

COUNTY OF ALAMEDA COUNTYWIDE OVERSIGHT BOARD

RESOLUTION NUMBER NO. OB-2022-12

**A RESOLUTION OF THE COUNTY OF ALAMEDA
COUNTYWIDE OVERSIGHT BOARD**

**APPROVING A FIFTH AMENDMENT TO THE PURCHASE AND SALE
AGREEMENT AND JOINT ESCROW INSTRUCTIONS BETWEEN THE SUCCESSOR
AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN LEANDRO,
THE CITY OF SAN LEANDRO, AND BEAM DEVELOPMENT, LLC, FOR SALE OF
REAL PROPERTY OWNED BY THE SUCCESSOR AGENCY AND THE CITY**

WHEREAS, on February 1, 2012, the Redevelopment Agency of the City of San Leandro (“Redevelopment Agency”) was dissolved pursuant to Assembly Bill x1 26; and

WHEREAS, on February 1, 2012, the City of San Leandro became the Successor Agency to the Redevelopment Agency (“Successor Agency”); and

WHEREAS, the Redevelopment Dissolution Law (AB 1X 26, enacted June 28, 2011, as amended by AB 1484, enacted June 27, 2012 and SB 107, enacted on September 22, 2015) and Section 34177 of the Health and Safety Code (“HSC”) required the successor agencies, among other things, to expeditiously wind down affairs of each former redevelopment agency (“RDA”), while continuing to meet the former RDA’s enforceable obligations, and overseeing completion of redevelopment projects and disposing of the assets and properties of the former RDA, all as directed by the successor agencies’ oversight boards pursuant to HSC Section 34179(a); and

WHEREAS, HSC Section 34179(j) provided for the creation of the County of Alameda Countywide Oversight Board (“Countywide Oversight Board”) commencing on and after July 1, 2018; and

WHEREAS, pursuant to Section 34181(e) of the HSC, the oversight board shall direct the Successor Agency to determine whether any contracts, agreements, or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the Countywide Oversight Board for its approval. The Countywide Oversight Board may approve any amendments to or early termination of those agreements if it finds that amendments or early termination would be in the best interests of the taxing entities; and

WHEREAS, pursuant to Health and Safety Code Section 34191.5(c), property shall not be transferred to a successor agency, city, county or city and county, unless the Long Range Property Management Plan has been approved by the Oversight Board to the Successor Agency (the “City Oversight Board”) and the Department of Finance; and

WHEREAS, the Long Range Property Management Plan, which establishes a plan for transferring or selling the real property assets that were owned by the former Redevelopment Agency, was approved by the City Oversight Board on November 5, 2015 and by the California

Department of Finance on December 30, 2015; and

WHEREAS, the City of San Leandro (“City”) is the owner of certain real property with the address of 262 Davis Street, San Leandro, California, also known as Alameda County Parcel Number APN: 075-0001-009-02 (the “City Property”); and

WHEREAS, the Successor Agency is the owner of certain real properties located adjacent to the City Property with addresses of 290 Davis Street, 250 Davis Street, 222 Davis Street, 212 Davis Street, and 1199 E. 14th Street, San Leandro, California, also known as Alameda County Parcel Numbers APN: 075-0001-010-02; APN: 075-0001-008-02; APN: 075-0001-006-00; APN: 075-0001-005-00; and APN: 075-0001-004-00 (the “Successor Agency Properties”, together with “City Property” as “Properties”); and

WHEREAS, the Successor Agency Properties are included as “for sale” properties in the Long Range Property Management Plan prepared by the Successor Agency and approved by the City Oversight Board and the California Department of Finance; and

WHEREAS, the Successor Agency previously issued a public request for proposals (the “RFP”) for the purchase and development of the Successor Agency Properties; and

WHEREAS, the Successor Agency specified that as part of the RFP the Successor Agency Properties will only be sold concurrently with the City Property; and

WHEREAS, BEAM Development, LLC. (“Buyer”) submitted a proposal to the Successor Agency offering to pay Two Million One Hundred Thousand Dollars (\$2,100,000) for the purchase of the combined Successor Agency Properties and the City Property (“Purchase Price”); and

WHEREAS, Successor Agency staff determined that Buyer possesses the resources and experience necessary to complete a successful development at the Properties consistent with the Long Range Property Management Plan; and

WHEREAS, the Successor Agency and the City reviewed the sales price of comparable properties, as well as other responses to the RFP, and determined that the Purchase Price represented the fair market value of the Properties; and

WHEREAS, a Purchase and Sale Agreement and Joint Escrow Instructions (the “Original Agreement”) was approved by the City Council of the City (“City Council”), the Successor Agency, and the City Oversight Board for the sale of City Property and Successor Agency Properties on November 6, 2017 by City Resolution 2017-155 and Successor Agency Resolution 2017-006, and on November 17, 2017 by Oversight Board Resolution 2017-05; and

WHEREAS, Buyer, Successor Agency and City entered into that certain Purchase and Sale Agreement and Joint Escrow Instructions dated as of December 7, 2017 (the “Original Agreement”), as amended by that certain First Amendment to Purchase and Sale Agreement dated as of December 4, 2018 (the “First Amendment”), that certain Second Amendment to Purchase and

Sale Agreement dated as of January 30, 2020 (the “Second Amendment”), that certain Third Amendment to Purchase and Sale Agreement dated as of January 31, 2022 (the “Third Amendment”) and that certain Fourth Amendment to Purchase and Sale Agreement dated as of May 31, 2022 (the “Fourth Amendment”, and collectively with the Original Agreement, First Amendment, Second Amendment, Third Amendment and Fourth Amendment, the “Purchase Agreement”).

WHEREAS, such Amendments did not change the economic terms of the Purchase Agreement, but provided only for the extension of the Due Diligence Period and timing of the close of escrow for the sale of the Properties, and such Amendments were approved pursuant to Section 10.16 of the Original Agreement, which permits the Seller’s Executive Director to approve, waive or extend terms of the Purchase Agreement on behalf of the Successor Agency without further authorization if such changes do not otherwise reduce the Successor Agency’s rights under the Purchase Agreement, or waive requirements under the Purchase Agreement; and

WHEREAS, a Fifth Amendment to the Purchase and Sale Agreement (the “Fifth Amendment”) was presented to the City Council and the Board of Directors of the Successor Agency (“Board of Directors”) on July 18, 2022; and

WHEREAS, the City Council and Board of Directors authorized the City Manager and Executive Director to Execute the Fifth Amendment, subject to approval by the County of Alameda Countywide Oversight Board, by Resolution [2022-132](#) and Successor Agency Resolution [2022-133](#) ; and

WHEREAS, the Countywide Oversight Board held a public meeting on July 25, 2022 and considered the Fifth Amendment to the Purchase and Sale Agreement following the notice required by law; and

WHEREAS, the Countywide Oversight Board finds that the Fifth Amendment will increase revenues, decrease liabilities and is in the best interest of the taxing entities.

NOW, THEREFORE, BE IT RESOLVED that the County of Alameda Countywide Oversight Board hereby approves the Fifth Amendment to the Purchase and Sale Agreement in the form substantially the same as attached hereto.

PASSED AND ADOPTED at a special meeting of the County of Alameda Countywide Oversight Board this 25th day of July, 2022 by the following vote:

Board Members	Carson County Board of Supervisors	Halliday City Selection Committee	Sethy Ind. Special District Committee	Heldman County Office of Education	Dela Rosa Chancellor of the CA Comm. College	O'Connell County Board of Supervisors (Public)	Katz Mulvey Recognized Employee Organization
AYES:		✓	✓		✓	✓	✓
NOES:							
ABSENT:	✓			✓			
ABSTAIN:							
EXCUSED:							

DocuSigned by:

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 Chairperson, Barbara Halliday

ATTEST:


 Secretary of the County of Alameda
 Countywide Oversight Board

FIFTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

Town Hall Square

This FIFTH AMENDMENT OF PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this “**Fifth Amendment**”) is entered into effective as of _____, 2022 (the “**Effective Date**”) by and between SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN LEANDRO, a public agency (the “**Agency**”), the CITY OF SAN LEANDRO, a California charter city (the “**City**,” and together with the Agency, “**Seller**”), and BEAM DEVELOPMENT, LLC, a California limited liability company (“**Buyer**”). The City, Agency, and Buyer are each referred to individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

A. Buyer and Seller entered into that certain *Purchase and Sale Agreement and Joint Escrow Instructions* dated as of December 7, 2017 (the “**Original Agreement**”), as amended by that certain *First Amendment to Purchase and Sale Agreement* dated as of December 4, 2018 (the “**First Amendment**”), that certain *Second Amendment to Purchase and Sale Agreement* dated as of January 30, 2020 (the “**Second Amendment**”), that certain *Third Amendment to Purchase and Sale Agreement* dated as of January 31, 2022 (the “**Third Amendment**”) and that certain *Fourth Amendment to Purchase and Sale Agreement* dated as of May 31, 2022 (the “**Fourth Amendment**”, and collectively with the Original Agreement, First Amendment, Second Amendment, Third Amendment and Fourth Amendment, the “**Purchase Agreement**”).

B. The Purchase Agreement involves the conveyance of the Property (as that term is defined therein) from Seller to Buyer for the purpose of facilitating its ultimate redevelopment consistent with the overall land use vision and relevant goals and objectives as set forth in the City’s relevant planning documents (e.g., the City’s General Plan). The Original Agreement referenced Buyer’s intention to purchase the Property (as well as one or both of the Adjacent Properties, as that term is defined therein) in order to build a residential mixed use project (but the Original Agreement did not require the development of such project). Buyer’s desire to do so was based, in part, on a conceptual proposal prepared by Buyer that incorporated multi-family residential and retail components, which was based on available information known at the time of the Original Agreement. However, since 2017, Buyer has continued to refine the development concept for the Property to take into account the evolving circumstances including, among other things, changes related to the ever-escalating state and regional housing crisis and the associated Statewide legislation removing barriers to housing development, as well as changes in economic and related market conditions associated with rising construction costs, inflation generally, uncertainty in market demand, and shifting retail demand related to the on-going effects of the COVID-19 pandemic and other factors.

C. Subsequent to the Parties entering into the Original Agreement and the First Amendment, the State Legislature adopted amendments to the Surplus Land Act, which could be interpreted to place the Purchase Agreement at risk of termination as a matter of law unless the Closing (as that term is defined therein) occurs on or before December 31, 2022. However, pursuant to a Buyer’s Condition Precedent as set forth in Section 5.2(e) of the Original Agreement

(such Buyer Condition Precedent hereinafter referred to as the “**Entitlements Condition**”), Buyer is not required to Close on the Property unless, among other things, Buyer “has received all necessary approvals from the appropriate governmental and/or regulatory entities including but not limited to, approvals from the City, that are needed for construction, including, but not limited to, zoning approvals from the Project and all necessary entitlements.”

D. Despite the somewhat uncertain economic and market conditions, Buyer has continued to work with diligence and in good faith to pursue redevelopment of the Property by, among other things, expending substantial amounts of time and monies to: (i) purchase the Adjacent Properties (as contemplated under the Purchase Agreement); (ii) retain technical consultants to prepare various geotechnical and environmental site assessments as well as conduct civil engineering work; (iii) retain legal counsel to provide guidance on the land use entitlement, CEQA, and transactional-related elements to facilitate the entitlement process and the Closing; and (iv) retain architects, other design professionals and a project management team to prepare and refine the development proposal and prepare the necessary development applications.

E. City staff has also worked with diligence and in good faith to facilitate Buyer’s foregoing efforts and the ultimate conveyance of the Property as contemplated in the Purchase Agreement, and the Parties have been and continue to work cooperatively in connection with the submittal of the necessary development applications and related environmental review. Nevertheless, despite these collective diligent and good faith efforts, the Parties recognize that obtaining the necessary entitlements to proceed with the Project as contemplated by the Entitlements Condition cannot reasonably be expected to occur before December 31, 2022.

F. Pursuant to the Fourth Amendment, the Due Diligence Contingency Period was extended through September 30, 2022, and the Parties desire to enter into this Fifth Amendment to extend the Due Diligence Contingency Period to November 30, 2022, and clarify that the Closing or Close of Escrow (as that term is defined in the Purchase Agreement) shall occur no later than December 31, 2022, subject to the terms and conditions set forth herein. Seller has requested that, if the Entitlements Condition remains unsatisfied on or before November 30, 2022, Buyer waive such Entitlements Condition and proceed to Closing. Buyer is willing to waive such Entitlements Condition and proceed to Closing on or before December 29, 2022, subject to the terms and conditions set forth in this Fifth Amendment.

G. The Parties also desire to enter into this Fifth Amendment (1) to expressly recognize the considerations set forth in Recital D above based on a mutual recognition that the contemplated development of the Property to be proposed by Buyer for City’s consideration will consist of multi-family residential units and related amenities and improvements without a retail component (“**Updated Development Proposal**”). In so doing, the key goals and objectives of redeveloping an underutilized, urban infill site at a prominent corner in the City’s downtown with a vibrant, high-quality housing development and the concomitant activation of the Property and vicinity for pedestrians (particularly along East 14th Street and Davis Street) would continue to be achieved. Notwithstanding the foregoing, however, nothing in the Purchase Agreement modifies the City’s discretion with respect to the Project in accordance with the City’s normal land use approval process or obligations of Buyer in connection therewith.

The County of Alameda Countywide Oversight Board has approved this Fifth Amendment by Resolution No. ____ at its meeting on July 25, 2022.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Fifth Amendment, Buyer and Seller agree as follows:

1. Recitals. The above recitals are true, and the recitals and terms set forth therein are incorporated into this Fifth Amendment by this reference.

2. Definitions. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Purchase Agreement.

3. Extension of the Due Diligence Contingency Period. The Due Diligence Contingency Period shall be extended to November 30, 2022.

4. Necessary Discretionary Entitlements; No Retail Component Required. The Parties acknowledge and agree that the Purchase Agreement does not specify the type of development project which Buyer may build upon the Property, and does not require Buyer to include a retail component in its Updated Development Proposal, in order to proceed under the Purchase Agreement. The Parties further acknowledge and agree that for Buyer to develop the Updated Development Proposal, Buyer will need to obtain City approval of a conditional use permit for multi-family residential developments located in the City's DA-1 District ("**CUP**"), as well as approval of the site design ("**Site Plan Review**") and a lot merger (or similar mapping mechanism) to effectuate the merger of the Property, the Adjacent Properties, and/or other relevant lands that Buyer owns ("**Lot Merger**"). Together, the CUP, Site Plan Review and Lot Merger are referred to herein as the "**City Discretionary Entitlements**". Since the foregoing entitlements are discretionary in nature, the City will need to comply with requirements under the California Environmental Quality Act and the CEQA Guidelines (collectively, "**CEQA**") prior to approving the City Discretionary Entitlements. In accordance with CEQA, the City is obligated to exercise independent review and judgment of the required CEQA document for the Updated Development Proposal and retains all discretion to review, approve, deny, or condition the City Discretionary Entitlements pursuant to its land use authority and all other applicable laws and regulations. For purposes of this Fifth Amendment, "**satisfaction of the Entitlements Condition**" shall mean that Buyer has obtained City approval of the City Discretionary Entitlements (as that term is defined below) with conditions imposed thereon that are reasonably acceptable to Buyer and are in accordance with all legal requirements (including, without limitation, legal nexus).

