliance with this Section 8.2.

8.3. Partial Invalidity. If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

8.4. Statutory References. All statutory or regulatory references include successor provisions or such other statutory or regulatory provisions that may confer similar authority.

8.5. Incorporation of Exhibits. All exhibits and attachments to this Covenant, specifically including Attachment A, Legal Description, and Attachment A-1, Site Plan, are incorporated herein by reference.

THIS COVENANT HAS BEEN EXECUTED BY CITY AND DEVELOPER AS OF THE DATES SET FORTH BELOW.

City of Alameda, a municipal corporation

By: _____
Name: _____
Its: _____
Date: _____

Approved as to form:

By: _____
Name: _____
Its: _____
Date: _____

Radium Presents, Inc., a California 501(c)3 corporation

By: _____
Name: _____
Its: _____
Date: _____

NOTARY ACKNOWLEDGEMENTS TO BE ATTACHED

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____ before me, _____, personally appeared _____
_____, who proved to me on the basis of satisfactory evidence to be
the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____ before me, _____, personally appeared _____
_____, who proved to me on the basis of satisfactory evidence to be
the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
that he/she/they executed the same in his/her/their authorized capacity(ies), and that by
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Attachment A

To CC&Rs

Site Legal Description

JANUARY 16, 2026
JOB NO.: 1087-010

**LEGAL DESCRIPTION
RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA**

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

BEING A PORTION OF DESIGNATED REMAINDER 2, AS SAID DESIGNATED REMAINDER 2 IS SHOWN AND SO DESIGNATED ON THE FINAL MAP FOR TRACT 8696, ENTITLED "WEST MIDWAY LARGE LOT", RECORDED JULY 31, 2025 IN BOOK 373 OF MAPS, AT PAGE 85, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERN CORNER OF SAID DESIGNATED REMAINDER 2;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE SOUTHERN LINE OF SAID DESIGNATED REMAINDER 2, NORTH 85°08'27" WEST 75.00 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID SOUTHERN LINE, NORTH 85°08'27" WEST 405.96 FEET;

THENCE, LEAVING SAID SOUTHERN LINE, NORTH 04°51'33" EAST 104.00 FEET;

THENCE, NORTH 85°08'27" WEST 30.00 FEET;

THENCE, NORTH 04°51'33" EAST 90.00 FEET;

THENCE, SOUTH 85°08'27" EAST 435.96 FEET;

THENCE, SOUTH 04°51'33" WEST 194.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 1.87 ACRES OF LAND, MORE OR LESS.

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

END OF DESCRIPTION



Sabrina Kyle Pack 16 JAN 2026
SABRINA KYLE PACK, P.L.S.
L.S. NO. 8164

Attachment A-1

To CC&Rs

Site Plan



16 JAN 2026

SCALE: 1"=100'



PARCEL TWO
DN. 2022-128360

N04°51'33"E 539.90'

75.00'

POINT OF
COMMENCEMENT

S04°51'33"W 194.00'

POINT OF BEGINNING

405.96'

N85°08'27"W 1122.14'

S85°08'27"E 435.96'

N04°51'33"E 90.00'

N85°08'27"W 30.00'

N04°51'33"E 104.00'

RADIUM THEATER SITE

1.87 AC±

PARCEL 1
(PORTION)
28 RS 14

PARCEL A
338 M 9

SEAPLANE (NORTH)

DESIGNATED
REMAINDER 2
373 M 85

PHASE 1 AGREED TRUST LANDS PARCEL NINE
DN 2014-154596

SHEET 1 OF 1



SAN RAMON (925) 866-0322
ROSEVILLE (916) 788-4456
WWW.CBANDG.COM

CIVIL ENGINEERS ■ SURVEYORS ■ PLANNERS

PLAT TO ACCOMPANY LEGAL DESCRIPTION

RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA

JANUARY 16, 2026

Exhibit P

To Ground Lease

Minimum Terms for Event License Agreement

1. Compliance with Laws; Regulatory Approvals. Any Event License Agreement shall require a licensee, at its sole expense, to conduct and cause to be conducted all activities on the Project in compliance with all applicable laws, regulations, codes, ordinances and orders of any governmental or other regulatory entity. Such laws shall include, but are not limited to, local, state and federal laws prohibiting discrimination in employment and public accommodations. Licensee shall also be required to act in a safe and prudent manner with full regard to the public safety and to observe all applicable regulations and written requests of City and other government agencies responsible for public safety. Licensee shall be required, at its sole expense, to procure, and maintain in force at all times during its use of the Project, any and all permits or approvals necessary to its use of the Project.

2. Minimum Insurance Requirements. Without in any way limiting the responsibility of Developer or each licensee under an Event License Agreement to indemnify City as set forth in the Lease or any applicable Event License Agreement, a licensee shall be required to maintain in force, during the full term of the Event License Agreement, insurance consistent with Section 20 of the Lease, naming City, its Council, boards, commissions, officials, employees, and agents as additional insureds insured to said policies, except that each licensee shall not be required to maintain any pollution insurance, as set out in Section 20(f) of the Lease.

3. As Is Condition of Project; Disclaimer of Representations. Any Event License Agreement shall contain language substantially similar to the following: "LICENSEE ACCEPTS THE USE OF THE PROJECT IN ITS "AS IS" CONDITION, WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND BY CITY, ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING, WITHOUT LIMITATION, THE SUITABILITY OR SAFETY OF THE PROJECT FOR LICENSEE'S USE."

4. Waiver of Claims. Any Event License Agreement shall including language substantially consistent with the following:

(a) Neither City nor its Council, boards, commissions, officials, employees, and agents (collectively, "**City Party**") shall be liable for any damage to the property of a licensee, its officers, agents, employees, invitees, licensees, subcontractors, or their employees, or for any bodily injury or death to such persons, or for any other loss, resulting or arising from the condition of the Project or its use by a licensee;

(b) Licensee fully releases, waives and discharges forever any and all claims, demands, rights, and causes of action against, and covenants not to sue, City or any City Party under any present or future laws, statutes, or regulations for any claim or event relating to the condition of the Project or any licensee's use thereof, except to the extent such claim or event arises out of or relates to the gross negligence or intentional misconduct of City or any City Party;

(c) Licensee shall indemnify, defend, reimburse and hold harmless City and each City Party from and against any and all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages and liabilities of any kind (collectively, "**Losses**"), arising in any manner out of: (a) any injury to or death of any person or damage to or destruction of any property occurring in, on or about the Project, or any part thereof, whether the person or property of said licensee, any of its agents and invitees, or third persons,

relating in any manner to any use or activity under any applicable Event License Agreement; (b) any failure of a licensee, or any of its agents or invitees, to faithfully observe or perform any of the terms, covenants or conditions of the applicable Event License Agreement and the Lease; (c) the use of the Project or any activities conducted thereon by said licensee, its agents or invitees; (d) any release or discharge, or threatened release or discharge, of any Hazardous Material to the extent caused or allowed by said licensee, its agents or invitees, on, in, under or about the Project; or (e) any and all Losses arising in connection with the applicable Event License Agreement, including but not limited to, any such Losses relating to discrimination, violations of the United States Constitution or the California Constitution, and any alleged infringement of the patent rights, trademark, copyright, trade secret, privacy or other personal or other proprietary right of any person or persons, except to the extent of any Losses arising out of or related to the gross negligence or intentional misconduct of City or any City Party.

5. No Privity of Contract. Any Event License Agreement shall clearly state that said license between Developer and a third party licensee shall not create any privity of contract or other legal relationship with City.

Exhibit Q
To Ground Lease
Plaza Easement

RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

Radium Presents, Inc.
1201 Sherman Avenue
Alameda, CA 94501
Attn: Christopher Seiwald

Exempt from recording fees: Gov. Code § 6103
and § 27383
Exempt from documentary transfer tax: Rev &
Tax Code § 11922

Assessor's Parcel #(s):

Space above this line reserved for County Recorder's use

PUBLIC PLAZA ACCESS EASEMENT AGREEMENT

This PUBLIC PLAZA ACCESS EASEMENT AGREEMENT ("**Agreement**") is made by Radium Presents, Inc., a California 501(c)(3) ("**Developer**"), and the City of Alameda, a California municipal corporation ("**City**"), with an effective date of _____, 20__.

RECITALS

A. Developer and City are parties to that certain Ground Lease dated _____ ("**Ground Lease**"), pursuant to which City leases to Developer that certain real property in the City of Alameda, County of Alameda ("**County**"), State of California, consisting of approximately 1.72 acres of land, commonly referred to as Blocks 12 and 13 of the Site A project site, plus such other adjacent area as Developer and City determined necessary for the Project (defined below), located in an area commonly known and referred to as Alameda Point and as described on Exhibit A attached hereto and as depicted in the "**Site Plan**" set out on Exhibit B attached hereto ("**Property**").

B. Pursuant to the Ground Lease and certain other permits, approvals and/or related documents (collectively, "**Project Documents**") entered into by City and Developer, Developer is obligated to develop and construct on the Property a performing arts center with a publicly accessible plaza ("**Plaza**") [*and a private road to the north of the Property between the Project and Building 77 running perpendicular to Pan Am Way that is also publicly accessible ("**Plaza Road**")*] (collectively, "**Project**"). [~~DELETE GREY HIGHLIGHTED TEXT THROUGHOUT AGREEMENT IF PLAZA ROAD IS PUBLIC.~~]

C. Pursuant to Section 10(b) of the Ground Lease, prior to Developer's receipt of a temporary or final certificate of occupancy for the Project, Developer shall execute in favor of City and the general public a public access and use easement for the Plaza [*and the Plaza Road*] on the Project, covering the total easement area indicated on the Site Plan (collectively, "**Easement**").

D. The purpose of this Agreement is to memorialize the terms, conditions and location of the Easement that is required by the Project Documents.

NOW, THEREFORE, in consideration of the foregoing, which are incorporated herein by reference, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and City agree as follows:

1. **Easement.** Subject to the terms of this Agreement, including among others the restrictions on use set out in Section 2, Developer grants City and the general public a perpetual, irrevocable, non-exclusive right of use and access on, over, and across the Easement at the location(s) shown on the Site Plan, for the use and benefit of public users for pedestrian, cyclist, *[motorized vehicle]* and access purposes.

2. **Restrictions on Use.** *[Subject to the public's right to drive on and over the Plaza Road]*, no motorized vehicles (including, without limitation, electric or motorized scooters) shall be permitted to use the Plaza, except for emergency vehicles, motorized wheelchairs or other mobility devices used by disabled users of the Plaza and other vehicles and equipment necessary for inspection, maintenance and repair of the Plaza and/or Easement.

3. **Public Use.** Developer agrees to permit public entry into and use of (a) the Plaza for passive recreational uses such as walking and picnicking, but excluding (i) camping or any form of temporary residential use, (ii) use by horses, bicycles, skate boarders, roller bladers, motorized vehicles or the like, and (iii) discharge of any firearm, fireworks or any other activity that would be deemed a nuisance¹, *and (b) the Plaza Road for pedestrian, bicycle and motorized vehicle transportation*. Developer agrees not to erect any fence or other barrier that would limit or restrict the public's access to and use of the Plaza *[or the Plaza Road]*. Subject to Section 5, the Plaza will be open to the public from sun up to sun down seven (7) days a week ("**Hours of Public Use**"), provided that City and Developer acknowledge and agree that Developer's Uses (as defined in Section 5) may occur at the Plaza outside of the Hours of Public Use.

