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OAKLAND

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CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89708 C.M.S.

A RESOLUTION APPROVING TEXT AMENDMENTS TO THE GENERAL PLAN ESTUARY POLICY PLAN TO INCREASE THE MAXIMUM AVERAGE DENSITY IN THE ESTUARY POLICY PLAN PLANNED WATERFRONT DEVELOPMENT-4 (PWD-4) LAND USE DESIGNATION IN CONNECTION WITH THE BROOKLYN BASIN (FORMERLY OAK-TO-NINTH AVENUE MIXED USE DEVELOPMENT) PROJECT; AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, the City of Oakland ("City") has previously approved a development now known as the Brooklyn Basin (and formerly known as the Oak-to-Ninth Avenue Mixed Use Development) Project on approximately 64.2 acres of land area (and 7.95 acres of water surface area) along the Oakland Estuary, which included up to 3,100 residential units, up to approximately 200,000 square feet ("sf") of commercial space, a minimum of 3,534 parking spaces, approximately 31 acres of open space, two renovated marinas entailing dredging activities of approximately 20,000 cubic yards of material and up to 167 boat slips, as well as shoreline improvements, new roads, and other infrastructure and improvements (the "Approved Project");

WHEREAS, the City's Estuary Policy Plan is part of the City's General Plan;

WHEREAS, in connection with the Approved Project the City approved amendments to the Estuary Policy Plan, including by designating the Brooklyn Basin Project site with a Planned Waterfront Development-4 (PWD-4) land use designation, which approval was memorialized by City Council Resolution No. 79982 C.M.S.;

WHEREAS, Zarsion-OHP I, LLC ("ZOHP" or "Developer") has submitted entitlement applications to modify the Approved Project (the "Project Modifications"), as set forth in the January 11, 2023 Planning Commission Staff Report, incorporated by this reference, which included an application requesting the approval of a text amendment to the Estuary Policy Plan (the "General Plan Amendment");

WHEREAS, the Developer subsequently elected to pursue revised amendments to the Approved Project (the "Revised Project Modifications"), as set forth in the January 11, 2023 Planning Commission Staff Report and Staff Report to the City Council, which continued to include the General Plan Amendment;

WHEREAS, the General Plan Amendment would amend the text of the Estuary Policy Plan to permit an increase in the maximum average residential density from 50 to 58 dwelling units per gross acre over the entire 64.2-acre planning area designated PWD-4;

WHEREAS, as more fully set forth in the related resolution certifying the Supplemental Environmental Impact Report for the modifications to the Approved Project (the “SEIR”), incorporated by this reference, the Revised Project Modifications, including the General Plan Amendment, were analyzed in compliance with the California Environmental Quality Act (“CEQA”);

WHEREAS, on January 11, 2023, the City Planning Commission, after conducting a duly noticed public hearing, hearing all qualified and interested persons, and receiving and considering all relevant evidence, recommended that the City Council certify the SEIR and approve the Revised Project Modifications, including the General Plan Amendment;

WHEREAS, on May 2, 2023, the City Council, conducted a duly noticed public hearing, heard all qualified and interested persons, and received and considered all relevant evidence on the Revised Project Modifications, including the General Plan Amendment.

NOW, THEREFORE, BE IT RESOLVED, that the recitals set forth above are true and correct and are an integral part of this Resolution.

FURTHER RESOVLED, that the City Council approves the General Plan Amendment, thereby amending the General Plan Estuary Policy Plan in the form attached hereto as **Exhibit A**. The General Plan Amendment is supported by the findings at **Exhibit B**, and subject to such minor and clarifying changes consistent with the terms thereof as may be approved the City Attorney.

FURTHER RESOLVED, in accordance with Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163, the City examined whether the proposed General Plan Amendment would result in “substantial changes” that trigger the need for a major modification to the previously certified 2009 EIR due to a new significant impact or a substantial increase in the severity of previously identified significant impacts. An Initial Study was not prepared for the Project, as authorized under Section 15060(d) of the CEQA Guidelines. The City, as the Lead Agency, determined that a Supplemental Environmental Impact Report (SEIR) for the Project would be required. Staff published a Notice of Preparation (NOP) of an EIR on September 21, 2018.