5. Put Option.

Buyer has a right to right, but not an obligation, to proceed to Closing pursuant to the terms and conditions set forth herein and in the Purchase Agreement prior to satisfaction of the Entitlements Condition. If Buyer elects to waive the Entitlements Condition and proceed to Closing, in consideration thereof, Seller hereby agrees to grant Buyer the right to elect to require Seller to accept a conveyance of the Property from Buyer after the Closing Date ("**Put Option**"). If Buyer elects (a) to proceed with Closing and (b) to require the Put Option, Buyer shall deliver written notice to Seller of its election at least thirty (30) days in advance of Closing, but in no event later

than November 30, 2022. In connection therewith, Buyer and Seller hereby agree to execute and deliver a Put Option Agreement and Joint Escrow Instructions in form and substance substantially similar to that attached hereto as Exhibit A (the “**Put Option Agreement**”). If Buyer timely elects to require the Put Option, delivery of the executed Put Option Agreement upon Closing shall be a Buyer’s Condition Precedent.

6. Escrowed Purchase Price. In the event that the Put Option Agreement is duly executed and delivered by the Parties and Close of Escrow occurs, the Parties acknowledge and agree that the Purchase Price shall be held by Escrow Holder to be disbursed in accordance with the instructions set forth in the Put Option Agreement.

7. Counterparts; Electronic Transmission, Authority. This Fifth Amendment may be executed in counterparts, and when so executed by the Parties hereto, each such counterpart shall be deemed an original. This Fifth Amendment may be executed and delivered as images of manually executed signatures transmitted by electronic format (including, without limitation, “pdf”, “tif” or “jpg”) or other electronic signatures (including, without limitation, DocuSign and AdobeSign), and shall be binding on the Party delivering the executed document with the same force and effect as the delivery of a printed copy of the document with an original ink signature. Each Party represents and warrants that the person who is executing this Fifth Amendment on its behalf has the full power and authority to execute this Amendment on its behalf and to bind it to the terms hereof.

8. Conflict and Force and Effect. In case of any inconsistency between this Fifth Amendment and other provisions of the Purchase Agreement, the provisions of this Fifth Amendment shall control. The Purchase Agreement, together with this Fifth Amendment, embodies the entire understanding between the Seller and Buyer with respect to its subject matter and can be changed only by an instrument in writing signed by Seller and Buyer. Except as modified by this Fifth Amendment, the Purchase Agreement is ratified, affirmed, in full force and effect, and incorporated herein by this reference.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Fifth Amendment effective as of the Effective Date.

SELLER:

**SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY OF SAN LEANDRO**

By: _____
Name: _____
Title: _____

Attest:

By: _____
Name: _____
Title: _____

Reviewed as to Form:

By: _____
Name: _____
Title: _____

CITY OF SAN LEANDRO

By: _____
Name: _____
Title: _____

Attest:

By: _____
Name: _____
Title: _____

Reviewed as to Form:

By: _____
Name: _____
Title: _____

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

BUYER:

BEAM DEVELOPMENT, LLC,
a California limited liability company

By: _____
Name: _____
Title: _____

ESCROW AGENT ACKNOWLEDGEMENT:

The Escrow Agent is executing this Purchase Agreement to evidence its agreement to hold the Purchase Price and act as escrow agent in accordance with the terms and conditions of this Purchase Agreement.

FIRST AMERICAN TITLE COMPANY

By: _____
Name: _____
Title: _____

EXHIBIT A

Form of Put Option Agreement

[see following pages]

5149016.1

PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this "**Agreement**") is entered into as of Dec 7 2017 (the "**Effective Date**"), by and between the Successor Agency to the Redevelopment Agency of the City of San Leandro, a public agency (the "**Agency**") and the City of San Leandro, a California charter city (the "**City**," and together with the Agency, the "**Seller**") and Beam Development, LLC, a California limited liability company ("**Buyer**"). Seller and Buyer are collectively referred to herein as the "**Parties**."

RECITALS

A. Agency is the owner of certain real property with addresses of 290 Davis Street, 250 Davis Street, 222 Davis Street, 212 Davis Street and 1199 E 14th Street, San Leandro, California, also known as Alameda County Assessor Parcel Numbers 075-0001-010-02, 075-0001-008-02, 075-0001-006-00, 075-0001-005-00 and 075-0001-004-00, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference, (collectively, the "**Agency Property**").

B. The Agency Property is included as a "for sale" property in the long-range property management plan prepared by Agency and approved by the California Department of Finance.

C. City is the owner of certain real property located 262 Davis Street, known as Assessor Parcel Number 075-0001-009-02, as more particularly described in Exhibit B attached hereto and incorporated herein by this reference, (the "**City Property**," and together with the Agency Property, the "**Property**").

D. Seller previously issued a public request for proposals for the sale and development of the Property (the "**RFP**").

E. Buyer submitted a proposal to Seller offering to pay the Seller Two-Million One-Hundred Thousand Dollars (\$2,100,000) for the Property (the "**Purchase Price**").

F. Seller has reviewed the sales price of comparable properties, as well as other responses to the RFP, and other facts which are relevant to the fair market value of the Property and has determined that the Purchase Price represents the fair market value of the Property.

G. The Agency has received approval from the Oversight Board to the Agency for the sale of the Agency Property to Buyer.

H. Buyer desires to purchase the Property to construct a residential mixed use development (the "**Project**") on the Property and on either one or both of the Adjacent Properties (as defined in Recital I. below).

I. In order to best utilize the Property for the Project, City desires that Buyer purchase one or both of the properties that are adjacent to the Property known as 1145 East 14th Street and 234 Davis Street (the "**Adjacent Properties**").

J. Seller is conditioning the sale of the Property on Buyer's ability to purchase either one of the Adjacent Properties due to the fact Seller does not believe the Project can be built on the Property without at least one of the Adjacent Properties. The parties hereto acknowledge that it is necessary for Buyer to have the right to extend the Due Diligence Contingency Period (as defined in Section 5.2(a) below) for an extended period of time due to the fact that it is the intention of Buyer to acquire one or both of the Adjacent Properties.

K. Buyer agrees to purchase the Property, and Seller agrees to sell the Property to Buyer, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the parties, Seller and Buyer hereby agree as follows:

1. INCORPORATION OF RECITALS AND EXHIBITS. The Recitals set forth above and the Exhibit attached to this Agreement are each incorporated into the body of this Agreement as if set forth in full.

2. PURCHASE AND SALE.

2.1 Agreement to Buy and Sell. Subject to the terms and conditions set forth herein, Seller agrees to sell the Property to Buyer, and Buyer hereby agrees to acquire the Property from Seller.

2.2 Purchase Price. The purchase price for the Property to be paid by Buyer to Seller (the "**Purchase Price**") is Two-Million One-Hundred Thousand Dollars (\$2,100,000). The Purchase Price will be paid in immediately available funds to Seller on the Closing Date (defined below) as set forth in Section 5.5 below.

3. ESCROW.

3.1 Escrow Account. Seller has opened an interest-bearing escrow account (the "**Escrow**") maintained by First American Title, 1850 Mt. Diablo Blvd., Suite 530 Walnut Creek, CA 94596 Attn: Pam Nicolini (the "**Escrow Holder**"), with interest accruing to the benefit of Buyer. Escrow Holder shall perform all escrow and title services in connection with this Agreement.

3.2 Opening of Escrow. Within seven (7) business days after the Effective Date, the Parties will deposit into Escrow the fully executed Agreement, or executed counterparts thereto. The date such fully executed Agreement is received by Escrow Holder will be deemed the "**Opening of Escrow**" and Escrow Holder will give written notice to the Parties of such occurrence.

3.3 Buyer's Deposit. Within three (3) business days after the Opening of Escrow, the Buyer shall deposit Two-Hundred Thousand Dollars (\$200,000) in Escrow (the "**Initial Deposit**"). One-Hundred Thousand Dollars (\$100,000) of the Initial Deposit is non-refundable in the event that this Agreement is terminated by Buyer through no fault of Seller after the expiration of the Due Diligence Contingency Period; provided, however, that all of Buyer's Deposit, including all of the \$200,000 comprising the Initial Deposit shall remain fully refundable to Buyer in the event there is a failure of a Buyer Conditions Precedent (as defined in

Section 5.2 below). If Buyer exercises its right to extend the Closing Date pursuant to Section 5.1, Buyer shall deposit an additional Twenty-Five Thousand Dollars (\$25,000) in Escrow for each such extension (each, an **“Additional Deposit”**). The Additional Deposits are non-refundable in the event that this Agreement is terminated by Buyer through no fault of Seller; provided, however, that all of Buyer’s Deposit, including all of the \$200,000 comprising the Initial Deposit shall remain fully refundable to Buyer in the event there is a failure of a Buyer Conditions Precedent. The Initial Deposit and Additional Deposit are collectively referred to herein as the **“Deposits.”** The Deposits are applicable to the Purchase Price at Closing.

3.4 Satisfaction of Due Diligence Contingency.

(a) Buyer shall have the right, in its sole discretion, to terminate this Agreement for any reason prior to the expiration of the Due Diligence Contingency Period (as defined in Section 5(a) below) and receive a refund of the Deposit. If Buyer elects to approve of its Due Diligence review, Buyer shall provide written notice to Seller prior to the expiration of the Due Diligence Contingency Period (**“Approval Notice”**). If Buyer fails to issue the Approval Notice before 5:00 p.m. on the last day of the Due Diligence Contingency Period, this Agreement shall terminate, and the Initial Deposit, together with interest thereon, if any, will be returned to Buyer, and neither Party shall have any further rights or obligations hereunder except those which expressly survive the termination hereof. If Buyer fails to timely deliver the Approval Notice to Seller, it will be conclusively presumed that Buyer has disapproved all such items, matters or documents.

(b) In the event that Buyer elects to extend the Closing Date, and Buyer elects to terminate this Agreement at any time following the issuance of the Approval Notice, so long as Seller is not in default and so long as all of the Buyer’s Conditions Precedent have been satisfied, then Buyer will only be entitled to the return of One Hundred Thousand Dollars (\$100,000) of the Initial Deposit and none of the Additional Deposits shall be refundable; provided, however, that all of Buyer’s Deposit, including all of the \$25,000 Additional Deposits shall remain fully refundable to Buyer in the event there is a failure of a Buyer Conditions Precedent or in the event of a default by Seller.

3.5 Independent Consideration. As independent consideration for Seller’s entering into this Agreement to sell the Property to Buyer, Buyer shall deliver the sum of Ten Dollars (\$10.00) to Seller through Escrow (**“Independent Consideration”**). In the event that Buyer terminates this Agreement in accordance with Section 3.4 above, or Seller terminates this Agreement in accordance with Section 3.5 above, Seller shall retain the Independent Consideration; in the event that Buyer does not terminate this Agreement as aforesaid, the Independent Consideration shall be applied to the Purchase Price at Closing.

4. PROPERTY DISCLOSURE REQUIREMENTS.

4.1 Condition of Title/Preliminary Title Report. Escrow Holder shall deliver a Preliminary Title Report for the Property (the **“Preliminary Report”**) to Buyer within three (3) days after the Opening of Escrow. Buyer shall have until the end of the Due Diligence Contingency Period to approve the condition of title to the Property. In the event Buyer provides written notice of any objection to any exceptions to title set forth in the Preliminary Report (**“Objectable Title Items”**) to Seller within the Due Diligence Contingency Period, Seller shall advise Buyer within ten (10) days thereafter whether or not Seller will remove any or all of the Objectable Title Items. If Seller is unwilling to remove all of the Objectable Title Items, Buyer shall have five (5) days after receiving Seller’s Title Notice to inform Seller in writing

whether or not Buyer will waive its right to object to any of the Objectionable Title Items which Seller is unwilling to remove. If Buyer is unwilling to waive any such Objectionable Title Items which Seller is unwilling to remove this Agreement shall terminate and the entire Initial Deposit shall be returned to Buyer immediately. As used herein the term "Permitted Exceptions" shall mean and refer only to those exceptions to title which Buyer has approved of or which Buyer has disapproved of and which Seller has agreed to remove prior to the Close of Escrow.

4.2 Environmental and Natural Hazards Disclosure. California Health & Safety Code section 25359.7 requires owners of non-residential real property who know, or have reasonable cause to believe, that any release of hazardous substances are located on or beneath the real property to provide written notice of same to the buyer of real property. Other applicable laws require Seller to provide certain disclosures regarding natural hazards affecting the Property. Seller agrees to make all necessary disclosures required by law within five (5) days after the Effective Date.

5. CLOSING AND PAYMENT OF PURCHASE PRICE.

5.1 Closing. The closing (the "**Closing**" or "**Close of Escrow**") will occur no later than ninety (90) days after the end of the Due Diligence Contingency Period ("**Closing Date**"). Buyer shall have the right to extend the Closing Date for five (5) -twelve (12) month Extension Periods (each such Extension is herein referred to as an "**Extension Period**"). In the event the Closing has not occurred within ninety (90) days after the end of the last Extension Period due to a delay in Buyer's receipt of entitlements for construction of the Project, then Close of Escrow may be extended up to an additional ninety (90) days (the "**Final Extension Period**") at the discretion of the Executive Director/City Manager of the Seller. Closing must occur by the earlier of (i) the receipt of entitlements for construction of the Project, or (ii) the end of the Final Extension Period. Pursuant to Section 3.3 of this Agreement, Buyer must provide an Additional Deposit of Twenty-Five Thousand Dollars (\$25,000) for each 12-month Extension Period.

5.2 Buyer's Conditions to Closing. Buyer's obligation to purchase the Property is subject to the satisfaction of all of the following conditions ("**Buyer's Conditions Precedent**") or Buyer's written waiver thereof (in Buyer's sole discretion) on or before the Closing Date:

(a) Buyer will have Twelve (12) months from the Opening of Escrow (the "**Due Diligence Contingency Period**") to complete physical inspections of the Property and due diligence related to the purchase of the Property. Seller shall provide to Buyer copies of all reasonably available and known documents relating to the ownership and operation of the Property, including but not limited to plans, permits and reports (environmental, structural, mechanical, engineering and land surveys) that Seller has in its possession not later than five (5) business days following the execution and delivery of this Agreement. All physical inspections must be coordinated with Seller's representative. Buyer hereby agrees to indemnify and hold Seller harmless for any damage to the Property caused (but not merely revealed) solely by Buyer's inspections.

(b) Seller has performed all obligations to be performed by Seller pursuant to this Agreement.

(c) Seller's representations and warranties herein are true and correct in all material respects as of the Closing Date.

(d) The Title Company is irrevocably committed to issue a-an ALTA Title Policy together with any title insurance endorsements requested by Buyer within the Due Diligence Contingency to Buyer, effective as of the Closing Date, insuring title to Buyer in the full amount of the Purchase Price subject only to the Permitted Exceptions.

(e) Buyer has received all necessary approvals from the appropriate governmental and/or regulatory entities, including but not limited to approvals from the City, that are needed for construction of the Project, including, but not limited to, zoning approvals for the Project and all necessary entitlements.

5.3 Seller's Conditions to Closing. The Close of Escrow and Seller's obligation to sell and convey the Property to Buyer are subject to the satisfaction of the following conditions or Seller's written waiver (in Seller's sole discretion) of such conditions on or before the Closing Date:

(a) Buyer has performed all obligations to be performed by Buyer pursuant to this Agreement before Closing Date.

(b) Buyer's representations and warranties set forth herein are true and correct in all material respects as of the Closing Date.

5.4 Conveyance of Title. Seller will deliver marketable fee simple title to Buyer at the Closing, subject only to the Permitted Exceptions. The Property will be conveyed by Seller to Buyer in an "as is" condition, with no warranty, express or implied, by Seller as to the physical condition including, but not limited to, the soil, its geology, or the presence of known or unknown faults or Hazardous Materials or hazardous waste (as defined by state and federal law); provided, however, that the foregoing shall not relieve Seller from disclosure of any such conditions of which Seller has actual knowledge.

5.5 Deliveries at Closing.

(a) Deliveries by Seller. In the title company standard form, Seller shall deposit into the Escrow for delivery to Buyer at Closing: (i) a grant deed; (ii) an affidavit or qualifying statement which satisfies the requirements of paragraph 1445 of the Internal Revenue Code of 1986, as amended, any regulations thereunder (the "**Non-Foreign Affidavit**"); and (iii) a California Franchise Tax Board form 590 to satisfy the requirements of California Revenue and Taxation Code Section 18805(b) and 26131.

(b) Deliveries by Buyer. No less than one (1) business day prior to the close of escrow, Buyer shall deposit into escrow immediately available funds in the amount, which together with the Deposits plus interest thereon, if any, is equal to: (i) the Purchase Price as adjusted by any prorations between the Parties; (ii) the escrow fees and recording fees; and (iii) the cost of the Title Policy.

(c) Closing. Upon Closing, Escrow Holder shall: (i) record the grant deed; (ii) disburse to Agency Agency's share of the Purchase Price, less Agency's share of any escrow fees, costs and expenses; (iii) disburse to City City's share of the Purchase Price, less City's share of any escrow fees, costs and expenses; (iv) deliver to Buyer the Non-Foreign Affidavit, the California Certificate and the original recorded grant deed; (v) pay any commissions and other expenses payable through escrow; and (vi) distribute to itself the payment of escrow fees and expenses required hereunder.

(d) Closing Costs. Buyer will pay all escrow fees (including the costs of preparing documents and instruments), and recording fees. Buyer will pay title insurance and title report costs and Agency and City will pay all governmental conveyance fees and all City and County transfer taxes. All other costs and fees shall be paid in accordance with custom and practice in Alameda County.

(e) Pro-Rations. At the close of escrow, the Escrow Agent shall make the following prorations: (i) property taxes will be prorated as of the Close of Escrow based upon the most recent tax bill available, including any property taxes which may be assessed after the close of escrow but which pertain to the period prior to the transfer of title to the Property to Buyer, regardless of when or to whom notice thereof is delivered and (ii) any bond or assessment that constitutes a lien on the Property at the Close of Escrow will be the responsibility of Buyer; provided, however, that all payments for all bonds and assessments that are due prior to the Close of Escrow shall be paid exclusively by Seller.

6. REPRESENTATIONS, WARRANTIES AND COVENANTS.

6.1 Seller's Representations, Warranties and Covenants. In addition to the representations, warranties and covenants of Seller contained in other sections of this Agreement, Seller hereby represents, warrants and covenants to Buyer that the statements below in this Section 6.1 are each true and correct as of the Closing Date provided however, if to Seller's actual knowledge any such statement becomes untrue prior to Closing, Seller will notify Buyer in writing and Buyer will have sixty (60) days thereafter to determine if Buyer wishes to proceed with Closing. If Buyer determines it does not wish to proceed, then the terms of Section 6.2 will apply.

(a) Authority. Seller is a public agency, lawfully formed, in existence and in good standing under the laws of the State of California. Seller has the full right, capacity, power and authority to enter into and carry out the terms of this Agreement. This Agreement has been duly executed by Seller, and upon delivery to and execution by Buyer is a valid and binding agreement of Seller.

(b) Encumbrances. Seller has not alienated, encumbered, transferred, mortgaged, assigned, pledged, or otherwise conveyed its interest in the Property or any portion thereof, nor entered into any Agreement to do so, and there are no liens, encumbrances, mortgages, covenants, conditions, reservations, restrictions, easements or other matters affecting the Property, except as disclosed in the Preliminary Report. Seller will not, directly or indirectly, alienate, encumber, transfer, mortgage, assign, pledge, or otherwise convey its interest prior to the Close of Escrow, as long as this Agreement is in force.

(c) There are no agreements affecting the Property except those which have been disclosed by Seller. There are no agreements which will be binding on the Buyer or the Property after the Close of Escrow, except (i) those which can be terminated on thirty (30) days prior written notice, and (ii) the Reciprocal Easement Agreement.

The truth and accuracy of each of the representations and warranties, and the performance of all covenants of Seller contained in this Agreement are conditions precedent to Buyer's obligation to proceed with the Closing hereunder. The foregoing representations and warranties shall survive the expiration, termination, or close of escrow of this Agreement and shall not be deemed merged into the deed upon closing.

6.2 Buyer's Representations and Warranties. In addition to the representations, warranties and covenants of Buyer contained in other sections of this Agreement, Buyer hereby represents, warrants and covenants to Seller that the statements below in this Section 6.5 are each true as of the Effective Date, and, if to Buyer's actual knowledge any such statement becomes untrue prior to Closing, Buyer shall so notify Seller in writing and if Buyer cannot cause any such representation to be true prior to the Close of Escrow, Seller shall have at least three (3) business days thereafter to determine if Seller wishes to proceed with Closing.


(a) Buyer is a California Corporation. Buyer has the full right, capacity, power and authority to enter into and carry out the terms of this Agreement. This Agreement has been duly executed by Buyer, and upon delivery to and execution by Seller shall be a valid and binding agreement of Buyer.

(b) Buyer is not bankrupt or insolvent under any applicable federal or state standard, has not filed for protection or relief under any applicable bankruptcy or creditor protection statute, and has not been threatened by creditors with an involuntary application of any applicable bankruptcy or creditor protection statute.

The truth and accuracy of each of the representations and warranties, and the performance of all covenants of Buyer contained in this Agreement are conditions precedent to Seller's obligation to proceed with the Closing hereunder.

7. REMEDIES In the event of a breach or default under this Agreement by Seller, if such breach or default occurs prior to Close of Escrow, or if at any time there is a failure of a Buyer Conditions Precedent, Buyer reserves the right to either (a) seek specific performance from Seller or (b) to do any of the following: (i) to waive the breach or default and proceed to close as provided herein; (ii) to extend the time for performance and the Closing Date until Seller is able to perform; or (iii) to terminate this Agreement upon written notice to Seller, whereupon Seller shall cause Escrow Holder to return to Buyer any and all sums (including all Deposits) placed into the Escrow by Buyer, and except for the rights and obligations expressly provided to survive termination of this Agreement, neither party shall have any further obligations or liabilities hereunder. IN THE EVENT OF A BREACH OR DEFAULT HEREUNDER BY BUYER AND THE CLOSING DOES NOT OCCUR DUE TO SUCH DEFAULT, SELLER'S SOLE REMEDY SHALL BE TO RETAIN \$100,000 OF THE DEPOSITS AS LIQUIDATED DAMAGES. THE PARTIES AGREE THAT IN SUCH INSTANCE, \$100,000 OF THE DEPOSITS REPRESENT A REASONABLE APPROXIMATION OF SELLER'S \$100,000 OF DAMAGES AND ARE NOT INTENDED AS A FORFEITURE OR PENALTY BUT RATHER AN ENFORCEABLE LIQUIDATED DAMAGES PROVISION PURSUANT TO CALIFORNIA CIVIL CODE SECTION 1671, ET SEQ. IN NO EVENT SHALL EITHER PARTY BE ENTITLED TO LOST PROFITS OR CONSEQUENTIAL DAMAGES AS A RESULT OF THE OTHER PARTY'S BREACH OF THIS AGREEMENT.


Buyer's Initials


Seller's Initials

8. BROKERS. Seller has appointed Jones Lang LaSalle ("**Broker**") as Seller's exclusive agent with respect to sale of the Property. Seller shall pay all fees due Broker in connection with the sale of the Property. Buyer represents that no real estate broker has been retained by Buyer in the procurement of the Property or negotiation of this Agreement. Buyer shall indemnify, hold harmless and defend Seller from any and all claims, actions and liability for

any breach of the preceding sentence, and any commission, finder's fee, or similar charges arising out of Buyer's conduct.

9. ASSIGNMENT. Absent an express signed written agreement between the Parties to the contrary, neither Seller nor Buyer may assign its rights or delegate its duties under this Agreement without the express written consent of the other, which consent shall not be unreasonably withheld or delayed. No permitted assignment of any of the rights or obligations under this Agreement shall result in a novation or in any other way release the assignor from its obligations under this Agreement.

10. MISCELLANEOUS.

10.1 Attorneys' Fees. If any party employs counsel to enforce or interpret this Agreement, including the commencement of any legal proceeding whatsoever (including insolvency, bankruptcy, arbitration, mediation, declaratory relief or other litigation), the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs (including the service of process, filing fees, court and court reporter costs, investigative fees, expert witness fees, and the costs of any bonds, whether taxable or not) and shall include the right to recover such fees and costs incurred in any appeal or efforts to collect or otherwise enforce any judgment in its favor in addition to any other remedy it may obtain or be awarded. Any judgment or final order issued in any legal proceeding shall include reimbursement for all such attorneys' fees and costs. In any legal proceeding, the "prevailing party" shall mean the party determined by the court to most nearly prevail and not necessarily the party in whose favor a judgment is rendered.

10.2 Interpretation. This Agreement has been negotiated at arm's length and each party has been represented by independent legal counsel in this transaction and this Agreement has been reviewed and revised by counsel to each of the Parties. Accordingly, each party hereby waives any benefit under any rule of law (including Section 1654 of the California Civil Code) or legal decision that would require interpretation of any ambiguities in this Agreement against the drafting party.

10.3 Survival. All indemnities, covenants, representations and warranties contained in this Agreement shall survive Close of Escrow.

10.4 Successors. Except as provided to the contrary in this Agreement, this Agreement shall be binding on and inure to the benefit of the Parties and their successors and assigns.

10.5 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

10.6 Integrated Agreement; Modifications. This Agreement contains all the agreements of the Parties concerning the subject hereof any cannot be amended or modified except by a written instrument executed and delivered by the parties. There are no representations, agreements, arrangements or understandings, either oral or written, between or among the parties hereto relating to the subject matter of this Agreement that are not fully expressed herein. In addition there are no representations, agreements, arrangements or understandings, either oral or written, between or among the Parties upon which any party is relying upon in entering this Agreement that are not fully expressed herein.

10.7 Severability. If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, any such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this Section, then the stricken provision shall be replaced, to the extent possible, with a legal, enforceable and valid provision this is in keeping with the intent of the Parties as expressed herein.

10.8 Notices. Any delivery of this Agreement, notice, modification of this Agreement, collateral or additional agreement, demand, disclosure, request, consent, approval, waiver, declaration or other communication that either party desires or is required to give to the other party or any other person shall be in writing. Any such communication may be served personally, or by nationally recognized overnight delivery service (i.e., Federal Express) which provides a receipt of delivery, or sent by prepaid, first class mail, return receipt requested to the party's address as set forth below:

To Buyer: Beam Development, LLC.
4100 Redwood Road, Suite 10-292
Oakland, CA 94611
Attn: Mukesh Bajaj

To Seller: Successor Agency to the
San Leandro Redevelopment Agency
835 East 14th Street
San Leandro, CA 94577
Attn: Economic Development Manager

City of San Leandro
835 East 14th Street
San Leandro, CA 94577
Attn: City Manager

To Escrow Holder: First American Title
1850 Mt. Diablo Blvd., Suite 530
Walnut Creek, CA 94596
Attn: Pam Nicolini
Escrow Number: _____

Any such communication shall be deemed effective upon personal delivery or on the date of first refusal to accept delivery as reflected on the receipt of delivery or return receipt, as applicable. Any party may change its address by notice to the other party. Each party shall make an ordinary, good faith effort to ensure that it will accept or receive notices that are given in accordance with this section and that any person to be given notice actually receives such notice.

10.9 Time. Time is of the essence to the performance of each and every obligation under this Agreement.

10.10 Days of Week. If any date for exercise of any right, giving of any notice, or performance of any provision of this Agreement falls on a Saturday, Sunday or holiday, the time for performance will be extended to 5:00 p.m. on the next business day.

10.11 Reasonable Consent and Approval. Except as otherwise provided in this Agreement, whenever a party is required or permitted to give its consent or approval under this Agreement, such consent or approval shall not be unreasonably withheld or delayed. If a party is required or permitted to give its consent or approval in its sole and absolute discretion or if such consent or approval may be unreasonably withheld, such consent or approval may be unreasonably withheld but shall not be unreasonably delayed.

10.12 Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to confirm the status of this Agreement or to carry out the intent and purposes of this Agreement.

10.13 Waivers. Any waiver by any party shall be in writing and shall not be construed as a continuing waiver. No waiver will be implied from any delay or failure to take action on account of any default by any party. Consent by any party to any act or omission by another party shall not be construed to be a consent to any other subsequent act or omission or to waive the requirement for consent to be obtained in any future or other instance.

10.14 Signatures/Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

10.15 Representation on Authority of Parties. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

10.16 Approvals. Whenever this Agreement calls for Seller approval, consent, extension or waiver, the written approval, consent, or waiver of the Seller's Executive Director or his or her designee(s) shall constitute the approval, consent, extension or waiver of the Seller, without further authorization required from the Seller's Board. The Seller hereby authorizes the Agency's Executive Director and his or her designee(s) to deliver any such approvals, consents, or extensions or waivers as are required by this Agreement, or that do not otherwise reduce Seller's rights under this Agreement, and to waive requirements under this Agreement, on behalf of the Seller.

SIGNATURES ON FOLLOWING PAGE

EXHIBIT A

LEGAL DESCRIPTION

290 Davis St. (APN: 075-0001-010-02)

PORTION OF LOTS "H", "I" AND "J", BLOCK 1, MAP OF THE TOWN OF SAN LEANDRO, FILED FEBRUARY 27, 1855, MAP BOOK 1, PAGE 19, ALAMEDA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERN LINE OF DAVIS STREET, AS SHOWN ON SAID MAP, WITH THE NORTHEASTERN LINE OF THE PARCEL OF LAND CONVEYED IN THE DEED BY DANIEL MURPHY TO CITY OF SAN LEANDRO, RECORDED JUNE 07, 1957 IN BOOK 8384 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 493 (AM/56913); AND RUNNING THENCE ALONG THE NORTHEASTERN LINE OF SAID CONVEYED IN SAID DEED, THE TWO FOLLOWING COURSES AND DISTANCES: NORTH 24° 58' 16" WEST, 108 FEET; THENCE NORTHERLY AND NORTHEASTERLY ON A CURVE TO THE RIGHT WITH A RADIUS OF 93.60 FEET, A DISTANCE OF 78.14 FEET, TO A LINE DRAWN NORTHWESTERLY, AT RIGHT ANGLES, TO SAID LINE OF DAVIS STREET FROM A POINT DISTANT THEREON NORTH 62° 00' EAST, 63 FEET FROM THE CENTER LINE OF HAYES STREET, AS SHOWN ON SAID MAP; THENCE ALONG

250 Davis St. (APN: 075-0001-008-02)

PORTION OF LOTS "H", "I" AND "J", BLOCK 1, "MAP OF THE TOWN OF SAN LEANDRO", FILED FEBRUARY 27, 1855, MAP BOOK 1, PAGE 19, ALAMEDA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERN LINE OF DAVIS STREET, WITH THE NORTHEASTERN LINE OF SAID LOT "J"; RUNNING THENCE ALONG SAID LINE OF LOT "J" AND ALONG THE NORTHEASTERN LINE OF SAID LOTS "I" AND "H" NORTH 28° WEST 212.48 FEET; THENCE SOUTH 42° WEST 42.57 FEET TO A LINE DRAWN PARALLEL WITH THE NORTHEASTERN LINE OF SAID LOTS AND DISTANT AT RIGHT ANGLES 40 FEET SOUTHWESTERLY THEREFROM; THENCE ALONG SAID PARALLEL LINE SOUTH 28° EAST 197 FEET, MORE OR LESS TO THE NORTHWESTERN LINE OF DAVIS STREET; AND THENCE ALONG THE LAST MENTIONED LINE NORTH 62° EAST 40 FEET TO THE POINT OF BEGINNING.

