



AGENDA REPORT

TO: Jestin D. Johnson
City Administrator

FROM: Sofia Navarro
Interim Director, Economic
and Workforce
Development Department

SUBJECT: City of Oakland Community Facilities
District No. 2023-1 (Brooklyn Basin
Facilities and Services)

DATE: August 21, 2023

City Administrator Approval

Date: Sep 7, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopt The Following Legislation And Take The Following Action:

1. **A Resolution Authorizing The Formation Of The City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities And Services) To Finance Public Improvements And Public Services For The Brooklyn Basin Project And Related Documents And Actions; And Adopting Appropriate Findings Under The California Environmental Quality Act;**
2. **A Resolution Determining The Necessity To Incur Bonded And Other Indebtedness For The City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities And Services); And Adopting Appropriate Findings Under The California Environmental Quality Act;**
3. **A Resolution Calling A Special Election for City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities And Services); And Adopting Appropriate Findings Under The California Environmental Quality Act;**
4. **Conduct A Special Landowner Election;**
5. **A Resolution Determining Results Of The Special Election For City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities And Services); And Adopting Appropriate Findings Under The California Environmental Quality Act; And**

6. An Ordinance Authorizing Levying Special Taxes Within The City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities And Services); And Adopting Appropriate Findings Under The California Environmental Quality Act.

EXECUTIVE SUMMARY

On July 18, 2023, in response to a petition from Zarsion-OHP I, LLC, a California limited liability company (Developer), and other relevant landowners, the City Council adopted two resolutions under the Mello-Roos Community Facilities Act of 1982, as amended (Mello-Roos Act) related to the Updated Brooklyn Basin Project (as defined below) to:

- (1) Declare the City's intention to establish City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services) (CFD No. 2023-1) and levy special taxes to finance the acquisition and construction of public infrastructure such as parks and roads and the operation and maintenance of parks and open space; and
- (2) Declare the City's intention to incur bond indebtedness and other debt to finance the Facilities.

The proposed actions, including four Resolutions, one Ordinance and a landowner election, will (i) establish CFD No. 2023-1, (ii) establish the authority to levy special taxes in CFD No. 2023-1, (iii) establish the authority to incur debt for CFD No. 2023-1 and (iv) approve an appropriations limit for CFD No. 2023-1.

CFD No. 2023-1 will allow the additional 600 residential units recently approved by the City Council to provide public financing for a portion of the public improvements, while maintaining the special tax revenues that were previously approved in CFD No. 2017-1 for services.

BACKGROUND / LEGISLATIVE HISTORY

Updated Brooklyn Basin Project and the Related Development Agreement

In 2006, the City of Oakland (City) approved a development known as the Oak-to-Ninth Avenue Mixed Use Development 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 200,000 square feet of commercial space, a minimum of 3,534 parking spaces, approximately 31 acres of open space, two renovated marinas, as well as shoreline improvements, new roads, and other infrastructure and improvements (Original Brooklyn Basin Project).

The City, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and the Developer, as successor by assignment from Oakland Harbor Partners, LLC, are parties to the Development Agreement, dated August 24, 2006, approved by Ordinance No. [12760 C.M.S.](#) adopted on July 18, 2006, related to development of the Original Brooklyn Basin Project. The most recent amendment of the Development Agreement is a Third Amendment to the Development Agreement, which was approved by Ordinance No. [13739 C.M.S.](#) on May 16, 2023, together with related entitlements authorized by the City Council pursuant to Resolution

No. [89707 C.M.S.](#), Resolution No. [89708 C.M.S.](#), Resolution No. [89709 C.M.S.](#) each adopted on May 2, 2023, and Ordinance No. [13738 C.M.S.](#) adopted on May 16, 2023.

The Third Amendment to the Development Agreement, together with the related entitlements, includes, among other items:

- a 600-unit increase in residential density for a project site total of up to 3,700 units,
- a small-craft water launch for a planned water taxi, and
- a substantial package of community benefits, including \$9 million dollars for the preservation of affordable housing in the nearby neighborhoods of Chinatown, Eastlake and San Antonio, additional funding for job training, and additional local hire goals.

