



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Alexa Jeffress  
Director, Economic and  
Workforce Development

**SUBJECT:** City Center T5/T6 Site B - Second  
DDA Amendment

**DATE:** September 19, 2022

City Administrator Approval

Date: Oct 6, 2022

## RECOMMENDATION

**Staff Recommends That The City Council Adopt An Ordinance:**

**(A) Authorizing The City Administrator To Negotiate And Execute:**

- (1) A Second Amendment To The Disposition And Development Agreement Between The City Of Oakland And Strada T5, LLC, Which Will, Among Other Things, (A) Convert The Agreement To A Lease Disposition And Development Agreement, For Development Of A University Campus On The City Center T-5/T-6 Property Located On The Block Bounded By Broadway, 11th Street, 12th Street And Clay Street; (B) Extend The Term Up To 15 Months With Nonrefundable Monthly Extension Fees Of \$6,000; And (C) Provide Two Optional Administrative Six-Month Extensions Each For A Nonrefundable Extension Fee Of \$40,000; And**
- (2) A 99-Year Ground Lease Of The Property Between The City And Samuel Merritt University, Or Its Affiliate, And Related Documents For (A) Base Rent Of \$1 Per Year Prepaid On The Commencement Date, (B) Monthly Construction Rent Of 50 Percent Of Minimum Rent Commencing On The Rent Commencement Date For The Construction Period, (C) Initial Minimum Rent Of \$236,400 Commencing At The End Of The Construction Period, (D) A Credit Of The \$50,000 Good Faith Deposit Applied To Construction Rent And/Or Minimum Rent, And (E) One-Time Rent Credit Not To Exceed \$500,000 For Remediation Of The Property; And**

**(B) Adopting California Environmental Quality Act Findings**

## EXECUTIVE SUMMARY

Staff seeks City Council authorization for a proposed Second Amendment to an existing Disposition and Development Agreement (DDA) between the City of Oakland (City) and Strada T5 LLC ("Strada" or "Developer") and a 99-year ground lease with Samuel Merritt University (SMU) for operations of a campus headquarters. The T-5/T-6 property, located in downtown

City Council  
October 18, 2022

Oakland on the block bounded by 11<sup>th</sup> Street, Clay Street, 12<sup>th</sup> Street, and Broadway (Property), consists of two lots shown on the map as Site A and Site B, totaling approximately 1.25 acres (**Attachment A**).

The DDA approved by City Council on November 6, 2015 (Original DDA) provided for two phases of development for the Property. Phase 1 (Site A), a 16-story apartment building at 1100 Clay Street with 288 market-rate units, ground floor retail, and a 12,075 square-foot publicly accessible plaza, has completed construction. In Phase 2 (Site B), the Developer proposes to construct a new 10-story campus headquarters for SMU, an Oakland-based health sciences university and California nonprofit public benefit corporation.

The Original DDA authorized a hotel use on Site B. After a hotel use was deemed infeasible, the First Amendment to the DDA (together with the Original DDA, Existing DDA) authorized the study of an Alternate Project, including a university, on Site B.

Staff now seeks authorization for a proposed Second Amendment to convert the Existing DDA into a Lease Disposition and Development Agreement (LDDA), extend related performance milestones and the Phase 2 outside date (the Outside Date), and to negotiate and execute a 99-year ground lease between the City and SMU. The major terms of the LDDA and Ground Lease are included in the attached term sheets (**Attachment B** and **Attachment C**).

## **REASON FOR URGENCY**

The Existing DDA will expire on November 6, 2022.

## **BACKGROUND / LEGISLATIVE HISTORY**

### **1. Site and Disposition History**

The City of Oakland (City) owns approximately 1.25 acres of property on the block bounded by Broadway, 11th Street, 12th Street and Clay Street, commonly known as the T-5/T-6 parcels. These parcels were purchased by the Oakland Redevelopment Agency in the early 1970s along with numerous other parcels as part of the City Center Redevelopment Project. The Property is bisected by the driveway for the City Center Garage and Super Dock and includes the air space over the entry to the City Center Garage.

The Property was transferred to the City at the time of the dissolution of the Oakland Redevelopment Agency in 2012, and disposition of the Property is governed by the Long-Range Property Management Plan and the Master Agreement for Taxing Entity Compensation (the Compensation Agreement) between the City and other taxing entities. Because the Property was purchased by the former Redevelopment Agency with unrestricted funding rather than tax allocation bond proceeds, net lease or sale proceeds will be split among the taxing entities, and the City will receive its approximate 29 percent proportional share, pursuant to the Compensation Agreement.

The City Council authorized a DDA on October 6, 2015 (Ordinance No. [13328 C.M.S.](#)), which was executed on November 6, 2015, between the City and Strada. The DDA authorized the development of a residential building on Site A and a hotel mixed-use building on Site B

The City Council approved a First Amendment to the DDA on February 4, 2020 (Ordinance No. [13582 C.M.S.](#)) between the City and Strada, to enable the Developer to explore a non-hotel use on Site B (Alternate Site B Project). The First Amendment terminated the City's obligations to convey Site B under the DDA, allowing the Developer to pursue a hotel or, pending a determination of hotel infeasibility, the Alternate Site B Project, and extended the expiration date of the DDA by 15 months, from February 6, 2020 to May 6, 2021. Under the First Amendment, the Developer was required to provide documentation to the City regarding the feasibility of pursuing a hotel, upon which the City would make a feasibility determination.

The Developer had submitted detailed information related to the infeasibility of developing a hotel and proposed the construction of a higher education institution with offices, classrooms, teaching labs, and related uses for the prospective tenant, SMU, an Oakland-based, nonprofit university focused on training for jobs in the health sciences sector.

On May 20, 2020, the City Administrator approved the Developer's determination that a hotel use was infeasible on Site B, enabling the Developer to pursue the Alternate Site B Project with SMU.

The performance milestones under the Original DDA were amended to allow the Developer to explore the feasibility of the Alternate Site B Project, including obtaining the necessary planning approvals and environmental review. It was understood that staff would eventually return to City Council at the end of the DDA extension period to seek a possible Second Amendment to advance either a hotel or Alternate Site B Project with California Environmental Quality Act (CEQA) clearance.

Due to enforced delays caused by the COVID-19 pandemic, the City granted to the Developer, consistent with Section 12.8 of the DDA, an aggregate administrative extension of one year to complete performance milestones. This updated the Outside Date to May 5, 2022. Additionally, Section 6 of the First Amendment granted the City Administrator the discretion to grant an administrative extension for up to two three-month extension terms. Pursuant to the Developer request to exercise these extension options, the City Administrator granted the first extension on August 16, 2021, and the second extension on July 29, 2022, bringing the Outside Date to November 6, 2022 (Final Outside Date).

## 2. Project Description

The Site B Project entails the development of a new campus for SMU, a health sciences university and California nonprofit public benefit corporation. The Planning Commission unanimously approved all necessary entitlements for the project, including design review and a conditional use permit, on July 20, 2022.

The campus will consist of the construction of a new 10-story building of approximately 238,547 gross square feet, along with a landscaped plaza and pedestrian bridge connecting the building to 11<sup>th</sup> Street (**Attachment A**). The building will feature a mix of classroom space, educational laboratories, research laboratories, simulation space, student clinic space, and administrative

office space. The floor plan features ground floor entrances from both 11<sup>th</sup> and 12<sup>th</sup> Streets. The ground floor will include active uses, including the main lobby/reception area, a shared common lounge with student dining, teaching and research labs, and a campus bookstore. The upper floors will contain academic, administrative, and support spaces, along with outdoor terraces for students and faculty.

A publicly accessible plaza will be built on 11<sup>th</sup> Street featuring plantings, seating, and a fitness zone. Landscaping will include medicinal plants, and the fitness zone will sit adjacent to the Phase I plaza area to the east. As a driveway currently bisects the parcel, the Developer will construct a pedestrian bridge to connect 11<sup>th</sup> Street to the building and allow for entrances via both 11<sup>th</sup> Street and 12<sup>th</sup> Street. A no-build easement will be recorded against the Property, covering the portions of the driveway's airspace not used by the Property.

Development of the Site B Project will mark the completion of the former Redevelopment Agency's City Center Project, which covers a twelve-block area of downtown Oakland and which was started in 1970.

## **ANALYSIS AND POLICY ALTERNATIVES**

Staff recommends granting the Second Amendment to enable the SMU project to be built. In addition to converting the DDA to an LDDA, which would change the agreements from a sale to a lease, staff recommends that the City Council approve the terms in the attached LDDA and ground lease term sheets. The project will enable SMU, a major job generator and workforce development engine, to remain in Oakland. The new headquarters is also expected to bring thousands of students, faculty, and staff to City Center, contributing much-needed business to area retailers. It aligns with the **citywide priority of housing, economic, and cultural security**.

### **About Samuel Merritt University**

SMU is a 110-year-old Oakland institution that offers advanced degrees in health sciences including nursing, physical therapy, occupational therapy, podiatry, and physician assistants. SMU serves many Oakland students and residents with its mission to train healthcare professionals to advance health equity and support diverse communities. SMU has partnerships in the Oakland community including with the Oakland Unified School District, the Peralta colleges, several community health clinics, and dozens of faith-based communities. Twenty-five percent of SMU students go on to work in medically underserved areas after graduation.

SMU currently serves approximately 1,300 students and employs 300 staff and teachers. Approximately 70 percent of its students are people of color and 84 percent of students receive financial aid. SMU is also a workforce development engine, helping students access high-paying jobs in the healthcare sector. SMU's nursing school ranks fifth in the nation for post-graduation earnings, ahead of the Massachusetts Institute of Technology (MIT) and Harvard. 98 percent of its graduates find employment within one year of graduating. See more information in the attached SMU Factsheet, included as **Attachment D**.



SMU is seeking a new home so it can expand its educational programming and support more students. SMU is currently located in an outmoded and seismically unsound building on Pill Hill and needs new facilities to align with its programs, serve students, and remain competitive. SMU also seeks to grow its training programs to meet the staffing needs of health care providers. SMU expects to double enrollment in the next decade and serve 10,000 students by 2050, and they cannot achieve this in their current space.

Leasing Site B to SMU would keep the university in Oakland, thus retaining a major employer and workforce development institution, and would better connect the university to the communities it serves by providing easy access to Bay Area Rapid Transit (BART) and to surrounding neighborhoods including West Oakland and Chinatown.

The project will bring vitality and foot traffic to this part of downtown, including during the evenings and on weekends, a complement to the primarily 9am to 5pm office uses in the City Center area today. Adding thousands of students and faculty would help activate downtown's public spaces and support local small businesses and cultural centers. This would be especially helpful after several years of business closures and impacts from the COVID-19 pandemic and amidst slow office development market trends.

In the alternative, the City Council could choose to take no action now, in which case the Existing DDA would terminate on November 6, 2022. The site would lose a major Oakland educational institution, employer, and workforce development engine and SMU would look to other cities for its new campus. The site could then be offered for disposition pursuant to the requirements of the Surplus Land Act, which would delay development and activation of the site by at least 5 years.

### **Key Business Terms**

Strada will serve as the master developer of the Site B Project. The lease will be executed between the City and SMU. The Term Sheets include the following key terms.

#### LDDA

- The existing DDA will be converted into an LDDA for Site B.
- Site B will be ground leased to SMU, rather than conveyed in fee as contemplated by the Existing DDA.
- The Phase 2 Outside Date of the LDDA shall be extended for up to an additional 15 months, to February 6, 2024, with payment of monthly nonrefundable extension fees of \$6,000.
- The Developer will be granted two 6-month administrative extension options to the Phase 2 Outside Date, which will extend all related milestones in the attached Schedule of Performance, with payment of a nonrefundable extension fee of \$40,000 for each 6-month extension.

#### Lease Term

- Site B will be ground leased to SMU for a term of 99 years.
- The City will not deliver Site B to SMU until the Rent Commencement Date, defined as close of escrow of all financing, and anticipated to be February 6, 2024.

#### Use Restrictions and Permitted Transfers

- The Site will be restricted to university, health sciences, or other entitled uses. Prohibited uses are detailed in the attached term sheet.

#### Rent

- The Base Rent will be \$1, prepaid for the entire lease term (\$99) on the Rent Commencement Date.
- The Construction Rent will be 50% of the Minimum Rent (defined below), paid in monthly installments commencing on the Rent Commencement Date and thereafter until the earlier of (a) City issuance of a temporary certificate of occupancy, or (b) 36 months after the commencement of construction, as evidenced by City issuance of the first building permit for construction (Construction Period).
- Fair Market Minimum Rent will be \$236,400 paid annually, commencing on the next business day after the date of the end of the Construction Period and thereafter on each anniversary of the Rent Commencement Date, with a proration of the first such payment, if necessary, depending on the date of the end of the Construction Period in relation to the anniversary of the Rent Commencement Date.

