

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

AUTHORIZING THE INTERIM CITY MANAGER, OR DESIGNEE, TO
EXECUTE A FIRST AMENDMENT TO THE DEVELOPMENT
AGREEMENT BY AND BETWEEN THE CITY OF ALAMEDA AND
ALAMEDA POINT PARTNERS, LLC FOR THE SITE A
DEVELOPMENT AT ALAMEDA POINT

WHEREAS, in order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs and risk of development, the Legislature of the State of California enacted Section 65864 et seq. of the Government Code (the "Development Agreement Legislation") which authorizes a city and a developer having a legal or equitable interest in real property to enter into a binding, long-term development agreement, establishing certain development rights in the property; and

WHEREAS, pursuant to Government Code Section 65864, the City has adopted rules and regulations establishing procedures and requirements for consideration of development agreements, which procedures and requirements are contained in Alameda Municipal Code Chapter XXX, Article VII, Code Sections 30-91 through 30-95 (the "City Development Agreement Regulations"); and

WHEREAS, the City and Alameda Point Partners, a Delaware limited partnership ("the Developer") entered into a Disposition and Development Agreement dated August 6, 2015 and a Development Agreement dated August 6, 2015 approved by the City Council by Ordinance No. 3127 and 3128, for the acquisition and development of a 68-acre portion of the former Naval Air Station Alameda ("NAS Alameda") (the "Property" or "Site A"); and

WHEREAS, in accordance with the Development Agreement Legislation and the City Development Agreement Regulations, the Developer filed an application requesting the approval of a development agreement amendment for the Property. A draft of the proposed development agreement amendment was prepared and; and

WHEREAS, the City is desirous of advancing the socioeconomic interests of City and its residents by promoting the productive use of the former NAS Alameda consistent with the NAS Alameda Community Reuse Plan (the "Reuse Plan") adopted by the Alameda Reuse and Redevelopment Authority in 1996 and re-entitling Site A to accommodate the Regional Housing Needs Allocation; and

WHEREAS, the Site A project, as more fully described in the amended Development Plan, which was approved by the Planning Board on July 25, 2022, and subject to the Development Agreement, includes the following components:

a. Approximately 1,300 residential units, of which 25% will be affordable units as more specifically defined in the DDA;

b. A minimum of 300,000 square feet and up to 360,000 square feet of permitted and conditionally permitted non-residential uses (including but not limited to, retail, commercial, civic and other commercial space) and, which may include the adaptive reuse of some of the existing structures on the Property;

c. New and/or upgraded public utilities, including a water distribution system, wastewater collection system, recycled water storage and distribution system, stormwater collection and stormwater management control system and other improvements as more particularly described in the Infrastructure Package attached to the DDA;

d. Up to approximately 10 acres of parks and open space;

e. New and/or upgraded streets and public ways as more particularly described in the Infrastructure Package;

f. Bicycle, transit, and pedestrian facilities as more particularly described in the Infrastructure Package; and

g. Such additional improvements and contributions set forth in the Infrastructure Package and required under the DDA, including obligations related to the Major Alameda Point Amenities; and

h. A freeze on all local development regulations (as set forth in Alameda Municipal Code, Chapter XXX) in place as of the effective date of the Development Agreement First Amendment; and

WHEREAS, the development of the Property in accordance with this proposed Development Agreement will accrue clear public benefits to the public that are in addition to those dedications, conditions and exactions required by existing City ordinances, regulations or policies, and which advance the planning objectives of the City and include the following public benefits: the construction of significant amounts of new affordable housing, increased public access and open space, transportation improvements, extensive infrastructure improvements that serve not only the Alameda Point project, but also deliver the necessary gateway infrastructure to the job-producing center that will be occurring south of West Atlantic Avenue; and

WHEREAS, development of the Site A project would be required to comply with the Transportation Demand Management Plan for Alameda Point, the Reuse Plan, the General Plan, the Waterfront Town Center Specific Plan, the Zoning Ordinance (Alameda Municipal Code 30-4.24), and a Master Infrastructure Plan (collectively, the "Planning Documents"); and

WHEREAS, after conducting a duly noticed public hearing on July 25, 2022, and hearing all qualified and interested persons and receiving and considering all relevant evidence, the Planning Board finds and determines as follows:

a. The notice of the public hearing was given for the time and in the manner as prescribed by law.