The Third Amendment to the Development Agreement also contains a technical clean-up to eliminate the references to development of a community services district, to maintain and construct the parks, open space, landscaping, and other public improvements, which is no longer relevant.

The Original Brooklyn Basin Project, as updated by the Third Amendment to Development Agreement and related entitlements, is referred to herein as the Updated Brooklyn Basin Project.

The Updated Brooklyn Basin Project is divided into four (4) phases and twelve (12) parcels, as summarized below.

Summary of Updated Brooklyn Basin Project

Parcels By Phase	Market Rate Units	Affordable Units	Total Units	Development Status
<u>Phase I</u>				
Parcel A		254	254	130 units completed/occupied; remaining 124 units to be completed in 2024
Parcel B	241		241	Completed and occupied
Parcel C	241		241	Completed and occupied
Parcel F		211	211	Completed and occupied
Parcel G	371		371	Under construction; completion Q3 2023
Subtotal	853	465	1,318	
<u>Phase II</u>				
Parcel D	243		243	Construction to start in 2024
Parcel E	191		191	Construction to start in 2024
Parcel H	382		382	Construction to start in 2024
Parcel J	378		378	Under construction; completion Q4 2023
Subtotal	1,194		1,194	
<u>Phase III</u>				
Parcel K	400		400	Construction to start approx. 2026
Parcel L	250		250	Construction to start approx. 2026
Subtotal	650		650	
<u>Phase IV</u>				
Parcel M	538		538	Construction to start approx. 2025
Total	3,235	465	3,700	

At this time, Phase I streets are open to the public (except for certain construction staging areas), and Township Commons Park (formerly known as Shoreline Park) is constructed and open to the public.

The Development Agreement also provides for the formation of a community facilities district to fund certain public services (Section 4.4.4.4) and permits the Developer to request the City to use any public financing method for public facilities (Section 4.13). Consistent with Section 4.4.4.4 of the Development Agreement, in September of 2017, the City Council previously established CFD No. 2017-1 to authorize the levy of special taxes upon the land within CFD No. 2017-1 to pay for the operation and maintenance of certain public infrastructure serving the Brooklyn Basin Project.

Developer Proposal for CFD No. 2017-1 and CFD No. 2023-1

The Development Agreement allows for the formation of community facilities districts and permits the Developer to request the City to use this public financing tool in support of the

Brooklyn Basin project. Although the total estimated operation and maintenance costs to be funded by CFD No. 2017-1 have not changed, the addition of 600 market-rate units to Phases III and IV pursuant to the Third Amendment to the Development Agreement and related entitlements provides a nearly 25% increase in the number of taxable units over which the costs may be allocated. In addition, the Developer has concluded that it needs funding for parks and other public facilities required to serve the Updated Brooklyn Basin Project.

Accordingly, the Developer has proposed the following:

1. Parcels A, B, C and F, referenced in the summary table above, would continue to be taxable properties in CFD No. 2017-1, although Parcels A and F are currently exempt from the CFD No. 2017-1 special tax because they are developed with affordable housing.
2. The City Council would determine to cease levying the CFD No. 2017-1 special tax on the remaining parcels in CFD No. 2017-1 and would form CFD No. 2023-1 over those parcels.
3. The City would levy a services special tax in CFD No. 2023-1 (CFD No. 2023-1 Services Special Tax) to pay operation and maintenance costs of public facilities serving the Updated Brooklyn Basin Project (CFD No. 2023-1 Services). The CFD No. 2023-1 Services would include an element that was not part of the CFD No. 2017-1 Services: maintenance of a small watercraft launch/water taxi dock improvement.
4. The City would levy a facilities special tax in CFD No. 2023-1 (CFD No. 2023-1 Facilities Special Tax) to provide funds for the acquisition by the City of public facilities serving the Updated Brooklyn Basin Project (Facilities). The City would sell bonds for CFD No. 2023-1 that would be payable from the CFD No. 2023-1 Facilities Special Tax. CFD No. 2023-1 would include two tax zones because of constraints on the total special tax on certain parcels in Phase 2 that have already been sold/transferred (these parcels would be placed in Tax Zone 1).
5. In order to generate approximately \$31 million of net bond proceeds, the CFD No. 2023-1 Facilities Special Tax in Tax Zone 2 would be higher than the CFD No. 2023-1 Facilities Special Tax in Tax Zone 1.