222 Davis St. (APN: 075-0001-006-00)

BEGINNING AT A POINT ON THE NORTHERN LINE OF DAVIS STREET, DISTANT THEREON WESTERLY 100 FEET FROM THE WESTERN LINE OF EAST 14TH STREET (FORMERLY WATKINS STREET, OR SAN LORENZO AVENUE); RUNNING THENCE WESTERLY ALONG SAID LINE OF DAVIS STREET 25 FEET; THENCE AT RIGHT ANGLES NORTHERLY 50 FEET; THENCE AT RIGHT ANGLES EASTERLY 25 FEET; THENCE AT RIGHT ANGLES SOUTHERLY 50 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF LOT "F", IN BLOCK NO. 1, AS SAID LOT AND BLOCK ARE DELINEATED AND SO DESIGNATED UPON THAT CERTAIN MAP ENTITLED "MAP OF THE TOWN OF SAN LEANDRO, COUNTY SEAT OF ALAMEDA COUNTY, SURVEYED FOR THE PROPRIETORS FEBRUARY 1855, BY H.A. HIGLEY, COUNTY SUPERVISOR", FILED

FEBRUARY 27, 1855, IN BOOK 2 OF MAPS, PAGE 43, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY.

BEGINNING AT A POINT ON THE NORTHERN LINE OF DAVIS STREET, DISTANT THEREON WESTERLY 75 FEET FROM THE WESTERN LINE OF EAST 14TH STREET (FORMERLY WATKINS STREET, OR SAN LORENZO AVENUE); RUNNING THENCE WESTERLY ALONG SAID LINE OF DAVIS STREET 25 FEET; THENCE AT RIGHT ANGLES NORTHERLY 50 FEET; THENCE AT RIGHT ANGLES EASTERLY 25 FEET; THENCE AT RIGHT ANGLES SOUTHERLY 50 FEET TO THE POINT OF BEGINNING, BEING A PORTION OF LOT "F", IN BLOCK NO. 1, AS SAID LOT AND BLOCK ARE DELINEATED AND SO DESIGNATED UPON THAT CERTAIN MAP ENTITLED "MAP OF THE TOWN OF SAN LEANDRO, COUNTY SEAT OF ALAMEDA COUNTY, SURVEYED FOR THE PROPRIETORS FEBRUARY 1855, BY H.A. HIGLEY, COUNTY SUPERVISOR", FILED FEBRUARY 27, 1855, IN BOOK 2 OF MAPS, PAGE 43, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY.

212 Davis St. (APN: 075-0001-005-00)

PORTION OF LOT "F" IN BLOCK 1, AS SAID LOT AND BLOCK ARE SHOWN ON THE "MAP OF THE TOWN OF SAN LEANDRO, COUNTY SEAT OF ALAMEDA COUNTY", FILED FEBRUARY 27, 1855, IN BOOK 2 OF MAPS, PAGE 43, IN THE OFFICE OF THE COUNTY RECORDER, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERN LINE OF DAVIS STREET, DISTANT THEREON SOUTHWESTERLY 50 FEET FROM THE INTERSECTION THEREOF WITH THE SOUTHWESTERN LINE OF EAST 14TH STREET, FORMERLY WATKINS STREET; RUNNING THENCE ALONG SAID LINE OF DAVIS STREET SOUTHWESTERLY 25 FEET; THENCE NORTHWESTERLY AND PARALLEL WITH SAID LINE OF EAST 14TH STREET 50 FEET; THENCE NORTHWESTERLY AND PARALLEL WITH SAID LINE OF DAVIS STREET 25 FEET; THENCE SOUTHEASTERLY PARALLEL WITH SAID LINE OF EAST 14TH STREET 50 FEET TO THE POINT OF BEGINNING.

1199 E 14th St. (APN: 075-0001-004-00)

THE NORTHEASTERN 50 FEET OF LOT F IN BLOCK 1, ACCORDING TO MAP OF THE TOWN OF SAN LEANDRO, ETC., FILED FEBRUARY 27, 1855, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY AND OF RECORD IN MAP BOOK 1, PAGE 19, SAID MAP WAS FILED IN MAP BOOK 1, PAGE 19 AND MAP BOOK 2, PAGE 4

EXHIBIT B

LEGAL DESCRIPTION

262 Davis St. (APN: 075-0001-009-02)

PORTION OF LOTS "H", "I" AND "J", BLOCK 1, MAP OF THE TOWN OF SAN LEANDRO, FILED FEBRUARY 27, 1855, MAP BOOK 1, PAGE 19, ALAMEDA COUNTY RECORDS, BOUNDED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERN LINE OF DAVIS STREET, DISTANT THEREON NORTH 62° 00' EAST 40.10 FEET ALONG SAID LINE OF DAVIS STREET FROM THE NORTHEASTERN LINE OF HAYS STREET, AS NOW IMPROVED; AND RUNNING THENCE ALONG SAID LINE OF DAVIS STREET NORTH 62° 00' EAST 52 FEET; THENCE NORTH 28° 00' WEST 197.92 FEET; THENCE ALONG THE SOUTHEASTERN LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED TO CITY OF SAN LEANDRO, RECORDED SEPTEMBER 05, 1957 IN BOOK 8460 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 321, SAID LINE BEING THE SOUTHEASTERN LINE OF HAYS STREET, AS NOW IMPROVED, SOUTH 42° 00' WEST 31.84 FEET AND SOUTHWESTERLY, ON THE ARC OF A TANGENT CURVE TO THE LEFT, WITH A RADIUS OF 94.50 FEET, A DISTANCE OF 24.98 FEET TO A LINE DRAWN NORTH 28° 00' WEST FROM THE POINT OF BEGINNING; THENCE SOUTH 28° 00' EAST 175.71 FEET TO THE TO THE POINT OF BEGINNING.

FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT
Town Hall Square

THIS FIRST AMENDMENT to Purchase and Sale Agreement (this "**Amendment**"), is entered into as of December 4, 2018 (the "**Amendment Date**"), by and among the Successor Agency to the Redevelopment Agency of the City of San Leandro, a public agency (the "**Agency**"), the City of San Leandro, a California charter city (the "**City**") and Beam Development LLC, a California limited liability company ("**Buyer**"), and amends that certain Purchase and Sale Agreement dated December 7, 2017 (the "**Agreement**") by and between City and Buyer. City, Agency and Buyer are collectively referred to herein as the "**Parties**." Capitalized terms used without definition herein have the meaning ascribed to such terms in the Agreement.

RECITALS

- A. Pursuant to the Agreement, Buyer has agreed to buy the City Property and the Agency Property for development of a mixed use project.
- B. Pursuant to Section 5.2(a) of the Agreement, Buyer has twelve months from the Opening of Escrow to conduct the Due Diligence Contingency Period.
- C. Buyer, Agency and the City have determined that it is necessary to continue the Due Diligence Contingency Period for an additional time period.
- D. Buyer has agreed to provide the Additional Deposit required under Section 5.1 of the Agreement in consideration of the City and Agency extending the Due Diligence Contingency Period.
- E. City, Agency and Buyer desire to enter into this Amendment in order to extend the Due Diligence Contingency Period.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Parties, City and Buyer hereby agree as follows:

Section 1. Recitals. The above recitals are true and the recitals, and defined terms set forth therein, are incorporated into this Amendment by this reference.

Section 2. Extension of Due Diligence Contingency Period. The Due Diligence Contingency Period is hereby extended to January 31, 2020 in order to provide additional time for Buyer to complete physical inspections of the Property and to negotiate for the purchase of adjacent property.

Section 3. Deposit into Escrow. Upon execution of this Amendment, Buyer will deposit Twenty-Five Thousand Dollars (\$25,000) into Escrow as an Additional Deposit. The Additional Deposit is non-refundable in the event that the Agreement is terminated by Buyer through no fault of City or Agency, as set forth in Section 3.3 of the Agreement.

Section 4. Closing. Section 5.1 of the Agreement is hereby amended as follows (underline and italics is addition, strike-through is delete):

Closing. The closing (the “**Closing**” or “**Close of Escrow**”) will occur no later than ninety (90) days after the end of the Due Diligence Contingency Period (“**Closing Date**”). Buyer shall have the right to extend the Closing Date for ~~five~~ four (4) twelve (12) month Extension Periods (each such Extension is herein referred to as an “**Extension Period**”). In the event the Closing has not occurred within ninety (90) days after the end of the last Extension Period due to a delay in Buyer’s receipt of entitlements for construction of the Project, then Close of Escrow may be extended up to an additional ninety (90) days (the “**Final Extension Period**”) at the discretion of the Executive Director/City Manager of the Seller. Closing must occur by the earlier of (i) ten (10) days after the receipt of entitlements for construction of the Project, or (ii) the end of the Final Extension Period. Pursuant to Section 3.3 of this Agreement, Buyer must provide an Additional Deposit of Twenty-Five Thousand Dollars (\$25,000) for each 12-month Extension Period.

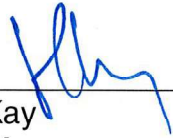
Section 5. Ratification. Except as otherwise expressly set forth herein, all other terms and conditions of the Agreement remain unchanged and in full force and effect.

SIGNATURES ON FOLLOWING PAGE

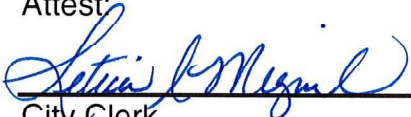
IN WITNESS WHEREOF, Buyer, Agency and City have duly executed this Amendment on the dates set forth below.

City:


City of San Leandro,
a California charter city

By: 
Jeff Kay
City Manager

Attest:

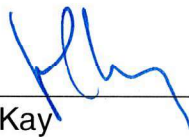

City Clerk

Approved as to Form:



Richard Pio Roda, City Attorney

Agency:

Successor Agency to the Redevelopment
Agency of the City of San Leandro,
a public agency

By: 
Jeff Kay
Executive Director

Attest:

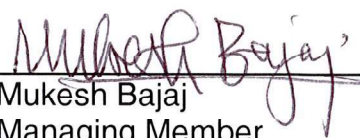

Agency Secretary

Approved as to Form:


Richard Pio Roda, Agency Counsel

Buyer:

Beam Development, LLC
a California limited liability company

By: 
Name: Mukesh Bajaj
Its: Managing Member

SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT

Town Hall Square

THIS SECOND AMENDMENT to Purchase and Sale Agreement (this "**Amendment**"), is entered into as of January 31, 2020 (the "**Amendment Date**"), by and among the Successor Agency to the Redevelopment Agency of the City of San Leandro, a public agency (the "**Agency**"), the City of San Leandro, a California charter city (the "**City**") and Beam Development LLC, a California limited liability company ("**Buyer**"), and amends that certain Purchase and Sale Agreement dated December 7, 2017 (the "**Agreement**") by and between City and Buyer, as previously amended by the First Amendment to Purchase and Sale Agreement, dated December 4, 2018 (the "**First Amendment**"). City, Agency and Buyer are collectively referred to herein as the "**Parties**." Capitalized terms used without definition herein have the meaning ascribed to such terms in the Agreement.

RECITALS

A. Pursuant to the Agreement, Buyer has agreed to buy the City Property and the Agency Property for development of a mixed use project.

B. Pursuant to Section 5.2(a) of the Agreement, Buyer had twelve months from the Opening of Escrow to conduct the Due Diligence Contingency Period.

C. Pursuant to Section 2 of the First Amendment, the Parties extended the Due Diligence Contingency Period to January 31, 2020 in order to provide additional time for Buyer to complete physical inspections of the Property and to negotiate for the purchase of adjacent property.

D. Pursuant to Section 3 of the First Amendment, Buyer provided the Additional Deposit required under Section 5.1 of the Agreement in consideration of the City and Agency extending the Due Diligence Contingency Period.

E. Pursuant to Section 4 of the First Amendment, the Parties revised provided that the Buyer had only four (4) twelve month Extension Periods of the Closing.

F. Buyer, Agency and the City have determined that it is necessary to continue the Due Diligence Contingency Period for an additional time period.

G. Buyer has agreed to provide the Additional Deposit required under Section 5.1 of the Agreement in consideration of the City and Agency extending the Due Diligence Contingency Period.

H. City, Agency and Buyer desire to enter into this Amendment in order to extend the Due Diligence Contingency Period.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Amendment, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Parties, City and Buyer hereby agree as follows:

Section 1. Recitals. The above recitals are true and the recitals, and defined terms set forth therein, are incorporated into this Amendment by this reference.

Section 2. Extension of Due Diligence Contingency Period. The Due Diligence Contingency Period is hereby extended to January 31, 2021 in order to provide additional time for Buyer to complete physical inspections of the Property and to negotiate for the purchase of adjacent property. Buyer shall have the right to extend the Due Diligence Contingency Period for one (1) additional twelve (12) month extension.

Section 3. Deposit into Escrow. Upon execution of this Amendment, Buyer will deposit Twenty-Five Thousand Dollars (\$25,000) into Escrow as an Additional Deposit. Should the Buyer elect to extend the Due Diligence Contingency Period beyond January 31, 2021 pursuant to Section 2 of this Amendment, Buyer will deposit an additional Twenty-Five Thousand Dollars (\$25,000) into Escrow as an Additional Deposit. The Additional Deposit is non-refundable in the event that the Agreement is terminated by Buyer through no fault of City or Agency, as set forth in Section 3.3 of the Agreement.

Section 4. Closing. Section 5.1 of the Agreement, as amended by the First Amendment, is hereby amended as follows (underline and italics is addition, strike-through is delete):

Closing. The closing (the "**Closing**" or "**Close of Escrow**") will occur no later than *one hundred eighty (180)* days after the end of the Due Diligence Contingency Period ("**Closing Date**"). In the event the Closing has not occurred within *one hundred eighty (180)* days after the Close of Escrow due to a delay in Buyer's receipt of entitlements for construction of the Project, then Close of Escrow may be extended up to an additional ninety (90) days (the "**Final Extension Period**") at the discretion of the Executive Director/City Manager of the Seller. Closing must occur by the earlier of (i) ten (10) days after the receipt of entitlements for construction of the Project, or (ii) the end of the Final Extension Period.


Section 5. Ratification. Except as otherwise expressly set forth herein, all other terms and conditions of the Agreement remain unchanged and in full force and effect.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, Buyer, Agency and City have duly executed this Amendment on the dates set forth below.