#### Rent Adjustment

- The Minimum Rent will increase annually by the then-current Consumer Price Index for All Urban Consumers, All Items, for the San Francisco-Oakland-San Jose Metropolitan Statistical Area (CPI), published by the United States Bureau of Labor Statistics, multiplied by the prior year's Minimum Rent.
- In the event of a Transfer to a for-profit entity, there will be an adjustment to the Minimum Rent based on current market conditions. If agreement cannot be reached between the City and SMU on an adjustment, then the property will be reappraised, and a new Minimum Rent established, which in no event will be lower than the Minimum Rent but will not exceed the Minimum Rent by a cumulative compounded increase of 5% per year.

#### Rent Credits

- The Minimum Rent will be reduced by a Remediation Rent Credit, not to exceed \$500,000. The Remediation Rent Credit will be applied to future Minimum Rent due until the earlier of: (a) the Remediation Rent Credit amount is exhausted; or (b) the 10th anniversary of the Rent Commencement Date.
- The Good Faith Deposit currently held by the City, pursuant to Section 3.2.1 of the Existing DDA, shall be credited against the Minimum Rent after the Rent Commencement Date.

#### Parking License

- SMU will initially be able to use up to 50 parking spaces at the City Center Garage and will execute a parking license agreement 60 days before construction completion is anticipated.
- There is the possibility that SMU will be able to use additional parking spaces, conditional upon the existing parking license agreement for Site A.

#### Project Labor Agreement (PLA)

- The Developer has negotiated a PLA with Alameda County Building and Construction Trades Council and affiliated local unions, which was executed on April 26, 2016.

### **Economic Benefits To The City**

The Property was appraised by a third-party appraiser, which yielded an annual fair market rental value (FMRV) of \$236,400. Current access to Site B is via street access only on 11th Street, which limits the utility of the site. The FMRV accounted for the base costs of building a new pedestrian bridge over an existing driveway that will connect the Site to 12<sup>th</sup> Street, which is also an entry point to the City Center restaurant and retail area. The Project will generate at least \$236,400 in annual rent payments to the City, subject to annual increases based on the CPI. Over the first 10 years alone, this is expected to generate at least \$2.7 million in rent payments.

Any income generated by the lease of Site B to SMU is subject to the terms of the Compensation Agreement, which was executed by the City and 14 other taxing entities on July 1, 2014, as a pre-condition to the State of California's Department of Finance's approval of the City's Long-Range Property Management Plan. According to the terms of the Compensation Agreement, the City must share any sales (or lease) proceeds from Site B with these 14 taxing entities. The City will receive approximately 29% of SMU's annual rent payment, which will be deposited into the City's Affordable Housing Trust Fund.

Additionally, the new SMU campus will bring substantial additional daily foot traffic to the area, which will help support neighboring retailers at City Center. SMU estimates that approximately \$88 million will be spent annually across Northern California counties by students attending the new Oakland campus (compared with \$75 million in 2019 at their existing campus). This includes approximately \$38 million in anticipated student spending within Oakland.

As **Attachment D** shows, more than 80% of students receive financial aid, and SMU provides an opportunity for students to access very high-paying, often union, jobs. Median undergraduate nursing alumni salaries, 10 years post-graduation, are ranked first in California and fifth nationwide, ahead of MIT and Harvard. An SMU analysis also showed the incremental earnings of 506 SMU alumni from the last 15 years living in Oakland as \$36 million.

### **Community Benefits**

SMU has a significant community impact in Oakland and provides more than 1 million clinical hours in Oakland each year for free. These hours would support approximately 472 full-time workers and upwards of \$52 million in annual earnings if students were paid.

SMU has existing partnerships with numerous community organizations and health clinics, as shown in **Attachment D**, including the Davis Street Clinic, La Clinica de la Raza, Asian Health Services, and ROOTS Clinic. The SMU Ethnic Health Institute partners with the Oakland Unified School District, Alameda County Public Health Department, East Bay Regional Parks District, and dozens of faith communities to provide health education and health promotion events targeting communities of color. SMU works with at-risk and homeless populations through voluntarism, student clinical experiences, free on-site clinics, and the Hot-Spotting program. The university also has a significant partnership with Peralta Community College District, having enrolled nearly 400 students from the Peralta Community Colleges in the last five years alone.

SMU additionally serves approximately 600 "future students" in Oakland each year. These programs include the Oakland Tech Health Academy and the SMU Nursing Success program for underrepresented students, and several others.

In anticipation of the new campus site, SMU has established a new Center for Community Engagement that is focused on strengthening and expanding community partnerships to support healthy communities in Oakland. This work will include:

- Free health services and health education in underserved neighborhoods
- Volunteer clinics and vaccine sites
- Events, simulation labs, and other training opportunities for underrepresented students interested in health careers
- Lectures and talks by faculty and health science leaders, including events at the City Center building that will be open to the public

The new campus building will also generate substantial benefits to the community, including:

- New public plaza with landscaping, seating, and fitness area
- Community multi-purpose room

### **Surplus Lands Act**

The City acquired the Property from the Oakland Redevelopment Successor Agency (ORSA) pursuant to the California Department of Finance approved Long Range Property Management Plan for future development. The DDA was executed in November 2015 and is not subject to the State of California's Surplus Land Act, as amended, unless the disposition of the Property is not completed prior to December 31, 2022. The City, Strada and SMU have agreed on a schedule of performance that anticipates the lease for Site B to be executed by the middle of December, and for construction to start by 2024.

### **FISCAL IMPACT**

As explained above, any income generated by the lease of Site B to SMU is subject to the terms of the Compensation Agreement. According to its terms, the City must share any sales (or lease) proceeds from Site B with the 14 taxing entities in the Compensation Agreement. The City will receive approximately 29% of SMU's annual rent payment, which will be deposited into the City's Affordable Housing Trust Fund.

For Site B, any rent payments from SMU to the City, including Base Rent, Construction Rent, and Minimum Rent, will be deposited into and paid out from Central District Projects Fund (5610), Central District Redevelopment Organization (85245), Due to County Government Liability Account (21317), in a new project to be created, Downtown Redevelopment Program (SC13). Per the terms of the Compensation Agreement, once received, these annual rent payments will be transferred to the County of Alameda for distribution to the taxing entities.

Other financial terms include the extension of the Outside Date of the LDDA for up to an additional 15 months, with payment of monthly nonrefundable extension fees of \$6,000. The Developer will also be granted two 6-month administrative extension options to the Phase 2 Outside Date, which will extend all related milestones in the attached Schedule of Performance,

with payment of a nonrefundable extension fee of \$40,000 for each 6-month extension. These fees will be deposited and appropriated into the Central District Projects Fund (5610), Central District Redevelopment Organization (85245), in a new project to be created, Downtown Redevelopment Program (SC13).

### **PUBLIC OUTREACH / INTEREST**

The Developer and SMU hosted a public meeting on the Site B Project on April 13, 2022. They have conducted outreach to local neighborhood groups including the Old Oakland Neighbors.

### **COORDINATION**

The following City departments were consulted during the preparation of this report: the Office of the City Attorney; the Budget Bureau; and the Planning & Building Department.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The Project will generate at least \$236,400 in annual rent payments, subject to annual CPI increases; over the first 10 years alone, this is expected to generate at least \$2.7 million in payments. Additionally, it will bring substantial additional daily foot traffic to the area, which will help support neighboring retailers in the City Center area. SMU estimates that \$88 million will be spent annually across Northern California counties by students attending the new Oakland campus (compared with \$75 million in 2019 at their existing campus). Over 80% of students receive financial aid, and SMU provides an opportunity for students to access very high-paying, often union, jobs. Median undergraduate nursing alumni salaries, 10 years post-graduation, are ranked #1 in California and #5 nationwide, ahead of MIT and Harvard. SMU analysis also showed the incremental earnings of 506 SMU alumni from the last 15 years living in Oakland as \$36 million.

***Environmental:*** The Project will meet the criteria for LEED Silver certification. It additionally will encourage a reduction in vehicle trips, and thus greenhouse gas emissions, among students, faculty, and staff, through its transit-accessible location in Downtown Oakland. The City Center location is more accessible to BART and other public transit options than SMU's current campus location in Pill Hill.

***Race & Equity:*** SMU serves a racially diverse student population and employs a racially diverse workforce. Approximately 70% of SMU students, 59% of staff, and 23% of faculty are people of color. Many students are low-income (84% are on financial aid), and SMU provides an opportunity for students to access well-paid jobs.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The Project received Planning Commission approval on July 20, 2022. This entailed the approval of a Conditional Use Permit for an Extensive Impact Civic Activity, Minor Variances for Tower Elevation Length and Diagonal Length, Regular Design Review for a new non-residential

facility over 25,000 square feet in size, a Tree Protection Permit to remove 10 protected trees located within the subject vacant property, and Compliance with CEQA.

A detailed CEQA Analysis was prepared, which concluded that the Project qualified for streamlined environmental review, and that no further environmental review was required beyond an addendum.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt An Ordinance:

(A) Authorizing The City Administrator To Negotiate And Execute:

- (1) A Second Amendment To The Disposition And Development Agreement Between The City Of Oakland And Strada T5, LLC, Which Will, Among Other Things, (A) Convert The Agreement To A Lease Disposition And Development Agreement, For Development Of A University Campus On The City Center T-5/T-6 Property Located On The Block Bounded By Broadway, 11th Street, 12th Street And Clay Street; (B) Extend The Term Up To 15 Months With Nonrefundable Monthly Extension Fees Of \$6,000; And (C) Provide Two Optional Administrative Six-Month Extensions Each For A Nonrefundable Extension Fee Of \$40,000; And
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(B) Adopting California Environmental Quality Act Findings

For questions regarding this report, please contact Jens Hillmer, Development Area Manager, at 510-238-3317.

Respectfully submitted,



ALEXA JEFFRESS  
Director, Economic & Workforce Development

Reviewed by:

Kelley Kahn  
Director of Real Estate and Strategic  
Partnerships

Jens Hillmer  
Development Area Manager

Prepared by:

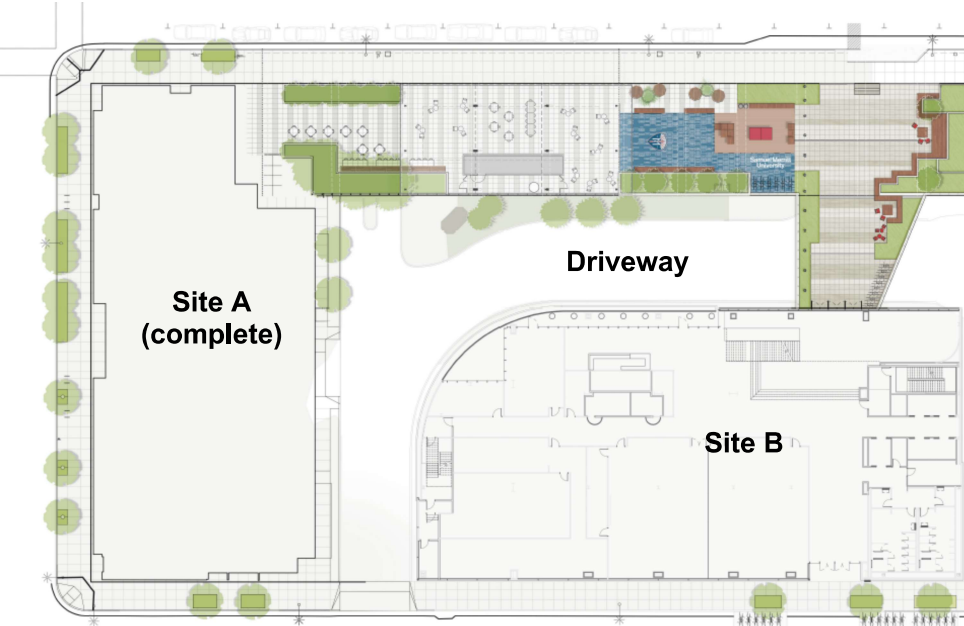
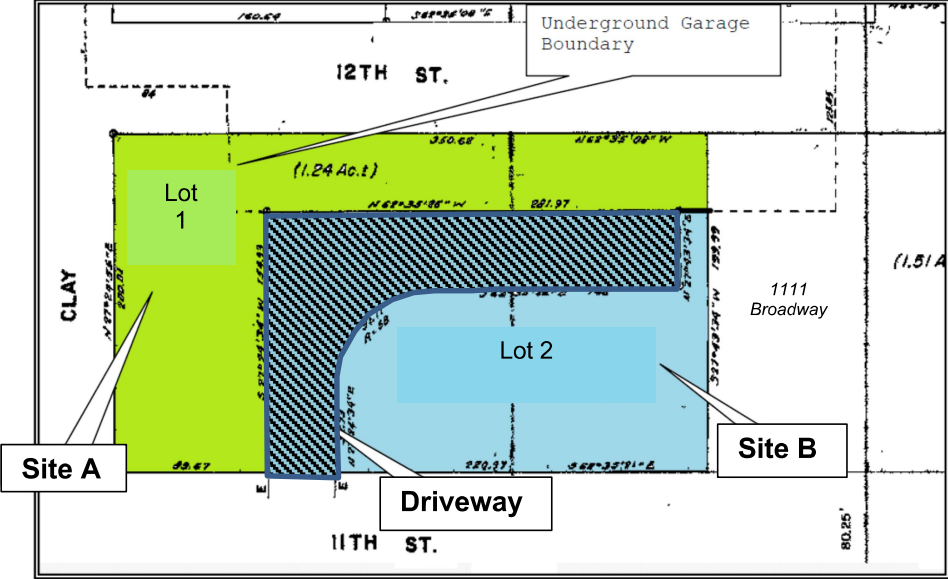
Jaclyn Sachs  
Urban Economic Analyst IV  
Public/Private Development