In accordance with the Developer's proposal, on July 18, 2023, the City Council adopted a resolution determining to cease levying the CFD No. 2017-1 special tax on the taxable parcels in CFD No. 2017-1 other than Parcels A, B, C, and F, subject to such parcels being included in CFD 2023-1.

The proposed actions will complete formation of CFD No. 2023-1.

ANALYSIS AND POLICY ALTERNATIVES

Analysis

Below is a discussion of the remaining process and legislative steps necessary to realize the Developer's proposal.

Process for Formation of CFD No. 2023-1

The Mello-Roos Act provides for two parallel processes with respect to CFD No. 2023-1: one for establishing CFD No. 2023-1 and authorizing the levy of one or more special taxes, and one for approving the issuance of bonds and other debt for CFD No. 2023-1 Facilities Special Tax. The formation processes related to CFD No. 2023-1 involve four legislative steps.

1. First Legislative Step

The first legislative step is the City Council's adoption of local goals and policies for community facilities districts, which the City Council completed by adopting [Resolution No. 85664 C.M.S.](#) on June 17, 2015.

2. Second Legislative Step

The second legislative step, which the City Council completed on July 18, 2023, involved the adoption by City Council of two (2) resolutions of intention:

- A. A Resolution Of The City Council Declaring The Intention To Establish City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services) And Levy Special Taxes To Finance Public Improvements and Public Services for the Updated Brooklyn Basin Project; Approving A Proposed Boundary Map for Community Facilities District No. 2023-1; And Adopting Appropriate Findings Under The California Environmental Quality Act (Resolution of Intention to Establish CFD No. 2023-1); and
- B. A Resolution Of The City Council Declaring The Intention To Incur Bonded And Other Indebtedness For City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services); And Adopting Appropriate Findings Under The California Environmental Quality Act Debt (Resolution of Intention to Incur Debt for CFD No. 2023-1).

Pursuant to the Resolution of Intention to Establish CFD No. 2023-1, the City Council directed the City Administrator to prepare a report presenting the following:

- A. A description of the Facilities and the CFD No. 2023-1 Services by type which will be required to adequately meet the needs of CFD No. 2023-1.
- B. An estimate of the fair and reasonable cost of the Facilities including the cost of acquisition of lands, rights-of-way and easements, any physical facilities required in conjunction therewith and incidental expenses in connection therewith, including the costs of the proposed bond financing and all other related costs as provided in Section 53345.3 of the Act.
- C. An estimate of the fair and reasonable cost of the CFD No. 2023-1 Services and incidental expenses in connection therewith, and all other related costs.

Staff has caused the report to be prepared as ordered by the Resolution of Intention to Establish the CFD (**Attachment A**).

3. Third Legislative Step

The third legislative step, which is the subject of this Agenda Report, involves:

- A. A public hearing, where protests may be made orally or in writing by any interested persons or taxpayers against the establishment of CFD No. 2023-1; the extent of CFD No. 2023-1; the proposed Facilities and CFD No. 2023-1 Services; or the proposed bonded and other debt for CFD No. 2023-1.
- B. After completion of the public hearings, the City Council will be asked to consider three resolutions:
 1. A resolution forming CFD No. 2023-1, defining the Facilities and CFD No. 2023-1 Services, adopting the rate and method of apportionment of the special taxes for CFD No. 2023-1, and preliminarily approving an appropriations limit for CFD No. 2023-1; and adopting appropriate California Environmental Quality Act (CEQA) findings (Resolution of Formation);
 2. A resolution declaring the necessity for bonded debt and other indebtedness for CFD No. 2023-1 and establishing \$50 million as the maximum amount of bonded debt for CFD No. 2023-1 Area; and adopting appropriate CEQA findings (Resolution Declaring Necessity for Indebtedness); and
 3. A resolution calling a special mail ballot election of the qualified electors in CFD No. 2023-1 on (a) the levy of the special taxes in CFD No. 2023-1, (b) issuance of bonded indebtedness and other debt for CFD No. 2023-1, and (c) an appropriations limit for CFD No. 2023-1; and adopting appropriate CEQA findings (Resolution Calling Election). Under the Mello-Roos Act, because the County of Alameda has confirmed that there are no registered voters in CFD No. 2023-1, the qualified electors are the landowners of taxable property in CFD No. 2023-1, with each owner having one vote for each acre or portion of acre of taxable property owned.

If the landowner qualified electors vote in favor of CFD No. 2023-1 in the special mail ballot election, which is expected to be held immediately after the City Council's adoption of the Resolution Calling Election, the City Council will be asked to consider two matters:

- A. A resolution declaring the results of the election (Resolution Declaring Election Results) and calling for recordation of a Notice of Special Tax Lien, which establishes a continuing lien on taxable property in CFD No. 2023-1 securing the obligation to pay the CFD No. 2023-1 Facilities Special Tax and the CFD No. 2023-1 Services Special Tax; and adopting appropriate CEQA findings, and
- B. An ordinance levying the special taxes within CFD No. 2023-1 with appropriate CEQA findings (Special Tax Ordinance).

4. Fourth Legislative Step

The fourth legislative step involves only the second reading and adoption of the Special Tax Ordinance. Assuming that the City Council approves the ordinance in Step 3 on September 19, 2023, staff anticipates returning to the City Council on October 3, 2023 to complete this step.

5. Subsequent Legislative Steps

At such time as the City and Developer are ready to issue bonds for CFD No. 2023-1, staff will return to City Council for approval of related documents which may include a bond indenture, a disclosure document and a bond purchase agreement.

Summary of the Purpose of the Proposed Legislation

Purpose of the Resolution of Formation. The Resolution of Formation does the following:

- Establishes CFD No. 2023-1;
- Refers to the recorded boundary map and approves the boundaries of CFD No. 2023-1;
- Approves the authorized Facilities and Services;
- Approves the rate and method of apportionment of the Special Taxes for CFD No. 2023-1 (see Exhibit B of the Resolution of Formation);
- Approves an Acquisition Agreement under which the City will use CFD No. 2023-1 bond proceeds and CFD No. 2023-1 Facilities Special Taxes to reimburse the Developer for eligible costs of the Facilities (**Attachment B**);
- Authorizes one or more Joint Community Facilities Agreements with other public agencies that will own and operate any Facilities (if any);
- Preliminarily establishes an appropriations limit under Article XIII B of the California Constitution of \$50,000,000; and
- Makes appropriate CEQA findings.

Purpose of the Resolution Declaring Necessity for Debt. The Resolution Declaring Necessity for Debt declares the necessity to incur bonded indebtedness and other debt for CFD No. 2023-1, and the maximum amount of bonded indebtedness for CFD No. 2023-1.

Purpose of the Resolution Calling Election; Special Landowner Election. The Resolution Calling Election submits the issues of the levy of the CFD No. 2023-1 Facilities Special Tax and the CFD No. 2023-1 Services Special Tax, the incurring of bonded indebtedness and other debt, and the establishment of the appropriations limit to the qualified landowner electors of CFD No. 2023-1.

The City Clerk will conduct the election with the assistance of the City Attorney's office. Landowners of the taxable property in CFD No. 2023-1 previously submitted a petition to the City Council in which they waived various election time limits and requirements, as permitted by the Mello-Roos Act. As a result, the City Clerk will immediately open the ballots upon adoption by the City Council of the Resolution Calling Election and complete a Canvass and Statement of Result of Election (Canvass) certifying as to the election results.

Purpose of the Resolution Declaring Election Results. Immediately after the City Clerk opens the ballots, the City Council will consider the Resolution Declaring Election Results, in which it

would approve the Canvass, declare the results of the election in CFD No. 2023-1, and, if the election is favorable, direct recordation of the Notice of Special Tax Lien.

Purpose of the Special Tax Ordinance. The Mello-Roos Act requires special taxes to be levied by ordinance, and the Special Tax Ordinance levies special taxes in CFD No. 2023-1. Under the Ordinance, the City Council directs the City Administrator or their designee to determine the amount of the special tax levy each year and to provide all necessary information to Alameda County in order to effect billing and collection of the special taxes. No further City Council action is required to effect each year's special tax levy.

