

PROPERTY CONVEYANCE AGREEMENT
(Successor Agency to City)
Platform Parcels and 59th Street

This Property Conveyance Agreement (the "Agreement") is entered into as of _____, 2022, by and between the City of Emeryville as Successor Agency to the Emeryville Redevelopment Agency, a separate public body (the "Successor Agency"), and the City of Emeryville, a municipal corporation (the "City"), with reference to the following facts and purposes:

RECITALS

A. The Successor Agency is the successor in interest to property formerly owned by the Emeryville Redevelopment Agency, which was dissolved by operation of law effective February 1, 2012 pursuant to AB 26.

B. The Successor Agency owns certain property more particularly identified as Assessor's Parcel Number 049-1325-002 ("Platform Parcel Three"), Assessor's Parcel Number 1325-001-04 ("Platform Parcel Four") and Assessor's Parcel Number 049-1325-002 ("59th Street Extension", and collectively with Platform Parcel Three and Platform Parcel Four, the "Properties"). Platform Parcels Three and Four form part of the platform providing passenger access to Amtrak trains and are adjacent to the Emeryville Amtrak Station. 59th Street Extension is a public right of way and provides public access to the public parking for the Amtrak Station, the City's intermodal transit center and the City-owned pedestrian bridge crossing over the railroad tracks.

C. The Emeryville Redevelopment Agency ("Former Agency") and Wareham Development Corporation ("Wareham") entered into that certain lease dated March 2, 1993 ("Station Lease") whereby the Former Agency leased certain property identified as APN: 049-1325-001-2 ("Station Parcel") from Wareham for purposes of leasing the Station Parcel to the National Railroad Passenger Corporation ("Amtrak") for purposes of operating a public intermodal transit center ("Amtrak Station"). As a term of the Station Lease, the Former Agency was to acquire fee title to the Station Parcel for \$1.00 upon expiration of the Station Lease.

D. Health and Safety Code Section 34181 provides that former redevelopment agency property that is used for government purposes may be transferred to the appropriate government jurisdiction pursuant to any existing agreements related to the use of the property subject to the approval of the Oversight Board.

E. The City of Emeryville has entered into an agreement with Amtrak to transfer to Amtrak the Station Parcel and the Platform Parcels for the purposes of maintaining passenger rail service in Emeryville. In accordance with the terms of the City's agreement with Amtrak, the City upon conveyance of the Platform Parcels from the Successor Agency to the City, will convey to Amtrak the Platform Parcels at no cost. Additionally, the City, after accepting the assignment of the Successor Agency's right to acquire the Station Parcel, will acquire the Station

Parcel and convey the Station Parcel to Amtrak for no cost in order to ensure the continuation of passenger rail service in the City and the continued operation of a public intermodal transit center.

F. The 59th Street Extension serves as a public right of way providing access to public parking facilities located on the adjacent property that serve the Amtrak station as well as providing access to a publicly owned pedestrian bridge that crosses over the railroad tracks and provides access to the west side of the railroad tracks.

G. The Successor Agency desires to transfer the Platform Parcels and the 59th Street Extension to the City to further the continued use of the Properties for government purposes and in accordance with the terms and conditions of certain agreements between the City and Amtrak.

H. The Successor Agency desires to assign its rights under the Station Lease to acquire the Station Parcel to the City so that the City can acquire the Station Parcel and then transfer the Station Parcel to Amtrak for continued use of the Station Parcel for government purposes in accordance with the terms and conditions of certain agreements between the City and Amtrak.

I. Pursuant to Section 15061(b)(3) of the CEQA Guidelines, this Agreement is exempt from the requirements of CEQA because the action taken pursuant to this Agreement is to preserve the status quo and use of the Properties will not change, or otherwise be modified, following the conveyance set forth in this Agreement.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the Successor Agency and the City agree as follows:

Section 1. Conveyance. Subject to the terms and conditions set forth below, the Successor Agency agrees to convey, and the City agrees to accept conveyance of Platform Parcel Three, Platform Parcel Four and the 59th Street Extension.

Section 2. Consideration for Conveyance. The Successor Agency shall convey the Platform Parcels to the City in consideration for the City agreeing to convey Platform Parcel Three and Platform Parcel Four to Amtrak for continued use as passenger railroad platforms in accordance with certain agreements between the City and Amtrak. The Successor Agency shall convey the 59th Street Extension to the City in consideration for the City agreeing to continue the use of the 59th Street Extension as a public right of way providing access to public parking and the intermodal transit center as well as access to the pedestrian bridge crossing over the railroad tracks.

Section 3. Method of Conveyance. As soon as practicable following execution of this Agreement and the effectiveness of the approval of this Agreement by the County of Alameda Oversight Board, the Successor Agency shall convey Platform Parcel Three, Platform Parcel Four and the 59th Street Extension to the City by grant deed (the "Grant Deed"),

substantially in the form of the attached Exhibit B, to be recorded in the official records of the County Recorder of the County of Alameda. The date of execution and recordation of the Grant Deed is referred to in this Agreement as the "Conveyance Date." Ad valorem property taxes and assessments, if any, shall be prorated as of the Conveyance Date. The City shall pay all costs of conveyance.