4. **Maintenance.** Developer shall operate, repair and maintain the Easement in good condition and repair and in a good and workman-like manner including, without limitation, keeping the Easement free of graffiti and trash. Developer or its contractor or agent will take prompt and reasonable steps to resolve any damage or maintenance issue on the Easement that City brings to Developer's attention.

5. **Developer's Use of the Plaza.** The grant of this Easement shall not restrict in any way (i) ingress and egress across the Plaza for purpose of accessing other portions of the Property, the Project and the improvements thereon; and/or (ii) any and all lawful operations conducted by Developer on the Property and at the Project, including, without limitation, the scheduling and holding of performances on all or a portion of the Plaza (collectively, "**Developer's Uses**"). Developer, or Developer's heirs, successors, and assigns, may at any time temporarily block public access to the Easement when, in their reasonable judgment, it is appropriate to do so in accordance with commercially reasonable operations practices or if they are engaged in activities that pose a threat to the health or safety of the users of the Easement, such as during the making of repairs. Developer has the right, but not the obligation, to improve the Plaza with aesthetic improvements, including but not limited to pavers, lighting and artwork, so long as such improvements: (a) do not materially interfere with City's and the public's use of the Easement granted under this Agreement, (b) are made in compliance with all applicable laws, and (c) are exclusively maintained by Developer at its sole cost and expense. Developer shall be entitled to grant additional easements or other rights with respect to the Easement (including, without limitation, underground or overhead utility, cable or other similar easements), so long as the same shall not materially interfere with City's and the public's use of the Easement granted under this Agreement.

6. **Insurance and Defense.**

A. City's Insurance. Consistent with City's defense and indemnification obligations in Section 7, prior to any public entry on the Property and continuously thereafter, City shall at all times maintain in full force and effect a policy of general commercial liability insurance coverage of \$750,000 and excess coverage sufficient to insure against claims for property damage and personal injury (including death) within the Easement brought by a user of the Easement arising out of the use thereof through its participation in a risk-sharing insurance pool, consistent with the City's right to self insure. City will provide evidence of such self-insurance to Developer within five (5) days of the Effective Date and upon request.

B. Developer's Insurance. Developer shall maintain its own insurance coverages, as set out in the Ground Lease, covering its activities and operations with respect to the Easement.

7. **Indemnification.**

A. City or its successors and assigns shall defend (with counsel reasonably acceptable to Developer), at its own expense, indemnify and hold harmless Developer and Developer's contractors, agents, licensees, successors and assigns and subsequent Property owners (collectively, "**Developer Parties**") from and against any and all costs, losses, orders, liens, judicial penalties, claims, demands, damages, expenses, or causes of action or cases, including without limitation reasonable attorneys' fees (collectively "**Losses**"), arising out of third party claims for bodily injury, death, or property damage to the extent (i) arising out of or related to City's gross negligence or willful misconduct; and (ii) not caused by the condition, maintenance, design, construction, or operation of the Easement, including the Plaza. City shall have no obligation to defend, indemnify, or hold harmless Developer or any Developer's Parties' to the extent of Developer or Developer Parties' (i) active negligence, gross negligence, willful misconduct, or violation of law; or (ii) conditions within the Easement to the extent caused or materially exacerbated by Developer. City's indemnification obligations, as described above, shall not be limited in any way by the amount, type or scope of insurance coverage required by Section 6.A and/or obtained by City.

B. Developer Parties shall defend (with counsel reasonably acceptable to City), at its own expense, indemnify and hold harmless City and its elected and appointed officials, employees, agents, directors and contractors (collectively, "**City Parties**") from and against any and all Losses arising out of third party claims for bodily injury, death, or property damage to the extent arising out of or related to: (i) the physical condition, maintenance, repair, construction, alteration, improvement, or operation of the Easement; and (ii) Developer or Developer Parties' activities, performances, and events, on or about the Easement, except to the extent caused by City's gross negligence or willful misconduct. Developer's indemnification obligations, as described above, shall not be limited in any way by the amount, type or scope of insurance coverage required by Section 6.B and/or obtained by Developer.

C. To the extent permitted by law, this section may provide Developer Parties with defense and indemnification against Losses where a defense against liability is available to City under Civil Code Section 846 and/or Government Code Section 831.4.

D. City and Developer, or their respective successors or assigns, shall notify the other party promptly in writing of any claim or assertion of Losses related to the entry, access to or use of the Easement by members of the public. The parties shall cooperate with each other in the investigation, defense, and disposition of any claim arising out such entry or use, provided that

nothing shall require either party to disclose any documents, records, or communications that are protected under the peer review privilege, attorney-client privilege, or other applicable privilege, or which are considered attorney work product. The indemnification provided in this Section 7 shall survive the termination of this Agreement for the duration of all applicable statutes of limitation.

8. **Run With the Land.** The benefits and burdens of this Easement shall run with the title to the Property and shall inure to the benefit of and bind the parties hereto, and each of them, as well as their respective agents, heirs, assigns and successors in right, title or interest in or to all or any part of the Property at all times hereinafter.

9. **City's Police Power and Immunities.** Nothing contained in this Agreement shall impact or impede City's rights of enforcement of its police and regulatory powers over the Easement or be construed as a waiver of any governmental, sovereign, or statutory immunities available to City under (or processes required by) applicable law, including but not limited to the California Government Claims Act.

10. **Entire Agreement.** This Agreement together with the exhibits hereto, each of which are incorporated herein by this reference, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements with respect thereto.

11. **Notice.** Except as otherwise expressly provided herein, all notices and demands pursuant to this Agreement shall be in writing and delivered in person, by commercial courier or by first-class certified mail, postage prepaid. Except as otherwise expressly provided herein, notices shall be considered delivered when personally served, upon delivery if delivered by commercial courier, or two (2) days after mailing if sent by mail. Notices shall be sent to the addresses below for the respective parties; provided, however, that any party may change its address for purposes of this Section 11 by giving written notice to the other parties. Unless and until such written notice is received, the last address and addressee as stated by written notice, or as provided herein, shall be deemed to continue in effect for all purposes hereunder. These addresses may be used for service of process:

City: City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501
Attn: City Manager

with copy to: City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501
Attn: City Attorney

Developer: Radium Presents, Inc.
1201 Sherman Avenue
Alameda, CA 94501
Attn: Christopher Seiwald

with a copy to: Burke, Williams & Sorensen, LLP
1999 Harrison Street, Suite 1650
Oakland, CA 94612

Attn: Lisa N. Maxwell, Esq.

12. **Partial Invalidity.** If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

13. **Applicable Law/Venue.** This Agreement and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto. The venue for any action shall be the County of Alameda, California.

14. **Further Assurances.** Each party covenants, on behalf of itself and its successors, heirs, and assigns, to take all actions and do all things, and to execute, with acknowledgment or affidavit if required, any and all documents and writings that may be necessary or proper to achieve the purposes and objectives of this Agreement.

15. **Nondiscrimination.** Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, ancestry, or national origin in the use of the Easement in furtherance of this Agreement. The foregoing covenant shall run with the land.

16. **Interpretation.** This Easement shall be interpreted under the laws of the State of California without regard to the conflicts or choice of law provisions thereof. Any ambiguities and questions of the validity of specific provisions shall be interpreted so as to give maximum effect to its intent. Unless specifically stated and attached to this Agreement, references to specific authorities in this Easement shall be to the statute, rule, regulation, ordinance, or other legal provision that is in effect at the time this Easement becomes effective.

17. **Severability.** If any term, provision, covenant, condition, or restriction of this Easement is held by a court of competent jurisdiction to be unlawful, invalid, void, unenforceable, or not effective, the remainder of this Easement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

18. **Recordation.** This Agreement evidencing the Easement shall be recorded in the official records of Alameda County.

19. **Third Party Beneficiaries.** Nothing under this Agreement is intended to create any rights or interests in any third parties.

20. **Injunctive Relief.** Either party will have the right to seek injunctive relief from a court of competent jurisdiction in the event that the other party's conduct threatens imminent irreparable harm to the interests of the party seeking such relief, for which money damages are inadequate. The court will determine whether a bond or other security shall be required in order to obtain such relief.

21. **Authority.** Each person executing this Agreement on behalf of a party hereto has all requisite consent, power and authority to execute this Agreement on behalf of that party and any other agreements or instruments required hereunder and that party has all requisite consent, power, and authority to enter into and perform its obligations under this Agreement and all other agreements and instruments entered into in connection herewith.

22. **Signature Pages; Execution in Counterparts.** For convenience, the signatures of the parties to this Agreement may be executed and acknowledged on separate pages in counterparts and which, when attached to this Agreement, shall constitute one complete Agreement.

23. **Term of Agreement.** This Agreement shall be effective on the date of execution of this Agreement ("**Effective Date**") and shall remain in effect in perpetuity.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date this Agreement is executed below.

“DEVELOPER” – RADIUM PRESENTS, INC., a California 501(c)(3) corporation

By: _____
Christopher Seiwald, CEO

“CITY” - THE CITY OF ALAMEDA, a California municipal corporation

By: _____
Name: _____
Its: City Manager

Approved as to form:

By: _____
Name: _____
Its: Assistant City Attorney

EXHIBIT A
To Plaza Easement
Legal Description

JANUARY 16, 2026
JOB NO.: 1087-010

**LEGAL DESCRIPTION
RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA**

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

BEING A PORTION OF DESIGNATED REMAINDER 2, AS SAID DESIGNATED REMAINDER 2 IS SHOWN AND SO DESIGNATED ON THE FINAL MAP FOR TRACT 8696, ENTITLED "WEST MIDWAY LARGE LOT", RECORDED JULY 31, 2025 IN BOOK 373 OF MAPS, AT PAGE 85, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERN CORNER OF SAID DESIGNATED REMAINDER 2;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE SOUTHERN LINE OF SAID DESIGNATED REMAINDER 2, NORTH 85°08'27" WEST 75.00 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID SOUTHERN LINE, NORTH 85°08'27" WEST 405.96 FEET;

THENCE, LEAVING SAID SOUTHERN LINE, NORTH 04°51'33" EAST 104.00 FEET;

THENCE, NORTH 85°08'27" WEST 30.00 FEET;

THENCE, NORTH 04°51'33" EAST 90.00 FEET;

THENCE, SOUTH 85°08'27" EAST 435.96 FEET;

THENCE, SOUTH 04°51'33" WEST 194.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 1.87 ACRES OF LAND, MORE OR LESS.