Policy Alternatives

The Development Agreement provides for the formation of a community facilities district to fund the CFD No. 2023-1 Services. Determining that the CFD No. 2017-1 Services Special Tax should no longer be levied on certain parcels and providing for formation of CFD No. 2023-1 over those parcels directly advances the Citywide Priority of developing and maintaining **vibrant, sustainable infrastructure**, by funding the CFD related infrastructure, public improvements and maintenance.

The proposals for CFD No. 2017-1 and CFD No. 2023-1 were crafted through a collaboration between the Developer, multiple City departments and several consulting firms to comply with the Updated Brooklyn Basin Project's conditions of approval and comply with legal requirements as dictated by the Mello Roos Act. If the decision is made not to proceed as proposed with formation of CFD No. 2023-1, there are two alternatives: (1) reject the proposed resolutions with a direction to renegotiate the terms of the special taxes, which would delay project implementation; or (2) reject the proposed resolutions with a direction to no longer pursue the process described in this report, which would be inconsistent with the Development Agreement, and leave the Updated Brooklyn Basin Project without funding for key services and needed infrastructure.

Given these two options are unfavorable to the City and would thwart the success of the project, staff recommends the City Council proceed as proposed with respect to CFD No. 2017-1 and CFD No. 2023-1.

FISCAL IMPACT

These actions will have no direct, negative impact on the City's finances, budget, or General Fund.

Operation and Maintenance Costs. The Rate and Method of Apportionment of special tax (RMA) for each of CFD No. 2017-1 and CFD No. 2023-1 provides for the levy of a separate special tax (each, Services Special Tax) to finance the operation and maintenance of certain public facilities described in the Development Agreement, including parks and open space (Services). There are some Services that can be financed by CFD No. 2023-1 that cannot be financed by CFD No. 2017-1; for the most part, however, the Services are the same for the two districts.

The Developer has provided the City with the following estimated budget for the costs of providing the Services authorized to be funded by CFD No. 2017-1 and CFD No. 2023-1. The budget shows where there are small differences (highlighted in gray shading) between the costs that may be funded by CFD No. 2017-1 and the costs that may be funded by CFD No. 2023-1; those differences amount to \$37,786 per year, or approximately 1.6% of the total budgeted costs. The RMA for CFD No. 2023-1 provides for a proportionate levy of the Services Special Tax in CFD No. 2017-1 and CFD No. 2023-1 to fund the total budgeted costs that would be allocated to each of the two districts.

Table 1: Proposed Changes In Estimated Budget Costs From CFD 2017-1 and CFD 2023-1