- b. As proposed, the Development Agreement First Amendment will not be detrimental to the health, safety and general welfare and is consistent with the objectives, policies, general land uses, and programs specified in the Reuse Plan, the General Plan, the Town Center Plan and the Alameda Point Zoning Ordinance and will promote the redevelopment and revitalization of the Property.
- c. The Development Agreement First Amendment is consistent with the General Plan and the other land use regulations because it ensures that the amended Development Plan for Site A is implemented and completed in appropriate phases over time; and

WHEREAS, the terms and conditions of this Development Agreement First Amendment have undergone extensive review by the City, the Developer and their respective legal counsel. The Planning Board at a publicly noticed meeting found the Development Agreement First Amendment to be in conformance with the General Plan, the Development Agreement Legislation, and the City Development Agreement Regulations; and

WHEREAS, the Planning Board finds that the economic interests of the City's residents and the public health, safety and welfare will be best served by entering into this Development Agreement First Amendment; and

WHEREAS, on February 4, 2014, by Resolution No. 14891, the City Council certified the Final Environmental Impact Report ("FEIR") (State Clearinghouse No. 201312043) under the California Environmental Quality Act ("CEQA"), California Public Resources Code Section 21000 et seq. and adopted written findings and a Mitigation Monitoring and Reporting Program ("MMRP") for the Alameda Point project, including the Town Center Plan area, which contains the project site (Alameda Point EIR); and

WHEREAS, on November 30, 2021, by Resolution No. 15841, the City Council certified a FEIR (State Clearinghouse No. 2021030563) under CEQA, and adopted written findings, a Statement of Overriding Considerations, and a MMRP for the General Plan Amendment to update the Alameda General Plan (General Plan EIR), which evaluated the environmental impacts of 12,000 additional housing units in Alameda over 20 years, including 5,353 housing units to accommodate the RHNA between 2023 through 2031; and

WHEREAS, the City has prepared an Environmental Checklist for Streamlined Review, which documents the application of the criteria for streamlining in Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 and concludes, based on substantial evidence, that no further review under CEQA is required; and

WHEREAS, the City and Developer, for reasons cited herein, have determined that the Site A Project is a transit-oriented destination development for which this Development Agreement First Amendment is appropriate. This Development Agreement First Amendment will eliminate uncertainty regarding Project Approvals for the 20-year

term thereby encouraging planning for, investment in and commitment to use and development of the Property; and

WHEREAS, continued use and development of the Property in accordance with this Development Agreement First Amendment is anticipated to, in turn, provide substantial benefits and contribute to the provision of needed infrastructure for area growth, thereby achieving the goals and purposes for which the Development Agreement Statute was enacted; and

WHEREAS, on July 25, 2022, the Alameda Planning Board conducted a duly noticed public hearing on this Development Agreement First Amendment in accordance with Government Code section 65867 and the City Development Agreement Regulations.

NOW, THEREFORE, BE IT ORDAINED, that after hearing all qualified and interested persons and receiving and considering all relevant evidence, the City Council of the City of Alameda finds and determines as follows:

Section 1. The First Amendment to the Development Agreement substantially in the form on file with the City Clerk, subject only to such changes as are approved by the City Attorney and the Interim City Manager, or Designee, is hereby approved.

Section 2. The Interim City Manager, or Designee, is authorized to execute the First Amendment to the Development Agreement and to take such other actions as are contemplated and consistent with the First Amendment to the Development Agreement.

Section 3. If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Ordinance that can be given effect without the invalid provision and therefore the provisions of this Ordinance are severable. The City Council declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence.

Section 4. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the ____ day of _____ 2022, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____ 2022.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Yibin Shen, City Attorney
City of Alameda