

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

AUTHORIZING THE CITY MANAGER TO EXECUTE A THIRD AMENDMENT TO THE LEASE WITH BAYVIEW LANDING LP FOR APPROXIMATELY 6.4 ACRES OF CITY-OWNED PUBLIC TRUST TIDELANDS LOCATED AT 1527 BUENA VISTA (ENCINAL TERMINALS)

WHEREAS, the City of Alameda, a California charter city and municipal corporation, as lessor (hereinafter, "City"), and Encinal Industries, Inc., a California corporation ("EI"), as lessee, entered into an original lease dated as of May 17, 1979 (the "Original Lease"); and

WHEREAS, City and EI entered into an Amended and Restated Lease with respect to Parcels 18, 19, 20 and 21 (as more particularly described in the Original Lease) dated January 6, 1984, and further modified by that certain Ground Lease Modification and Ground Lease Estoppel dated October 8, 1997 (the Original Lease, and all amendments, modifications, extensions, and assignments are referred to collectively herein as the "Lease"); and

WHEREAS, this Third Amendment to the Lease ("Lease Amendment") solely concerns Parcel 20 (as defined in the Original Lease), and identified for reference as Parcel 20 of Parcel Map No. 2938, filed July 19, 1983, in Book 138 of Parcel Maps, at Pages 76 through 80, inclusive, in the Records of Alameda County, which Parcel 20 is also known as 1527 Buena Vista Avenue, and which may be further identified as Alameda County Assessor's Parcel Number 072-382-009, comprising approximately 6.4 acres (the "Premises"); and,

WHEREAS, as more thoroughly set forth in that certain Assignment of Ground Lease dated March 21, 2025, by means of that certain Assignment of Lease dated January 22, 1998, EI assigned its interest in the Lease solely with respect to the Premises to Encinal Real Estate, Inc. ("ERE"), and by means of that certain Assignment of Ground Lease dated January 24, 2013, ERE assigned its interest in the Lease with respect to the Premises to North Waterfront Cove LLC ("NWC"), and by means of that aforementioned Assignment of Ground Lease dated March 21, 2025, NWC assigned its interest in the Lease with respect to the Premises to Bayview Landing L.P.; and

WHEREAS, the original term of the Lease was for twenty-five (25) years from April 5, 1979, until April 4, 2004; and

WHEREAS, the Amended and Restated Lease granted the lessee an option to extend the Lease for an additional twenty-five (25) years, until April 4, 2029, which option was exercised by EI on October 22, 2003; and

WHEREAS, the Premises is comprised of State tidelands granted to the City of Alameda in trust by Chapter 594 of the California Statutes of 1917, as amended (“Granting Act”), and is held subject to the public trust; and

WHEREAS, the Premises comprises one of four parcels that are commonly referred to as Encinal Terminals, and the remaining parcels are owned or otherwise under the control of Bayview Landing L.P.; and

WHEREAS, Encinal Terminals is subject to the Encinal Terminals Tidelands Exchange Master Plan (“Master Plan”), a Development Agreement (“DA”) that vests the entitlements for 15 years in exchange for additional public benefits that could not be achieved otherwise, a Disposition and Development Agreement (“DDA”), and the Tidelands Exchange and a Development Agreement (“Exchange Agreement”) that was entered into with the State Lands Commission to permit a future reconfiguration of the public trust tidelands at Encinal Terminals, as approved by the State Legislature, in furtherance of the mixed-use development of the Master Plan and expanded public access to public trust lands; and

WHEREAS, on March 23, 2026, the Planning Board approved a use permit in Planning Board Resolution No. PB-26-2 (hereinafter, “Use Permit”) allowing for an interim outdoor use for the non-retail, commercial storage of new electric vehicle (the “Proposed Use”) during an interim two-year period, prior to implementation of the Master Plan, on the 23-acre site located at 1527 Buena Vista Avenue, a portion of which is the Premises; and

WHEREAS, the approved Use Permit for the Proposed Use requires that it be consistent with the terms of the Lease; and

WHEREAS, the approved Use Permit for the Proposed Use also included several conditions including required fencing and roadway access improvements, limitations on hours of operation, noise and light, among others; and