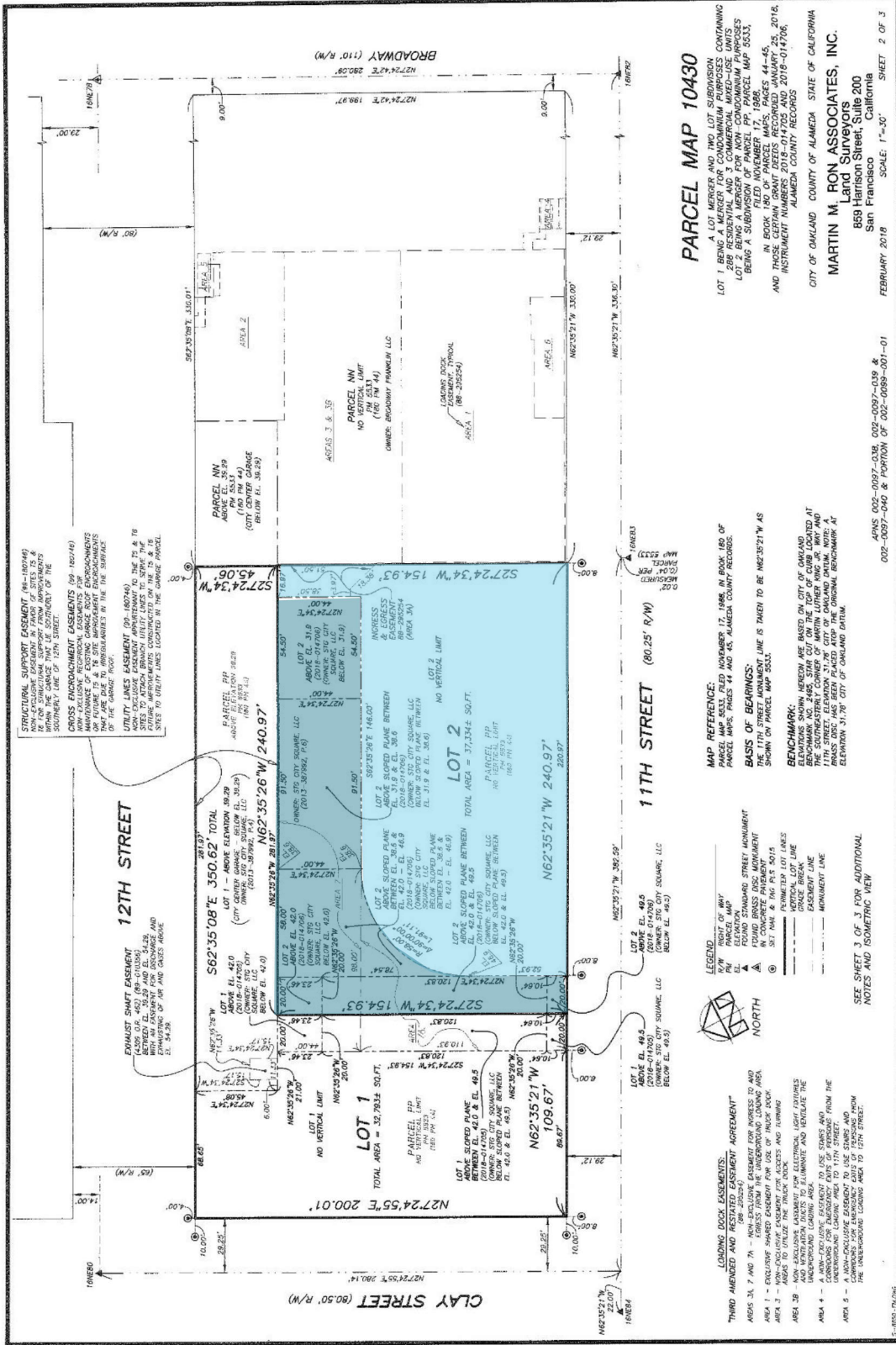
Attachments (4):  
Attachment A: Parcel Map  
Attachment B: LDDA Term Sheet  
Attachment C: Ground Lease Term Sheet  
Attachment D: SMU Factsheet



Attachment A – Parcel Map

Site Sketch





**PARCEL MAP 10430**

A LOT MERGER AND TWO LOT SUBDIVISION  
 LOT 1 BEING A MERGER FOR CONDOMINIUM PURPOSES CONTAINING  
 LOT 10B AND LOT 10C OF PARCEL MAP 5533  
 LOT 2 BEING A MERGER FOR NON-CONDOMINIUM PURPOSES  
 BEING A SUBDIVISION OF PARCEL PP, PARCEL MAP 5533,  
 IN BOOK FIELD NOVEMBER 1988, PAGES 44-45,  
 AND THOSE CERTAIN GRANT DEEDS RECORDED JANUARY 25, 2018,  
 INSTRUMENT NUMBERS 2018-014702 AND 2018-014706,  
 ALAMEDA COUNTY RECORDS

CITY OF OAKLAND COUNTY OF ALAMEDA STATE OF CALIFORNIA  
**MARTIN M. RON ASSOCIATES, INC.**  
 Land Surveyors  
 859 Harrison Street, Suite 200  
 San Francisco, California  
 FEBRUARY 2018 SCALE: 1"=30'

APNS 002-0097-039, 002-0097-039 &  
 002-0097-040 & PORTION OF 002-0099-001-01  
 SHEET 2 OF 3

**MAP REFERENCE:**  
 PARCEL MAP 5533, FILED NOVEMBER 17, 1988, IN BOOK 160 OF  
 ALAMEDA COUNTY RECORDS.  
**LOT 1** - ABOVE EL. 48.5  
 (2018-014702)  
 BELOW EL. 49.3

**LOADING DOCK EASEMENTS:**  
 THIRD AMENDED AND RESTATED EASEMENT AGREEMENT  
 AREAS 3A, 7 AND 7A - NON-EXCLUSIVE EASEMENT FOR ACCESS TO AND  
 EGRESS FROM THE UNDERPINNING LOADING AREA,  
 AREA 1 - EXCLUSIVE EGRESS FROM THE UNDERPINNING LOADING AREA,  
 AREA 2 - NON-EXCLUSIVE EASEMENT FOR ACCESS AND TURNING  
 AREAS TO UTILIZE THE TRUCK DOCK.  
 AREA 3B - AND WITHIN THIS TRUCK DOCK, ACCESS, EGRESS AND  
 UNDERPINNING LOADING AREA.  
 AREA 4 - CORRIDORS FOR EMERGENCY EGRESS OF PERSONS FROM THE  
 UNDERPINNING LOADING AREA.  
 AREA 5 - A NON-EXCLUSIVE EASEMENT TO USE STAMPS AND  
 COMPASS FOR EMBROIDERY GRIDS OF TAMPONS FROM  
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 EGRESS FROM THE UNDERPINNING LOADING AREA,  
 AREA 1 - EXCLUSIVE EGRESS FROM THE UNDERPINNING LOADING AREA,  
 AREA 2 - NON-EXCLUSIVE EASEMENT FOR ACCESS AND TURNING  
 AREAS TO UTILIZE THE TRUCK DOCK.  
 AREA 3B - AND WITHIN THIS TRUCK DOCK, ACCESS, EGRESS AND  
 UNDERPINNING LOADING AREA.  
 AREA 4 - CORRIDORS FOR EMERGENCY EGRESS OF PERSONS FROM THE  
 UNDERPINNING LOADING AREA.  
 AREA 5 - A NON-EXCLUSIVE EASEMENT TO USE STAMPS AND  
 COMPASS FOR EMBROIDERY GRIDS OF TAMPONS FROM  
 THE UNDERPINNING LOADING AREA TO 12TH STREET.

SEE SHEET 3 OF 3 FOR ADDITIONAL  
 NOTES AND ISOMETRIC VIEW

LEGEND

- W/W ROUTE OF HWY
- EL. ELEVATION
- ▲ FOUND STANDARD STREET MONUMENT
- ▲ FOUND STANDARD STREET MONUMENT IN CONCRETE PAVEMENT
- SET NAIL & TAG PL. 5.0/15
- FURNISHED LOT LINES
- ORIGINAL LOT LINES
- EASEMENT LINE
- MONUMENT LINE



NORTH

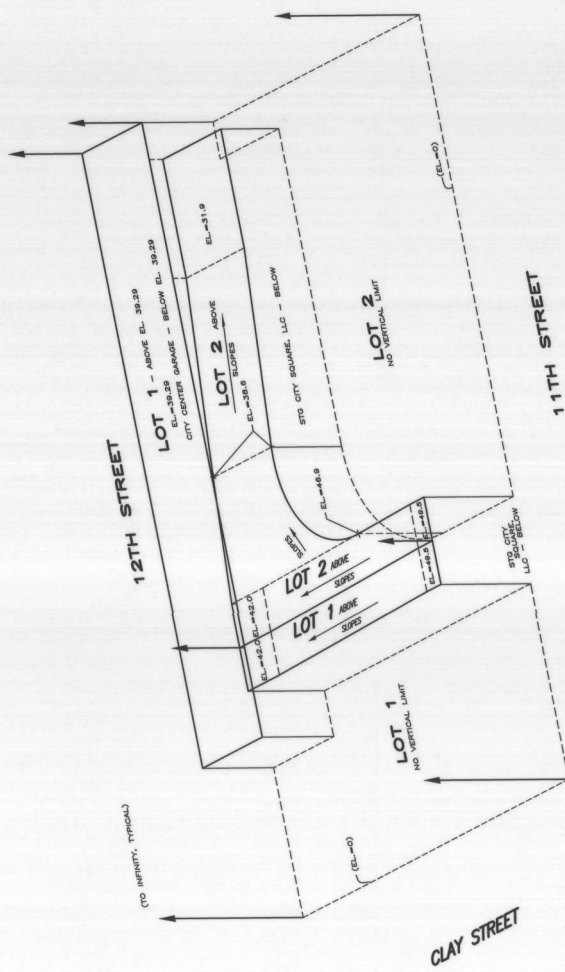
MAP REFERENCE:  
 PARCEL MAP 5533, FILED NOVEMBER 17, 1988, IN BOOK 160 OF  
 ALAMEDA COUNTY RECORDS.  
**LOT 1** - ABOVE EL. 48.5  
 (2018-014702)  
 BELOW EL. 49.3

**LOADING DOCK EASEMENTS:**  
 THIRD AMENDED AND RESTATED EASEMENT AGREEMENT  
 AREAS 3A, 7 AND 7A - NON-EXCLUSIVE EASEMENT FOR ACCESS TO AND  
 EGRESS FROM THE UNDERPINNING LOADING AREA,  
 AREA 1 - EXCLUSIVE EGRESS FROM THE UNDERPINNING LOADING AREA,  
 AREA 2 - NON-EXCLUSIVE EASEMENT FOR ACCESS AND TURNING  
 AREAS TO UTILIZE THE TRUCK DOCK.  
 AREA 3B - AND WITHIN THIS TRUCK DOCK, ACCESS, EGRESS AND  
 UNDERPINNING LOADING AREA.  
 AREA 4 - CORRIDORS FOR EMERGENCY EGRESS OF PERSONS FROM THE  
 UNDERPINNING LOADING AREA.  
 AREA 5 - A NON-EXCLUSIVE EASEMENT TO USE STAMPS AND  
 COMPASS FOR EMBROIDERY GRIDS OF TAMPONS FROM  
 THE UNDERPINNING LOADING AREA TO 12TH STREET.