Maintenance			
Area	Item	CFD No. 2017-1 Budget	CFD No. 2023-1 Budget
Public Area	License & Inspection	\$1,200.00	\$1,200.00
Public Area	Electricity	\$24,309.32	\$24,309.32
Public Area	Water	\$33,614.32	\$33,614.32
Public Area	Janitorial Maintenance	\$35,000.00	\$35,000.00
Public Area	Janitorial Supplies	\$4,500.00	\$4,500.00
Public Area	Landscape Area	\$50,560.40	\$50,560.40
Public Area	Landscape & Irrigation Supply	\$6,320.05	\$6,320.05
Public Area	Tree Maintenance	\$30,690.00	\$30,690.00
Public Area	Palm Tree Maintenance	\$21,750.00	\$21,750.00
Misc.	Reserve Study	\$3,000.00	\$3,000.00
Public Area	Minor Repairs	\$7,000.00	\$7,000.00
Public Area	Pest Control	\$7,800.00	\$7,800.00
Public Area	Lighting Maint. & Supply	\$20,166.00	\$20,166.00
Public Area	Backflow Device Maintenance	\$1,200.00	\$1,200.00
Public Area	Bioretention/Storm Drain Maintenance	\$100,000.00	\$100,000.00
Park Area	Estuary Park Maintenance	\$97,880.80	\$97,880.80
Park Area	Mayhew Park Maintenance	\$82,651.01	\$82,651.01
Park Area	Sil Tka Park Maintenance	\$53,549.32	\$53,549.32
Park Area	Brooklyn Plaza Maintenance	\$118,361.89	\$118,361.89
Park Area	Township Commons Maintenance	\$426,176.30	\$426,176.30
Park Area	9th Ave. Term. Bldg Maintenance	\$95,856.84	\$95,856.84
Park Area	Small Water Craft dock/launch	\$0.00	\$2,500.00
Management	Management	\$43,750.00	\$43,750.00
Misc.	Contingency	\$126,533.63	\$126,783.63
TOTAL MAINTENANCE		\$1,391,869.88	\$1,394,619.88
Reserves			
Area	Item	CFD No. 2017-1 Budget	CFD No. 2023-1 Budget
General	Backflow Device	\$900.00	\$900.00
Drainage	Storm Drain Piping	\$8,614.00	\$13,650.00
Drainage	Storm Drain Pump Station	\$15,000.00	\$15,000.00
Lighting	Street Lights	\$16,100.00	\$16,100.00
Lighting	Tree Up-Lights	\$3,431.50	\$3,431.50
Paving	Concrete Walkways	\$78,900.00	\$78,900.00
Paving	Concrete Curbs	\$15,780.00	\$15,780.00
Paving	Ribbon Gutters	\$3,357.00	\$3,357.00
Landscape	Irrigation Controllers	\$6,666.67	\$6,666.67
Landscape	Tree Replacement	\$1,705.00	\$1,705.00
Landscape	Palm Tree Replacement	\$700.00	\$700.00
Landscape	Landscape	\$6,320.00	\$6,320.00
Landscape	Bioretention Area	\$1,089.00	\$1,089.00
Sidewalk	Concrete Benches	\$600.00	\$600.00
Sidewalk	Standard Benches	\$1,333.33	\$1,333.33
Sidewalk	Bike Racks	\$4,700.00	\$4,700.00
Sidewalk	Trash Receptacles	\$2,050.00	\$2,050.00
Parks	Estuary Park Maintenance	\$84,048.32	\$84,048.32
Parks	Mayhew Park Maintenance	\$87,129.40	\$87,129.40
Parks	Sil Tka Park Maintenance	\$46,913.00	\$46,913.00
Parks	Brooklyn Plaza Maintenance	\$59,476.67	\$59,476.67
Parks	Township Commons Maintenance	\$434,640.00	\$434,640.00
Parks	9th Ave. Term. Bldg Maintenance	\$26,380.00	\$26,380.00
Parks	Small Water Craft dock/launch	\$0.00	\$30,000.00
Parks	Clinton Basin Marina Piles & Sheet Piles	\$18,000.00	\$18,000.00
TOTAL RESERVES		\$923,833.89	\$958,869.89
TOTAL BUDGETED AMOUNT		\$2,315,703.77	\$2,353,489.77

Each of the CFD No. 2017-1 Services Special Tax and the CFD No. 2023-1 Services Special Tax will increase each fiscal year based upon the greater of (i) the percentage increase from the prior fiscal year, if any in the Consumer Price Index (CPI) for All Urban Consumers in the San Francisco – Oakland – Hayward region (base years 1982-1984=100) and (ii) 4.8% of the amount in effect for the prior fiscal year.

Public Capital Facilities Costs. As described above, CFD No. 2023-1 will provide funding for the acquisition and construction of public infrastructure required to serve new development within the Updated Brooklyn Basin Project. The RMA for CFD No. 2023-1 provides for the levy of the CFD No. 2023-1 Facilities Special Tax for this purpose. CFD No. 2017-1 does not have the authority to levy a special tax to finance the acquisition and construction of public infrastructure, i.e., it is a “services district.”

The CFD No. 2023-1 Facilities Special Tax will provide funding for the construction of the Facilities (including the payment of debt service on the bonds and other debt issued for CFD No. 2023-1). The proposed resolutions for CFD No. 2023-1 provide for a maximum principal amount of bonds of \$50 million.

The Developer estimates that the Facilities Special Taxes will support the issuance of approximately \$42 million in CFD No. 2023-1 bonds, with net construction proceeds of approximately \$31 million (in current dollars). The bonds are expected to be issued in multiple series over time as development progresses. The actual amount of bonds issued will be dependent on the stage of development of the Updated Brooklyn Basin Project and market conditions for California land-secured bonds at the time of each bond sale, among other factors.

The total public infrastructure improvement costs for the Updated Brooklyn Basin Project (including eligible development impact fees identified in the Third Amendment to Development Agreement,) are estimated to be \$36 million (\$31 million to be funded by CFD No. 2023-1 bond proceeds and the other \$5 million to be funded by Developer equity). All of the Facilities to be funded by CFD No. 2023-1 will be owned by the City.