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

END OF DESCRIPTION



Sabrina Kyle Pack 16 JAN 2026
SABRINA KYLE PACK, P.L.S.
L.S. NO. 8164

EXHIBIT B
To Plaza Easement

Site Plan



16 JAN 2026

SCALE: 1"=100'



PARCEL TWO
DN. 2022-128360

N04°51'33"E 539.90'

75.00'

S04°51'33"W 194.00'

POINT OF
COMMENCEMENT

PARCEL 1
(PORTION)
28 RS 14

PARCEL A
338 M 9

SEAPLANE (NORTH)

S85°08'27"E 435.96'

N04°51'33"E 90.00'

N85°08'27"W 30.00'

DESIGNATED
REMAINDER 2
373 M 85

RADIUM THEATER SITE

1.87 AC±

N04°51'33"E 104.00'

POINT OF BEGINNING

405.96'

N85°08'27"W 1122.14'

PHASE 1 AGREED TRUST LANDS PARCEL NINE
DN 2014-154596

PLAT TO ACCOMPANY LEGAL DESCRIPTION

RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA

JANUARY 16, 2026



SAN RAMON (925) 866-0322
ROSEVILLE (916) 788-4456
WWW.CBANDG.COM

CIVIL ENGINEERS • SURVEYORS • PLANNERS

SHEET 1 OF 1

Exhibit F

Memorandum of Option

Recording requested by,
and after recording return to:

Radium Presents, Inc.
1201 Sherman Street
Alameda, CA 94501
Attn: Christopher Siewald

APN(s): _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MEMORANDUM OF LEASE OPTION

THIS MEMORANDUM OF LEASE OPTION ("**Memorandum**") is dated for reference purposes as of _____, 2026, and is entered into by and between the City of Alameda, a charter City and municipal corporation ("**City**"), and Radium Presents, Inc., a California 501(c)(3) organization ("**Developer**").

1. City and Developer entered into that certain Lease Option Agreement dated _____, 2026 ("**Lease Option**"), pursuant to which City granted to Developer an option ("**Option**") to ground lease, for a term of sixty-six (66) years, in accordance with the terms and conditions set forth in the Lease Option, the property located in the City of Alameda and described on Exhibit A ("**Property**").

2. The initial term of the Option shall continue for the period set out in the Lease Option (subject to the conditions and Developer extension options contained therein), and shall be subject to the terms, covenants and conditions set forth in the Lease Option. All of the terms, covenants and conditions of the Lease Option are hereby incorporated into this Memorandum by reference.

3. City and Developer desire to record this Memorandum so that third parties and successors-in-interest to City as to any portion of or interest in the Property shall have constructive notice of the existence of and be bound by the Lease Option, which is intended to and shall run with the land and bind any person or entity acquiring any portion of or interest in the Property.

4. In the event of a conflict between this Memorandum and any of the terms and conditions of the Lease Option, the terms and conditions of the Lease Option shall govern, and nothing herein contained shall be construed to be a modification of or amendment to any of such terms and conditions.

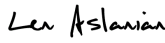
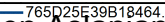
IN WITNESS WHEREOF, the parties have caused this Memorandum to be executed as of the date first above written for the purpose of providing an instrument for recording.

CITY:

City of Alameda,
a charter City and municipal corporation

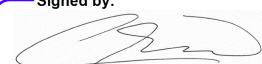
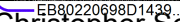
By: _____
Name: _____
City Manager

APPROVED AS TO FORM:

DocuSigned by:
By:  _____
Name:  Len Aslanian _____
Assistant City Attorney

DEVELOPER:

Radium Presents, Inc.,
a California 501(c)(3) organization

Signed by:
By:  _____
 Christopher Seiwald, CEO

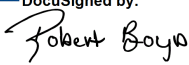
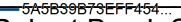
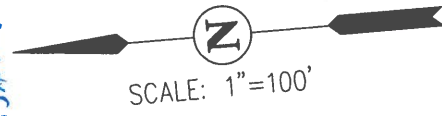
DocuSigned by:
By:  _____
 Robert Boyd, Secretary

Exhibit A
To Memorandum of Option

Property



PARCEL TWO
DN. 2022-128360

N04°51'33"E 539.90'

75.00'

S04°51'33"W 194.00'

S85°08'27"E 435.96'

N04°51'33"E 90.00'

N85°08'27"W 30.00'

RADIUM THEATER SITE
1.87 AC±

N04°51'33"E 104.00'

POINT OF BEGINNING

405.96'

N85°08'27"W 1122.14'

PARCEL 1
(PORTION)
28 RS 14

PARCEL A
338 M 9

SEAPLANE (NORTH)

DESIGNATED
REMAINDER 2
373 M 85

PHASE 1 AGREED TRUST LANDS PARCEL NINE
DN 2014-154596

PLAT TO ACCOMPANY LEGAL DESCRIPTION

RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA

JANUARY 16, 2026



SAN RAMON (925) 866-0322
ROSEVILLE (916) 788-4456
WWW.CBANDG.COM

CIVIL ENGINEERS • SURVEYORS • PLANNERS

SHEET 1 OF 1

JANUARY 16, 2026
JOB NO.: 1087-010

**LEGAL DESCRIPTION
RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA**

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

BEING A PORTION OF DESIGNATED REMAINDER 2, AS SAID DESIGNATED REMAINDER 2 IS SHOWN AND SO DESIGNATED ON THE FINAL MAP FOR TRACT 8696, ENTITLED "WEST MIDWAY LARGE LOT", RECORDED JULY 31, 2025 IN BOOK 373 OF MAPS, AT PAGE 85, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERN CORNER OF SAID DESIGNATED REMAINDER 2;

THENCE, FROM SAID POINT OF COMMENCEMENT, ALONG THE SOUTHERN LINE OF SAID DESIGNATED REMAINDER 2, NORTH 85°08'27" WEST 75.00 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID SOUTHERN LINE, NORTH 85°08'27" WEST 405.96 FEET;

THENCE, LEAVING SAID SOUTHERN LINE, NORTH 04°51'33" EAST 104.00 FEET;

THENCE, NORTH 85°08'27" WEST 30.00 FEET;

THENCE, NORTH 04°51'33" EAST 90.00 FEET;

THENCE, SOUTH 85°08'27" EAST 435.96 FEET;

THENCE, SOUTH 04°51'33" WEST 194.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 1.87 ACRES OF LAND, MORE OR LESS.