City:

City of San Leandro,
a California charter city

By: 

Jeff Kay
City Manager

Attest:



City Clerk

Approved as to Form:



Richard Pio Roda, City Attorney

Agency:

Successor Agency to the Redevelopment
Agency of the City of San Leandro,
a public agency

By: 

Jeff Kay
Executive Director

Attest:



Agency Secretary

Approved as to Form:



Richard Pio Roda, Agency Counsel

Buyer:

Beam Development, LLC
a California limited liability company

By: 
Name: Mukesh Bajaj ANITA SBARAJ
Its: Managing Member

THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT Town Hall Square

THIS THIRD AMENDMENT to Purchase and Sale Agreement (this “**Amendment**”), is entered into as of January 31, 2022 (the “**Amendment Date**”), by and among the Successor Agency to the Redevelopment Agency of the City of San Leandro, a public agency (the “**Agency**”), the City of San Leandro, a California charter city (the “**City**”) and Beam Development LLC, a California limited liability company (“**Buyer**”), and amends that certain Purchase and Sale Agreement dated December 7, 2017 (the “**Agreement**”) by and between City and Buyer, as previously amended by the First Amendment to Purchase and Sale Agreement, dated December 4, 2018 (the “**First Amendment**”), and amended again by the Second Amendment to Purchase and Sale Agreement dated January 31, 2020 (the “**Second Amendment**”). City, Agency and Buyer are collectively referred to herein as the “**Parties**” and individually as a “**Party**”. Capitalized terms used without definition herein have the meaning ascribed to such terms in the Agreement.

RECITALS

A. Subject to the terms and conditions set forth in the Agreement, Buyer has agreed to buy the City Property and the Agency Property for development of a project.

B. Pursuant to Section 5.2(a) of the Agreement, Buyer had twelve (12) months from the Opening of Escrow to conduct due diligence, the foregoing being the Due Diligence Contingency Period. The Agreement provided that the Due Diligence Contingency Period could be extended for up to five additional twelve-month Extension Periods, to as late as December 7, 2023, with the close of escrow required to occur within ninety (90) days thereafter.

C. Pursuant to Section 2 of the First Amendment, the Parties extended the Due Diligence Contingency Period to January 31, 2020 in order to provide additional time for Buyer to complete physical inspections of the Property and to negotiate for the purchase of adjacent property.

D. Pursuant to Section 3 of the First Amendment, Buyer provided the Additional Deposit required under Section 5.1 of the Agreement in consideration of the City and Agency extending the Due Diligence Contingency Period.

E. Pursuant to Section 4 of the First Amendment, the Parties revised a provision such that the Buyer had only four (4) twelve-month Extension Periods with respect to the timing for the Closing.

F. Pursuant to Section 2 of the Second Amendment, the Parties further extended the Due Diligence Contingency Period to January 31, 2021 in order to provide additional time for Buyer to complete physical inspections of the Property and to negotiate for the purchase of adjacent property.

G. Pursuant to Section 3 of the Second Amendment, Buyer provided an Additional Deposit in consideration of the City and Agency further extending the Due Diligence Contingency Period.

H. Pursuant to Section 2 of the Second Amendment, on January 26, 2021, Buyer exercised its right to seek an additional extension of the Due Diligence Contingency Period to January 31, 2022, and provided an Additional Deposit in accordance with Section 5.1 of the Agreement.

I. Buyer, Agency and the City have determined that it is necessary to continue the Due Diligence Contingency Period for an additional time period, as set forth in more detail below, to allow the Buyer to complete a soils investigation and evaluate the implications of same related to additional potential costs and changes to the architectural design of the proposed development.

J. Buyer has agreed to provide the Additional Deposit required under Section 5.1 of the Agreement in consideration of the City and Agency further extending the Due Diligence Contingency Period.

K. City, Agency and Buyer desire to enter into this Amendment in order to further extend the Due Diligence Contingency Period.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Amendment, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Parties, Agency, City and Buyer hereby agree as follows:

Section 1. Recitals. The above recitals are true and the recitals, and defined terms set forth therein, are incorporated into this Amendment by this reference.

Section 2. Extension of Due Diligence Contingency Period. The Due Diligence Contingency Period is hereby extended to May 31, 2022 in order to provide additional time for Buyer to complete a soils investigation and evaluate the implications of same related to additional potential costs and changes to the architectural design of the proposed development.

Section 3. Deposit into Escrow. Within five (5) business days of the Amendment Date, Buyer shall deposit Twenty-Five Thousand Dollars (\$25,000) into Escrow as an Additional Deposit. The Additional Deposit is non-refundable in the event that the Agreement is terminated by Buyer through no fault of City or Agency, as set forth in Section 3.3 of the Agreement.

Section 4. Ratification. Except as otherwise expressly set forth herein, all other terms and conditions of the Agreement remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Buyer, Agency and City have duly executed this Amendment on the dates set forth below.

City:

City of San Leandro,
a California charter city

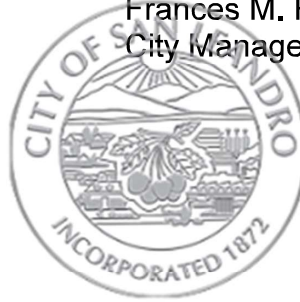
Attest: Signed by:
Leticia I. Miguel
575DDE0FDA5642B...

Leticia I. Miguel, City Clerk

Approved as to Form:
Richard Pio Roda
7B41538F6D5E470...

Richard Pio Roda, City Attorney

DS
DocuSigned by:
Fran Robustelli
C063C023AF624E3...
By: _____
Frances M. Robustelli
City Manager



SEAL

Agency:

Successor Agency to the Redevelopment
Agency of the City of San Leandro,
a public agency

Attest: Signed by:
Leticia I. Miguel
575DDE0FDA5642B...

Leticia I. Miguel, Agency Secretary

Approved as to Form:
Richard Pio Roda
7B41538F6D5E470...

Richard Pio Roda, City Attorney

DS
DocuSigned by:
Fran Robustelli
C063C023AF624E3...
By: _____
Frances M. Robustelli
Executive Director



SEAL

Buyer:

Beam Development, LLC
a California limited liability company

DocuSigned by:
Mukesh Bajaj
43F04CEF92A5416...
By: _____
Name: Mukesh Bajaj
Its: Managing Member

FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT
Town Hall Square

THIS FOURTH AMENDMENT to Purchase and Sale Agreement (this “**Amendment**”) is entered into as of May 31, 2022 (the “**Amendment Date**”), by and among the Successor Agency to the Redevelopment Agency of the City of San Leandro, a public agency (the “**Agency**”), the City of San Leandro, a California charter city (the “**City**”), and Beam Development LLC, a California limited liability company (“**Buyer**”), and amends that certain Purchase and Sale Agreement dated December 7, 2017 by and between City and Buyer, as previously amended by the First Amendment to Purchase and Sale Agreement, dated December 4, 2018, the Second Amendment to Purchase and Sale Agreement, dated January 31, 2020, and the Third Amendment to Purchase and Sale Agreement, dated January 31, 2022 (as amended, the “**Agreement**”). City, Agency and Buyer are individually referred to herein as a “**Party**” and collectively referred to herein as the “**Parties.**” Capitalized terms used without definition herein have the meaning ascribed to such terms in the Agreement.

RECITALS

A. Subject to the terms and conditions set forth in the Agreement, Buyer has agreed to purchase certain real property owned by the City and the Agency located at 212 Davis Street, 222 Davis Street, 250 Davis Street, 290 Davis Street, and 1199 E. 14th Street, in the City of San Leandro (the “**Property**”) for development of a project thereon.

B. Pursuant to Section 5.2(a) of the Agreement, Buyer has a period to complete physical inspections of the Property and due diligence related to the purchase of the Property (the “**Due Diligence Contingency Period**”), which expires on May 31, 2022. The Parties have determined that it is necessary to continue the Due Diligence Contingency Period for additional time for Buyer to complete the investigation of the soils condition of the Property and to evaluate the implications of the soils condition on the potential costs, land use entitlement process, environmental review, and architectural design of the proposed project.

C. City, Agency and Buyer desire to enter into this Amendment to extend the Due Diligence Contingency Period, and to make related changes to the date for close of escrow for the Buyer’s purchase of the Property.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Amendment, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Parties, Agency, City and Buyer hereby agree as follows:

Section 1. Recitals. The above recitals are true, and the recitals and defined terms set forth therein are incorporated into this Amendment by this reference.

Section 2. Closing. The “Closing” or “Close of Escrow” for the sale of the Property, as set forth in Section 5.1 of the Agreement, shall occur no later than December 31, 2022. No Party shall have any rights to extend the Closing or Closing Date beyond the foregoing date.

Section 3. Extension of Due Diligence Contingency Period. The Due Diligence Contingency Period, as set forth in Section 5.2(a) of the Agreement, is hereby extended to September 30, 2022. No Party shall have any rights to extend the Due Diligence Contingency Period beyond the foregoing date.

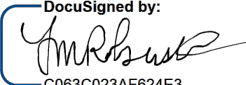
Section 4. Ratification. Except as otherwise expressly set forth herein, all other terms and conditions of the Agreement remain unchanged and in full force and effect.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, Buyer, Agency and City have duly executed this Amendment on the dates set forth below.

City:

City of San Leandro,
a California charter city

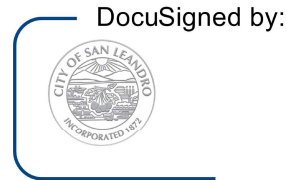
DocuSigned by:

C063C023AF624E3...
By: _____
Frances M. Robustelli,
City Manager

Attest:


DocuSigned by:

F21D2CCCC7F54D6...

Kelly B. Clancy, Acting City Clerk



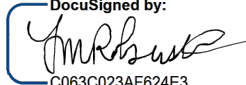
Approved as to Form:

DocuSigned by:

7B41538F6D5F470...

Richard M. Pio Roda, City Attorney

Agency:

Successor Agency to the Redevelopment
Agency of the City of San Leandro,
a public agency

DocuSigned by:

C063C023AF624E3...
By: _____
Frances M. Robustelli,
Executive Director

Attest:


DocuSigned by:

F21D2CCCC7F54D6...

Kelly B. Clancy, Acting Secretary



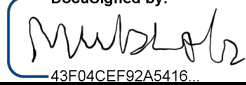
Approved as to Form:

DocuSigned by:

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Richard M. Pio Roda, Agency Counsel

Buyer:

Beam Development, LLC
a California limited liability company

DocuSigned by:

43F04CEF92A5416...
By: _____
Name: Mukesh Bajaj
Its: Managing Member

Attachment A, Exhibit B - Put Option Agreement

**PUT OPTION AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**
Town Hall Square

THIS PUT OPTION AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this “**Put Option Agreement**”), dated as of December __, 2022 (the “**Effective Date**”), is between SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN LEANDRO, a public agency (the “**Agency**”), the CITY OF SAN LEANDRO, a California charter city (the “**City**,” and together with the Agency, “**City/Agency**”), and BEAM DEVELOPMENT, LLC, a California limited liability company (“**Beam**”). The City, Agency, and Beam are each referred to individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

A. The Parties entered into that certain *Purchase and Sale Agreement and Joint Escrow Instructions* dated as of December 7, 2017 (the “**Original Agreement**”), as amended by that certain *First Amendment to Purchase and Sale Agreement* dated as of December 4, 2018 (the “**First Amendment**”), that certain *Second Amendment to Purchase and Sale Agreement* dated as of January 30, 2020 (the “**Second Amendment**”), that certain *Third Amendment to Purchase and Sale Agreement* dated as of January 31, 2022 (the “**Third Amendment**”), that certain *Fourth Amendment to Purchase and Sale Agreement* dated as of May 31, 2022 (the “**Fourth Amendment**”), and that certain *Fifth Amendment to Purchase and Sale Agreement* dated as of July 18, 2022 (the “**Fifth Amendment**”), and collectively with the Original Agreement, First Amendment, Second Amendment, Third Amendment, Fourth Amendment and Fifth Amendment, the “**Purchase Agreement**”). The Purchase Agreement involves the conveyance of the Property from City/Agency to Beam for the purpose of facilitating its ultimate redevelopment consistent with the overall land use vision and relevant goals and objectives as set forth in the City’s relevant planning documents (e.g., the City’s General Plan).

B. As provided in Section 5 of the Fifth Amendment, Beam has the right in its sole discretion, but not the obligation (a) to proceed to Closing (as that term is defined in the Purchase Agreement) prior to satisfaction of the Entitlements Condition, and (b) to require City/Agency to accept a conveyance of the Property from Beam pursuant to the terms hereof (the “**Put Option**”) by Beam delivering written notice to City/Agency of Beam’s election to do so at least thirty (30) days in advance of Closing but no later than November 30, 2022. Beam provided said notice to City/Agency on _____, 2022. Thereafter, Beam purchased the Property pursuant to the terms of the Purchase Agreement concurrently with the date of this Put Option Agreement (“**Acquisition Date**”).

C. This Put Option Agreement sets forth the Parties’ mutual understanding and agreement regarding the mechanics for the conveyance of the Property from Beam to City/Agency pursuant to the Put Option.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing, the Parties hereby agree as follows:

ARTICLE 1

CERTAIN DEFINITIONS

1.1 Definitions. Capitalized terms used and not otherwise defined herein have the meaning ascribed to them in the Purchase Agreement. The Parties hereby agree that the following terms shall have the meanings hereinafter set forth, such definitions to be applicable equally to the singular and plural forms, and to the masculine and feminine forms, of such terms:

1.1.1 “Acquisition Date” shall have the meaning set forth in Recital B above.

1.1.2 “Beam’s Warranties” shall mean all of Beam’s covenants, obligations, indemnities, representations and warranties under this Put Option Agreement and any Closing documents, but subject to any express limitations on survival or liability contained herein or therein.

1.1.3 “CEQA” shall mean the California Environmental Quality Act (Pub. Res. Code § 21000 *et seq.*) and the CEQA Guidelines (Cal. Code of Reg., Tit. 14, § 15000 *et seq.*).

1.1.4 “City Discretionary Entitlements” shall have the meaning set forth in Section 4 of the Fifth Amendment.

1.1.5 “City Discretionary Entitlements Litigation” shall mean any third-party litigation filed challenging the City Discretionary Entitlements, the Purchase Agreement and/or this Put Option Agreement, including, without limitation, on grounds under CEQA, the Planning and Zoning laws (Gov’t Code §§ 65000-66499.58), the Subdivision Map Act (Gov’t Code §§ 66410-66499.40), and/or the Surplus Lands Act (Gov’t Code § 54220 *et seq.*).

1.1.6 “Closing” and **“Close of Escrow”** shall have the meaning ascribed in Section 8.4.1 below.

1.1.7 “Closing Date” shall mean the date set forth in Section 8.4.1 below.

1.1.8 “Effective Date” is defined in the introductory paragraph of this Put Option Agreement.

1.1.9 “Improvements” shall mean, collectively, the buildings, improvements, parking lots and structures located on the Property.

1.1.10 “Land” shall mean the real property, as described on Exhibit A attached hereto and incorporated herein by this reference.

1.1.11 “Permitted Exceptions” shall mean and include all of the following: (a) all “Permitted Exceptions” as defined in the Purchase Agreement; (b) title

exceptions created or imposed in accordance with the Purchase Agreement; (c) any other lien or encumbrance that City/Agency agrees, in their respective sole discretion, to accept as a title exception; and (d) any title exception caused by or created by City/Agency.

1.1.12 “Personal Property” shall mean all of the right, title, and interest of Beam in and to the tangible personal property, which is located at and used in connection with the operation of the Real Property and any buildings thereon as of the Closing Date.

1.1.13 “Property” shall mean, collectively, the Real Property and the Personal Property.

1.1.14 “Purchase Agreement” shall have the meaning ascribed in Recital A above.

1.1.15 “Purchase Price” shall have the meaning ascribed in Section 2.2 below.

1.1.16 “Put Option” shall have the meaning ascribed in Recital C above.

1.1.17 “Put Option Election Notice” shall mean the notice provided by Beam to City/Agency during the Term of this Put Option Agreement to notify City/Agency that Beam has elected to exercise its Put Option and require that City/Agency accept conveyance of the Property pursuant to the terms hereof.

1.1.18 “Real Property” shall mean the Land and the Improvements with respect to the Property.

