This Below Market Rate Housing In Lieu Fee Agreement ("Agreement") is made as of this 20th day of November, 2019 by and between the City of Menlo Park, a California municipality ("City") and the Peninsula Arts Guild ("Applicant"), with respect to the following:

RECITALS

A. Applicant owns property, located at that certain real property in the City of Menlo Park, County of San Mateo, State of California, consisting of approximately 0.1 acres, more particularly described as Assessor's Parcel Number: 071-288-570 ("Property"), and commonly known as 949 El Camino Real, Menlo Park.

B. The Property currently contains one commercial building encompassing approximately 4,172 square feet of gross floor area.

C. Applicant is requesting Specific Plan and Zoning Ordinance Amendments to allow a live performance facility with community benefits, located in a feature building north of Live Oak Avenue in the ECR SW (El Camino Real Southwest) sub-district of the SP-ECR/D (El Camino Real/Downtown Specific Plan) zoning district at a public bonus level FAR (floor area ratio) and other associated amendments. The project would also require architectural control approval to construct a basement and a second story at an existing single-story commercial building and a use permit to allow small scale commercial recreation and a bar ("Project").

D. Applicant is required to comply with Chapter 16.96 of City's Municipal Code ("BMR Ordinance") and with the Below Market Rate Housing Program Guidelines ("Guidelines") adopted by the City Council to implement the BMR Ordinance. In order to process its application, the BMR Ordinance requires Applicant to submit a Below Market Rate Housing Agreement. This Agreement is intended to satisfy that requirement. Approval of a Below Market Rate Housing Agreement is a condition precedent to the approval of the applications and the issuance of a building permit for the Project.

E. Residential use of the Property is allowed by the applicable zoning regulations. However, site constraints due to the existing Guild Theatre cinema facility and its proposed renovation into a live entertainment venue on a small infill site do not allow for the development of residential units on site. Applicant does not own any additional sites in the City that are available and feasible for construction of sufficient below market rate residential housing units to satisfy the requirements of the BMR Ordinance. Based on these facts, the City has found that development of such BMR units in
accordance with the requirements of the BMR Ordinance and Guidelines is not feasible.

F. Applicant, therefore, is required to pay an in lieu fee as provided for in this Agreement. Applicant is willing to pay the in lieu fee on the terms set forth in this Agreement, which the City has found are consistent with the BMR Ordinance and Guidelines.

NOW, THEREFORE, the parties agree as follows:

1. If Applicant elects to proceed with the Project, Applicant shall pay the in lieu fee as provided for in the BMR Ordinance and Guidelines. Notwithstanding the proceeding, nothing in this Agreement shall obligate Applicant to proceed with the Project. The applicable in lieu fee is that which is in effect on the date the payment is made. The in lieu fee will be calculated as set forth in the table below; however, the applicable fee for the Project will be based upon the amount of square footage within Group A and Group B at the time of payment. The estimated in lieu fee is provided below.

<table>
<thead>
<tr>
<th>Use Group</th>
<th>Fee/SF</th>
<th>Square Feet</th>
<th>Component Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Buildings – Non-Office Areas</td>
<td>B- Non-Office Commercial/Industrial</td>
<td>$10.14</td>
<td>4,172</td>
</tr>
<tr>
<td>Proposed Building – Non-Office Areas</td>
<td>B- Non-Office Commercial/Industrial</td>
<td>$10.14</td>
<td>10,706</td>
</tr>
<tr>
<td><strong>Total Estimated In Lieu Fee</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. If the Applicant elects to proceed with the Project, the Applicant shall pay the in lieu fee before the City issues a building permit for the Project. The in lieu fee may be paid at any time after approval of this Agreement by the Planning Commission. If for any reason, a building permit is not issued within a reasonable time after Applicant’s payment of the in lieu fee, upon request by Applicant, City shall promptly refund the in lieu fee, without interest, in which case the building permit shall not be issued until payment of the in lieu fee is again made at the rate applicable at the time of payment.

3. This Agreement shall be binding on and inure to the benefit of the parties hereto and their successors and assigns. Each party may assign this Agreement, subject to the reasonable consent of the other party, and the assignment must be in writing.
4. If any legal action is commenced to interpret or enforce this Agreement or to collect damages as a result of any breach of this Agreement, the prevailing party shall be entitled to recover all reasonable attorney’s fees and costs incurred in such action from the other party.

5. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the venue for any action shall be the County of San Mateo.

6. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by all of the parties hereto.

7. This Agreement supersedes any prior agreements, negotiations, and communications, oral or written, and contains the entire agreement between the parties as to the subject matter hereof.

8. Any and all obligations or responsibilities of Applicant under this Agreement shall terminate upon the payment of the required fee.

9. To the extent there is any conflict between the terms and provisions of the Guidelines and the terms and provisions of this Agreement, the terms and provisions of this Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

CITY OF MENLO PARK

By: [Signature]
City Manager

Peninsula Arts Guild LLC

By: [Signature]
President

By: [Signature]
Its: