

**Exhibit 5**  
**Overview of the Organization and Content of the Disposition and Development Agreement between the City of Alameda and Alameda Point Partners for the Site A Property**

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If successful, once the ENA period is finished both parties will have agreed to a DDA (i.e., price and term of payment for the land and development obligations), in addition to the Development Plan discussed in the staff report. Building upon Exhibit C in the ENA (Term Sheet), City staff has been negotiating the DDA with APP over the past several months. While the details of the DDA are still under negotiation, the following provides the latest overview of the organization and content of the DDA for Site A:

1. **Term of the Agreement.** The DDA is expected to have a 20 year term with possible extensions that can be paid for by APP or that result due to severe downturns in the economy or force majeure (i.e., significant unexpected conditions outside of either the City's or APP's control). There will be a cap on the overall number of years of potential extensions. The DDA will also include a Milestone Schedule that sets out the schedule for development of the Property during that Term of the DDA.
2. **Financial Terms.** This section of the DDA consists of the following provisions, many of which were included in the Term Sheet:
  - a. Non-refundable deposits provided by the developer, including \$200,000 that was provided at time of execution of the ENA and an additional \$100,000 to be provided at execution of the DDA;
  - b. A total improved land value of \$108 million. Developer will pay the land value by installing backbone infrastructure valued at \$88 million , including park improvements; \$5 million for the planned sports complex at Alameda Point; a \$5 million credit for accelerating the Seaplane Lagoon Plaza improvements (contemplated in the \$88 million infrastructure); and \$10 million for a ferry terminal. The unimproved land value is the total \$108 million less credits for the cost of infrastructure improvements of \$88 million, which equals \$15 million (i.e., sports complex and ferry terminal payments);
  - c. As a windfall protection, the City is entitled to share in profits after APP has achieved a market rate of return on the land development of Site A (referred to as profit participation or contingent purchase price). This market rate of return is approximated and measured by APP reaching two rates of return: an 18 percent internal rate of return (IRR) and a cash flow ratio of 1.6. There is no guarantee that APP will meet either of these return thresholds and the risk of the performance of the development is borne by APP. If APP achieves higher IRR thresholds, as well as the 1.6 cash flow ratio, the City will receive a gradually increasing percentage of profits, as depicted below:

IRR Threshold	Profit Participation
18%	10%
20%	20%
22%	30%
25%	50%

This section of the DDA also defines eligible development costs, gross proceeds, IRR, and the cash flow ratio, among other terms necessary for calculating the potential profit participation payments. This section also describes the City's right to audit the developer's financials to determine whether profit participation payments were warranted.

3. **Financing Plan.** This section requires the developer to provide a project financing plan for the entire Site A project. Additionally, prior to the conveyance of each phase of the property to the developer, the developer will be required to submit a detailed phase financing plan that includes evidence of commitment of both debt and equity sources of funding so that the City can have confidence that the developer has sufficient resources to complete the development. The project financing plan will include: a detailed development budget and cash flow analysis, including all sources and uses of funds; a description of any partnerships for equity funding; and a plan and budget for creation of any public financing districts.
4. **Disposition of Property and Escrow.** This section outlines the process for transferring each phase of land within Site A from the City to the developer, including the conditions that must be met by the developer and City before this can occur. The City will not transfer the property to the developer prior to the Developer obtaining all required approvals necessary for the construction of the infrastructure in the phase to be transferred. Additional conditions, include that the City has title to the property, the developer has evidence of insurance and that a final map has been approved for the phase creating the parcel to be transferred. This section also establishes the outside closing dates for the transfer of each phase of property. Consistent with the Term Sheet, the Developer has the option to extend the outside closing date for transfer of a phase by paying the City an extension fee, subject to the cap on extensions discussed above.
5. **Infrastructure Construction.** The backbone infrastructure to be constructed by the developer consistent with the Master Infrastructure Plan for Alameda Point, the information delineated in the Request for Qualifications from developers for Site A and the ENA. The DDA (and DA) will have an exhibit memorializing the Site A package of infrastructure (Infrastructure Package) and detailing the phasing of the Infrastructure Package consistent with the Term Sheet that highlighted a number of key improvements that the developer agreed to provide in Phase 1, including the complete extension of RAMP between Main Street and Ferry Point Road at the Seaplane Lagoon, \$5 million worth of permanent waterfront park improvements, the sewer line between Site A and the sewer pump station at the northern edge of

the property, and the Main Street intersection improvements. This section of the DDA also includes the requirements of the developer to enter into a Subdivision Improvement Agreement, including issuance of payment and performance bonds or other equivalent security to ensure completion of the infrastructure improvements; to pay prevailing wages consistent with State and local laws; and to comply with an agreement the City has with the Alameda Point Collaborative (APC), one of the three supportive housing providers located at Alameda Point, to establish a goal that residents of APC perform 15 percent of all apprentice hours.