**LOADING DOCK EASEMENTS:**  
 THIRD AMENDED AND RESTATED EASEMENT AGREEMENT  
 AREAS 3A, 7 AND 7A - NON-EXCLUSIVE EASEMENT FOR ACCESS TO AND  
 EGRESS FROM THE UNDERPINNING LOADING AREA,  
 AREA 1 - EXCLUSIVE EGRESS FROM THE UNDERPINNING LOADING AREA,  
 AREA 2 - NON-EXCLUSIVE EASEMENT FOR ACCESS AND TURNING  
 AREAS TO UTILIZE THE TRUCK DOCK.  
 AREA 3B - AND WITHIN THIS TRUCK DOCK, ACCESS, EGRESS AND  
 UNDERPINNING LOADING AREA.  
 AREA 4 - CORRIDORS FOR EMERGENCY EGRESS OF PERSONS FROM THE  
 UNDERPINNING LOADING AREA.  
 AREA 5 - A NON-EXCLUSIVE EASEMENT TO USE STAMPS AND  
 COMPASS FOR EMBROIDERY GRIDS OF TAMPONS FROM  
 THE UNDERPINNING LOADING AREA TO 12TH STREET.

THE SUBDIVISION SHOWN HEREON IS SUBJECT TO THE FOLLOWING TITLE EXCEPTIONS:

- a) EXHAUST SHAFT EASEMENT AS DESCRIBED IN THAT CERTAIN GRANT RECORD NUMBER 88-010356, OFFICIAL RECORDS, BEING GRANTED TO THE CITY OF OAKLAND BY INSTRUMENT NUMBER 88-010356, OFFICIAL RECORDS, RECORDED JANUARY 12, 1989, SERIES NO. 88-010356, OFFICIAL RECORDS.
- b) PEDESTRIAN ACCESS AND EGRESS EASEMENT AS GRANTED IN THAT CERTAIN GRANT RECORD NUMBER 88-010356, OFFICIAL RECORDS, BEING GRANTED TO THE CITY OF OAKLAND BY INSTRUMENT NUMBER 88-010356, OFFICIAL RECORDS, RECORDED JANUARY 12, 1989, SERIES NO. 88-010356, OFFICIAL RECORDS.
- c) THE AIRSPACE PARCEL GRANTED TO THE CITY OF OAKLAND BY INSTRUMENT NUMBER 2018-014705 IS BEING MERGED PER THIS PARCEL MAP 10430 WITH A PORTION OF PARCEL TP AS SHOWN ON PARCEL MAP 5533.
- d) THE AIRSPACE PARCEL GRANTED TO THE CITY OF OAKLAND BY INSTRUMENT NUMBER 2018-014706 IS BEING MERGED PER THIS PARCEL MAP 10430 WITH A PORTION OF PARCEL TP AS SHOWN ON PARCEL MAP 5533.



ISOMETRIC VIEW OF AIRSPACE PORTIONS OF LOTS 1 & 2  
SEE PLAN VIEW ON SHEET 2 OF 3 FOR LOT DIMENSIONS.

LEGEND  
EL. ELEVATION

**PARCEL MAP 10430**

A LOT MERGER AND TWO LOT SUBDIVISION OF LOT 1 BEING MERGED WITH A PORTION OF PARCEL TP AS SHOWN ON PARCEL MAP 5533, 288 RESIDENTIAL AND 3 COMMERCIAL MIXED-USE UNITS LOT 2 BEING A MERGER FOR NON-CONDOMINIUM PURPOSES OF PARCELS TP AS SHOWN ON PARCEL MAP 5533, BEING A SUBDIVISION OF PARCEL TP AS SHOWN ON PARCEL MAP 5533, IN BOOK 180 OF PARCEL MAPS, PAGES 44-45, AND THOSE CERTAIN GRANT DEEDS RECORDED JANUARY 25, 2018, INSTRUMENT NUMBER 2018-014705, 2018-014706, ALAMEDA COUNTY RECORDS

CITY OF OAKLAND COUNTY OF ALAMEDA STATE OF CALIFORNIA  
**MARTIN M. RON ASSOCIATES, INC.**  
Land Surveyors  
859 Harrison Street, Suite 200  
San Francisco California

FEBRUARY 2018 SHEET 3 OF 3

APNS 002-0097-038, 002-0097-039, &  
002-0097-040 & PORTION OF 002-0099-001-01

## Attachment B - LDDA Term Sheet

**Second Amendment to Lease Disposition and Development Agreement**  
**(T-5/T-6)**

This nonbinding term sheet shall serve as the basis for the negotiations of a detailed Second Amendment of that certain Existing DDA (as defined below) (the “**Second Amendment**”).

The terms hereof are not binding on the City unless and until Strada T5 LLC (“**Strada**”) and the City Administrator, and Samuel Merritt University (“**SMU**”) and the City Administrator, respectively, pursuant to City Council authorization within Council’s sole legislative discretion, have executed a mutually acceptable Second Amendment and Ground Lease, respectively, for the proposed Phase 2 of the Project.

Capitalized terms in this Term Sheet shall have the meanings given in the Existing DDA.

|          |   |  |
|----------|---|--|
| <b>1</b> | <b>EXISTING DDA</b>                           | Disposition and Development Agreement dated effective November 6, 2015 (the “ <b>Original DDA</b> ”), as amended by First Amendment dated as of February 4, 2020 (the “ <b>First Amendment</b> ” and letters dated September 22, 2020, January 29, 2021, August 16, 2021, and July 29, 2022, together with the Original DDA, the “ <b>Existing DDA</b> ”). The title of the Existing DDA, as amended by the Second Amendment, shall be changed such that it is consistent with the changed deal structure from a sale to a lease of Site B, and therefore, as of the effective date of the Second Amendment, the title of the Existing DDA shall be the “Lease Disposition and Development Agreement” and the Existing DDA, as amended by the Second Amendment, shall be referred to as “ <b>LDDA</b> ”. |
| <b>2</b> | <b>OWNER</b>                                  | City of Oakland, a municipal corporation (“ <b>City</b> ”)   |
| <b>3</b> | <b>DEVELOPER</b>                              | Strada T5, LLC, a California limited liability company (“ <b>Strada</b> ”)   |
| <b>3</b> | <b>PHASE 2 PROJECT DESCRIPTION AND STATUS</b> | The Original DDA contemplated development on Site B as the Hotel Project. The First Amendment provided that, if the City determined the Hotel Project was not feasible, Strada proposed as an alternative use, development of Site B as a higher education institution. The City subsequently  |

|   |                                      |  |
|---|--------------------------------------|--|
|   |                                      | <p>determined the Hotel Project is not feasible and so notified Strada on May 20, 2020.</p> <p>Strada elected to seek a conditional use permit and CEQA Clearance for development of Site B for university use, which may include, without limitation, offices, classrooms, teaching labs, common spaces, parking, and possible health services facilities, and related uses (collectively, the “<b>University Use</b>”) no later than by the Entitlement Date.</p>  |
| 4 | <b>GROUND LEASE</b>                  | <p>Site B will be ground leased to SMU, rather than conveyed in fee as contemplated by the Existing DDA.</p> <p>Accordingly, at Closing (as defined below), rather than a Grant Deed the City and SMU will enter into a ground lease of Site B (the “<b>Ground Lease</b>”), on the terms and conditions of this Term Sheet and in the Ground Lease Term Sheet (T5-T6) (the “<b>Ground Lease Term Sheet</b>”), and as otherwise negotiated between the parties prior to the Closing.</p>  |
| 5 | <b>CONDITIONS PRECEDENT TO LEASE</b> | <p>The conditions precedent to conveyance of Site B in Section 2.1 of the Existing DDA will apply as conditions precedent to the Ground Lease of Site B.</p> <p>The parties have elected to proceed to Closing on or before December 22, 2022 and prior to all of the conditions precedent to Closing having been satisfied and, therefore, the following shall apply:</p> <ol style="list-style-type: none"> <li>a. The unsatisfied conditions precedent will be deferred.</li> <li>b. The Ground Lease will include the following provisions:</li> </ol> <p>This Ground Lease shall be effective upon the Commencement Date and Landlord shall not deliver possession of the Premises to Tenant until the occurrence of the Rent Commencement Date. Prior to the Rent Commencement Date, Landlord shall retain possession of the Premises and Tenant shall have no possessory or other rights to the Premises, except as otherwise set forth in the right of entry provided to Tenant pursuant to Section 4 of LDDA.</p> |

|   |  |  |
|---|--|--|
|   |  | <p>If the Rent Commencement Date does not occur by February 6, 2024 (as such date may be extended as provided in Section 12 below), Tenant shall, at the request of Landlord, execute and record a termination of the Ground Lease, substantially in the form attached as <u>Exhibit ___</u> to the Ground Lease (the “<b>Termination of Ground Lease</b>”).</p> <p>The term “Closing” in the LDDA shall be revised to mean the date of close of escrow for the recordation of the Ground Lease or a Memorandum thereof, together with the Assignment and Assumption (as defined below).</p> <p>“Commencement Date” means the date of Closing.</p> <p>“Rent Commencement Date” means the date of close of escrow of all financing required by the financial plan approved pursuant to Section 2.1.2 of the LDDA.</p> |
| 6 | <b>GOOD FAITH DEPOSIT</b>                | <p>The Assignment and Assumption Agreement (as defined below) shall include an assignment of the Good Faith Deposit currently held by the City pursuant to Section 3.2.1 of the Existing DDA by Strada to SMU, which shall be credited against Construction Rent and/or Minimum Rent, as applicable, first coming due after the Rent Commencement Date.</p>  |
| 7 | <b>CONDITION OF PROPERTY AT DELIVERY</b> | <p>SMU to ground lease Site B in its “as is” condition in accordance with Section 3.5 of the LDDA.</p>   |
| 8 | <b>PERMITTED TRANSFERS</b>               | <p>(A) Section 9.4 (Permitted Transfers) of the LDDA shall be amended to move the first sentence of Section 9.4 to Section 9.4.1 and renumber the remaining portions of Section 9.4.1 as follows:</p> <p>9.4. <u>Permitted Transfers.</u></p> <p>9.4.1. The following Transfers shall be permitted with respect to each Site and Phase, or the Property in its entirety, as applicable, and shall require thirty (30)-day prior written notice to the City, but shall not require the City’s consent:</p>  |

9.4.1.1. With respect to each Site, before Completion of Construction of the applicable Phase, or with respect to the entire Property, before Completion of Construction for either Phase:

(a) The granting of easements or permits to facilitate the development of the applicable Phase(s);

...

(g) The addition of any non-managing equity members to the Developer.

(B) Section 9.4 (Permitted Transfers) of the LDDA shall also be amended to add a new Section 9.4.2. as follows:

9.4.2. The following Transfers shall be permitted with respect to Site B and Phase 2:

9.4.2.1. Subject to execution by Strada and SMU of the attached Closing Representations, the form attached to the LDDA as Exhibit M, at the Closing, Strada shall Transfer all of its rights and obligations as “Developer” under the LDDA with respect to Site B and Phase 2 of the Project (including without limitation the Good Faith Deposit) to SMU or its Affiliate without further City consent, conditioned upon Strada or its Affiliate continuing to act as “Development Manager” (overseeing and managing the development and construction of Phase 2) through Completion, pursuant to a contract with SMU. It shall be a default under the LDDA and Ground Lease if Strada or its Affiliate, or another Qualified Developer (as defined in the LDDA) approved by City, no longer acts as Development Manager at any time prior to Completion of Phase 2.

9.4.2.2. Upon SMU’s (or its Affiliate’s) assumption of the obligations of Strada under the LDDA, Strada will be released of obligations as Developer of Phase 2 on Site B pursuant to the LDDA. The assignment and assumption provided in Sections 9.4.2.1. and 9.4.2.2. shall be pursuant to a written assignment and assumption agreement in a form approved by the City, which shall be effective as of the Closing (as approved, the “**Assignment**”



|   |  |  |
|---|--|--|
|   |  | <p><b>and Assumption Agreement”)</b>. The Assignment and Assumption Agreement will include an assignment of Strada’s rights and obligations with respect to Site B and Phase 2 of the Project under that certain Project Stabilization Agreement for the T-5/T-6 Project--Oakland, entered into April 26, 2016 executed by the Alameda County Building &amp; Construction Trades Council (“<b>Council</b>”) and Strada (the “<b>Project Labor Agreement</b>”) pursuant to Section 17.1 of the Project Labor Agreement, and Developer will provide notice to the Council of such assignment as required by Section 17.1.</p> <p>(C) Section 9.4 (Permitted Transfers) of the LDDA shall be further amended to delete Section 9.4.2. of the Existing DDA and replace it with the following:</p> <p>9.4.3. After Closing and prior to Completion of Construction, SMU shall not have the right to Transfer all or any portion of its rights and obligations under the LDDA without the prior written consent of the City, in the City’s sole and absolute discretion, other than Permitted Transfers pursuant to Section 9.4.</p> <p>9.4.4. After Completion of Construction of Phase 2: Subject to the use and other ongoing restrictions set forth herein and in the Ground Lease, any Transfer with respect to Phase 2 shall be permitted.</p> |
| 9 | <p><b>ENVIRONMENTAL<br/>REMEDATION</b></p> | <p>Section 5.5 (Limited Reimbursement of Environmental Remediation Costs) of the LDDA shall be deleted in its entirety and replaced with the following:</p> <p>5.5. <u>Limited Reimbursement of Environmental Remediation Costs for Site B.</u></p> <p>5.5.1. The City and Developer acknowledge the Remediation Work Escrow provided for Site A in Section 5.5 of the Existing DDA has been fully disbursed to the City and/or Developer, as applicable.</p> <p>5.5.2. Developer will assume responsibility for Remediation Work for Site B, which Development Manager may perform or cause to be performed on behalf and at the direction of Developer. A credit in the amount</p>   |

approved by the City for the Remediation Work will be applied to future Minimum Rent (the “**Remediation Rent Credit**”) due under the Ground Lease, until the earlier of: (a) the Remediation Rent Credit amount is exhausted; or (b) the 10th anniversary of the Rent Commencement Date under the Ground Lease.