1.1.19 “Site” means the Property.

1.1.20 “Term” shall mean that period of time from the Effective Date until the earlier of (a) the date of Close of Escrow of the reconveyance of the Property to City/Agency in accordance herewith; (b) September 30, 2023, if Beam has not delivered the Put Option Election Notice on or before such date; (c) the date that is one hundred (100) days after City has approved the City Discretionary Entitlements; and (d) the date that Beam delivers written notice to City/Agency that Beam has elected, in Beam’s sole and absolute discretion, to terminate this Put Option Agreement and retain ownership of the Property. Notwithstanding anything to the contrary in the foregoing, upon Beam’s written request to City/Agency, if City Discretionary Entitlement Litigation has been filed, then the Term shall be extended for a period of one-hundred and twenty (120) days from the date of such filing. Beam and City/Agency, acting through the City Manager/Agency Executive Director, may also mutually agree to extend the Term in their sole discretion.

1.1.21 “Updated Development Proposal” shall mean the multi-family residential project on the Property, with the related on- and off-site improvements, as reflected in the approved City Discretionary Entitlements.

1.2 Rules of Construction. Article and Section captions used in this Put Option Agreement are for convenience only and shall not affect the construction of this Put

Option Agreement. All references to “Article” or “Sections” without reference to a document other than this Put Option Agreement, are intended to designate articles and sections of this Put Option Agreement, and the words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Put Option Agreement as a whole and not to any particular Article or Section, unless specifically designated otherwise. The use of the term “including” shall mean in all cases “including but not limited to,” unless specifically designated otherwise. The Parties agree that each Party and its counsel or advisor have reviewed and revised this Put Option Agreement and, accordingly, no rules of construction against the drafter of this Put Option Agreement shall apply in any interpretation or enforcement of this Put Option Agreement, any documents or certificates executed pursuant hereto, or any provisions of any of the foregoing. Any deletion of language from this Put Option Agreement prior to its execution by City/Agency and Beam shall not be construed to raise any presumption, canon of construction or implication, including, without limitation, any implication that the Parties intended thereby to state the converse of the deleted language.

ARTICLE 2

AGREEMENT OF PURCHASE AND SALE; PURCHASE PRICE

2.1 Put Option Election Notice; Agreement of Purchase and Sale. Beam shall have the right, but not the obligation, in Beam’s sole and absolute discretion, to deliver the Put Option Election Notice to City/Agency in writing at any time during the Term. Subject to Beam’s timely delivery of the Put Option Election Notice to City/Agency, Beam agrees to sell, transfer, assign and convey to City/Agency, and City/Agency agree to purchase, accept and assume subject to the terms and conditions stated herein, all of Beam’s right, title and interest in and to the Property. For the avoidance of any doubt, the obligation to purchase pursuant to this Section 2.1 shall be for (a) Agency to purchase those portions of the Property that Agency previously owned, and (b) City to purchase those portions of the Property that City previously owned.

2.2 Purchase Price. City/Agency shall pay Beam the purchase price of Two Million One Hundred Thousand and No/100 Dollars (\$2,100,000) (the “**Purchase Price**”) at Closing in cash or other immediately available federal funds.

2.3 Purchase Price Held In Escrow. As provided in the Fifth Amendment, the Purchase Price shall be held by Escrow Agent, or in a substantially similar escrow-like account upon the parties’ mutual agreement, from the Acquisition Date until the earlier to occur of (a) the date that Beam reconveys the Property to City/Agency in accordance with this Put Option Agreement, in which case such funds plus interest accrued thereon while in Escrow shall be disbursed to Beam, or (b) the expiration of the Term, which Beam and City/Agency shall promptly confirm in writing to Escrow Agent, in which case such funds plus interest accrued thereon while in Escrow shall be promptly disbursed to City/Agency.

2.4 Contract Consideration. Notwithstanding anything in this Put Option Agreement to the contrary, in any event where the Purchase Price funds in Escrow are to be disbursed to City/Agency, One Hundred and No/100ths Dollars (\$100.00) thereof shall be paid

by Escrow Agent to Beam as consideration for the rights and privileges granted to City/Agency herein, thus making this Put Option Agreement the valid and binding obligation of the Parties.

ARTICLE 3

CITY/AGENCY'S DUE DILIGENCE/CONDITION OF THE PROPERTY

3.1 City's/RDA's Inspections and Due Diligence. City/Agency acknowledge that, as the prior owners of the Property, as of the Effective Date hereof, City/Agency have conducted their respective examinations, inspections, testing, studies and investigations of the Property, information regarding the Property and such documents applicable to the Property (collectively, the "Due Diligence").

3.2 Approval of Due Diligence Review. As of the Effective Date, and subject to Beam's timely delivery of the Put Option Election Notice in accordance with this Put Option Agreement, City/Agency have affirmatively elected to proceed to Closing and shall have no right to terminate or otherwise modify their respective obligations hereunder; provided, however, that City/Agency shall have the right to reasonably approve substantial, material changes in the condition of the Property which significantly decrease the value thereof and which have occurred after the Acquisition Date as a condition precedent to Closing in accordance with Section 8.3.5 hereof. Notwithstanding anything to the contrary in the foregoing, if City/Agency seek to rely on any such disapproval as a basis to not proceed to Closing, then City/Agency shall (a) notify Beam within ten (10) days of City/Agency's discovery of same; (b) reasonably document with specificity the alleged substantial, material change as well as the significant decrease in value as a result thereof; and (c) provide Beam with a reasonable opportunity to cure by placing the Property in substantially the same condition prior to the alleged change and if Beam elects to so cure and notifies City/Agency accordingly, then (i) the Term shall be extended to allow reasonably sufficient time for said cure to be effectuated, and (ii) once said cure occurs, then this condition precedent shall be considered satisfied and City/Agency shall proceed to Closing.

ARTICLE 4

TITLE AND SURVEY

4.1 Title Insurance. At Closing, the Title Company shall issue to City/Agency or be irrevocably committed to issue to City/Agency an ALTA 2006 extended coverage form title policy in such form (including as to endorsements) in the amount of the Purchase Price, insuring that fee simple title to the Real Property is vested in City/Agency subject only to the Permitted Exceptions (the "Title Policy"). City/Agency shall be entitled to request that the Title Company increase the liability of the Title Policy beyond the Purchase Price or request changes or further endorsements to the Title Policy provided that the same shall (a) be at no cost to Beam, (b) impose no additional liability on Beam, (c) not be a condition to the Closing and, accordingly, if City/Agency are unable to obtain any of the foregoing, City/Agency shall nevertheless be obligated to proceed to close the transaction contemplated by

this Put Option Agreement without reduction of or set off against the Purchase Price, and (d) the Closing shall not be delayed as a result of City/Agency's request.

ARTICLE 5

REMEDIES AND DEPOSIT INSTRUCTIONS

5.1 Permitted Termination; Beam Default. If the sale of the Property is not consummated due to the uncured default of this Put Option Agreement by Beam, City/Agency shall have the right as their sole and exclusive remedy, to terminate this Put Option Agreement by written notice to Beam, promptly after which the Purchase Price funds held in escrow (and interest earned thereon) shall be disbursed to City/Agency, and City/Agency shall release Beam by way of documentation in form and substance reasonably acceptable to Beam from all other liability and recovery, including, without limitation, specific performance and damages of any sort. Notwithstanding anything to the contrary contained herein, Beam shall not be deemed in default unless and until City/Agency provide Beam with written notice of such default and Beam fails to cure such default within five (5) business days of its receipt of such written notice.

5.2 Permitted Termination; City/RA Default. If the sale of the Property is not consummated due to the uncured default of this Put Option Agreement by City/Agency, then, as Beam's sole and exclusive remedy, Beam shall have the right to initiate a suit for specific performance of this Put Option Agreement against City/Agency within ninety (90) days of the date the Closing was otherwise to occur. Notwithstanding anything to the contrary contained herein, City/Agency shall not be deemed in default unless and until Beam provides City/Agency with written notice of such default and City/Agency fail to cure such default within thirty (30) days of their receipt of such written notice.

5.3 Escrowed Funds Instructions. The Escrow Agent shall invest the amount in Escrow in accounts that are federally insured or that invest solely in government securities and shall be applied in accordance with the terms of the Purchase Agreement and this Put Option Agreement. Interest earned thereon shall be added to the funds held in Escrow.

ARTICLE 6

REPRESENTATIONS, WARRANTIES; AS-IS; WAIVERS AND RELEASES

6.1 Beam's Representations and Warranties. Beam represents and warrants to City/Agency the following:

6.1.1 Status. Beam is a limited liability company duly organized or formed, validly existing and in good standing under the laws of the State of California and qualified to transact business and in good standing in the State of California.

6.1.2 Authority. The execution and delivery of this Put Option Agreement and the performance of Beam's obligations hereunder have been or will be duly authorized by all necessary action on the part of Beam, and this Put Option Agreement constitutes the legal, valid and binding obligation of Beam, subject to equitable principles and principles governing creditors' rights generally.

6.1.3 Non-Contravention. The execution and delivery of this Put Option Agreement by Beam and the consummation by Beam of the transactions contemplated hereby will not conflict with, result in a breach of, or constitute a default under the organizational documents of Beam, any note or other evidence of indebtedness, any mortgage, deed of trust or indenture, or any lease or other material agreement or instrument to which Beam is a party or by which Beam may be bound and, in either case, that would have a material and adverse effect on Beam's ability to consummate the transactions contemplated by this Put Option Agreement.

6.1.4 Non-Foreign Entity. Beam is not a "foreign person" or "foreign corporation" as those terms are defined in the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

6.1.5 Bankruptcy. Beam has not (i) commenced a voluntary case, or had entered against it a petition, for relief under any federal bankruptcy act or any similar petition, order or decree under any federal or state law or statute relative to bankruptcy, insolvency or other relief for debtors, (ii) caused, suffered or consented to the appointment of a receiver, trustee, administrator, conservator, liquidator or similar official in any federal, state or foreign judicial or non-judicial proceedings, to hold, administer and/or liquidate all or substantially all of its property, or (iii) made an assignment for the benefit of creditors.

6.1.6 Contracts. There are no service, maintenance, operating, repair, supply, consulting, professional service, advertising or other contracts to which Beam, or its agents, representatives, employees or predecessors in interest is a party, relating to the operation or management of the Property that shall be binding upon City/Agency at the Closing.

6.2 City/Agency's Independent Investigation, Waivers and Disclaimers.

6.2.1 Investigations. Subject to Beam's compliance with its obligations under this Put Option Agreement, City/Agency have been given a full opportunity to inspect and investigate each and every aspect of the Property, either independently or through agents of City/Agency's choosing, including, without limitation:

(a) All matters relating to title, together with all governmental and other legal requirements such as taxes, assessments, zoning, use permit requirements, and building codes;

(b) The physical condition and aspects of the Property, including, without limitation, the interior, the exterior, the square footage within the Improvements on the Real Property, the structure, the paving, the utilities, and all other physical and functional aspects of the Property, including, without limitation, an examination for the presence or absence of hazardous substances, which shall be performed or arranged by City/Agency at City/Agency's sole expense;

(c) Any easements and/or access rights affecting the Property;

(d) All other matters of material significance affecting the Property.

6.3 Disclaimer. Subject to Beam's Warranties, City/Agency hereby fully and forever waive, and Beam hereby fully and forever disclaims, all warranties of whatever type or kind with respect to the Property, whether express, implied or otherwise including, without limitation, those of fitness for a particular purpose, tenantability, habitability or use.

6.4 "AS-IS" Sale.

City/Agency acknowledge that subject to Beam's compliance with its obligations under this Put Option Agreement, as of the Effective Date, City/Agency have had the opportunity to consider and evaluate, to the extent City/Agency in their respective sole discretion deem necessary, information provided by or obtained by City/Agency's consultants, and any other information about the condition of the Property. City/Agency further acknowledge that they have engaged all environmental consultants, engineers, and other professionals as City/Agency in their respective sole discretion deems necessary to evaluate on their own the condition of the Property. **CITY/AGENCY FURTHER ACKNOWLEDGE THAT, WITHOUT LIMITING BEAM'S LIABILITY FOR BEAM'S WARRANTIES OR BEAM'S INTENTIONAL (AS OPPOSED TO NEGLIGENT) FRAUD, CITY/AGENCY ACKNOWLEDGE AND AGREE THAT NEITHER BEAM, NOR ANYONE ACTING FOR OR ON BEHALF OF BEAM HAS MADE ANY REPRESENTATIONS, WARRANTIES, OR PROMISES TO CITY/AGENCY, OR TO ANYONE ACTING FOR OR ON BEHALF OF CITY/AGENCY, CONCERNING ANY ASPECT OF THE PROPERTY INCLUDING, WITHOUT LIMITATION, (A) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY; (B) COMPLIANCE WITH TITLE III OF THE AMERICANS WITH DISABILITIES ACT OF 1990 AND ALL SIMILAR STATE AND LOCAL ACCESSIBILITY LAWS; (C) COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING, WITHOUT LIMITATION, CALIFORNIA HEALTH & SAFETY CODE, THE FEDERAL WATER POLLUTION CONTROL ACT, THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT, THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., PART 261, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED, THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, THE CLEAN WATER ACT, THE SAFE DRINKING WATER ACT, THE HAZARDOUS MATERIALS TRANSPORTATION ACT, THE TOXIC SUBSTANCE CONTROL ACT, AND REGULATIONS PROMULGATED UNDER ANY OF THE FOREGOING; (D) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS AT, ON, UNDER, OR ADJACENT TO THE PROPERTY; (E) THE CONTENT, COMPLETENESS OR ACCURACY OF ANY MATERIALS PROVIDED BY BEAM FOR CITY/AGENCY'S REVIEW OR THE TITLE COMMITMENT; OR (F) THE CONFORMITY OF THE IMPROVEMENTS TO ANY PLANS OR SPECIFICATIONS FOR THE PROPERTY, INCLUDING ANY PLANS AND SPECIFICATIONS THAT MAY HAVE BEEN OR MAY BE PROVIDED TO CITY/AGENCY. CITY/AGENCY FURTHER ACKNOWLEDGE AND AGREE THAT SUBJECT TO BEAM'S WARRANTIES THE PROPERTY HAS BEEN INDEPENDENTLY INVESTIGATED BY CITY/AGENCY TO THEIR FULL SATISFACTION PRIOR TO THE EFFECTIVE DATE, THAT**

CITY/AGENCY WILL BE ACQUIRING THE PROPERTY BASED SOLELY UPON AND IN RELIANCE ON THEIR OWN INSPECTIONS, EVALUATIONS, ANALYSES AND CONCLUSIONS, AND THAT SUBJECT TO BEAM'S WARRANTIES, CITY/AGENCY WILL BE ACQUIRING THE PROPERTY IN ITS "AS-IS" CONDITION AND STATE OF REPAIR INCLUSIVE OF ALL FAULTS AND DEFECTS, WHETHER KNOWN OR UNKNOWN, AS MAY EXIST AS OF THE CLOSING, AND CITY/AGENCY EXPRESSLY ACKNOWLEDGES THE RISK THAT ADVERSE PHYSICAL, ENVIRONMENTAL, FINANCIAL, LEGAL AND OTHER CONDITIONS MAY NOT BE REVEALED BY CITY/AGENCY'S INSPECTION OF THE PROPERTY.

BY INITIALING BELOW, THE CITY/AGENCY ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE MEANING AND SIGNIFICANCE OF THIS SECTION AND AGREE TO THE TERMS SET FORTH HEREIN.