As further set forth in the City’s “Resolution certifying the Brooklyn Basin Marina Expansion Project Supplemental Environmental Impact Report (SEIR) and Making Certain Findings Concerning Environmental Impacts, Mitigation Measures, and Alternatives, and Adopting a Mitigation Monitoring and Reporting Program (MMRP), All In Accordance with the California Environmental Quality Act,” the SEIR did not identify any new or more severe potentially significant or significant and unavoidable impacts than analyzed in the previous Oak-to-Ninth Street Project EIR. None of the additional information provided in the General Plan Amendment or the Draft SEIR could result in changes to the environmental analysis in the Draft SEIR under CEQA. The City decided to include additional information in the Response to Comments document for informational purposes for the public and decision-makers for the project. Certain updates included in the Final SEIR address topics raised by the public that are comprehensively addressed in Chapter IV, Consolidated Responses, of the Final SEIR document. None of the new information is considered “significant

new information” defined in State CEQA Guidelines Section 15088.5, and therefore recirculation of any part of the SEIR is not required.

FURTHER RESOLVED, that this Resolution, and the General Plan Amendment approval described above, is based, in part, on the findings set forth above and attached at **Exhibit B**, the CEQA Findings related to approval of the Revised Project Modifications, and the “General Findings” related to approval of the Revised Project Modifications, as well as the other resolutions and ordinances related to the Revised Project Modifications, each incorporated by this reference.

IN COUNCIL, OAKLAND, CALIFORNIA, **MAY 2 2023**

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, ~~WATSON~~ RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES - ~~0~~
ABSENT - 1 Kaplan
ABSTENTION - ~~0~~

ATTEST:



ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

EXHIBIT A

III District Recommendations

Oak – to – Ninth Avenue District

Clinton Basin

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OAK-2.3: Enhance Clinton Basin. Clinton Basin is a marina that recalls the maritime slipways and boat-building activities of a past age. While it has been used as a recreational marina for many years, it has fallen into disrepair, and has become functionally obsolete.

- *Rehabilitate the marina.* If economically feasible, the marina should be upgraded to contemporary standards. In addition to extending the life of the marina, improving the physical condition would provide an interesting focus for waterfront activities. Provisions in the marina for boat rentals and launches, fishing charters, water taxi/ferry services, a limited amount of food services, etc., would all contribute to the liveliness of the area, and should be accommodated.
- *Establish a linear open space composed of a series of smaller parks around Clinton Basin.* The basin is hidden behind buildings and not highly accessible. In order to improve access to the water and visibility of the boating activities, a series of public spaces should be developed on both sides of the basin and at the head of the basin adjacent to the Embarcadero. This network of public spaces should be composed of a series of smaller connected parks, connected by a continuous promenade along the edge of the basin that connects the open spaces. Views into Clinton Basin from the Embarcadero should be maintained and enhanced.
- *Provide for a limited number of new recreational slips east of Fifth Avenue.* A small number of slips for the mooring of recreational boats should be provided east of Fifth Avenue, with support facilities provided accordingly. An area for supply drop off and the provisioning of vessels should be provided to create a high-quality mooring area, attractive to patrons and complementary to landside uses within the district.

Section IV: Moving Forward

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Land Use Classification: - **PWD-4: Planned Waterfront Development** (Estuary Park to 9th Avenue except for Fifth Avenue Point area)

Intent: Provide for the transition of underutilized industrial land to public parks and open space, commercial/retail, multifamily residential, cultural and civic uses. Improve public access to the waterfront by providing additional public parks and open space areas and a waterfront trail.

Desired Character: Create a new mixed-use residential, commercial/retail, recreational neighborhood in the area south of the Embarcadero. New parks and open space areas will provide public access to the Estuary and will continue the series of waterfront parks and the San Francisco Bay Trail. Civic and cultural uses may be incorporated into the development. Two existing marinas will be renovated to enhance boating and marine-related uses in the area.

Maximum Intensity: Average 580-residential units per gross acre over the entire 64.2 planning area (PWD-4); approximately 200,000 square feet of commercial development.

EXHIBIT B

General Plan Amendment Findings

The addition of 600 units to the Brooklyn Basin area (the "Project") requires an amendment to the Oakland Estuary Policy Plan, which is part of the General Plan, to permit an increase in the average residential density from 50 to 57.63 units per gross acre over the entire 64.2-acre planning area designated Planned Waterfront Development-4 (PWD-4). The intent of the PWD-4 land use designation is to "provide for the transition of underutilized industrial land to public parks and open space, commercial/retail, multifamily residential, cultural and civic uses." This amendment is proposed to allow an additional 600 units in the planning area (an approximately 19 percent increase from the currently approved residential units) for a total of 3,700 units.