5.5.3. The cost of the Remediation Work (the “**Remediation Work Cost**”) will be determined as follows:

5.3.1. First, prior to the Phase 2 Outside Date (Rent Commencement Date under the Ground Lease), a Phase II environmental analysis (“**Phase II Report**”) commissioned by Developer and reasonably approved by the City will provide a preliminary estimate of the cost of the Remediation Work.

5.3.2. Second, prior to implementation of Remediation Work, Developer shall provide the City, for its prior review and approval, the scope of work and cost estimates for all environmental analysis and other Remediation Work to be performed by a third-party(ies). The City shall review the scope of work and cost estimates and approve and determine the final cost of the Remediation Work (the “**Remediation Work Cost**”), which may be higher or lower than the preliminary estimate of the cost of Remediation Work provided by the Phase II Report, which determination shall not be unreasonably withheld, conditioned or delayed.

5.3.2.1. The Remediation Work Cost shall include **only** costs for Remediation Work over and above the normal costs for excavation and materials disposal in connection with the Project construction **and** provided to the City for its reasonable review and approval.

5.3.2.2. Remediation Work Cost can include third-party costs related to preparation of a Phase II Report (provided the City reviews and approves the Developer’s selection of consultant to prepare the Phase II Report, which approval shall not be unreasonably withheld), compliance, and on-site testing of soil or ground water for hazardous materials.

5.3.2.3. Remediation Work Cost shall **not** include any of the following:

(a) the cost of excavation and construction of the Project improvements, including, without limitation, shoring and excavation, any required archeological mitigation, soil removal and de-watering as necessary to develop such improvements **except** to the extent required **primarily** for Remediation Work;

(b) legal costs, whether for in-house or outside counsel, that are not directly related to the Remediation Work and/or related regulatory reporting and/or satisfaction of other regulatory requirements; and

(c) Developer overhead, administrative or staff costs.

5.5.4. The amount of the Remediation Work Cost to be applied as the Remediation Rent Credit for Site B shall be limited as follows:

5.5.4.1. The amount of the Remediation Rent Credit shall not exceed \$500,000 (the “**Maximum Credit**”) of the Remediation Work Cost. Developer shall be responsible, at its sole cost and expense, for any Remediation Work exceeding the Maximum Credit.

5.5.4.2. Only Remediation Work performed **prior** to the “**Site B Remediation Work Outside Date**”, which is the **earlier of**: (a) Developer’s completion of excavation work for the Project, or (b) twenty-four (24) months after the Phase 2 Outside Closing Date.

5.5.4.3. Only the Remediation Work Cost incurred by Developer that can be evidenced by invoices or receipts.

Developer shall promptly submit to the City invoices, receipts, or other documentation (as reasonably requested by the City) as evidence of the Remediation Work Cost incurred. City shall review, approve, and determine, in its reasonable discretion within fifteen (15) business days of

|                  |                                       |  |
|------------------|---------------------------------------|--|
|                  |                                       | <p>receipt of complete documentation, if such invoices or receipts wholly or partially qualify as Remediation Rent Credit pursuant to this Section 5.5.</p>  |
| <p><b>10</b></p> | <p><b>PHASE 2 PARKING LICENSE</b></p> | <p>Section 6.11. (Parking License Agreement) of the Existing DDA shall be deleted in its entirety and replaced with the following:</p> <p>6.11. <u>Parking License Agreements.</u></p> <p>6.11.1. The City and Developer entered into that certain Parking License Agreement (T5 – Residential Parking – Site A) dated _____, 2022, which allocated up to 200 parking spaces to Site A (the “<b>Site A Parking License</b>”), which provides that five (5) years after the effective date thereof (the “<b>Parking Determination Date</b>”) the number of parking spaces will be limited to the lesser of (a) 200 parking spaces, or (b) the highest number of parking spaces actually licensed or subleased to Residents, the homeowners association (if formed), Retail Operators, as such terms are defined in the Site A Parking License (the “<b>Final Number of Parking Spaces</b>”).</p> <p>6.11.2. Sixty (60) days before the expected Completion of Construction of Phase 2, Developer shall execute and deliver to the City a parking license agreement for the benefit of the tenant of Site B at the City Center Garage in substantially the form attached as <u>Exhibit J</u> to the LDDA, for up to 50 parking spaces at the Prevailing Market Rate (as defined in <u>Exhibit J</u>) (the “<b>Site B Parking License</b>”). The Site B Parking License is anticipated to be effective prior to the Parking Determination Date.</p> <p>6.11.3 If on the Parking Determination Date the Final Number of Parking Spaces is less than 150 parking spaces, then the Site B Parking License will be amended to increase the parking spaces allocated thereunder by an amount equal to the difference between 150 and the Final Number of Parking Spaces.</p> <p>6.11.2.1. For example, if the Final Number of Parking Spaces equals 140 spaces, then sixty (60) spaces will be allocated to Site B (50 initially, plus 10 additional spaces after the Parking Determination Date). In this case,</p> |

|    |                              |  |
|----|------------------------------|--|
|    |                              | <p>the Site B Parking License will be amended to increase the total number of parking spaces from 50 to 60 spaces.</p> <p>6.11.2.2. However, if for example, the Final Number of Parking Spaces equals 180, then only the initial fifty (50) spaces will be allocated to Site B and no amendment to the Site B Parking License will be required.</p> <p>Simultaneously with issuance of a Certificate of Completion for Phase 2 pursuant to Section 6.10, the City shall execute and deliver to the Developer the Site B Parking License previously signed and delivered to the City by the Developer for the initial 50 spaces as set forth herein.</p>   |
| 11 | <b>NOTICES AND APPROVALS</b> | <p>The addresses listed in Section 12.1.3. shall be deleted and replaced with the following:</p> <p><b>DEVELOPER:</b> Strada T5 LLC<br/> c/o Strada Investment Group<br/> 201 Spear Street, Suite 1650<br/> San Francisco, CA 94105<br/> Attention: Michael Cohen</p> <p><b>Copy to:</b> Shartsis Friese LLP<br/> One Maritime Plaza, 19th Floor<br/> San Francisco, CA 94111<br/> Attention: Jodi Fedor</p> <p><b>CITY:</b> City of Oakland<br/> Economic &amp; Workforce Development<br/> Department<br/> Public/Private Development Division<br/> 250 Frank H. Ogawa Plaza, 5th Floor<br/> Oakland, CA 94612<br/> Attention: Director</p> <p><b>Copy to:</b> Office of the City Attorney<br/> One Frank H. Ogawa Plaza, 6th Floor<br/> Oakland, CA 94612<br/> Attention: Supervising City Attorney<br/> for Real Estate</p> |

|    |   |   |
|----|---|---|
| 12 | <b>SCHEDULE OF PERFORMANCE (PHASE 2/SITE B)</b> | <p>With respect to Site B/Phase 2, the Schedule attached to this Term Sheet (the “<b>Phase 2 Schedule</b>” or “<b>Schedule</b>”) will replace the Schedule attached to the Existing DDA as Exhibit C. All such dates are subject to events of force majeure, up to an aggregate maximum delay of one (1) year subject to amendment of Section 12.8.</p> <p>Strada has exercised the first Extension Term and the second Extension Term under the First Amendment with payment to the City of an extension fee of \$20,000 for each extension, to extend the Expiration Date to November 6, 2022, and such extension is reflected in the attached Schedule.</p> <p>In addition, subject to City Council approval, the LDDA shall (a) be extended for up to an additional fifteen (15) months to February 6, 2024 (Phase 2 Outside Date pursuant to Section 3.6 of the LDDA), with payment of monthly nonrefundable extension fees of \$6,000, and (b) grant Developer the right, at its option, to two (2) six (6)-month administrative extensions of the Phase 2 Outside Date (which also shall extend the Phase 2 Outside Date and all outstanding milestones in the Schedule, including any deferred milestones that are conditions to the occurrence of the Phase 2 Outside D Date), with payment of nonrefundable extension fee of \$40,000 for each six (6)-month extension.</p> |
| 13 | <b>COMPLETION GUARANTY</b>                      | <p>SMU (rather than a third party) may provide the Completion Guaranty required by Section 2.1.6 of the LDDA, which shall guaranty completion of the Project by the Development Manager pursuant to the LDDA, provided that (i) in addition to the Net Worth covenant in the form of Completion Guaranty attached to the LDDA, until Completion of the Project SMU shall maintain liquidity of at least fifty percent (50%) of the remaining unspent Project Costs and provide reasonable documentation of such liquidity upon City’s request, and (ii) SMU will waive and agree to not assert any defense that may exist by reason of SMU’s status as the Developer under the LDDA, including any claim that the Development Manager is acting as SMU’s agent in the performance of the guaranteed obligations.</p>  |
| 14 | <b>DELETIONS FROM EXISTING DDA</b>              | <p>The following provisions of the Existing DDA shall not be applicable to Site B/Phase 2:</p>  |

|    |  |   |
|----|--|---|
|    |  | <ul style="list-style-type: none"> <li>• Section 2.1.8 (Easements) -- satisfied</li> <li>• Section 2.3 (Phase 2 Financial Feasibility Determination) -- satisfied</li> <li>• Section 2.4 (Affordable Housing Trust Fund Contribution) -- satisfied</li> <li>• Section 2.5 (Apprenticeship Funding) -- satisfied</li> <li>• Section 2.6 (Plaza Access and Maintenance Agreement) -- satisfied</li> <li>• Section 7.1 (City Employment and Contracting Requirements)</li> <li>• Section 8.2 (Living Wage)</li> <li>• Section 8.3 (Local 2850 Agreement) -- N/A (not hotel)</li> </ul> <p>The Project Labor Agreement entered into pursuant to Section 6.12 of the Existing DDA shall continue to apply to employment on the construction of Phase 2.</p>  |
| 15 | <b>ADDITIONAL AMENDMENTS TO EXISTING DDA</b> | <p>In addition to the modifications noted elsewhere in this Term Sheet, the following provisions of the Existing DDA will be modified in the Second Amendment:</p> <ul style="list-style-type: none"> <li>• Section 3.1 and 3.2 (Purchase Price) to be revised to reflect Ground Lease terms and requirement for execution and delivery of Closing Representations.</li> <li>• Section 3.6 (Time of disposition; contingencies; escrow) -- amended as needed to reflect a Ground Lease rather than fee conveyance and to reflect modifications of conditions and timing.</li> <li>• Section 3.7 (Conveyance) -- amended to reflect a Ground Lease, rather than Grant Deed, provided at Closing.</li> <li>• Section 3.8 (Reversionary Grant Deed) to be revised to termination of lease</li> <li>• Section 8.1.1 (Use restrictions) – to be revised.</li> <li>• Sections 10.4.3 and 10.5.3 (City Right to Repurchase) -- amend to reflect Ground Lease.</li> <li>• Sections 10.7, 10.8 and 10.9 references to City’s repurchase rights shall be amended to reference the Ground Lease.</li> <li>• Section 11 (Rights of Mortgage Holders) -- amend as needed to reflect that Mortgages will encumber Developer’s ground leasehold interest, and</li> </ul> |



|  |  |   |
|--|--|---|
|  |  | <p>otherwise to preserve the intent of the protections in this Section for the benefit of leasehold Mortgage Holders.</p> <ul style="list-style-type: none"><li>• Strada must meet or exceed requirements of City's Green Building Ordinance as it pertains to the Project.</li><li>• Strada shall make a good faith effort to show conformance with the applicable sections of the current draft of the City's Energy Climate Action Plan.</li></ul> |
|--|--|---|

**Exhibit C**

**Phase 2 Schedule**

*[NOTE: To discuss adjustment of the following dates.]*

| #  | MILESTONE   | DATE       |
|----|---|------------|
| 1  | Completion of CEQA and Planning Approvals   | 7/20/2022  |
| 2  | Completion of DDA Amendment Negotiation/Term Sheet and Ground Lease Term Sheet                | 8/19/2022] |
| 3  | City Council  | 10/4/2022  |
| 4  | Closing   | 12/22/2022 |
| 5  | Development Manager Submits Design Development Plans  | 12/31/2022 |
| 6  | Development Manager Submits Construction Plans and Complete Applications for Building Permits | 6/30/2023  |
| 7  | Developer Submits Financial Plan  | 6/30/2023  |
| 8  | Developer Submits Final Financing Documents   | 11/30/2023 |
| 9  | Development Manager Submits Final Construction Contract                                       | 11/30/2023 |
| 10 | Development Manager Secures all necessary Governmental Approvals to Commence Construction     | 12/31/2023 |
| 11 | Developer provides Completion Guaranty and Payment and Performance Bonds (if required)        | 12/31/2023 |
| 12 | Closing of financing/Phase 2 Outside Date   | 2/6/2024   |
| 13 | Commence Construction   | 4/6/2024   |
| 14 | Complete Construction   | 4/6/2027   |

**Exhibit M**  
**(T5/T6)**

**Form of Closing Representations**

**CLOSING REPRESENTATIONS**  
**(T5-T6)**

Reference is made to that certain Disposition and Development Agreement dated effective November 6, 2015 by and between the City of Oakland, a municipal corporation (“**City**”) and Strada T5 LLC, a California limited liability company (“**Strada**”), as amended by that certain First Amendment dated as of February 4, 2020 (the “**First Amendment**”) and as amended and converted to a Lease Disposition and Development Agreement by that certain Second Amendment dated as of \_\_\_\_\_, 2022 (the “**LDDA**”). All defined terms used herein but not defined herein have the meaning given to that term in the LDDA. These closing representations are being delivered pursuant to Section \_\_ of the LDDA.

At the Closing, Strada intends to assign all of its interest in the LDDA as Developer of the Phase 2 Project to Samuel Merritt University, a California nonprofit public benefit corporation, or its Affiliate (“**SMU**”), and SMU, as Tenant, intends to enter into a Ground Lease with the City, as Landlord, of Site B.

Strada and SMU hereby represent and warrant to the City that, to the best of Strada’s and SMU’s knowledge:

- (a) Strada or its Affiliate and SMU have entered into a contract pursuant to which Strada or its Affiliate will act as the “Development Manager” (overseeing and managing the development and construction of Phase 2) through Completion (the “**Development Manager Contract**”);
- (b) the Development Manager Contract is in full force and effect;
- (c) there is currently no event of default existing under the Development Management Contract, nor is any event presently occurring which, with the passage of time or the giving of notice, would become an event of default under the Development Management Contract;
- (d) Strada and SMU have executed this Closing Representations with the knowledge and agreement that each will be bound by the statements contained herein; and
- (e) Each of the undersigned persons has the requisite authority to execute this Closing Representations on behalf of Strada and SMU.

The foregoing representations are true and correct as of the Closing under the LDDA. This Closing Representations may be executed in multiple counterparts, and all so executed shall constitute one agreement, binding on all parties thereto.

*[Signatures on following page.]*

Strada:

Strada T5 LLC,  
a California limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SMU:

Samuel Merritt University,  
a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## Attachment C - Ground Lease Term Sheet

### Ground Lease Term Sheet (T5-T6)

This nonbinding term sheet shall serve as the basis for the negotiations of a detailed Ground Lease between the City and Samuel Merritt University (“SMU”) for purposes of that certain Disposition and Development Agreement by and between the City and Strada T5 LLC (“Strada”) dated effective November 6, 2015 (the “Original DDA”), as amended by First Amendment dated as of February 4, 2020 and letters dated September 22, 2020, January 29, 2021, August 16, 2021, and July 29, 2022, together with the Original DDA, the “Existing DDA”).

The terms hereof are not binding on the City unless and until SMU and the City Administrator, and Strada and the City Administrator, respectively, pursuant to City Council authorization within Council’s sole legislative discretion, have executed a mutually acceptable Ground Lease and Second Amendment to the Existing DDA (“Second Amendment”), respectively, for the proposed Phase 2 of the Project. The title of the Existing DDA, as amended by the Second Amendment, shall be changed such that it is consistent with the changed deal structure from a sale to a lease of Site B, and therefore, as of the effective date of the Second Amendment, the title of the Existing DDA shall be the “Lease Disposition and Development Agreement” and the Existing DDA, as amended by the Second Amendment, shall be referred to herein as the “LDDA”.

Capitalized terms in this Term Sheet shall have the meanings given in the LDDA.

| <b>LEASE TERMS</b>                                    |   |
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| <b>1. Parties</b>                                     | Landlord: City of Oakland, a municipal corporation, as the “City” or “Landlord.”<br><br>Tenant: Samuel Merritt University, a California nonprofit public benefit corporation, as “SMU” or “Tenant.”   |
| <b>2. Premises;<br/>Ownership of<br/>Improvements</b> | Site B and any and all improvements hereafter located on Site B (the “Improvements”) at any time during the Term are collectively referred to as the “Premises”. Notwithstanding anything to the contrary set forth in the Ground Lease, at all times during the Term, Tenant shall own the Improvements, subject to Landlord’s reversionary interests. |
| <b>3. Term</b>  | 99 years (“Term”)   |

**4. Use**

(a) University use, which may include, without limitation, offices, classrooms, teaching labs, common spaces, parking, and possible health services facilities, and related uses, and/or (b) any other legally permitted and entitled use except Prohibited Uses. **“Prohibited Uses”** include: any activity which constitutes nuisance, waste, or unlawful purposes; undue accumulation of refuse or excluding construction activities conducted in compliance with applicable laws, storage of any and all excavated materials, including dirt, concrete, sand, asphalt, pipes, any and all aggregate material, or bulk storage, such as wood or other loose materials; any activity, or the maintaining of any object, which will cause a cancellation of any fire or other insurance policy covering the Premises, any part thereof or any of its contents and such activity or maintenance of such object is not insured by Tenant, or similar hazards; any auction, distress, fire, bankruptcy or going out of business sales; drug/drug paraphernalia sales; “adults only” entertainment or material sales; gasoline station or motor vehicle service/repair shop or excluding construction activities in compliance with applicable laws, vehicle and equipment maintenance, including fueling, changing oil, transmission or other automotive fluids, or washing or rinsing of any vehicle or equipment; weapons or ammunition sales; any use of the Premises for residential, sleeping, personal living quarters, or live/work space; any activity, or the maintaining of any object, which would unreasonably interfere with or impede pedestrian flow on adjacent sidewalks or open space areas, or vehicular flow through rights-of-way, alleyways, or other areas within or adjacent to the Premises that are generally used by vehicles, or otherwise unreasonably interfere or impede use of such areas by the public or Landlord; any activity which will in any way injure, obstruct or interfere with the rights of owners or occupants of adjacent properties, including, but not limited to, rights of ingress and egress; the operation of any private membership clubs or private eating or drinking establishments where there is any exclusive motive to the membership, including, but not

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|  | <p>limited to, membership requiring nominations or recommendations in violation of the nondiscrimination provision of the Ground Lease or prohibited by law, but shall not include commercial operations such as health clubs which are available to the general public upon the payment of the applicable membership fee, or licensing space within the Premises to any such private clubs or organizations for private events, subject to applicable law and the nondiscrimination provision of the Ground Lease; or similar uses as described in the Ground Lease.</p>  |
| <p><b>5. Conditions Precedent to Closing</b></p> | <p>SMU and Strada, as applicable, shall satisfy the conditions precedent to lease disposition of Site B provided in Section 2.1 of the LDDA.</p> <p>The parties have elected to proceed to Closing (as defined below) on or before December 22, 2022 and prior to all of the conditions precedent to Closing having been satisfied and, therefore, the following shall apply:</p> <ul style="list-style-type: none"> <li>a. The unsatisfied conditions precedent will be deferred.</li> <li>b. The Ground Lease will include the following provisions:</li> </ul> <p>This Ground Lease shall be effective upon the Commencement Date and Landlord shall not deliver possession of the Premises to Tenant until the occurrence of the Rent Commencement Date. Prior to the Rent Commencement Date, Landlord shall retain possession of the Premises and Tenant shall have no possessory or other rights to the Premises, except as otherwise set forth in the right of entry provided to Tenant pursuant to Section 4.1 of LDDA.</p> <p>If the Rent Commencement Date does not occur by February 6, 2024 (as such date may be extended as provided in the LDDA), Tenant shall, at the request of Landlord, execute and record a termination of the Ground Lease and quitclaim deed and release of the Memorandum of Lease, substantially in the form attached</p> |



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|  | <p>as Exhibit ___ to the Ground Lease (the “<b>Termination and Quitclaim Deed</b>”).</p> <p>The term “<b>Closing</b>” in the LDDA shall be revised to mean the date of close of escrow for the recordation of the Ground Lease or a memorandum thereof (“<b>Memorandum of Lease</b>”), together with the Assignment and Assumption (as defined in the LDDA).</p> <p>“<b>Commencement Date</b>” means the date of Closing.</p> <p>“<b>Rent Commencement Date</b>” means the date of close of escrow of all financing required by the financial plan approved pursuant to Section 2.1.2 of the LDDA.</p> |
| <p><b>6. Rent Commencement Date.</b></p> | <p>Rent Commencement Date to occur 30 days after satisfaction of all conditions precedent provided in Section 2.1 of the LDDA.</p>   |
| <p><b>7. Disposition of Site B.</b></p>  | <p>Disposition of Site B to SMU shall be in accordance with Section 3 of the LDDA as modified for a ground lease instead of conveyance in fee.</p>   |

**8. Rent**

”**Base Rent**” shall be \$1, prepaid for the entire Term (\$99) on the Commencement Date.

“**Construction Rent**” shall be fifty percent (50%) of the Minimum Rent (as defined below), paid in monthly installments commencing on the Rent Commencement Date and thereafter until the earlier of: (a) the City, in its regulatory capacity, issues a temporary certificate of occupancy, or (b) the date which is thirty-six (36) months after commencement of construction (subject to written extension for force majeure as determined by the City Administrator) as evidenced by the issuance by the City, in its regulatory capacity, of the first building permit for construction of the Phase 2 Project (the “**Construction Period**”).

”**Minimum Rent**” shall be \$236,400 paid annually, commencing on the next business day after the date of the end of the Construction Period and thereafter on each anniversary of the Rent Commencement Date, with a proration of the first such payment if necessary depending on the date of the end of the Construction Period in relation to the anniversary of the Rent Commencement Date.

“**Additional Rent**” shall be: except as otherwise expressly provided in the Ground Lease, all costs, fees, interest, charges, expenses, reimbursements and Tenant’s obligations of every kind and nature relating to the Premises that may arise or become due under the Ground Lease, whether foreseen or unforeseen, which are payable by Tenant to Landlord pursuant to the Ground Lease, shall be deemed Additional Rent.

a. Adjustments to Minimum Rent:

i. Annual Adjustment. Minimum Rent shall increase annually by the then-current Consumer Price Index for All Urban Consumers, All Items for the San Francisco-Oakland-San Jose Metropolitan Statistical Area, published by the United States Department of Labor,

Bureau of Labor Statistics (“**CPI**”) multiplied by the preceding year’s Minimum Rent (“**Annual Rent Adjustment**”).

ii. Other Adjustments. In the event of a Transfer (including a sublease of the entire, or substantially the entire Premises) to a Person that is not a nonprofit or tax-exempt entity and thereafter on each twentieth (20th) anniversary of such Transfer (each a “**Transfer Adjustment**”), the annual Minimum Rent shall not apply for that year; instead the Minimum Rent shall be adjusted as follows:

A. Prior to a Transfer Adjustment, the Parties shall engage in good faith negotiations to reach agreement on the Minimum Rent adjustment increase based on then-current market conditions.