CITY: _____

AGENCY: _____

6.5 City/Agency's Release of Beam.

6.5.1 Beam Released From Liability. Subject to Beam's Warranties, Beam is hereby released from all responsibility and liability to City/Agency regarding the condition (including, without limitation, its physical condition and its compliance with applicable laws, and the presence in the soil, air, structures and surface and subsurface waters, of hazardous substances or substances that have been or may in the future be determined to be toxic, hazardous, undesirable or subject to regulation and that may need to be specially treated, handled and/or removed from the Property under current or future federal, state and local laws, regulations or guidelines), valuation, salability or utility of the Property, or its suitability for any purpose whatsoever except to the extent that such responsibility or liability is the result of a breach of Beam's Warranties or Beam fraud, or the acts or omissions of Beam after the Acquisition Date.

6.5.2 City/Agency's Waiver of Objections. Subject to Beam's Warranties, City/Agency acknowledges that prior to the Effective Date they have inspected the Property, observed its physical characteristics and existing conditions and had the opportunity to conduct such investigation and study on and of said Property and adjacent areas as it deemed necessary, and subject to Beam's Warranties, hereby waive any and all objections to, claims, causes of action or complaints (including, without limitation, actions based on federal, state or common law and any private right of action under CERCLA, RCRA or any other state and federal law to which the Property is or may be subject) regarding physical characteristics and existing conditions, including, without limitation, structural and geologic conditions, subsurface soil and water conditions and solid and hazardous waste and hazardous substances on, under, adjacent to or otherwise affecting the Property and existing as of the Acquisition Date. City/Agency further hereby acknowledge the risk of changes in applicable laws and regulations including, without limitation, those relating to past, present and future environmental conditions on the Property, and the risk that adverse physical characteristics and conditions, including

without limitation the presence of hazardous substances or other contaminants, may not be revealed by its investigation.

6.5.3 Civil Code Section 1542 Waiver. In connection with the releases and waivers set forth in this Section 6.5, City/Agency, on behalf of themselves, their respective successors, assigns and successors-in-interest and such other persons and entities, waive the benefit of 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 settlement with the debtor.”

City: _____
Agency: _____

6.5.4 Limitation. Notwithstanding any other provision of this Put Option Agreement to the contrary, in no event shall any waiver or release by City/Agency under this Put Option Agreement apply to the matters covered by Beam's intentional (as opposed to negligence) fraud, or claims arising from Beam's breach of any of the Closing documents hereunder.

6.5.5 Survival. The foregoing waivers and releases by City/Agency shall survive either (a) the Closing and the recordation of the Deed, and shall not be deemed merged into the Deed upon its recordation, or (b) any termination of this Put Option Agreement.

6.6 Discharge. Notwithstanding any other provisions contained herein, or in any document or instrument delivered in connection with the transfer contemplated hereby, to the contrary (including, without limitation, any language providing for survival of certain provisions hereof or thereof), City/Agency hereby acknowledge and agree that (a) prior to Closing, City/Agency's sole recourse in the event of a breach by Beam shall be as set forth in Section 5.1 hereof, and (b) upon consummation of Closing, City/Agency shall be deemed to have waived any existing breach of Beam's Warranties as of the Closing Date to the extent Beam is in breach of the same as of the Closing Date and such breach is actually known to Beam.

ARTICLE 7

BEAM'S COVENANTS

7.1 Pre-Closing. From the Effective Date until Closing or earlier termination of this Put Option Agreement, and except as otherwise consented to or approved by City/Agency, Beam covenants and agrees with City/Agency that Beam will:

7.1.1 operate, manage and maintain the Property in the ordinary course of Beam's business, subject to ordinary wear and tear and further subject to Section 9.2 below;

7.1.2 maintain, as the minimum coverage required of it by this Put Option Agreement, (a) _____, and (b) commercial general liability insurance insuring

Beam against liability for personal injury, bodily injury, death, and damage to property occurring in, on or about, or resulting from the use or occupancy of the Property (or any portion thereof, with combined single limit coverage of at least One Million Dollars (\$1,000,000.00).

7.1.3 not enter into any leases or similar occupancy agreements for any portion of the Property that would not be terminable by Beam as of the Closing Date, except with City/Agency's prior written consent;

7.1.4 not enter into any new contract for the provision of goods or services to or with respect to the Property that would not be terminable by Beam as of the Closing Date, except with City/Agency's prior written consent;

7.1.5 not make any material changes to the Improvements or the Property except with City/Agency's prior written consent, not to be unreasonably withheld, delayed or conditioned;

7.1.6 from and after the Effective Date, Beam shall not remove from the Property any fixtures or articles of Personal Property that were located at the Property as of the Acquisition Date except as may be necessary for repairs (provided that, once repaired, such item shall be promptly returned), or the discarding of worn out items (provided that such items are replaced with items of approximately equal or better quality) or obsolescent or useless items and except as necessary to comply with any applicable law or governmental order; and

7.1.7 Beam (a) shall promptly deliver written notice to City/Agency of (and, if the same may adversely affect City/Agency or the Property, defend at Beam expense) all actions, suits, claims and other proceedings affecting the Property, or the use, possession or occupancy thereof first arising on or after the Effective Date, and (b) shall not settle any insurance claims or other litigation that would materially and adversely affect the Property following the Closing without City/Agency's prior written consent, which may be given or withheld in City/Agency's sole and absolute discretion.

ARTICLE 8

CLOSING AND CONDITIONS

8.1 Escrow Instructions. Upon execution of this Put Option Agreement, the Parties hereto shall deposit an executed counterpart of this Put Option Agreement with the Title Company, and this Put Option Agreement shall serve as escrow instructions to the Title Company as the Escrow Holder for consummation of the purchase and sale contemplated hereby. Beam and City/Agency agree to execute such reasonable additional and supplementary escrow instructions as may be appropriate to enable the Title Company to comply with the terms of this Put Option Agreement; provided, however, that in the event of any conflict between the provisions of this Put Option Agreement and any supplementary escrow instructions, the terms of this Put Option Agreement shall control absent any mutual written agreement to the contrary.

8.2 Beam's Conditions to Closing. The Closing and Beam's obligations with respect to the transaction contemplated by this Put Option Agreement are subject to the

timely satisfaction or written waiver by the respective dates designated below of the following conditions precedent for Beam's benefit (the "**Beam Conditions Precedent**").

8.2.1 City/Agency's Deliveries. On or before the Closing Date, City/Agency shall have delivered to Escrow Holder all of the funds and documents as provided in Section 8.6 hereof.

8.2.2 Performance. As of the Closing Date, City/Agency shall not be in material default in the performance of any material covenant or agreement to be performed by City/Agency under this Put Option Agreement.

Neither City/Agency nor Beam shall willfully or in bad faith act or fail to act for the purpose of permitting any of the Beam Conditions Precedent to fail. Except as otherwise provided herein, if any of the foregoing Beam Conditions Precedent are not satisfied by the respective dates designated hereunder for any reason other than a default by Beam or City/Agency hereunder, then at Beam's election with written notice to City/Agency and Escrow Agent this Put Option Agreement shall terminate and neither Party shall have any further rights or obligations under this Put Option Agreement except for those which this Put Option Agreement expressly provides shall survive any termination. Beam shall have the right to waive any of the Beam Conditions Precedent, and the election by Beam to proceed with the Closing shall be deemed Beam's waiver of any unsatisfied Beam Conditions Precedent to the extent any such Beam Condition(s) Precedent has(have) not been previously satisfied or waived.

8.3 City/Agency's Conditions to Closing. The Closing and City/Agency's obligation to consummate the transaction contemplated by this Put Option Agreement are subject to the timely satisfaction or written waiver by the respective dates designated below of the following conditions precedent for City/Agency's benefit (the "**City/Agency Conditions Precedent**"):

8.3.1 Beam's Deliveries. On or before the Closing Date, Beam shall have delivered to Escrow Agent the documents described in Section 8.5 below.

8.3.2 Performance. As of the Closing Date, Beam shall not be in material default in the performance of any material covenant or agreement to be performed by Beam under this Put Option Agreement beyond all applicable notice and cure periods.

8.3.3 Title Policy. As of the Closing Date, the Title Company shall have issued or irrevocably committed to issue the Title Policy to City/Agency as provided in Section 4.1 above.

8.3.4 Representations and Warranties. As of the Closing Date, all representations and warranties of Beam contained in Section 6.1 hereof shall be true and correct in all material respects as of the date made and as of the Closing Date with the same effect as if those representations and warranties were made at and as of the Closing Date.

8.3.5 Changes to Condition of Property. Subject to the obligations set forth in Section 3.2 above, City and Agency shall have reasonably approved any substantial,

material changes in the condition of the Property which have significantly decreased the value thereof and occurred after the Acquisition Date.

Neither City/Agency nor Beam shall willfully or in bad faith act or fail to act for the purpose of permitting any of the City/Agency Conditions Precedent to fail. If any of the City/Agency Conditions Precedent set forth in this Put Option Agreement are not timely satisfied for any reason other than a default by Beam or City/Agency hereunder, then at City/Agency's election by written notice to Beam and Escrow Agent this Put Option Agreement shall terminate and neither Party shall have any further rights or obligations under this Put Option Agreement with respect to the Property except for those which this Put Option Agreement expressly provides shall survive any termination. Notwithstanding the foregoing, City/Agency shall have the right to waive, in their sole and absolute discretion, any of the City/Agency Conditions Precedent, and the election by City/Agency to proceed with the Closing with the actual knowledge that a City/Agency Condition Precedent has not been satisfied, shall be deemed City/Agency's waiver of such City/Agency Condition Precedent to the extent any such City/Agency Condition Precedent has not been previously satisfied or waived.

8.4 Closing.

8.4.1 Closing Date. The closing hereunder following the satisfaction or waiver of all conditions under Sections 8.2 and 8.3 above (“**Closing**” or “**Close of Escrow**”) shall be held and delivery of all items to be made at the Closing under the terms of this Put Option Agreement shall be made through escrow at Escrow Agent's office no later than thirty (30) days after the date that Beam delivers the Put Option Election Notice to City/Agency on such date and time as City/Agency and Beam may mutually agree upon in writing (the “**Closing Date**”). Except as otherwise expressly provided in this Put Option Agreement, such date may not be extended without the prior written approval of both Beam and City/Agency.

8.4.2 Deposit of Funds. In sufficient time to allow disbursement to Beam on the Closing Date (which shall in no event be required to be more than one (1) business day prior to the Closing Date), City/Agency shall deposit in Escrow with the Escrow Agent all costs and amounts to be paid by City/Agency at the Closing pursuant to the terms of this Put Option Agreement, by instructing Escrow Agent to disburse such funds to Beam at the Closing or by Federal Reserve wire transfer of immediately available funds to an account to be designated by the Escrow Agent.

8.5 Beam's Closing Documents and Other Items. At least one (1) business day before the Closing Date, Beam shall deposit into Escrow the following items:

8.5.1 A duly executed and acknowledged Grant Deed in the form attached hereto as Exhibit B (the “**Deed**”);

8.5.2 An affidavit pursuant to Section 1445(b)(2) of the Code, and on which City/Agency is entitled to rely, stating that Beam is not a “foreign person” within the meaning of Section 1445(f)(3) of the Code and a California 593-C Certificate (the “**Tax Certificates**”);

8.5.3 An Owner's Affidavit to the Title Company on Title Company's standard form;

8.5.4 Such other documents as may be reasonably required by the Title Company or as may be agreed upon by Beam and City/Agency to consummate the purchase of the Property as contemplated by this Put Option Agreement, including without limitation, any documents necessary to transfer any of the City Discretionary Entitlements (to the extent any such transfer is allowable under applicable laws and regulations), and a duly executed reciprocal easement agreement or license agreement in a form mutually acceptable to the Parties that provides for reciprocal use and access to and from the parking lots located on the Property;

8.5.5 Two (2) duly executed counterparts of the Closing Statement; and

8.5.6 Keys to all entrance doors in the Improvements, properly tagged for identification, and, to the extent in Beam's possession, all operating manuals relating to operation of the equipment and systems which are part of the Property (if any).

8.6 City/Agency's Closing Documents and Other Items. Except as set forth above, at least one (1) business day prior to the Closing, City/Agency shall deposit into Escrow the following items:

8.6.1 Such funds as are necessary to close this transaction;

8.6.2 The Grant Deed, duly executed and acknowledged on the "Acceptance" page thereof;

8.6.3 Such other documents as may be reasonably required by the Title Company or as may be agreed upon by Beam and City/Agency to consummate the purchase of the Property as contemplated by this Put Option Agreement, including, without limitation, any documents necessary to transfer any of the City Discretionary Entitlements (to the extent any such transfer is allowable under applicable laws and regulations), and a duly executed reciprocal easement agreement or license agreement in a form mutually acceptable to the Parties that provides for reciprocal use and access to and from the parking lots located on the Property; and

8.6.4 Two (2) duly executed counterparts of the Closing Statement.

8.7 Prorations and Closing Costs.

8.7.1 Prorations.

(a) General. For purposes of calculating prorations, City/Agency shall be deemed to be in title to the Property, and therefore entitled to the income and responsible for the expenses, for the entire day upon which the Close of Escrow occurs.

(b) Taxes and Assessments. Real estate taxes and any installment payments on account of assessments and/or bonds applicable to the Site or any part thereof shall not be prorated. The Property will be exempt from all such taxes and assessments from and after the Close of Escrow. Beam shall be responsible for payment of all real estate

taxes, assessment and bonds applicable to the Property, and any refund for real estate taxes or assessments applicable to the extent applicable to the period preceding the Close of Escrow, whether paid before or after the Close of Escrow, shall be paid to Beam, and City/Agency shall have no claim or right whatsoever thereto.

(c) Operating Expenses. Water, gas, electricity and other public utility charges shall be paid by Beam to the utility company to the Closing Date. Beam shall use good faith efforts arrange for a final reading of all utility meters (covering gas, water, steam and electricity) as of the Closing. To the extent requested by Beam, Beam and City/Agency shall jointly execute a letter to each of such utility companies advising such utility companies of the termination of Beam's responsibility for such charges for utilities furnished to the Property as of the date of the Closing and commencement of City/Agency's responsibilities therefor from and after such date. If a bill is obtained from any such utility company as of the Closing, then Beam shall pay such bill on or before the Closing. If such bill shall not have been obtained on or before the Closing, then Beam shall, upon receipt of such bill, pay all such utility charges as evidenced by such bill or bills pertaining to the period prior to the Closing, and City/Agency shall pay all such utility charges pertaining to the period thereafter. Any bill which shall be rendered which shall cover a period both before and after the date of Closing shall be apportioned between City/Agency and Beam as of the Closing. Beam shall be entitled to all deposits presently in effect with the utility providers, and City/Agency shall be obligated to make its own arrangements for deposits with the utility providers.

(d) Method of Proration; Corrections. All prorations shall be made in accordance with custom and practice in Alameda County, except as otherwise expressly provided herein. All items attributable to the period up to the date on which the Close of Escrow occurs shall be credited to Beam. All items attributable to the period on and after the date on which the Close of Escrow occurs shall be credited to City/Agency. If any errors or omissions are made regarding adjustments and prorations as set forth above, the Parties shall make the appropriate corrections promptly upon the discovery thereof, provided the same is discovered within six (6) months after the Close of Escrow. Any error or omission not discovered within that period shall not thereafter be subject to adjustment. The amount necessary to correct any adjustment or proration that is to be corrected hereunder shall be paid in cash to the Party entitled thereto. Said six (6) month limitation shall not apply to any real property tax refund to Beam for the period preceding the Close of Escrow, which shall be paid to Beam regardless of when the refund is made.

