

## **CITY OF ALAMEDA PUBLIC ART COMMISSION RESOLUTION**

**APPROVING PUBLIC ART APPLICATION FOR ALAMEDA AFORE, TO BE INSTALLED  
IN THE MEDIAN OF WEST ATLANTIC AVENUE AT MAIN STREET**

WHEREAS, an application was submitted on January 27, 2020 by Alameda Point Partners pursuant to the City of Alameda public art ordinance (Alameda Municipal Code Section 30-98) and the Alameda Point Site A Disposition and Development Agreement between the City of Alameda and Alameda Point Partners to provide public art at Site A; and

WHEREAS, the proposal was reviewed for compliance with the requirements of the Public Art Ordinance by the Community Development Department; and

WHEREAS, the Community Development Department found the application to be in compliance the Public Art Ordinance; and

WHEREAS, the Public Art Commission has been advised that, subject to meeting City standards and requirements, the proposed use would conform to the public art ordinance; and

WHEREAS, the Public Art Commission held a public meeting on this application on March 10, 2020, and has examined all pertinent submittals and documents:

NOW THEREFORE be it resolved that the Public Art Commission has made the following findings regarding the application:

**The artist has demonstrated qualifications to complete the proposed on-site artwork with the highest professional standards.** The artist's resume and examples of previous work demonstrate the experience and qualifications required to complete the proposed artwork to the highest professional standards.

**There is sufficient public visibility and accessibility to the on-site artwork, and the proposed on-site artwork is compatible with and harmonious with the development project and surrounding environment.** The location of the proposed artwork would provide ample visibility for passing pedestrians, bicyclists and motorist, and installation of the artwork will comply with all Americans with Disabilities Act requirements. As a gateway feature for Alameda Point, Alameda Afore reflects its surrounding environment and history. Its shapes are evocative of the bow of a ship, or the A in Alameda, and its material is a nod to the area's industrial past. At the same time, the artwork leaves room for the viewer to experience and develop his/her own interpretation of the artwork.

**The proposed on-site artwork is durable and cost-effective to maintain using ordinary methods of maintenance.** The proposed cor-ten steel sculpture would be

extremely durable, with an expected lifetime of 75 years or more. The required maintenance would be cost-effective using ordinary methods.

**The budget for the proposed on-site artwork and any in-lieu fees proposed by the applicant is would satisfy a portion of Alameda Point Partner's public art requirement.** The remainder of Alameda Point Partners' public art requirement will be satisfied through a future application for additional public art, and/or through a contribution to the Public Art Fund.

BE IT FURTHER RESOLVED that the Public Art Commission finds that the project is Categorically Exempt from the California Environmental Quality Act, under Section 15303 of the CEQA Guidelines – New Construction of Small Structures, which exempts the new construction of small structures from environmental review. On a separate and independent basis, the installation of the proposed public art is exempt under Section 15061(b)(3), where it can be seen with certainty that the proposal does not have the potential to have a significant effect on the environment; and

BE IT FURTHER RESOLVED that the Public Art Commission hereby approves the Alameda Afore Public Art Application pursuant to Alameda Municipal Code Section 30-98, subject to the conditions listed below:

1. The final art installation shall be in substantial compliance with the public art submittal, prepared by Rodrigo Nava, submitted on January 27, 2020, depicting a series of three cor-ten steel figures ascending in height.
2. Separate Permits Required: The applicant shall be responsible for obtaining all necessary building and/or encroachment permits for the installation of the public art. The plans submitted for building permits shall be in substantial compliance with the public art proposal prepared by Rodrigo Nava, and received on January 27, 2020
3. Installation: No owner or person shall be issued a Certificate of Occupancy for Block 11 of the Site A development until the public art requirements have been satisfied. Satisfaction shall mean construction of the art installation with all public art standards and conditions imposed by the City of Alameda. The Certificate of Occupancy shall be issued if the delay in installation is by reason of any event beyond the owner's reasonable control including but not limited to Acts of God, fire, flood, explosion, earthquake, or other natural forces, war, civil unrest, accident, any strike or labor disturbance, or any other event similar to those enumerated above. Such excuse shall be effective only to the extent and duration of the event(s) causing the failure or delay in performance and provided that the owner has not caused such event(s) to occur and continues to use diligent, good faith efforts to avoid the effects of such event and to perform the obligation.
4. Notice of Completion: The applicant shall inform the City of the approximate date the project will be installed or completed.

5. Notice of Ceremonies: The applicant shall notify the Community Development Department regarding any unveiling or dedication ceremonies for the public art project. An unveiling or dedication is strictly optional. In the event the applicant chooses to conduct an unveiling or dedication, City staff shall provide the applicant with an invitation list of City Council members, Public Art Commission members and other appropriate guests. City staff shall work with the applicant to promote press opportunities and public interest in the public art project.
6. Final Budget Reconciliation: The subject public art project is approved at an estimated value of \$100,000. In accordance with the Disposition and Development Agreement for Alameda Point Site A, Alameda Point Partners has a public art requirement of \$300,000. Should the final cost of the art project be less than \$100,000, demonstrated to the City by a written cost breakdown prepared by the artist, Alameda Point Partners will be required to install additional artwork, or contribute an amount to the Public Art Fund, equivalent to the difference between the actual cost and \$300,000
7. Maintenance: Prior to the transfer of the artwork to the City of Alameda, the property owner is responsible for maintaining the art installation, including repairs, should it be damaged, destroyed, or become inaccessible.
8. Removal: The permanent removal of public art requires approval by the Public Art Commission. Should the applicant wish to remove the subject art prior to its transfer to the City, the City must be notified in advance by way of submitting a Public Art Application and payment of processing fees required by the City. The applicant shall replace the Public Art with public art of equal or greater value, as defined by the public art ordinance.
9. Identification signage: Applicant shall be required to obtain approval from the Community Development Department for identification signage that shall be developed in compliance with the Public Art Identification Signage Guidelines. The identification signage shall contain the following components:
  - a. The title of the public art,
  - b. Artist's name
  - c. Date completed
  - d. The logo of the City of Alameda
  - e. The text "Alameda Public Art Program"
  - f. Optional: 30 to 50 word descriptive narrative
10. Hold Harmless. The City of Alameda requires that the applicant, or its successors in interest, defend, indemnify, and hold harmless the City of Alameda or its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, and employees to attack, set aside, void, or annul, an approval of the City concerning this approval, which action is brought within the time period provide for in Government Code Section 66499.37. The City of Alameda shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or

proceeding, or if the City fails to cooperate fully in the defense, the applicant shall not hereafter be responsible to defend, indemnify, or hold harmless the City.

11. Appeal. The decision of the Public Art Commission shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision by completing and submitting an appeal form paying the required fee.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision or final action on any appeals plus extensions authorized by California Code of Civil Procedure Section 1094.6.

NOTICE. The Conditions of Project Approval set forth herein include certain fees and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. You are hereby further notified that the 90 day appeal period in which you may protest these fees and other exactions, pursuant to Government Code Section 66020(a) has begun. If you fail to file a protest within this 90-day period complying with all the requirements of Section 66020, you will be legally barred from later challenging such fees or exactions.

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Public Art Commission of the City of Alameda during the Regular Meeting of the Public Art Commission on the 31st day of August, 2016, by the following vote to wit:

AYES:

NOES:

ABSENT:

ATTEST:

---

Lois Butler, Secretary  
Public Art Commission

\* \* \* \* \*