B. If the Parties cannot reach agreement on the adjustment prior to the Transfer Adjustment, then Landlord shall engage an appraiser (the “**Appraiser**”), which is a Qualified Appraiser (as defined below) to determine the Fair Market Value (as defined below) of the land, multiplied by the then-current market ground lease conversion rate on land as improved by a comparable ten (10)-story academic and administrative office building and taking into account the remaining Term of the Lease. The resulting ground rent (“**Fair Market Rental Value**”) shall reflect the rental income that a real property would most likely command on the open market. Said rent shall be supported by a review of current rents paid, and asked, for comparable property and/or space. (Oakland Municipal Code Section 2.42.010)

C. The Appraiser will make a determination of the Fair Market Rental Value based upon definitions in this Section \_\_ and instructions prepared jointly by the Landlord and Tenant. (“**Appraisal Instructions**”). Landlord and Tenant will review the written appraisal in draft form. All communications with the Appraiser

relating to the appraisal work to be performed shall be held at joint meetings where both Landlord and Tenant representatives are present. The Appraiser shall be required to complete, sign and submit the final written appraisal (“**Appraisal Report**”), which provides a determination of the Fair Market Rental Value of the Premises to the Parties within ninety (90) days after accepting the contract. The Appraiser shall be required to include in the Appraisal Report the methodology employed; justification for excluding any standard methodology; assumptions, factual information, market data, reasoning, conclusions, and bases therefor of the Appraiser’s determination of Fair Market Rental Value.

D. Landlord shall provide written notice to Tenant of the adjustment to the Minimum Rent based on the Appraiser’s determination of Fair Market Rental Value provided in the Appraisal Report (“**Landlord’s Notice**”).

E. Within fifteen (15) days of delivery of Landlord’s Notice, Tenant shall provide written notice to Landlord of its acceptance of, or objection to, the Fair Market Rental Value provided in Landlord’s Notice. If Tenant does not object the adjusted Minimum Rent shall be the Fair Market Rental Value provided in the Landlord’s Notice. If Tenant objects to the Fair Market Rental Value provided in the Landlord’s Notice, then Tenant shall engage a different Qualified Appraiser of its choosing (the “**Second Appraiser**”) and follow the same procedure provided above in Section (C) above to produce a second appraisal report (the “**Second Appraisal Report**”) within seventy-five (75) days after receipt of City’s Notice.

F. If the difference between the Fair Market Rental Value provided in the Appraisal Report and the Second Appraisal Report is fifteen percent (15%) or less of the highest Fair Market Rental Value, the Fair Market Rental Values from each of the appraisal reports will be averaged to determine the increase of the Minimum Rent.

If the difference between the Fair Market Rental Value provided in the Appraisal Report and the Second Appraisal Report is greater than fifteen percent (15%) of the highest Fair Market Rental Value, the Parties shall contract with a third Qualified Appraiser (the “**Third Appraiser**”) to evaluate the Appraisal Report and the Second Appraisal Report. Landlord and Tenant shall each share in half the cost of the Third Appraiser. The Third Appraiser will be required to make a determination of Fair Market Rental Value of the Premises based on his or her evaluation that is within the difference in values of the two Fair Market Rental Values within sixty (60) days after delivery of the Second Appraisal Report. Landlord and Tenant will accept the Third Appraiser’s determination of the Fair Market Rental Value, which shall become the adjusted Minimum Rent.

“**Fair Market Value**” shall mean the amount that a willing seller for the real property, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts, in an open and competitive market under all conditions requisite to the sale, and considering the property’s highest and most profitable use. (Oakland Municipal Code Section 2.42.010)

“**Qualified Appraiser**” means an appraiser who holds an M.A.I. designation from the Appraisal Institute (or its successor organization) with at least five (5) years’ experience appraising relevant property types in Oakland.

G. In no event shall the amount of the adjusted Minimum Rent be lower than the Minimum Rent, as increased annually, payable prior and up to the Transfer Adjustment. To the extent the Fair Market Value Rent determined by the applicable appraiser exceeds the Minimum Rent in the year prior to the Transfer Adjustment, then the Minimum Rent adjustment shall not exceed the then-current Minimum Rent payable prior and

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|   | <p>up to the Transfer Adjustment by more than a cumulative compounded increase of five percent (5%) per year.</p> <p>H. If a Fair Market Rental Value has not been determined on the effective date of the Transfer Adjustment, Minimum Rent will be adjusted retroactively to such date once the determination has been made.</p> <p>b. <u>Remediation Rent Credit</u>. Minimum Rent shall be reduced by the amount of Remediation Rent Credit, which will be determined in accordance with Section 5.5 of the LDDA. The Remediation Rent Credit will be applied to future Minimum Rent due under the Ground Lease until the earlier of: (a) the Remediation Rent Credit amount is exhausted; or (b) the 10th anniversary of the Rent Commencement Date.</p> |
| <p><b>9. Good Faith Deposit</b></p>                   | <p>The Good Faith Deposit currently held by the City pursuant to Section 3.2.1 of the LDDA shall be assigned by Strada to SMU pursuant to the Assignment and Assumption Agreement (as defined in the LDDA) at the Closing and shall be credited against Construction Rent and/or Minimum Rent, as applicable, first coming due after the Rent Commencement Date.</p>  |
| <p><b>10. Construction of the Phase 2 Project</b></p> | <p>SMU has, or will, contract with Strada, or a Qualified Developer approved by the City as its Development Manager to construct Phase 2 of the Project pursuant to the LDDA.</p> <p>“<b>Qualified Developer</b>” means (a) a demonstrated successful track record in developing at least three (3) large, complex projects of size and scope as the Phase 2 Project, and (b) experience with complex projects that included identifying and securing all necessary government approvals and managing the construction process.</p>   |
| <p><b>11. Termination Option</b></p>                  | <p>Subject to notice and cure rights and mortgagee protection provisions, if construction of Phase 2 of the Project does not commence in accordance with the Phase</p>  |

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|                                     | <p>2 Schedule (as defined in, and as it may be extended pursuant to, the LDDA), the City shall have the right to terminate the Ground Lease.</p>   |
| <p><b>12. Special Districts</b></p> | <p>During the Term, Tenant shall be allowed a reasonable opportunity to meet and confer with the City prior to the City voting the property owner’s interest with respect to the formation or amendment of any special taxes or districts (including any CFD or BID) that would affect the Property or impose a tax on Tenant’s possessory interest; provided, however, that the City shall cast any such vote in its sole and absolute discretion and shall have no liability to the Tenant arising from any such vote or otherwise under this Section.</p>   |
| <p><b>13. Transfers</b></p>         | <p>Assignment and Transfer</p> <p>1. <u>Consent of Landlord.</u></p> <p>(a) Except as expressly provided in Sections ___ (Tenant’s Right to Mortgage Leasehold) and ___ (Assignment by Mortgagee), Tenant, its successors and permitted assigns shall not (i) suffer or permit any Significant Change to occur, or (ii) assign, sell, lien, encumber, sublease of all or substantially all of the Premises, or otherwise transfer all or any part of Tenant’s interest in and to this Lease or leasehold or the Premises, either voluntarily, or by operation of law (either or both (i) and (ii) above, a “<b>Transfer</b>”), without the prior written consent of Landlord as set forth herein and the satisfaction, or written waiver thereof by Landlord, of all conditions precedent set forth in this Section.</p> <p>(i) Prior to Completion of the Project pursuant to the LDDA: Except as permitted by the LDDA or this Lease, all Transfers shall require Landlord’s consent, in its sole and absolute discretion, which shall not be unreasonably, withheld, conditioned, or delayed.</p> |

(ii) After Completion of the Project pursuant to the LDDA: Except as permitted by the LDDA or this Lease, all Transfers shall require Landlord's consent, in its reasonable discretion, which shall not be unreasonably withheld, conditioned or delayed.

(iii) Notwithstanding the foregoing, the following Transfers shall be permitted:

(A) The Transfer to, and assumption of, this Lease by an Affiliate, shall be a permitted Transfer and shall not require Landlord's consent.

(B) The granting of easements or permits to facilitate development of the Project.

(C) Any agreements granting licenses, easements, or access rights over the Premises to facilitate development of the Project.

(D) The granting of any security interest in the Premises, if such security interest is granted to secure financing for the Project and is approved by the Landlord in writing.

(E) Subject to the issuance of a temporary certificate of occupancy by the City in its regulatory capacity, the leasing or subleasing of space in the Project that is less than all or substantially all of the Premises in the normal course of business.

(F) A Transfer to a university or other non-profit educational institution that is accredited by the Western Association of Schools and Colleges or a successor accreditor.

(iv) Without limiting the preceding provisions of this Section it shall in any instance be reasonable for Landlord to withhold its consent to any transfer proposed by Tenant (each, a "**Proposed Transfer**") to the extent



any such Proposed Transfer would serve to deprive or limit Landlord with respect to its rights, remedies or controls under this Lease.

2. City will not require any payment (beyond reimbursement of reasonable legal and other third-party fees and staff costs) as a condition to approving any assignment.

3. Notwithstanding anything to the contrary in this Section, Tenant has the right, without Landlord's consent, to assign, encumber, hypothecate, pledge, or sell its interest in this Lease to Mortgagees expressly permitted by the LDDA or this Lease subject to compliance with Section \_\_ (Mortgages) and other applicable terms of this Lease, or to other purchasers at a Foreclosure under the provisions of a permitted Mortgage in accordance with Section \_\_ (Mortgages) and any such assignment, encumbrance, hypothecation, pledge or sale will not be deemed a Transfer so long as such assignment, encumbrance, hypothecation, pledge or sale is effected in accordance with and otherwise complies with the terms and conditions set forth in Section \_\_ (Mortgages).

**“Affiliate”** means any Person directly or indirectly Controlling, Controlled by, or under Common Control with another Person.

**“Completion”** means, with respect to any and all Improvements on all or any portion of the Premises, the completion of construction and installation of such Improvements in accordance with the terms of this Lease. The fact of such Completion shall be conclusively evidenced by the issuance by City in its regulatory capacity of a certificate of occupancy or equivalent certificate of completion with respect to such Improvements. “Complete,” “Completed” and “Completed Construction” shall have the same meaning as Completion.

**“Control”** means (a) the ownership (direct or indirect) by one Person of more than fifty percent (50%) of the profits or capital, or equity interest of another Person; or (b) the power to direct the affairs or management of another Person, whether by contract, other governing documents or operation of Law or otherwise, and Controlled and Controlling have correlative meanings. “Common Control” means that two Persons are both Controlled by the same other Person.

**“Foreclosure”** means a foreclosure of a Mortgage or other proceedings in the nature of foreclosure (whether conducted pursuant to court order or pursuant to a power of sale contained in the Mortgage), deed or voluntary assignment or other conveyance in lieu thereof.

**“Mortgage”** means a mortgage, deed of trust, assignment of rents, fixture filing, security agreement or similar security instrument or assignment of Tenant’s leasehold interest under this Lease that is recorded in the Official Records, including without limitation, a leasehold deed of trust in favor of a bond trustee.

**“Mortgagee”** means the holder or holders of a Mortgage and, if the Mortgage is held by or for the benefit of a trustee, agent or representative of one or more financial institutions, the financial institutions on whose behalf the Mortgage is being held. Multiple financial institutions participating in a single financing secured by a single Mortgage shall be deemed a single Mortgagee for purposes of this Lease.

**“Person”** means any individual, partnership, corporation (including, but not limited to, any business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or any other entity or association, the United States, or a federal, state or political subdivision thereof.

**“Significant Change”** means (a) any dissolution, merger, consolidation or other reorganization, or any issuance or transfer of beneficial interests in Tenant,

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|   | <p>directly or indirectly, in one or more transactions that results in a change in the identity of the Persons Controlling Tenant, or (b) the sale of fifty percent (50%) or more of Tenant’s assets, capital or profits, or the assets, capital or profits of any Person Controlling Tenant other than a sale to an Affiliate.</p>   |
| <p><b>14. Mortgagee Protection</b></p>                  | <p>Subject to the terms and conditions of Section ___ (Mortgages), Tenant shall have the right to assign, mortgage or encumber Tenant’s leasehold interest under the Ground Lease, by way of leasehold mortgages, deeds of trust or other security instrument, consistent with the financing plan for the purpose of financing construction of the Project submitted pursuant to the LDDA and refinancing the Completed Project, any permanent take-out financing, and the refinancing of permitted Mortgages.</p> <p>The Ground Lease will include customary mortgagee protection provisions.</p>  |
| <p><b>15. Condition of Premises at End of Lease</b></p> | <p>___ . <u>Surrender of Premises.</u></p> <p>___ .1 <u>Condition of Premises.</u> Upon the expiration or other termination of the Term, Tenant shall quit and surrender to Landlord the Premises in good order and condition, reasonable wear and tear excepting to the extent the same is consistent with maintenance of the Premises in the condition required hereunder and subject to Sections ___ (Repair and Maintenance), ___ (Damage or Destruction), and ___ (Condemnation). The Premises shall be surrendered with all Improvements, repairs, alterations, additions, substitutions and replacements thereto subject to <u>Section ___ .3 (Personal Property)</u> and in compliance with <u>Section ___ .4 (Compliance with Laws)</u>. Tenant hereby agrees to execute all documents as Landlord may deem necessary to evidence or confirm any such other termination.</p> |

\_\_\_.2 Subleases. Upon any termination of this Lease, Landlord shall have the right to terminate all Subleases except for those Subleases with respect to which Landlord has entered into nondisturbance and attornment agreements.