6. **Vertical Construction.** This section of the DDA sets forth the developer's obligations for construction of the vertical improvements of the Site A project (i.e., buildings) consistent with the City's approvals (i.e., Development Plan, design review, and building permits). Prior to commencement of vertical construction, the developer will be required to provide the City with a completion assurance either in the form of payment and performance bonds or completion guarantee.
7. **Affordable Housing Requirements.** As described above, 25% of the 800 housing units planned for Site A are required to be permanently restricted to very-low, low, and moderate income households. The 128 very-low and low-income housing units will be constructed by the nonprofit developer, Eden housing in a stand-alone project to maximize the potential for obtaining financing, while the remaining moderate income units will be integrated with the market rate housing projects. A detailed affordable housing implementation plan will be attached to the DDA that outlines the developer's and Eden Housing's obligations regarding constructing the affordable housing.
8. **Additional Developer Obligations.** This section of the DDA is a catch-all section that highlights other developer obligations related to the development of Site A, such as Project Covenants, Conditions & Restrictions (CC&Rs), which require private property owners to maintain private improvements adjacent to and visible from the public right-of-way in a first class condition, compliance with the mitigation, monitoring and reporting program (MMRP) contained in the EIR, payment of taxes, non-discrimination, among other terms.
9. **Phase 0 Activities Plan.** As discussed above, the developer must prepare and implement a Phase 0 Activities Plan consistent with Exhibit C of the Term Sheet that will come back to the City Council for review and approval. This section of the DDA outlines the developer's obligations to implement the Phase 0 Activities Plan.
10. **Master Lease and Master Tidelands Lease.** This section of the DDA outlines the conditions under which the City will lease of certain buildings and property to the developer under two circumstances: (1) the reuse and lease of specifically identified existing buildings and their premises outside of the tidelands areas before conveyance of ownership of the related land occurs (Master Lease); and (2) any interim or long-term reuse and lease of buildings and land within the tidelands areas by the developer for up to 66 years (Master Tidelands Lease), as

no fee title transfer of property can occur in the tidelands areas.

11. **City Obligations.** This section of the DDA outlines the City's obligations related to Site A, including processing permits and approvals, facilitating conveyance of land from the Navy, effectuating a tidelands trust exchange for each phase of land from the Navy, considering in good faith the formation of one or more community facilities districts to provide funds for construction and maintenance of infrastructure.
12. **Assignment and Transfer.** This section of the DDA limits the developer's rights to transfer its interest in the DDA and requires the City approval of any such assignment or transfer prior to the completion of construction. Certain transfers are allowed including for financing purposes, the sale and rental of residential and commercial space and transfers to affiliates of the developer.
13. **Security Financing and Rights of Holders.** Mortgages, deeds of trust, and other real property security instruments are permitted to be placed on the property for purposes of financing the development as authorized in this section of the DDA.
14. **Hazardous Materials.** This section outlines the developer's obligations regarding hazardous materials, requirements to notify the City of any discovery of hazardous materials and/or claim related to hazardous materials, and cross-references developer's hazardous materials indemnification, as contained in the following section.
15. **Indemnification.** This section describes the developer's obligations to indemnify the City for: the developer's or contractor's performance or non-performance under the DDA, hazardous materials, Phase 0 activities, the Master Lease, and Master Tidelands Lease.
16. **Insurance Requirements.** This section of the DDA sets out the insurance requirements that are imposed on the developer once property is conveyed to the developer, including comprehensive general liability, vehicle liability, worker's compensation, construction contractor's, and pollution limited liability insurance.
17. **Default and Remedies.** This section of the DDA governs the developer's and City's rights to terminate the DDA and the developer's and City's remedies for breach or failure under the DDA.
18. **General Provisions.** This section of the DDA includes numerous miscellaneous provisions, such as notices and communications, non-liability of officials, employees and agents, force majeure (i.e., extensions of the term for certain circumstances outside the either party's control), severability, legal actions, covenants to run with land, authority of developer, amendments, counterparts, among others.

**19. Definitions and Exhibits.** This section provides explanations of all of the “defined terms” in the DDA and lists the exhibits that are part of the DDA. As discussed in the staff report, some of key exhibits include: a phasing plan, milestone schedule, infrastructure package, TDM Compliance Strategy, master lease for use of the existing buildings outside of the tidelands area, a master trust lease for use of buildings and land within the tidelands area, an affordable housing implementation plan, and subdivision improvement agreement.