Unless the parties agree otherwise, the City and the Successor Agency shall establish an escrow with a mutually acceptable title company (the "Title Company") to effectuate the conveyance of the Platform Parcels and the 59th Street Extension. The Successor Agency and the City shall execute any and all documents reasonably necessary or appropriate to close the conveyance of the Platform Parcels and the 59th Street Extension pursuant to the terms of this Agreement.

Section 4. Condition of Title. The condition of title on the Conveyance Date shall be as set forth in the preliminary title reports for the Properties issued by the Title Company (collectively, the "Preliminary Title Reports"). In connection with and as a condition of closing, and unless otherwise waived by the City, the Successor Agency shall cause to be delivered by the Title Company to the City a commitment for (and promptly after closing shall cause delivery by the Title Company to the City of) an ALTA extended owners title policy for the Properties consistent with the terms of the Preliminary Title Reports. The costs of the title policy shall be borne by the City.

Section 5. Condition of Property. In fulfillment of the purposes of Health and Safety Code Section 25359.7(a), the parties acknowledge and agree that the Successor Agency has provided the City with all information in its possession regarding the existence and/or release of hazardous substances on or beneath the Properties, and that the provision of such information constitutes the written notice required to be given by the Successor Agency to the City pursuant to Health and Safety Code Section 25359.7(a).

Section 6. Assignment. The Successor Agency hereby assigns to the City and the City hereby accepts the assignment of any and all rights that the Successor Agency has under the Station Lease to acquire the Station Parcel. Wareham has consented to the assignment of the Successor Agency's rights under the Station Lease as evidenced by that certain consent attached as Exhibit C.

Section 7. Effectiveness of Agreement. The Parties understand and acknowledge that the Successor Agency's actions under this Agreement must be approved by the Alameda County Oversight Board. The approval of this Agreement by the Oversight Board is not effective until either (1) the California Department of Finance elects not to review the Oversight Board approval or (2) the California Department of Finance approves the Oversight Board action. If the California Department of Finance disapproves the Oversight Board approval of this Agreement, the Successor Agency may, at its option, terminate this Agreement by giving written notice to the City of such termination, such termination to be effective immediately upon the City's receipt of the notice of termination. If the Successor Agency terminates this Agreement, it shall have no further obligations under this Agreement, shall have no obligation to convey the Properties to the

City and shall have no obligation to assign the Successor Agency's rights to acquire the Station Parcel in accordance with the Station Lease.

Section 8. Representations and Warranties. The Successor Agency represents, warrants and covenants to the City, as of the date of this Agreement and as of the Conveyance Date, as follows:

(a) No Condemnation. To the best of the Successor Agency's knowledge, there is no pending or threatened condemnation or similar proceeding affecting the Properties, or any portion thereof, nor does the Successor Agency have any knowledge that any such action is contemplated.

(b) No Proceedings. To the best of the Successor Agency's knowledge, there are no legal actions, suits, or other legal or administrative proceedings, including condemnation cases pending or threatened against or affecting the Properties or the Successor Agency's title to the Properties. The Successor Agency has not received notice from any public agency or entity with respect to any future proceeding or basis for any future proceeding against or affecting the Properties or any part of the Properties, or concerning any existing or potential, past, present or future toxic or hazardous material or conditions at the Properties.

(c) Clear Title. The Successor Agency is the owner of the Properties and has marketable and insurable fee simple title to the Properties free of restrictions, leases, liens and other encumbrances, except for the matters set forth in the Preliminary Title Reports. During the term of this Agreement, the Successor Agency shall not convey or accept any offer to convey the Properties or any portion of the Properties nor shall the Successor Agency encumber or permit encumbrance of the Properties in any way nor grant any property, contract or occupancy right relating to the Properties or any portion thereof without the prior written consent of the City, which may be withheld in the City's sole and absolute discretion.

Section 9. No Brokers. Each party represents to the other that it has not had any contact or dealings regarding the Properties, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee. If any broker or finder makes a claim for a commission or finder's fee based upon a contact, dealings, or communications, the party through whom the broker or finder makes this claim shall indemnify, defend with counsel of the indemnified party's choice, and hold the indemnified party harmless from all expense, loss, damage and claims, including the indemnified party's attorneys' fees, if necessary, arising out of the broker's or finder's claim.

Section 10. General Provisions.

(a) Headings. The title and headings of the various sections hereof are intended for means of reference and are not intended to place any construction on the provisions hereof.

(b) Invalidity. If any provision of this Agreement shall be invalid or unenforceable the remaining provisions shall not be affected thereby, and every provision hereof shall be valid and enforceable to the fullest extent permitted by law.