8.7.2 Closing Costs. Beam shall pay (a) county transfer taxes, if any, (b) the Escrow Agent's escrow fee, (c) the cost of the Title Policy, and (d) all additional closing costs and charges.

8.8 Disbursements and Other Actions by Escrow Agent. Without limiting the terms and conditions of Section 8.1 and 8.4.2, above, upon the Close of Escrow, Escrow Agent shall promptly undertake the following in the manner indicated, provided that Escrow Agent shall undertake the Closing only when it can perform each of the following:

8.8.1 Funds. Disburse all funds deposited with Escrow Agent by City/Agency in payment of the Purchase Price as follows:

(a) If, as the result of the costs, prorations and credits pursuant to this Section 8.8, amounts are to be charged to the account of Beam, deduct the total amount of such charges. If, as a result of the costs, prorations and credits pursuant to Section 8.7, amounts are to be charged to the account of City/Agency, collect the total amount of such charges (“City/Agency’s Charges”) from City/Agency.

(b) Disburse to Beam the full Purchase Price together with any interest accrued therein while in Escrow, plus any City/Agency’s Charges payable owed to Beam or payable under Section 8.7, above, less deductions charged to Beam, if any, under Section 8.7, above.

(c) After all disbursements to Beam are completed, disburse the remaining balance of the funds in Escrow, if any, as City/Agency directs.

8.8.2 Recording and Filing. Cause the Deed to be filed for recording in the Official Records of Alameda County.

8.8.3 Title Policy. Issue the Title Policy to City/Agency.

8.8.4 Disbursement of Documents to City/Agency. Disburse to City/Agency (a) the Tax Certificates; (b) a conformed copy showing the applicable recording information for the Deed; and (c) any other documents (or copies thereof) deposited into Escrow to which City/Agency is entitled pursuant to the terms of this Put Option Agreement.

8.8.5 Disbursement of Documents to Beam. Disburse to Beam (a) one (1) a conformed copy showing the applicable recording information for the Deed; (b) a copy of the Tax Certificates; and (c) any other documents (or copies thereof) deposited into Escrow to which Beam is entitled pursuant to the terms of this Put Option Agreement.

8.8.6 Closing Statement. Deliver to each of City/Agency and Beam a final closing statement showing the distribution, application, and receipt of all funds processed through the Escrow (the “**Closing Statement**”).

8.9 Broker. Beam hereby represents and warrants to City/Agency that Beam has not employed any broker with respect to this transaction. If any person brings a claim for a commission or finder’s fee based upon any contact, dealings, or communication with City/Agency in connection with the transactions contemplated by this Put Option Agreement, then City/Agency shall defend Beam from such claim, and shall indemnify Beam and hold Beam harmless from any and all costs, damages, claims, liabilities, or expenses (including, without limitation, reasonable attorneys’ fees and disbursements) incurred by Beam with respect to the claim. If any person brings a claim for a commission or finder’s fee against City/Agency based upon any contact, dealings, or communication with Beam in connection with the transactions contemplated by this Put Option Agreement, then Beam shall defend City/Agency from such claim, and shall indemnify City/Agency and hold City/Agency harmless from any and all costs, damages, claims, liabilities, or expenses (including, without limitation, reasonable attorneys’ fees and disbursements) incurred by City/Agency with respect to the claim. The provisions of this Section 8.9 shall survive the Closing or, if the purchase and sale is not consummated, any termination of this Put Option Agreement.

ARTICLE 9

MISCELLANEOUS

9.1 Amendment and Modification. Subject to applicable law, this Put Option Agreement may be amended, modified, or supplemented only by a written agreement signed by the Parties.

9.2 Risk of Loss and Insurance Proceeds. City/Agency shall be bound to purchase the Property for the full Purchase Price as required by the terms hereof, without regard to the occurrence or effect of any damage to the Property or destruction of any improvements thereon or condemnation of any portion of the Property, provided that upon the Closing, there shall be a credit against the Purchase Price due hereunder equal to the amount of any insurance proceeds or condemnation awards collected by Beam as a result of any such damage or destruction or condemnation. Beam shall have no obligation to repair or restore any such damage or destruction. If the proceeds or awards have not been collected as of the Closing, then such proceeds or awards shall be assigned to City/Agency.

9.3 Notices. All notices required or permitted hereunder shall be in writing and shall be served on the Parties at the following address:

If to Agency: Successor Agency to the San Leandro
Redevelopment Agency
835 E. 14th Street
San Leandro, CA 94577
Attn: Economic Development Manager
E-mail:

and to City: City of San Leandro
835 E. 14th Street
San Leandro, CA 94577
Attn: City Manager
E-mail:

If to Beam: Beam Development, LLC
4100 Redwood Road, Suite 10-292
Oakland, CA 94611
Attn: Mukesh Bajaj
E-mail: maebajaj@gmail.com

with copies to: Miller Starr Regalia
1331 N. California Blvd., Fifth Flr.
Walnut Creek, CA 94596
Attn: Nadia Costa, Esq.
E-mail: nadia.costa@msrlegal.com

If to Escrow Agent: First American Title Company

1850 Mt. Diablo Blvd., Suite 530
Walnut Creek, CA 94596
Attn: Pam Nicolini
E-mail:

Any such notices may be sent by (a) certified mail, return receipt requested, in which case notice shall be deemed delivered five (5) business days after deposit, postage prepaid in the U.S. mail, (b) a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit for next business day delivery with such courier, or (c) electronic mail, in which case the notice shall be deemed delivered upon transmission provided that the sender does not receive a delivery failure notification from the recipient's electronic mail server. Any electronic mail transmission initiated after 5:00 PM on a weekday, or at any time on a Saturday, Sunday, or legal holiday, shall be deemed given on the following business day. The above addresses and electronic mail addresses may be changed by written notice to the other Party(ies); provided that no such notice shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Any notice sent by the attorneys representing a Party shall qualify as notice under this Put Option Agreement.

9.4 Assignment. City/Agency shall not have the right to assign this Put Option Agreement, without the prior written consent of Beam, which consent Beam may withhold in its sole and absolute discretion. This Put Option Agreement shall be binding upon and inure to the benefit of Beam and City/Agency and their respective successors and permitted assigns, and no other party will be conferred any rights by virtue of this Put Option Agreement or be entitled to enforce any of the provisions hereof. Whenever a reference is made in this Put Option Agreement to Beam or City/Agency, such reference shall include the successors and permitted assigns of such Party under this Put Option Agreement.

9.5 Governing Law and Consent to Jurisdiction. THIS PUT OPTION AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO ANY OTHERWISE APPLICABLE PRINCIPLES OF CONFLICTS OF LAWS OR CHOICE OF LAWS. ANY ACTION ARISING OUT OF THIS PUT OPTION AGREEMENT MUST BE COMMENCED BY CITY/AGENCY OR BEAM IN THE STATE COURTS OF THE STATE OF CALIFORNIA OR IN U.S. FEDERAL COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA AND EACH PARTY HEREBY CONSENTS TO THE JURISDICTION OF THE ABOVE COURTS IN ANY SUCH ACTION AND TO THE LAYING OF VENUE IN THE STATE OF CALIFORNIA. ANY PROCESS IN ANY SUCH ACTION SHALL BE DULY SERVED IF MAILED BY REGISTERED MAIL, POSTAGE PREPAID, TO THE PARTIES AT THEIR RESPECTIVE ADDRESS DESCRIBED IN SECTION 9.3 HEREOF.

9.6 Counterparts. This Put Option Agreement may be executed in two or more fully or partially executed counterparts, each of which shall be deemed an original binding

the signer thereof against the other signing Parties, but all counterparts together shall constitute one and the same instrument.

9.7 Entire Agreement. This Put Option Agreement, all exhibits and schedules and any other document to be furnished pursuant to the provisions hereof embody the entire agreement and understanding of the Parties hereto as to the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants, or undertakings other than those expressly set forth or referred to in such documents. This Put Option Agreement and such documents supersede all prior agreements and understandings among the Parties with respect to the subject matter hereof.

9.8 Severability. Any term or provision of this Put Option Agreement that is invalid or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Put Option Agreement, or affecting the validity or enforceability of any of the terms or provisions of this Put Option Agreement.

9.9 Professional Fees. If any action is brought by any party to this Put Option Agreement to enforce or interpret its terms or provisions, the prevailing Party will be entitled to reasonable attorneys' fees and costs incurred in connection with such action prior to and at trial and on any appeal therefrom. Except as provided in Section 8.9 above, each Party to this Put Option Agreement shall be responsible for, and shall pay, all of its own fees and expenses, including those of its counsel, consultants and accountants, incurred in the negotiation, preparation, and consummation of this Put Option Agreement and the transaction contemplated hereunder including, without limitation, in the case of City/Agency, all third-party engineering and environmental review costs and all other due diligence costs.

9.10 No Joint Venture. Nothing set forth in this Put Option Agreement shall be construed to create a joint venture between City/Agency and Beam.

9.11 Time of Essence. Time is of the essence of this Put Option Agreement.

9.12 No Waiver. No waiver of any of the provisions of this Put Option Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver, nor shall a waiver in any instance constitute a waiver in any subsequent instance. No waiver shall be binding unless executed in writing by the Party making the waiver.

9.13 Counting of Days. Unless otherwise expressly specified herein, any reference to "days" shall mean calendar days. To the extent the last day for any act falls on a Saturday, Sunday or legal holiday, the last day for that act shall be extended to the next business day.

9.14 Electronic Signatures. Signatures to this Put Option Agreement, any amendment hereof and any notice given hereunder, transmitted by facsimile or electronic mail shall be valid and effective to bind the Party so signing. Each Party agrees to promptly deliver an execution original of this Put Option Agreement (and any amendment hereto) with its actual signature to the other Party, but a failure to do so shall not affect the enforceability of this Put

Option Agreement (or any amendment hereto), it being expressly agreed that each Party to this Put Option Agreement shall be bound by its own telecopied or electronically mailed signature and shall accept the electronically mailed signature of the other Party to this Put Option Agreement.

9.15 Natural Hazard Disclosure. City/Agency shall obtain, at Beam's sole cost and expense, a natural hazard disclosure report prepared by a professional consulting firm relating to the Property prior to Close of Escrow. City/Agency and Beam acknowledge that Beam may be required to disclose if the Property lies within the following natural hazard areas or zones: (i) a special flood hazard area designated by the Federal Emergency Management Agency (California Civil Code Section 1103(c)(1)); (ii) an area of potential flooding (California Government Code Section 8589.4); (iii) a very high fire hazard severity zone (California Government Code Section 51178 et seq.); (iv) a wild land area that may contain substantial forest fire risks and hazards (Public Resources Code Section 4135; (v) earthquake fault zone (Public Resources Code Section 2622); or (vi) a seismic hazard zone (Public Resources Code Section 2696) (sometimes all of the preceding are herein collectively called the "**Natural Hazard Matters**"). City/Agency and Beam hereby instruct Escrow Holder, or an affiliate thereof (who, in such capacity, is herein called the "**Natural Hazard Expert**") to examine the maps and other information specifically made available to the public by government agencies for the purposes of enabling Beam to fulfill its disclosure obligations, if and to the extent such obligations exist, with respect to the natural hazards referred to in California Civil Code Section 1103 et seq. and to report the result of its examination to City/Agency and Beam in writing. The written report prepared by the Natural Hazard Expert regarding the results of its full examination shall fully and completely discharge Beam from its disclosure obligations referred to herein, if and to the extent any such obligations exist, and, for the purpose of this Put Option Agreement, the provisions of Civil Code section 1103.4 regarding non-liability of Beam for errors or omissions not within its personal knowledge shall be deemed to apply and the Natural Hazard Expert shall be deemed to be an expert, dealing with matters within the scope of its expertise with respect to the examination and written report regarding the natural hazards referred to above. City/Agency agrees to provide Beam with a written acknowledgment of its receipt of the Natural Hazard Disclosure Statement prior to the Close of Escrow.

9.16 Possession. Beam shall deliver possession of the Property upon Close of Escrow, subject to the Permitted Exceptions.

9.17 Computation Of Time. The time in which any act is to be done under this Put Option Agreement is computed by excluding the first day (such as the Effective Date), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. Unless expressly indicated otherwise, (a) all references to time shall be deemed to refer to Pacific time, and (b) all time periods shall expire at 5:00 p.m., Pacific time.

9.18 No Recordation. Neither this Put Option Agreement nor a memorandum hereof shall be recorded by City/Agency. The filing or recordation of this Put Option Agreement or a memorandum hereof in violation of this provision shall be deemed a default by City/Agency of this Put Option Agreement.

9.19 Date and Delivery of Agreement. Notwithstanding anything to the contrary contained in this Put Option Agreement, the Parties intend that this Put Option Agreement shall be deemed effective, and delivered for all purposes under this Put Option Agreement, and for the calculation of any statutory time periods based on the date an agreement between Parties is effective, executed, or delivered, as of the Effective Date.

9.20 Approvals and Amendments. This Agreement can be amended only by the mutual written consent of the Parties, and the Parties shall not be bound by verbal or implied agreements. The City Manager (or designee) shall have the authority to make approvals, issue interpretations, waive provisions, make and execute further agreements and/or enter into amendments of this Agreement on behalf of the City so long as such actions do not materially or substantially add to the costs incurred or to be incurred by the City as specified herein. The Agency Executive Director (or designee) shall have the authority to make approvals, issue interpretations, waive provisions, make and execute further agreements and/or enter into amendments of this Agreement on behalf of the Agency so long as such actions do not materially or substantially add to the costs incurred or to be incurred by the Agency as specified herein. All other material and/or substantive interpretations, waivers, or amendments shall require the consideration, action and written consent of the City Council and Successor Agency Board. Notwithstanding the foregoing, the City Manager and Agency Executive Director shall maintain the right to submit to the City Council and Successor Agency Board for consideration or action any matter under their authority if they desires to do so. The City Manager and Agency Executive Director may delegate some or all of his or her powers and duties under this Agreement to one or more management level employees of the City/Agency.

[Remainder of page intentionally left blank; signature page to follow.]

IN WITNESS WHEREOF, the Parties hereto have caused this Put Option Agreement to be duly executed as of the day and year first above written.

AGENCY:

**SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY OF SAN LEANDRO**

By: _____
Name: _____
Title: _____

Attest:

By: _____
Name: _____
Title: _____

Reviewed as to Form:

By: _____
Name: _____
Title: _____

CITY:

CITY OF SAN LEANDRO

By: _____
Name: _____
Title: _____

Attest:

By: _____
Name: _____
Title: _____

Reviewed as to Form:

By: _____
Name: _____
Title: _____

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

BEAM:

BEAM DEVELOPMENT, LLC,
a California limited liability company

By: _____
Name: _____
Title: _____

ESCROW AGENT ACKNOWLEDGEMENT:

The Escrow Agent is executing this Put Option Agreement to evidence its agreement to hold the Purchase Price and act as escrow agent in accordance with the terms and conditions of this Put Option Agreement.

FIRST AMERICAN TITLE COMPANY

By: _____
Name: _____
Title: _____

EXHIBIT A

Description of Real Property

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SAN LEANDRO,
COUNTY OF ALAMEDA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

[attach legal descriptions]

EXHIBIT B
Form of Grant Deed

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on
this ____ day of _____, 20__.

“GRANTOR”

BEAM DEVELOPMENT, LLC,
a California limited liability company

By: _____

Name: _____

Title: _____

Exhibit A to Grant Deed

Legal Description

5149013.1