\_\_\_.3 Personal Property. Upon expiration or termination of this Lease, Tenant and all Subtenants shall have the right to remove their respective trade fixtures and other personal property. At Landlord's request, Tenant shall remove, at no cost to Landlord, any Personal Property belonging to Tenant which then remains on the Premises (excluding any personal property owned by Subtenants or other Persons). If the removal of such Personal Property causes damage to the Premises, Tenant shall repair such damage, at no cost to Landlord.

“Subtenant” means any Person leasing, occupying or having the right to occupy any portion of the Premises under and by virtue of a Sublease.

“Sublease” means any lease or rental agreement pursuant to which Tenant leases or rents a portion of the Premises.

\_\_\_.3 Compliance with Laws. Subject to Sections \_\_ (Damage or Destruction) and \_\_ (Condemnation), Tenant shall surrender the Premises in compliance with all Laws, and free of all Encumbrances created, incurred, assumed or suffered to exist by Tenant or any Person claiming through it (including any Subtenant) other than Permitted Title Exceptions and other Encumbrances approved by Landlord in writing, and in at least a condition which is sufficient to support the following (collectively, the “**Minimum Condition**”):

(a) Operational capability to handle the same types of operations which have been provided within the Premises for the prior five (5) Lease Years.

(b). The following criteria shall be taken into account and considered relevant in determining whether the Minimum Condition has been met at the time of the surrender: (i) the main civil and structural works shall not exhibit any excessive signs of damage, wear, stress, cracking, settlement, corrosion, or weather erosion, such that they cannot reasonably be expected to satisfy their full design life specification when originally installed, however, Landlord acknowledges that normal wear and tear of such improvements according to their age shall be permissible; (ii) limited life and “wear and tear” components of the Improvements have been replaced by Tenant prior to the surrender date in accordance with good industry practice as and when they failed, wore out, or reached their design life or customary replacement frequency, as part of ongoing maintenance activities, however, Landlord acknowledges that such Improvements, may otherwise be turned over with normal wear and tear; and (iii) major electrical and mechanical components or equipment shall be in good operating condition, normal wear and tear excepted.

“**Encumbrances**” means any mortgage, deed of trust, claim, levy, lien, judgment, execution, pledge, charge, security interest, restriction, covenant, condition, reservation, rights of way, liens, encumbrances, certificate of pending litigation, judgment or certificate of any court and other matters of any nature whatsoever, whether arising by operation of Law or otherwise created, affecting the Premises.

“**Law**” or “**Laws**” means any one or more present and future laws, Environmental Laws, ordinances, rules, regulations, permits, codes, authorizations, orders and requirements, to the extent applicable to the Parties or to the Premises or any portion thereof, whether or not foreseen, unforeseen or in the present contemplation of the Parties, including all consents or approvals (including Regulatory Approvals) required to be obtained from or issued by, and all rules and regulations of, and all building

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|                                   | <p>and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, boards of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, having or acquiring jurisdiction of, or which may affect or be applicable to, the Premises or any part thereof, including any subsurface area, the use thereof and of the buildings and Improvements thereon.</p> <p><b>“Permitted Title Exceptions”</b> means the matters reflected in Exhibit __ to the Ground Lease.</p> <p><b>“Regulatory Agency”</b> or <b>“Regulatory Agencies”</b> means any local, regional, state or federal governmental agency or political subdivision having jurisdiction over the Premises, including the City in its regulatory capacity.</p> <p><b>“Regulatory Approvals”</b> means any authorization, approval or permit required or granted by any Regulatory Agency.</p> |
| <p><b>16. Indemnification</b></p> | <p>Tenant shall provide standard commercial hold harmless, defend, and indemnification provisions to the City of Oakland and its Council members, employees, officers, directors, and agents, including environmental indemnification for any release of hazardous materials by Tenant or its agents during the Term. Tenant’s obligations shall exclude the indemnified parties’ sole negligence or willful misconduct. Tenant’s obligation to indemnify shall not apply to hazardous materials existing on the Property prior to the Commencement Date unless the presence of such hazardous materials resulted from the actions of the Tenant.</p>  |
| <p><b>17. No Commission</b></p>   | <p>Tenant represents that it has not used any broker for this transaction. City shall not pay or be liable for any commissions or brokerage fees. Tenant shall hold harmless and defend City against any claims for commissions or brokerage fees.</p>   |

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| <b>18. Signage</b>                   | Tenant may not install or place signage on any existing City street outside the Premises. Tenant may install and place signage on the Premises in compliance with City codes, or other applicable codes or regulations.   |
| <b>19. Special City Requirements</b> | See Attachment A.<br><br>The Project Labor Agreement (as defined in the LDDA) shall continue to apply to employment on the construction of Phase 2.   |
| <b>20. Non-Binding Proposal</b>      | This term sheet sets forth a general summary of some of the material terms that would need to be negotiated and memorialized in a formal Ground Lease approved by the City and SMU in their respective sole and absolute discretion. Until that time,<br><br>a. neither the City, nor SMU shall have any obligation to the other party with respect to the proposed Ground Lease,<br><br>b. neither the expenditure of funds, the making of any commitments, nor the taking of any actions by the City, SMU, or Strada to implement any of the terms and conditions of this submission or any such correspondence shall be regarded as part performance or otherwise effectuate any agreement prior to the full execution and delivery of the Ground Lease, and<br><br>c. either the City or SMU may terminate negotiations at any time for any or no reason. |

## **Attachment A**

### Special City and State Requirements

1.     **Operations:**

Equal Benefits. Tenant must abide by the City's Equal Benefits Ordinance codified in Chapter 2.32 of the Oakland Municipal Code.

2.     **Subsequent Construction:**

Prevailing Wages. If applicable, all workers performing construction work with respect to any Subsequent Construction employed by Tenant and by any of its contractors and subcontractors shall be compensated in an amount not less than the general prevailing rate of per diem wages as determined by the California Department of Industrial Relations under California Labor Code Sections 1770, et seq., if required to do so by California Labor Code requirements.

3.     **Waiver of Relocation Assistance Rights** If Tenant holds over in possession of the Premises following the expiration of the Ground Lease, Tenant will not be entitled, during the period of any such holdover, to rights, benefits or privileges under the California Relocation Assistance Law, California Government Code Sections 7260 et seq., or the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. Sections 4601 et seq., or under any similar law.

4.     **Nondiscrimination.** In the performance of this Lease, Tenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, or applicant for employment with Tenant, in any of Tenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant at the Premises.



Exhibit  
(T5-T6)

**Form of Termination and Quitclaim Deed**

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

City of Oakland  
Economic & Workforce Development Dept.  
Public/Private Development Division  
250 Frank H. Ogawa Plaza, 5th Floor  
Oakland, California 94612  
Attn: Director

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §27383

FOR RECORDER'S USE ONLY

APN: \_\_\_\_\_

**TERMINATION OF GROUND LEASE  
AND  
QUITCLAIM AND RELEASE OF MEMORANDUM OF LEASE  
(T5-T6)**

This Termination of Ground Lease and Quitclaim and Release of Memorandum of Lease (T5-T6) (this "**Termination and Quitclaim Deed**") is made as of \_\_\_\_\_ by and between the CITY OF OAKLAND, a municipal corporation (the "**Landlord**"), and [SAMUEL MERRITT UNIVERSITY, a California nonprofit public benefit corporation, or its Affiliate] ("**Tenant**"). This Termination and Quitclaim Deed shall be effective upon execution by Landlord and Tenant and is entered into with reference to the following facts:

**RECITALS**

A. Landlord and Tenant executed that certain Ground Lease Agreement (T5-T6), dated as of \_\_\_\_\_, as evidenced by that certain Memorandum of Lease recorded on \_\_\_\_\_, 2022, in the Official Records of Alameda County, California ("**Official Records**") as Instrument No. \_\_\_\_\_ ( the "**Memorandum of Lease**") (together with the Memorandum of Lease, the "**Lease**") with respect to the property described on Exhibit A, attached hereto and incorporated herein by reference (the "**Property**").

B. Landlord and Tenant now wish to formally terminate the Lease.

NOW, THEREFORE, it is hereby declared and understood as follows:

1. Landlord and Tenant hereby terminate the Lease in its entirety.
2. Tenant does hereby remise, release, and quitclaim to Landlord and its successors and assigns, all Tenant's right, title and interest in the Lease and Property, provided by the Lease, and as evidenced by the Memorandum of Lease, which are hereby cancelled, terminated, released and expunged.
3. This Termination and Quitclaim Deed may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same agreement.
4. This Termination and Quitclaim Deed has also been delivered and recorded for the purpose of releasing the Memorandum of Lease from the Official Records with respect to the Property.
5. This Termination and Quitclaim Deed may be executed in any number of counterparts, all of which, together, shall constitute but one and the same agreement.

***[Remainder of Page Intentionally Blank; Signatures Follow]***

IN WITNESS WHEREOF, Landlord and Tenant have executed this Termination and Quitclaim Deed as of the day first above written.

**LANDLORD:**

CITY OF OAKLAND,  
a municipal corporation

By: \_\_\_\_\_  
Edward D. Reiskin  
City Administrator

Approved as to Form and Legality:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TENANT:**

[SAMUEL MERRITT UNIVERSITY,  
a California nonprofit public benefit corporation, or its Affiliate]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

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

State of California)

County of \_\_\_\_\_)

On \_\_\_\_\_, 20\_\_ , before me, \_\_\_\_\_,  
(Name of Notary)

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.

\_\_\_\_\_  
(Notary Signature)

**ACKNOWLEDGMENT**

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

State of California)

County of \_\_\_\_\_)

On \_\_\_\_\_, 20\_\_ , before me, \_\_\_\_\_,  
(Name of Notary)

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.

\_\_\_\_\_  
(Notary Signature)

**EXHIBIT A**

Legal Description of Property  
(for Termination of Ground Lease)

[Attached]

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the interests in real property remised, released, and quitclaimed by the Termination of Lease and Quitclaim and Release of Memorandum of Lease (T5-T-6), dated \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, a \_\_\_\_\_, as grantor, to The City of Oakland, a municipal corporation, as grantee (the “**Termination and Quitclaim Deed**”), are hereby accepted by the City Administrator of the City of Oakland, or his or her designee, pursuant to authority conferred by Ordinance No. \_\_\_\_\_ C.M.S. of the City Council adopted on \_\_\_\_\_, 20\_\_, and The City of Oakland, as grantee, consents to recordation of the Termination and Quitclaim Deed.

Date: \_\_\_\_\_, 20\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

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

State of California)

County of \_\_\_\_\_)

On \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_,  
(Name of Notary)

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.

\_\_\_\_\_

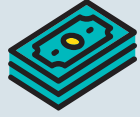
(Notary Signature)

# SAMUEL MERRITT UNIVERSITY


|   |  |   |   |  |
|---|--|---|---|--|
|  <p><b>70%</b><br/>Students of color</p> |  <p><b>30%</b><br/>First in family to go to college</p> |  <p><b>94%</b><br/>On-time graduation rate</p> |  <p><b>84%</b><br/>Students receive financial aid</p> |  <p><b>337</b><br/>Students, faculty, and staff living in Oakland</p> |
|---|--|---|---|--|

**95-100% Job Placement**  
*Based on alumni survey*

- Bachelor of Science, Nursing within one year
- Doctorate of Nursing Practice within six months
- Occupational Therapy within one year
- Physical Therapy within one year
- Podiatric Medicine Residency


 **1st in California and 5th Nationwide**  
Ranking of our undergraduate nursing alumni median salaries a decade after their studies, more than MIT and Harvard University


 **\$36M**  
Incremental earnings of 506 SMU graduates from the last 15 years living in the City of Oakland

 **93%**  
Employers surveyed often to always prefer our graduates over other candidates

**1909**  
Year we were founded in Oakland

**\$331.8M** Annual impact of future expanded operations at new Oakland campus  **\$458.2M** Short-term construction impact of new Oakland campus


 **\$88M**  
Estimated annual impact of future spending by students attending our new Oakland campus, up from \$75M in 2019

 **\$29M**  
State and local tax impact generated annually by the university, current students, and alumni

**1100**  
Free or low-cost visits provided by SMU podiatric medicine students to Oakland patients each month

**1 Million** Approximate number of clinical hours provided by SMU students per year

**5000** Number of Oakland residents reached by SMU community health education and wellness programs at the Laurel, Temescal, Oakland Pride, First Fridays, and Dia de Los Muertos events



**Hundreds** OUSD students served annually through health care pipeline programs such as health fairs, career academy presentations, and Anatomy Lab and Simulation Center tours