The Facilities Special Tax will be authorized to increase 2 percent annually, following the initial fiscal year.

Administrative Costs. The CFD will be administered by the Oakland Public Works Department, with assistance from other City service areas as necessary and appropriate, including the Finance Department and Budget Bureau, among others.

The RMA for each of CFD No. 2017-1 and CFD No. 2023-1 provides for the levy of special taxes to pay for the City’s costs of administering the districts. City staff estimates that total administrative costs for CFD No. 2017-1, assuming full build-out of taxable properties, will amount to approximately \$40,000 annually, and the total administrative costs for CFD No. 2023-1, assuming full build-out of taxable properties, will amount to approximately \$150,000 annually; these amounts are expected to escalate over time as the costs to provide administrative services increase. Administrative costs will be paid from the proceeds of special taxes.

PUBLIC OUTREACH / INTEREST

In order to comply with the Mello-Roos Act, a notice of public hearing was published to ensure that persons interested in the formation of CFD No. 2023-1 and the issuance of debt for CFD No. 2023-1 would have an opportunity to be heard by the City Council. The Developer and the other owners of taxable property in CFD No. 2023-1 have petitioned the City Council to initiate this process (***Attachment C***).

COORDINATION

This action is an interdepartmental effort and has been closely coordinated with the City Attorney's Office, the Budget Bureau, the Finance Department, Planning and Building Department, Oakland Public Works Department, the Department of Transportation, and the City Administrator's Office.

SUSTAINABLE OPPORTUNITIES

Economic: Establishment of CFD No. 2023-1 will provide a mechanism to finance the acquisition and the construction of public facilities and their ongoing operation and maintenance, which will support additional jobs within the City. CFD No. 2023-1 will also facilitate the long-term economic development of the Updated Brooklyn Basin Project, which includes 3,700 new residential units and 200,000 square feet of new ground floor commercial space, which will generate tax revenue for the City

Environmental: Together, CFD No. 2017-1 and CFD No. 2023-1 will ensure adequate operation and maintenance of public infrastructure for the Updated Brooklyn Basin Project. The City will use best management practices for maintaining the public improvements funded through CFD No. 2017-1 and CFD No. 2023-1. High-level maintenance of public facilities will result in quality open space for Oakland residents.

Race & Equity: The CFD No. 2023-1 special taxes will fund the operation and maintenance of public improvements including public access areas, other infrastructure, and bike and pedestrian trails in the Updated Brooklyn Basin Project that will serve all of Oakland. CFD No. 2023-1 is located in District 2 and will add additional open space and other public amenities into an ethnically diverse community in Oakland, one that has traditionally been underserved by public amenities.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Original Brooklyn Basin Project was analyzed under the certified 2009 Brooklyn Basin Environmental Impact Report (2009 EIR), which is comprised of the following documents: Oak to Ninth Avenue Project Draft EIR, August 2005; Oak to Ninth Avenue Project, 2006 Addendum #1 to the Certified Environmental Impact Report, June 7, 2006; Oak to Ninth Avenue Project Final EIR, August 2006; Revisions to the Analysis in the Oak to Ninth Project EIR (SCH. No. 2004062013) Prepared to Comply with the Alameda County Superior Court Order Case No. RG06-280345 and Case No. RG06-280471, November 2008; Oak to Ninth Avenue Project

Reponses to Comments on the Revisions, December 2008; and Resolution No. [81769 C.M.S.](#), approved January 20, 2009.

In accordance with Public Resources Code Section 21166 and California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163, the City examined whether the additional 600 units approved in the Third Amendment to Development Agreement would result in “substantial changes” that would 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. The City, as the Lead Agency, determined that a Supplemental Environmental Impact Report (SEIR) for the Updated Brooklyn Basin Project would be required.

As further set forth in the City’s Resolution No. [89707 C.M.S.](#), adopted on May 2, 2023, certifying the SEIR, the Updated Brooklyn Basin Project did not result in any new or more severe potentially significant or significant and unavoidable impacts than analyzed in the previous 2009 EIR for the Original Brooklyn Basin Project.