Policy A3 of the General Plan LUTE states that the City may amend its General Plan, if deemed to be in the public interest, up to four times per year per mandatory element, subject to specific findings including: a) how the amendment advances General Plan implementation; b) how it is consistent with the policies in the LUTE; c) any inconsistencies that would need to be reconciled; and d) examination of citywide impacts to determine if the amendment is contrary to achievement of citywide goals.

The Amendment of the PWD-4 Residential Density Standard is consistent with Policy A3 of the Land Use and Transportation Element (LUTE) of the Oakland General Plan. The Amendment to the PWD-4 residential density standard is consistent with and will further advance the Oakland General Plan including the LUTE and Estuary Policy Plan (EPP). By way of example and not by limitation, the following summary lists the major objectives and policies of the LUTE and EPP and discusses how the Project is consistent with these objectives and policies.

EPP Objective LU-1, Provide for a broad mixture of activities within the Estuary area. This objective states that "[a] balance of uses and activities such as commercial, recreation, and residential - both traditional and non-traditional - will add to a dynamic waterfront."

The Project increases the permitted residential units, fostering a balance between those uses and the permitted commercial and recreational uses.

EPP Objective LU-3, Expand opportunities and enhance the attractiveness of the Estuary as a place to live. This objective states that "opportunities to develop housing should be supported in the Estuary study area" and "[a]n expanded residential population and associated services would support commercial and recreational uses, and over time generate neighborhoods." In addition, this objective notes that "[a] larger day and night population would add to the safety and livability of the waterfront."

The Project, which increases the number of residential units allowed in the PWD-4 area creates greater opportunities for housing development and once constructed those units will expand the residential population to support commercial uses and create safe, livable communities.

LUTE Objective W9, Develop and encourage mixed use areas along the estuary shoreline, while enhancing and promoting economic opportunities in Oakland which take advantage of the waterfront's unique character to attract public uses and activities.

The Project would increase the number of residential units allowed in the PWD-4 area while maintaining the mixed-use neighborhood (e.g., residential, retail, open space) already approved for the planning area. The addition of new housing opportunities offers more opportunities to live along the estuary shoreline and support existing and proposed economic opportunities.

Policy W9.1, Defining Mixed-use Along the Estuary: Mixed use areas are areas or developments where residential uses are integrated with other non-residential uses such as commercial, recreation, and industrial areas. Live/work units are appropriate mixed use developments and unique residential opportunities for the waterfront. | The Project, which increases the number of residential units allowed in the PWD-4 area, would further support the transformation and improvement of the Oakland Estuary waterfront into a mixed use area that integrates a combination of residential, retail, and public open space already approved for the planning area.

Policy W9.2, Encouraging Mixed Land Uses Along the Estuary: Mixed land uses should be encouraged in areas where the integration of housing with other compatible uses will add to the overall environmental, social, and economic vitality of the waterfront, and will create a safe environment. | The Project, which increases the number of residential units allowed in the PWD-4 area, would further enhance and enliven the Oakland Estuary waterfront planning area already approved for a mix of land uses. The addition of new housing opportunities offers more opportunities to live along the estuary shoreline and enhance the environmental, social and economic vitality of the waterfront.

Policy W9.6, Developing Housing Along the Estuary: Quality Type and Services: Housing quality, type, and services should be developed in a manner that is consistent with the policies and requirements of: future detailed plans created for the Waterfront; the Housing Element of the General Plan; the City's Building Code; and/or other appropriate codes or regulations. | The Project, which increases the number of residential units allowed in the PWD-4 area, creates greater opportunities for housing development in the midst of an acknowledged housing crisis, which would help address the City's Regional Housing Needs Allocation (RHNA) and more broadly the housing needs and demand of the Bay Area region and the State, and in a location that is already approved for and contains housing.

Policy W9.7, Supporting Existing Residential Communities Along the Estuary: The existing residential communities within and adjacent to the waterfront should be supported and enhanced. | The Project, which increases the number of residential units allowed in the PWD-4 area, creates greater opportunities for housing development and increases the size of the residential community already approved for the Oakland Estuary waterfront planning area, which would further foster social interaction and mixing among the residential communities within and adjacent to the waterfront.

LUTE Objective N3, Encourage the construction, conservation, and enhancement of housing resources in order to meet the current and future needs of the Oakland community.

The Project would provide up to 600 additional residential units to meet the current and future needs of the Oakland community. The Oakland community—and more broadly the State—is in the midst of an acknowledged housing crisis. The addition of new housing opportunities would help address Oakland’s housing needs and demand, and in a location that is already approved for and contains housing.

