

CITY OF ALAMEDA ORDINANCE NO. _____

New Series

APPROVING THE AMENDED ENCINAL TERMINALS TIDELANDS EXCHANGE MASTER PLAN AND DENSITY BONUS APPLICATION FOR REDEVELOPMENT OF REAL PROPERTY LOCATED AT 1521 BUENA VISTA AVENUE (APN 072-0382-001, 072-0382-002, 072-0383-003, AND 072-0382-009)

WHEREAS, North Waterfront Cove, LLC (the Developer) owns approximately 26 acres of real property commonly known as the Encinal Terminals site, with an address of 1521 Buena Vista Avenue, City of Alameda, County of Alameda (APN 072-0382-001, - 002, and 72-0383-003); and

WHEREAS, the City of Alameda (the City) owns approximately 6.4 acres of real property in trust for the State of California within the center of the Encinal Terminals site (APN 072-0382-009); and

WHEREAS, the Encinal Terminals site is designated in the City General Plan for a mix of residential, commercial, maritime and open space uses; and

WHEREAS, the Encinal Terminals site is designated as a multifamily housing opportunity site in the City of Alameda General Plan Housing Element; and

WHEREAS, the Encinal Terminals site is designated MX (Mixed Use) and MF (Multifamily Residential) in the Alameda Municipal Code (AMC) Zoning Map; and

WHEREAS, the Developer and City wish to implement a public trust land exchange ("Tidelands Exchange") to reconfigure the existing property lines to facilitate redevelopment of the property consistent with the General Plan and site zoning designations; and

WHEREAS, on July 17, 2007, the City Council adopted Resolution Nos. 14134 and 14135 certifying the Final Environmental Impact Report for the Northern Waterfront General Plan Amendment ("Northern Waterfront EIR") pursuant to the California Environmental Quality Act ("CEQA"), and on December 19, 2017, the City Council adopted Resolution No. 15337 certifying a Final Focused Supplemental Environmental Impact Report (EIR) (State Clearinghouse No. 2016042076) for the redevelopment of the property with a Tidelands Exchange ("Focused Supplemental EIR", and with the Northern Waterfront EIR, "Previous CEQA Documents"), but the City Council failed to approve the Tidelands Exchange; and

WHEREAS, on September 4, 2018, the City Council approved the Encinal Terminals Master Plan and Density Bonus application for a mixed use plan for the property that did not include a Tidelands Exchange but allowed for 589 multifamily housing units, 79 of which would be deed restricted affordable units, up to 50,000 square

feet of commercial and maritime commercial space, a 160-slip marina, and up to 3 acres of public open space; and

WHEREAS, the September 4, 2018 Master Plan did not allow for the Tidelands Exchange to facilitate a viable redevelopment of the property and as a result the site has remained vacant and continues to deteriorate; and

WHEREAS, on March 8, 2021, the Planning Board held a duly noticed public hearing, and examined all submitted materials including a Tidelands Exchange Master Plan and adopted Resolution No. PB-21-02 recommending City Council approval of a Tidelands Exchange to facilitate development of the property, in support of General Plan housing objectives; and

WHEREAS, on May 24, 2021, the Planning Board held a duly noticed public hearing, and examined all submitted materials and received oral and written public comments and adopted Resolution No. PB-21-10 recommending City Council approval of the amended Encinal Terminals Tidelands Exchange Master Plan that allows for a mixed use plan for the property with a Tidelands Exchange and up to 589 multifamily housing units, 80 of which would be deed restricted affordable units, up to 50,000 square feet of commercial and maritime commercial space, a 160-slip marina, and 4.5 acres of public open space; a Density Bonus application; and a Development Agreement vesting the entitlements for 15 years in exchange for additional public benefits that could not be achieved without the Development Agreement; and

WHEREAS, on January 4, 2022, the City Council held a duly noticed public hearing, and examined all submitted materials and received oral and written public comments regarding the Encinal Terminals Tidelands Exchange Master Plan and Density Bonus application.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Alameda that:

Section 1. The City Council of the City of Alameda makes the following findings to approve the Encinal Terminals Master Plan and Density Bonus application.

- 1. California Environmental Quality Act.** On July 17, 2007, the City Council adopted Resolution Nos. 14134 and 14135 certifying the Northern Waterfront EIR, and on December 19, 2017, the City Council adopted Resolution No. 15337 certifying the Encinal Terminals Focused Supplemental EIR for development of the initial proposed Master Plan (together, "Previous CEQA Documents"). All mitigation measures specified in the Focused Supplemental EIR shall be included as conditions of approval for the project development plans required by the Master Plan. The City Council, based upon its independent review, consideration, and exercise of its independent judgment, hereby finds and determines, on the basis of substantial evidence in the entire record before the City, that none of the circumstances necessitating further CEQA review are present. Thus, prior to recommending approval of the project, the City can rely on the Previous CEQA Documents and no further environmental review is required.