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

END OF DESCRIPTION



Sabrina Kyle Pack 16 JAN 2026
SABRINA KYLE PACK, P.L.S.
L.S. NO. 8164

Exhibit G
Option Notice

**Radium Presents
1201 Sherman Street
Alameda, CA 94501**

_____, 20__

City of Alameda
Alameda City Hall
2263 Santa Clara Ave
Alameda, CA 94501
Attn: City Manager and
Director of Base Reuse and Economic Development

Re: Notice of Exercise of Option to Ground Lease that certain "Property" (as defined below) in the City of Alameda

Dear City Manager and Director of Base Reuse and Economic Development:

In accordance with Section 1.4 of that certain Lease Option Agreement between the City of Alameda ("**City**") and Radium Presents, Inc. ("**Developer**"), dated _____, 20__ ("**Lease Option**"), Developer hereby exercises its option to ground lease from City for a period of sixty-six (66) years that certain real property in the City of Alameda, County of Alameda, State of California, consisting of approximately 1.72 acres of land, commonly referred to as Blocks 12 and 13 of the Site A project site, plus other adjacent area, located in an area commonly known and referred to as Alameda Point and as more particularly described on Exhibit A attached hereto, with APN No(s). _____ ("**Property**").

As required by Section 1.4 of the Option Agreement, Developer hereby notifies City that the Closing Date for the ground leasing of the Property from City to Developer shall be _____, which is no later than sixty (60) days from the date of this notice.

Very truly yours,

_____,
Christopher Seiwald, CEO

cc: Lisa N. Maxwell, Esq.

Exhibit H
Plaza Road

RADIUM THEATER - EXHIBIT H

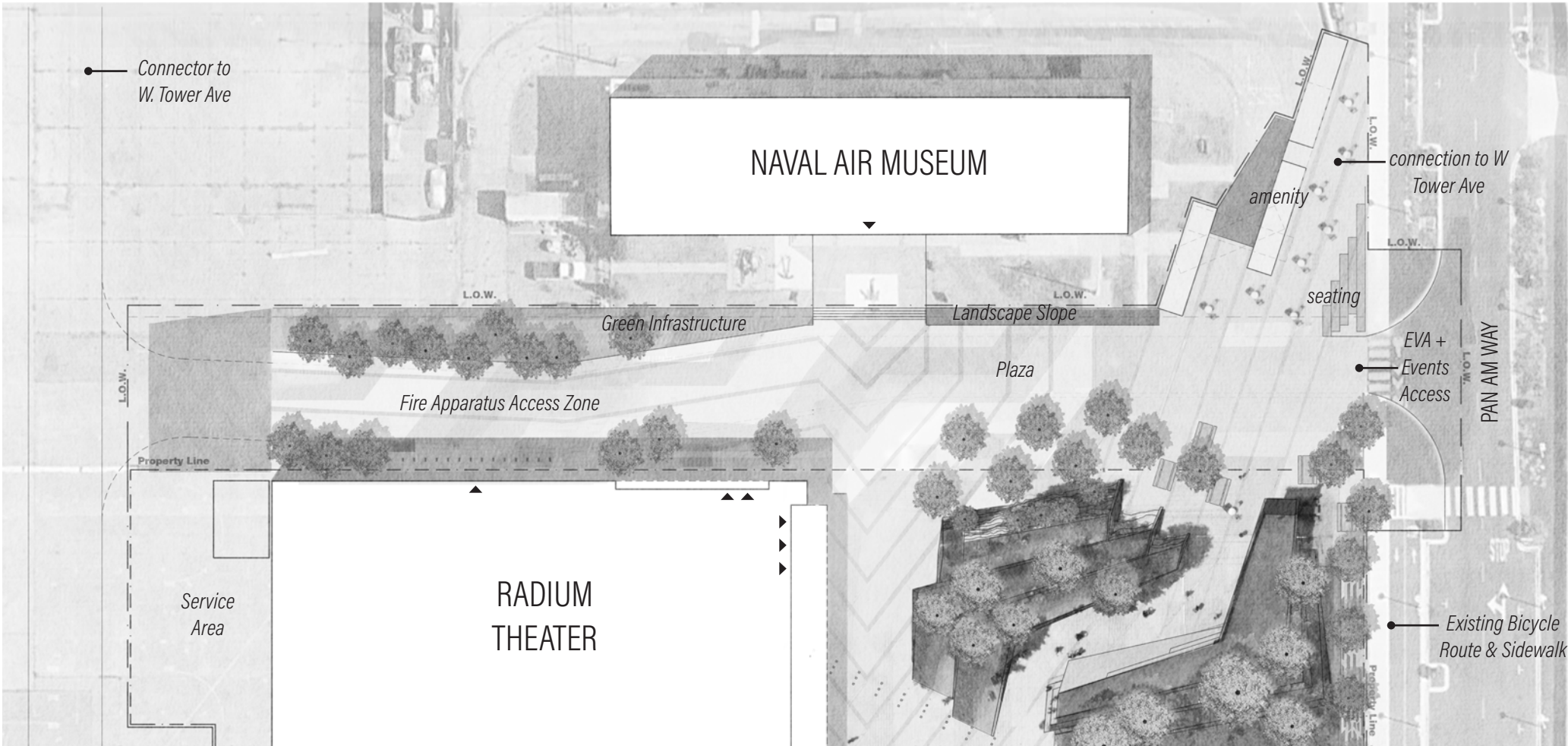


Exhibit I

Lease Services and Maintenance Contracts

This Exhibit summarizes certain service, maintenance, and operations contracts currently in effect for the Property.