Policy N3.1, Facilitating Housing Construction: Facilitating the construction of housing units should be considered a high priority for the City of Oakland. | The Project would provide up to 600 residential units. The addition of new housing opportunities, in the midst of an acknowledged housing crisis, would help address the City’s Regional Housing Needs Allocation (RHNA) and more broadly the housing needs and demand of the Bay Area region and the State, and in a location that is already approved for and contains housing.

Policy N3.2, Encouraging Infill Development: In order to facilitate the construction of needed housing units, infill development that is consistent with the General Plan should take place throughout the City of Oakland. | The Project would encourage consummate infill development that is compatible with the surrounding area. The Project would increase the number of residential units allowed on a site that is already approved for 3,100 units of housing. Moreover, notwithstanding the increase in density, there would be no change to the number or height of the approved development pattern for the Brooklyn Basin Project. The density would be developed within the approved overall building envelope and site plan and would not require changes to approved building heights or setbacks, landscaping, infrastructure, or planned circulation.

LUTE Objective N4, Actively encourage the provision of affordable housing throughout the Bay Area.

The Project would provide up to 600 residential units that would be subject to the City’s Affordable Housing Impact Fee provided in Chapter 15.72 of the Oakland Municipal Code. The Project’s substantial Affordable Housing Impact Fee payment will be deposited into the Affordable Housing Trust Fund to be used to increase, improve, and preserve the supply of affordable housing in the City.

LUTE Objective N8, Direct urban density and mixed use housing development to locate near transit or commercial corridors, transit stations, the Downtown, waterfront, underutilized properties where residential uses do not presently exist but may be appropriate, areas where this type of development already exists and is compatible with desired neighborhood character, and other suitable locations.

The Project would increase the number of residential units allowed in the PWD-4 area. This would increase the urban density and mixed use housing development that would occur in this area, located along the waterfront and not far from Downtown and transit stations and corridors.

Furthermore, the Amendment to the PWD-4 residential density standard would advance implementation of, and would not cause any internal inconsistencies with, other elements of the General Plan. By way of example and not by limitation, the following summary lists the major objectives and policies of the Housing Element and discusses how the Project would advance those objectives and policies.

Housing Element Policy 1.7, The City of Oakland will strive to meet its fair share of housing needed in the Bay Area region.

The Project would provide up to 600 residential units. The addition of new housing opportunities, in the midst of an acknowledged housing crisis, would help address the City's Regional Housing Needs Allocation (RHNA) and more broadly the housing needs and demand of the Bay Area region and the State, and in a location that is already approved for and contains housing.

Housing Element Policy 7.3, Continue to direct development toward existing communities and encourage infill development at densities that are higher than—but compatible with—the surrounding communities. Encourage development in close proximity to transit, and with a mix of land uses in the same zoning district, or on the same site, so as to reduce the number and frequency of trips made by automobile.

The Project would encourage consummate infill development that is compatible with the surrounding area. The Project would increase the number of residential units allowed on a site that is already approved for 3,100 units of housing. Moreover, notwithstanding the increase in density, there would be no change to the number or height of the approved development pattern for the Brooklyn Basin Project. The density would be developed within the approved overall building envelope and site plan and would not require changes to approved building heights or setbacks, landscaping, infrastructure, or planned circulation.

Housing Element Policy 7.4, Work with developers to encourage construction of new housing that, where feasible, reduces the footprint of the building and landscaping, preserves green spaces, and supports ecological systems.

The Project would encourage construction of new housing that would reduce the footprint of buildings otherwise required to accommodate 600 new units of housing. The Project would provide up to 600 residential units, but there would be no change to the number or height of the approved development pattern for the Brooklyn Basin Project. The density would be developed within the approved overall building envelope and site plan and would not require changes to approved building heights or setbacks, landscaping, infrastructure, or planned circulation.

Furthermore, the Land Use and Planning Chapter IV.A and the Greenhouse Gas Emissions Chapter IV.N of the Supplemental Environmental Impact Report (SEIR) for the Project, also discusses the Project's consistency with the objectives and policies of the above-mentioned General Plan elements as well as with the objectives and policies of the Open Space Conservation and Recreation (OSCAR) Element, Historic Preservation Element, Noise Element, Safety Element, Scenic Highway Element, as well as the Energy and Climate Action Plan and Bicycle and Pedestrian Master Plans. This SEIR discussion is

hereby incorporated by reference throughout these findings, as applicable, as if fully set forth herein.