2. **The Master Plan relates favorably to the General Plan.** As documented in the staff report and associated materials, the Encinal Terminals Tidelands Exchange Master Plan is in substantial conformance with, and implements, the City of Alameda General Plan, Housing Element, and Zoning Ordinance policies and standards for the site. The Master Plan implements General Plan policies for mixed use redevelopment of a former industrial site in the Northern Waterfront, increases housing opportunities for a variety of household types, improves transportation infrastructure by funding the extension of Clement Avenue, increases transit services in the area, and increases public access to public waterfront parks in the area for all Alameda residents.
3. **The Master Plan proposes an effective use of the site.** The Master Plan implements the City of Alameda General Plan and the MX Mixed Use and MF Multifamily Zoning District requirements for the site. The Master Plan proposes an effective use of the site, and provides for four and half acres of public waterfront parks and promenades adjacent to the Oakland Estuary where no public access currently exists. Further, the Plan allows for the conversion of the site, which was previously used for shipping container storage, to a transit-oriented mixed use development with market-rate and affordable deed-restricted housing opportunities, retail and maritime commercial job opportunities and services, pedestrian, transit and bicycle facilities and other amenities and features to ensure that the site is pedestrian, bicycle and transit-friendly.
4. **The proposed Master Plan, if development complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have substantial deleterious effects on existing business districts or the local economy.** The Master Plan implements the General Plan and provides for a mixed use development pursuant to the MX Mixed Use Planned Development Zoning District. The proposal improves access and circulation in the neighborhood by funding a fair share of the cost to complete the Clement Avenue extension from Atlantic Avenue to Grand Street and constructs a new intersection at Clement Avenue and Entrance Road allowing for the removal of the Truck Route from Buena Vista Avenue, which is a long-term public objective to improve the quality of life in the neighborhood. The proposal provides for more than four acres of new public waterfront open space for the neighborhood, including a waterfront promenade and Bay Trail along the perimeter of the property.
5. **The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size are architecturally, aesthetically, and operationally harmonious with the community and surrounding development.** The proposed development qualifies as a mixed-use development pursuant to the MX, Mixed-Use Planned Development Zoning District, and satisfies the purposes of the MX district and MF Multifamily Overlay District regulations. The Master Plan is designed to conform to the Northern Waterfront General Plan policy objectives and requirements adopted to ensure that the project would be compatible with adjacent residential neighborhoods and other existing and

future waterfront uses. The Master Plan provides for adequate landscaping including Bay Friendly native plants as required by City standards. The proposed development will result in health and safety improvements to a property that is currently severely blighted and a detriment to the surrounding community.

6. **The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities.** The street network, location of entry roads, orientation of residential uses along Clement Avenue and within the site, and the location of bicycle, pedestrian, and transit facilities are all designed to complement and support the planned surrounding uses. The residential plans provide for a well-designed pedestrian network, and bicycle and vehicular access. The proposed waterfront promenade will support and encourage use of and access to the waterfront.
7. **The proposed affordable units make the project eligible for a density bonus of 20% under California Government Code 65915 and City of Alameda Municipal Code Section 30-17.** North Waterfront Cove, LLC qualifies for a 20% density bonus to allow for a total of 589 residential units. The applicant is proposing 80 affordable units, including 25 housing units affordable to very low-income households (5%), 20 housing units affordable to low-income households (4%), and 35 units affordable to moderate-income households (7%). Because the applicant is proposing to provide 5% of the units to very low-income households, the development qualifies for a 20% density bonus, waivers, and one incentive or concession. With the density bonus, the applicant is proposing to construct 589 units, which falls within the limit that the applicant is entitled to and is consistent with state density bonus law.
8. **The proposed affordable units make the project eligible for one incentive/concession under California Government Code 65915 and City of Alameda Municipal Code Section 30-17.** North Waterfront Cove, LLC qualifies for one incentive or concession and waivers under State Density Bonus Law. The applicant is requesting an incentive or concession from the visitability requirements in AMC Section 30-18.4a for the townhome buildings (the number of townhomes with private garage parking is limited to 200 units). The applicant states that reduction of the 100% requirement to 50% results in an identifiable and actual cost reduction to provide for affordable housing costs. The request to reduce the visitability requirements from 100% to 50% would not have a specific, adverse impact, as defined in Government Code section 65589.5(d)(2), upon public health, safety, or physical environment, or on any historical property, or be contrary to state or federal law.
9. **The proposed affordable units make the project eligible for waivers of development standards that physically preclude the development at the permitted density under California Government Code 65915 and City of Alameda Municipal Code Section 30-17.** The applicant has requested waivers from City of Alameda General Plan and AMC height limits that apply to this site to accommodate the density bonus units. The waiver to the City's height limits for the site provided in the Master Plan is necessary to accommodate the required density bonus units and would not have a specific, adverse impact, as defined in Government Code section

65589.5(d)(2), upon health, safety, or physical environment, nor would the waiver be contrary to state or federal law. Consistent with AMC requirements and the Master Plan, the specific design and height of all future buildings on the site must be reviewed and approved by the Planning Board. Given that it is not known at this time how many, or which, buildings will need to exceed the 45-foot height limit and to what extent the buildings will need to exceed the height limit to accommodate 589 units, the Master Plan includes a height waiver that states: The maximum height for any residential building shall be determined by the Planning Board at the time the Design Review application is submitted for Planning Board review. Design Review applications for any residential buildings that exceed 45 feet in height shall be accompanied by a massing study that demonstrates that the proposed height is needed to accommodate the 589 units and all of the amenities, parking and mix of commercial and open space uses as described and illustrated in the Master Plan. The Planning Board shall not deny a building height above 45 feet unless the Planning Board is able to make one or both of the following findings: 1) based upon a review of the Design Review plans and the massing study, the 45-foot height limit does not physically preclude construction of the 589 units and all of the amenities, parking and mix of commercial and open space uses as illustrated and described in the Master Plan, or 2) the waiver of the 45-foot height limit would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon health, safety, or physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. The 45-foot height limit shall not be used by City to prevent construction of the proposed project on the property.

Section 2. Severability. The provisions of this ordinance are severable. It is the declared intent of the City Council of Alameda that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 3. Effective Date. 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 or execution of a Land Exchange and Title Settlement Agreement for the Encinal Terminals Project by and among the California State Lands Commission, North Waterfront Cove, LLC, and the City, whichever occurs later.

Section 4. Conforming Changes to Master Plan. The City Council hereby authorizes the City Manager or designee to make non-substantive, technical conforming changes (essentially correction of typographical and clerical errors), prior to final publication of the Master Plan.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

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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 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