Service Provider	Scope of Services
Citiguard Inc.	Security services at Alameda Point
BSM Facility Services Group	Facilities maintenance and services at Alameda Point
Gothic Landscape Inc.	Commercial and residential landscape services at Alameda Point (note: services performed on taxiway on an as-needed basis through purchase order)
Lincoln Property Company	Property management for City of Alameda properties

Exhibit J

Hazardous Materials Report

Exhibit J: Hazardous Materials Report

January 2000 – IT Corporation Zone Analysis Data Summary, Phase 2A Sampling, Zone 4: The Runway Zone, Alameda Point (IT Corporation)

April 19, 2013 – Final Finding of Suitability to Transfer (FOST) for Former Naval Air Station Alameda, Alameda Point, Alameda, California (*Prepared for: Base Realignment and Closure Program Management Office West, San Diego, CA | Prepared by: Tetra Tech EM, Inc., as subcontractor to Trevet, Inc. | Contract No.: N62473-10-C-4408*)

March 10, 2017 – State Water Resources Control Board Geo Tracker:
https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000009981

June 29, 2020 – Draft Preliminary Assessment Report, Basewide Investigation of PFAS, Former NAS Alameda (submitted to DTSC; final version dated May 2021)

August 21, 2020 – DTSC Comments on Draft PA Report (Yun-hu Hsu)

March 16, 2021 – DTSC Geological Services Unit Memorandum, Responses to Comments on Draft PA Report (Marikka Hughes, PG)

May 2021 – Final Preliminary Assessment Report, Basewide Investigation of PFAS, Former NAS Alameda (Multi-MAC JV / NAVFAC SW BRAC PMO West)

May 26, 2021 – Navy Transmittal Letter, Final PA Report to EPA/DTSC/RWQCB (David C. Darrow, BRAC Environmental Coordinator)

June 25, 2021 – DTSC Approval Memorandum, Final PA Report (Yun-hu Hsu, DTSC)

June 2022 – Final Sampling and Analysis Plan (SAP) for Site Inspection, Former NAS Alameda (Multi-MAC JV) (referenced in the SI Report as the governing field document)

June 13–29, 2022 – SI Fieldwork conducted at Former NAS Alameda (soil and groundwater sampling at IR Sites 2, 4, 5, 6, 10, 26 and AOIs 1–5)

September 30, 2022 – Site Management Plan Alameda Point, Alameda, California (Final Revised)(Terraphase Engineering)

August 2023 – Final Site Inspection Report, Per- and Polyfluoroalkyl Substances at Areas of Interest, Former NAS Alameda (Multi-MAC JV / NAVFAC SW BRAC PMO West; signed August 11, 2023)

August 11, 2023 – Navy Transmittal Letter, Final SI Report to EPA/DTSC/RWQCB (David C. Darrow, BRAC Environmental Coordinator)

August 30, 2023 – DTSC Approval Memorandum, Final SI Report (Yun-hu Hsu, DTSC)

November 21, 2024 – Final Work Plan Remedial Investigation for Per- and Polyfluoroalkyl Substances (PFAS), Installation Restoration Sites 4, 5, 6, 10, and 26, and Areas of Interest 1, 2, 3, 4, and 5, Former Naval Air Station Alameda, Alameda, California (*Serial: BPMOW/245 | Reference: 5000-33B | Issued by: U.S. Department of the Navy, NAVFAC BRAC Program Management Office West*)

February 18, 2025 – DTSC Review Memorandum re: Final Work Plan Remedial Investigation for Per- and Polyfluoroalkyl Substances, Installation Restoration Sites 4, 5, 6, 10 and 26, and Areas of Interest 1, 2, 3, 4, and 5, Former Naval Air Station Alameda (*From: Yun-hu Hsu, Hazardous Substance Engineer/Project Manager | To: Alameda Point File | Issued by: California Department of Toxic Substances Control*)

Exhibit K

Memorandum of Lease

Exhibit K

Memorandum of Lease

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO

City of Redwood City
Attn: City Clerk
1017 Middlefield Road
Redwood City, CA 94063

MEMORANDUM OF LEASE

This Memorandum of Lease ("**Memorandum of Lease**") is made as of _____, 20__ between the City of Alameda, a charter city and California municipal corporation ("**City**"), and Radium Presents, Inc., a California 501(c)(3) corporation ("**Developer**"), collectively referred to as "**Parties**" and agree as follows:

1. The Lease. City and Developer are parties to that certain Ground Lease dated _____, 2025, pursuant to which City leases to Developer, and Developer leases from City that certain real property in the City of Alameda, County of Alameda ("**County**"), State of California, consisting of approximately 1.72 acres of land, commonly referred to as Blocks 12 and 13 of the Site A project site, plus such other adjacent area as the Parties have determined necessary for the Project (defined below), located in an area commonly known and referred to as Alameda Point and as more particularly described on Attachment 1 attached hereto and as depicted in the "**Site Plan**" set out on Attachment 2 attached hereto ("**Property**").

2. Property and Shared Public Access Areas. Developer exclusively leases from City the Property and shall have the non-exclusive right to use the Shared Public Access Areas, both of which comprise a certain portion of the Property which are the subject of the Lease and which are more particularly shown in Attachment 2 attached hereto and incorporated herein by reference.