WHEREAS, the Lease requires approval by the City (as Lessor) for any use of the Premises that is substantially different than those permitted by the Lease, including any use inconsistent with the provisions of the Granting Act and public trust, if such substantially different use is otherwise permitted by law; and

WHEREAS, the Proposed Use, being a private, non-maritime, commercial use, is understood to be a use inconsistent with the purpose of the public trust as set forth in Section 1(b) of the Granting Act; and,

WHEREAS, Section 9 of the Granting Act authorizes the City to enter into leases for uses inconsistent with the public trust provided the City can and does make the determinations set forth in that section, which determinations are made and adopted herein; and,

WHEREAS, Bayview Landing L.P. desires the Lease Amendment, so that the Proposed Use can be authorized on the Premises in conformity with the terms of the Lease and the Granting Act, and thereby commence; and

WHEREAS, the Planning Board found, as set forth in the Use Permit, that the Proposed Use is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land), and thus no additional environmental review is required.

NOW, THEREFORE, the City Council of the City of Alameda does hereby ordain as follows:

Section 1. CEQA Findings. The City Council concurs with the CEQA findings set forth in the Use Permit, and hereby adopts said findings as its own by incorporation, finding that this Lease Amendment to authorize the Proposed Use on the Premises is exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land), and thus no additional environmental review is required.

Section 2. Public Trust Findings. Pursuant to Section 9 of the Granting Act, in authorizing the execution of this Lease Amendment for a use other than one consistent with the public trust or the requirements of the Granting Act, the City Council has found and determined as follows:

(a) That there is no immediate trust-related need for the Premises. The Premises is currently unused for any purpose, trust-related or otherwise, and further, the Premises is subject to the Master Plan, DA, DDA, and Exchange Agreement, which propose a substantial reconfiguration of the public trust lands to permit a large-scale, mixed-use development, and which will include conveyances that remove substantial portions of the Premises from the public trust. Physical site work in furtherance of the foregoing is currently required to commence on or about March 1, 2028, and therefore, there is no immediate need for the Premises for trust uses, and there is unlikely to be such need in the near future.

(b) That the proposed Lease Amendment is of a duration of no more than five years and can be terminated in favor of trust uses as they arise. The Lease Amendment has an initial term of less than two years, expiring by March 1, 2028, and the terms of the Lease Amendment limit any extension(s) thereof to a total of five years or less, and such terms further provide to the City the right to unilaterally terminate the Lease Amendment and Proposed Use, with reasonable notice, in favor of trust uses.

(c) That the proposed Lease Amendment prohibits the construction of new structures or improvements on the Premises that could, as a practical

matter, prevent or inhibit the Premises from being converted to any permissible trust use if it becomes necessary to accommodate a trust use. The Lease Amendment only authorizes the non-trust use of outdoor vehicle storage and an incidental temporary structure (e.g. an office trailer), both of which are non-permanent and easily removed, and certain minor driveway re-paving and improvements, which will not impair any potential trust use.

(d) That the proposed use of the Premises will not interfere with commerce, navigation, fisheries, or any other existing trust uses or purposes. There are no existing, operational trust uses on the Premises.

Section 3. Additional Compensation. As a material term of this authorization to enter into the Lease Amendment, and as more thoroughly set forth therein, Bayview Landing L.P. shall be liable for and pay to City additional compensation at an initial rate of \$4,500 per month, which may be reduced or prorated in a defined manner based on certain legal conditions related to access and other factors.

Section 4. Allowable Uses. This Lease Amendment solely authorizes the Proposed Use ("Allowable Use" as defined in the Lease Amendment), which shall be substantially consistent with the use authorized by the Use Permit. All other use of the Premises shall comply with the Lease, Granting Act, and the public trust.

Section 5. Tenant may enter into a sublicense with RAR Capital for the Proposed Use. Subject to approval by the City Manager or their designee, Tenant may enter into such sublicense with another entity.

Section 6. The City Manager is hereby authorized to enter into and execute the Lease Amendment attached hereto as Exhibit A.

Section 7. 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.

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Presiding Officer of the City Council

Attest:

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Lara Weisiger, City Clerk  
City of Alameda

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I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the 21st day of April, 2026, 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 21st day of April, 2026.

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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