

CITY OF ALAMEDA RESOLUTION NO. _____

AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A FOURTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT AND ALL OTHER NECESSARY DOCUMENTS BETWEEN THE CITY OF ALAMEDA AND ALAMEDA POINT PARTNERS, LLC FOR THE SITE A DEVELOPMENT AT ALAMEDA POINT

WHEREAS, the City of Alameda ("City") and Alameda Point Partners, LLC ("Developer") entered into a Disposition and Development Agreement for Alameda Point - Site A dated as of August 6, 2015 ("DDA"), authorized by City of Alameda Ordinance No. 3127, whereby the City agreed to convey to the Developer Property located at the former Naval Air Station Alameda under certain terms and conditions and Developer agreed to develop the Project on the Property all in accordance with a Milestone Schedule incorporated into the DDA; and

WHEREAS, the DDA contemplates development of a 68-acre area within Alameda Point that extends generally from the Main Street entrance of Alameda Point to the eastern edge of the Seaplane Lagoon and includes 800 housing units (200 affordable), 600,000 square feet of commercial development, and extensive parks and utility infrastructure ("Site A Project"); and

WHEREAS, on February 4, 2014, the City of Alameda certified the Alameda Point Final EIR in compliance with the California Environmental Quality Act (CEQA), and the Final EIR evaluated the environmental impacts of redevelopment and reuse of the lands at Alameda Point consistent with the Town Center Plan; and

WHEREAS, the parties entered into a First Amendment to the DDA on February 8, 2017, authorized by City of Alameda Ordinance No. 3174, to extend the closing on the Phase 1 property ("Phase 1 Property") by four additional months from December 12, 2016 to April 11, 2017 ("Phase 1 Closing Date") due to the rising cost and complexity of the project requiring more time to complete property due diligence items and to finalize financial commitments; and

WHEREAS, although significant efforts were made by Developer to finalize these commitments, Developer did not meet the requirements of the DDA necessary to accept conveyance of the Phase 1 Property by the Phase 1 Closing Date of April 11, 2017, and was in default under the DDA; and

WHEREAS, as part of Developer's effort to cure its default, Developer submitted proposed changes to the Site A Development Plan, which were approved by the Planning Board on May 22, 2017, and entered into a Second Amendment to the DDA on July 19, 2017, authorized by City of Alameda Ordinance No. 3185, that enhanced the financial underwriting of the Site A Project and allowed the Developer to make a \$1.4 million

extension payment to the City and extend the Phase 1 Closing Date to April 9, 2018, therefore curing its default; and

WHEREAS, prior to closing on Phase 1, the Developer requested a Third Amendment to the DDA in order to remove the requirement in Section 4.2 of Exhibit M ("Affordable Housing Implementation Plan") of the DDA that allows the City to withhold building permits for any market rate units in excess of 395 units (Metering Requirement), if Eden Housing has not received and executed its tax credit reservations for the Affordable Housing Projects, which amendment was approved by the City Council pursuant to Resolution No. 15352; and

WHEREAS, the Developer is requesting a Fourth Amendment to the DDA in order to amend certain provisions of the DDA related to extension payments for the Phase 2 close of escrow; and

WHEREAS, the Developer has commenced construction of Phase 1 of the Site A Project and is diligently proceeding with construction of the Phase 1 Backbone Infrastructure but the Developer has encountered certain previously unknown conditions related to the replacement and connections of the existing subsurface infrastructure which have resulted in material delays in the Developer's progress in completing the Phase 1 Backbone Infrastructure and ability to proceed with the close of escrow on Phase 2; and

WHEREAS, the DDA authorizes the Developer to extend the date for close of escrow on Phase 2 by making certain payments to the City, the amount of which are dependent upon the stage of completion for the Phase 1 Backbone Infrastructure; and

WHEREAS, the Developer has requested that the City approve an amendment to the DDA to allow the Developer to extend the date for close of escrow on Phase 2 for up to one year by paying the Extension Fee that would be due if 50% or more of the Phase 1 Backbone Infrastructure was complete even though at the time of the request less than 50% of the Phase 1 Backbone Infrastructure is complete on the basis that Developer has been delayed as a result of the unforeseen infrastructure conditions existing at the Site; and

WHEREAS, the City has determined that the Fourth Amendment to the DDA is in the best interest of the City in that it will allow the Developer to continue to proceed in a diligent manner with the construction of Phase 1 of the Site; and

WHEREAS, the Alameda Point EIR was certified by the City Council in February 2014 pursuant to CEQA and the City has determined that no further environmental review is necessary as part of the approval of the Fourth Amendment to the DDA.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Alameda finds and determines as follows:

1. The Fourth Amendment to the DDA 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, is hereby approved.

2. The Interim City Manager is authorized to execute the Fourth Amendment to the DDA and to take such other actions as are contemplated and consistent with the Fourth Amendment to the DDA.

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I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 2nd day of October, 2018, 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 3rd day of October, 2018.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Janet C. Kern, City Attorney
City of Alameda