3. Term. The initial term ("**Term**") of this Lease shall commence on the Effective Date ("**Commencement Date**"), and shall expire on the sixty-sixth (66th) anniversary thereafter.

4. Purpose of Memorandum. This Memorandum of Lease is prepared for the purpose of notice and recordation. This Memorandum of Lease does not and is not intended to modify the provisions of the Lease.

CITY OF ALAMEDA, a charter city and
municipal corporation

By: _____
Name: _____
Its: _____

RADIUM PRESENTS, INC., a California
501(c)(3) corporation

By: _____
Christopher Seiwald, CEO

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____

On _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Attachment 1 to Memorandum of Lease

Legal Description

JANUARY 16, 2026
JOB NO.: 1087-010

**LEGAL DESCRIPTION
RADIUM THEATER SITE
ALAMEDA POINT
ALAMEDA, CALIFORNIA**

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

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THENCE, SOUTH 85°08'27" EAST 435.96 FEET;

THENCE, SOUTH 04°51'33" WEST 194.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 1.87 ACRES OF LAND, MORE OR LESS.

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

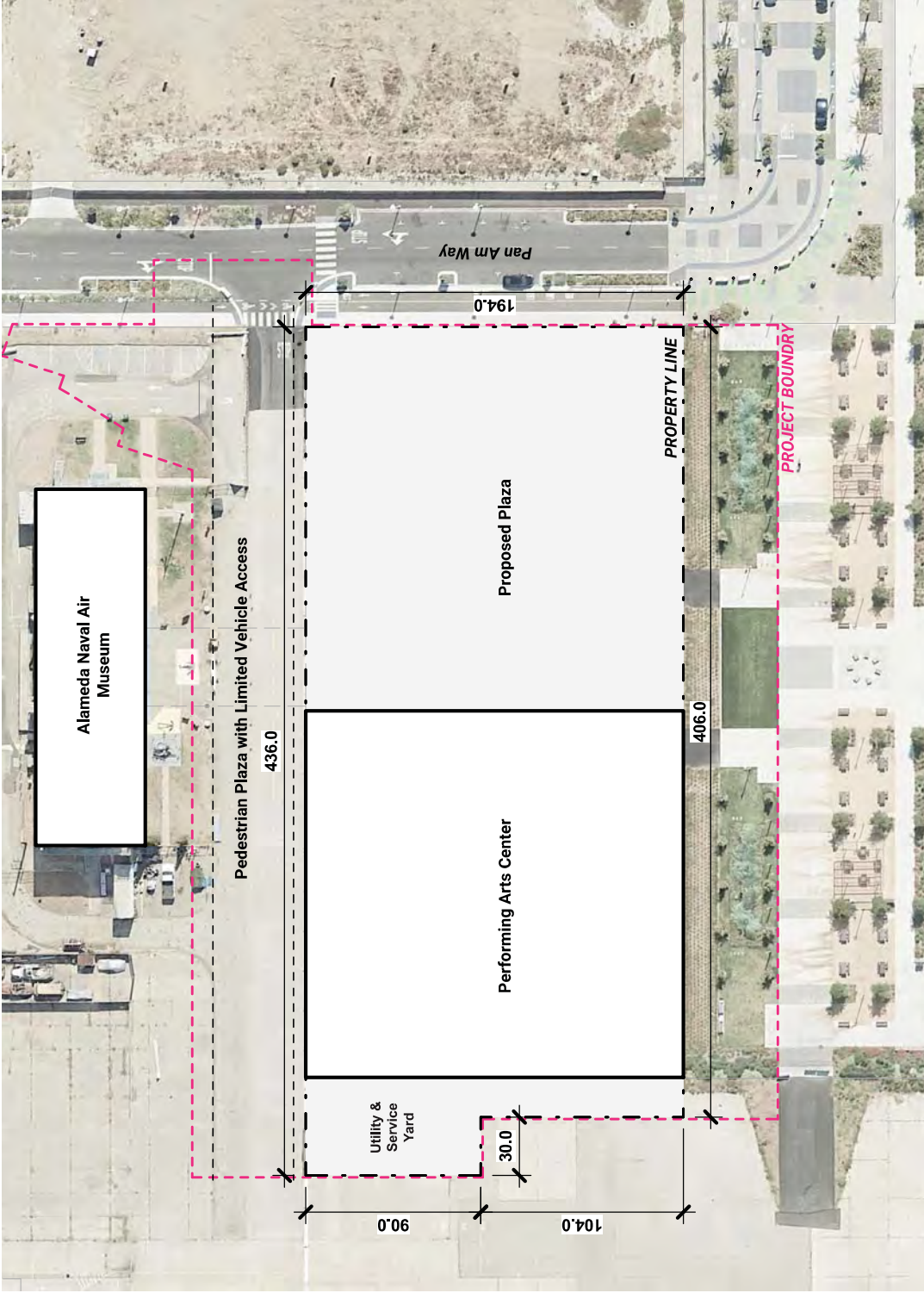
END OF DESCRIPTION



Sabrina Kyle Pack 16 JAN 2026
SABRINA KYLE PACK, P.L.S.
L.S. NO. 8164

Attachment 2 to Memorandum of Lease

Site Plan and Non-Exclusive Area



SITE INFORMATION:
 LOT SIZE: 194' X 436'
 ACRES: 1.9 ACRES
 SQUARE FOOTAGE: 81,464 GSF

SITE PLAN - PROJECT BOUNDARY

RADIUM THEATRE

ALAMEDA, CA



SITE DEVELOPMENT PLAN
November 7th, 2025