(c) Attorneys' Fees. In the event of any litigation between the parties hereto to enforce any of the provisions of this Agreement, the unsuccessful party to such litigation agrees to pay to the successful party all costs and expenses, including reasonable attorneys' fees incurred by the successful party, all of which may be included as part of the judgment rendered in such litigation.

(d) Entire Agreement. The terms of this Agreement are intended by the parties as a final expression of their agreement and may not be contradicted by evidence of any prior or contemporaneous agreement. The parties further intend that this Agreement constitute the exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial proceedings involving this Agreement. No provision of this Agreement may be amended except by an agreement in writing signed by the parties hereto or their respective successors in interest. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(e) Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto.

(f) Time of the Essence. Time is of the essence in this Agreement.

(g) Exhibits. All exhibits attached hereto are incorporated in this Agreement by this reference.

(h) Actions of the Parties. Whenever this Agreement calls for or permits a Successor Agency approval, determination, consent, election, or waiver, the written approval, determination, consent, election, or waiver of the Successor Agency Executive Director or the Executive Director's designee shall constitute the approval, determination, consent, election, or waiver of the Successor Agency, without further authorization required from the Successor Agency Board. Whenever this Agreement calls for or permits City approval, determination, consent, election, or waiver, the written approval, determination, consent, election, or waiver of the City Manager or the City Manager's designee shall constitute the approval, determination, consent, election, or waiver of the City, without further authorization required from the City Council.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY OF EMERYVILLE AS THE SUCCESSOR
AGENCY TO THE EMERYVILLE
REDEVELOPMENT AGENCY, a separate public
body

By: _____

Name: _____

Its: _____

CITY OF EMERYVILLE, a California municipal
corporation

By: _____

Name: _____

Its: _____

EXHIBIT A

DESCRIPTION OF THE PROPERTIES

EXHIBIT B

FORM OF GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Emeryville
1333 Park Avenue
Emeryville, CA 94608
Attn: City Manager

NO FEE FOR RECORDING PURSUANT
TO GOVERNMENT CODE SECTION 27383

APNS: 049-1325-002, 1325-001-04, 049-1325-002

GRANT DEED

For valuable consideration, the receipt of which is hereby acknowledged,

The City of Emeryville as Successor Agency to the Emeryville Redevelopment Agency, a separate public body (the "Grantor"), hereby grants to the City of Emeryville, a California municipal corporation (the "Grantee"), the real property (the "Property") described in Attachment No. 1 attached hereto and incorporated in this Grant Deed by this reference.

1. The Grantee covenants and agrees, for itself and its successors and assigns, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, age, marital status, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Grantee itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Property and the improvements thereon.

All deeds, leases or contracts made relative to the Property thereon or any part thereof, shall contain or be subject to substantially the following non-discrimination clauses:

In Deeds:

"(1) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed, nor shall the grantee or any person claiming under or

through the grantee, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

In Leases:

"(1) Lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee or any person claiming under or through the lessee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

In Contracts:

"(1) There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

2. The covenants contained in this Grant Deed shall, without regard to technical classification or designation, legal or otherwise specifically provided in this Grant Deed, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of and enforceable by the Grantor, its successors and assigns, and any successor in interest to the Property or any part thereof, and such covenants shall run in favor of the Grantor and such aforementioned parties for the entire period during which such covenants shall be in force and effect, without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants relate. In the event of any breach of any of such covenants, the Grantor and such aforementioned parties shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other property proceedings to enforce the curing of such breach. The covenants contained in this Grant Deed shall be for the benefit of and shall be enforceable only by the Grantor, its successors and such aforementioned parties.

3. Only the Grantor, its successors and assigns, and the Grantee and the successors and assigns of the Grantee in and to all or any part of the fee title to the Property shall have the rights to consent and agree to changes or to eliminate in whole or in part any of the covenants contained in this Grant Deed or to subject the Property to additional covenants, easements, or other restrictions. For purposes of this Section, successors and assigns of the Grantee shall be defined to include only those parties who hold all or any part of the Property in fee title, and not to include a tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under deed of trust, or any other person or entity having an interest less than a fee in the Property.

4. This Grant Deed may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Grant Deed as of this

_____.

GRANTOR:

CITY OF EMERYVILLE AS SUCCESSOR
AGENCY TO THE EMERYVILLE
REDEVELOPMENT AGENCY, a separate public
body

By: _____

Name: _____

Its: _____

CITY OF EMERYVILLE, a California municipal
corporation

By: _____

Name: _____

Its: _____

ATTACHMENT NO. 1
PROPERTY DESCRIPTION

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT C
CONSENT TO ASSIGNMENT

Wareham Development Corporation hereby consents to the assignment of the City of Emeryville as the Successor Agency to the Emeryville Redevelopment Agency's rights to acquire that certain property referred to as Assessor's Parcel Number 049-1325-001-2 in accordance with the certain Lease dated March 2, 1993 to the City of Emeryville, a municipal corporation.

WAREHAM DEVELOPMENT CORPORATION

By: _____

Its: _____