

CITY OF ALAMEDA ORDINANCE NO. \_\_\_\_\_

New Series

AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ALAMEDA AND "BC WEST MIDWAY LLC" FOR THE DEVELOPMENT OF APPROXIMATELY 26 ACRES OF LAND LOCATED BETWEEN WEST TOWER AVENUE, WEST MIDWAY AVENUE, MAIN STREET AND PAN AM WAY AT ALAMEDA POINT REFERRED TO AS THE "WEST MIDWAY PROJECT

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 of Alameda ("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 this Development Agreement has been processed in accordance with the City Development Agreement Regulations; and

WHEREAS, BC West Midway, LLC ("the Developer") and the City of Alameda have identified 26 acres of city-owned real property located at Alameda Point that is appropriate for mixed income housing ("West Midway Property"); and

WHEREAS, the City is desirous of providing additional housing opportunities for a range of incomes to address the regional and local housing crisis and advancing the socioeconomic interests of the City and its residents by promoting the productive use of underdeveloped property and encouraging quality development; and

WHEREAS, the City is also desirous of establishing certainty for the future development of the West Midway Property which will advance the planning objectives of, and provide benefits to, the City; and

WHEREAS, the City Council has approved a Disposition and Development Agreement whereby the City intends to convey the West Midway Property to the Developer (the "DDA") for development of mixed income housing on the terms and conditions specified therein; and

WHEREAS, the City has determined that by entering into this Development Agreement: (1) the City will ensure the productive use of underdeveloped property and foster orderly growth and quality development in the City; (2) development will proceed in accordance with the goals and policies set forth in the City of Alameda General Plan and the Main Street Neighborhood Specific Plan (Specific Plan) and will implement the City's stated General Plan and Specific Plan policies; (3) the City will receive substantially increased property tax and sales tax revenues; and (4) the City will receive the public benefits provided the provision of much needed market rate, work force, moderate income, lower income, and supportive housing; and

WHEREAS, the terms and conditions of this Development Agreement have undergone extensive review by the City, the Developer and their respective legal counsel; and

WHEREAS, the City Planning Board and the City Council at publicly noticed meetings found the Development Agreement to be in conformance with the City General Plan, the Development Agreement Legislation, and the City Development Agreement Regulations; and

WHEREAS, on May 22, 2023, the Planning Board conducted a public hearing on the draft Development Agreement in accordance with Government Code section 65867 and the City Development Agreement Regulations and recommended that the City Council approve the Development Agreement; and

WHEREAS, on July 18, 2023, the City Council conducted a public hearing on this Development Agreement in accordance with Government Code section 65867 and the City Development Agreement Regulations; and

WHEREAS, the City Council 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; and

WHEREAS, the Developer proposes to develop the West Midway Property with much needed housing for all income groups, consistent with the West Midway Development Plan approved by Planning Board by Resolution on May 22, 2023 ("Development Plan"); and

WHEREAS, the Development Agreement is consistent with objectives, policies, land uses and programs specified in the General Plan and Specific Plan and is compatible with the uses authorized in, and the other regulations prescribed for, the use of land at Alameda Point. As documented in the staff report and associated materials, the Development Agreement vests the rights granted by the Development Plan, which is in substantial conformance with, and implements, the City of Alameda General Plan, Housing Element, Specific Plan, and Zoning Ordinance policies and standards for the site. The Development Plan implements General Plan policies for mixed use redevelopment of former Naval Air Station property and provides a plan for the development of housing for all household incomes in the Bay Area; and

WHEREAS, pursuant to the streamlining provision of Public Resources Sections 21166 and 21083.3 and Sections 15162 and 15183 of the California Environmental Quality Act (CEQA) Guidelines, no further environmental review is required because the West Midway project is consistent with the development density in an adopted Specific Plan for the area; the environmental impacts of the development of the area consistent with the Specific Plan were considered in the Alameda Point Project (APP) FEIR adopted by the City Council on February 4, 2014, in compliance with the CEQA; the West Midway project is consistent with the development density of, is specifically listed in, and implements the City of Alameda's Housing Element adopted on November 15, 2022; the environmental impacts of the Housing Element and the development of the sites included in the Housing sites inventory were considered in the General Plan Update EIR adopted by the City Council on November 30, 2021; and as documented in the project CEQA Checklist, the West Midway project would not result in new or substantially more severe significant impacts than identified in the APP FEIR or the General Plan Update FEIR (together, the "Previous CEQA Documents") due to changes in the project, changed circumstances, or new information and there are no new or considerably different feasible mitigation measures or alternatives from those identified in the Previous CEQA Documents would substantially reduce one or more significant effects that the project proponent declines to adopt; and the West Midway project would not result in significant impacts that: (1) are peculiar to the project or project site; (2) were not already identified as significant effects, cumulative effects, or off-site effects in the APP FEIR and the General Plan Update FEIR; or (3) were previously identified as significant effects, but are determined to be substantially more severe than discussed in the APP FEIR and the General Plan Update FEIR

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

#### Section 1.

The City Council, based on 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. The proposed project would not require major revisions to the Previous CEQA Documents due to new significant impacts or due to a substantial increase in the severity of the significant environmental effects. There have been no substantial changes with respect to the circumstances under which the project would be undertaken that would require major revisions of the Previous CEQA Documents due to new or substantially increased significant environmental effects, and there has been no discovery of new information of substantial importance that would trigger or require major revisions to the Previous CEQA Documents due to new or substantially increased significant environmental effects. There are no significant environmental effects (i) peculiar to the West Midway Project that were not analyzed in the Previous CEQA Documents, or any such impact can be substantially mitigated by imposition of uniformly applied development policies or standards previously adopted by the City; (ii) that were not analyzed as significant effects in the Previous CEQA Documents; and that are off-site impacts or cumulative impacts to which the West Midway Project makes a considerable

contribution that were not analyzed in the Previous CEQA Documents. Thus, the City can rely on the Previous CEQA Documents and no further environmental review is required for the proposed project.

The City Council adopts the Mitigation Monitoring and Reporting Program for the West Midway Project and readopts and incorporates as though fully set forth herein the Statements of Overriding Considerations for the Previous CEQA Documents.

## Section 2.

In accordance with Development Agreement Legislation and the City Development Agreement Regulations, the City Council hereby finds the Development Agreement to be consistent with the General Plan, the Specific Plan, and other regulations prescribed for the use of the West Midway Property, and approves the Development Agreement for the West Midway Property, the form of which shall be substantially as attached hereto as Exhibit A, and authorizes the City Manager to sign the Development Agreement on or after the effective date of this Ordinance.

## Section 3.

If any portion, section, subsection, paragraph, subparagraph, sentence, clause, phrase or application of this Ordinance is held invalid or inapplicable by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity or applicability of any other part of this Ordinance.

## 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

## **EXHIBIT A: DEVELOPMENT AGREEMENT**

**Attached to Staff Report 2023-3182**

\* \* \* \* \*

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 \_\_\_\_\_ 2023, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSECTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_ day of \_\_\_\_\_ 2023.

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Lara Weisiger, City Clerk  
City of Alameda

APPROVED AS TO FORM:

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Yibin Shen, City Attorney  
City of Alameda