Staff recommends that the City Council find and determine that the formation of CFD No. 2023-1 and the proceedings related to CFD No. 2017-1 are subject to the 2009 EIR for the Original Brooklyn Basin Project and the SEIR for the Updated Brooklyn Basin Project and, because the formation of CFD No. 2023-1 and the proceedings related to CFD No. 2017-1 are not a substantive change to the Updated Brooklyn Basin Project, that no further environmental review is required. None of the circumstances that require a supplemental or subsequent EIR pursuant to CEQA Guidelines Sections 15162 or 15163 have occurred.

In addition, staff recommends that the City Council find and determine that the action creating CFD No. 2023-1 and the proceedings related to CFD No. 2017-1 are otherwise exempt from CEQA review under the following CEQA Guidelines sections: 15183 (projects consistent with a community plan, general plan or zoning), 15301 (existing facilities), and 15308 (actions by regulatory agencies for the protection of the environment), which individually and collectively form a basis for CEQA exemption.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt The Following Legislation And Take the Following Action:

1. A Resolution Authorizing The Formation Of The City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities And Services) To Finance Public Improvements And Public Services For The Brooklyn Basin Project And Related Documents And Actions; And Adopting Appropriate Findings Under The California Environmental Quality Act;
2. A Resolution Determining The Necessity To Incur Bonded And Other Indebtedness For The City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities And Services); And Adopting Appropriate Findings Under The California Environmental Quality Act;

3. A Resolution Calling A Special Election for City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities And Services); And Adopting Appropriate Findings Under The California Environmental Quality Act;
4. Conduct A Special Landowner Election;
5. A Resolution Determining Results Of The Special Election For City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities And Services); And Adopting Appropriate Findings Under The California Environmental Quality Act; And
6. An Ordinance Authorizing Levying Special Taxes Within The City Of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services); And Adopting Appropriate Findings Under The California Environmental Quality Act.

For questions regarding this report, please contact Kimani Rogers, Urban Economic Analyst IV at 510-238-6204.

Respectfully submitted,



SOFIA NAVARRO
Interim Director, Economic & Workforce
Development

Reviewed by:
Theresa Lopez, Urban Economic Coordinator,
Public Private Development, EWDD

Prepared by:
Kimani Rogers, Urban Economic Analyst IV
Public Private Development, EWDD

Attachments (3):

- A. Community Facilities District Report
- B. Acquisition Agreement
- C. Executed Landowner Petitions

Attachment A

CITY OF OAKLAND Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)

COMMUNITY FACILITIES DISTRICT REPORT

CONTENTS

Introduction

- A. Description of Facilities and Services
- B. Proposed Boundaries of the Community Facilities District No. 2023-1
- C. Cost Estimate

EXHIBIT A - Description of the Proposed Facilities and the Proposed Services

EXHIBIT B - Cost Estimate

EXHIBIT C - Rate and Method

CITY OF OAKLAND
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)

INTRODUCTION

The City Council (the “City Council”) of the City of Oakland (the “City”) did, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”), on July 18, 2023, adopt a resolution entitled “A Resolution of the City Council of Intention Declaring the Intention to Establish City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services) and Levy Special Taxes to Finance Public Improvements and Public Services for the Updated Brooklyn Basin Project; Approving a Proposed Boundary Map for Community Facilities District No. 2023-1; and Adopting Appropriate Findings Under the California Environmental Quality Act” (the “Resolution of Intention”), pursuant to which it stated its intention to form “City of Oakland Community Facilities District No. 2023-1” (Brooklyn Basin Facilities and Services)” (the “CFD No. 2023-1”).

The Resolution of Intention identifies the rate and method of apportionment of the special taxes to be levied in the CFD No. 2023-1 by reference to Exhibit B attached thereto (the “Rate and Method”). The Rate and Method is attached hereto as Exhibit C.

In the Resolution of Intention, the City Council expressly ordered the preparation of a written Community Facilities District Report (the “Report”), for the proposed CFD No. 2023-1. The Resolution of Intention directed that the Report generally contain the following:

(a) A description of the facilities (the “Facilities”) and the services (the “Services”) by type that will be required to adequately meet the needs of CFD No. 2023-1.

(b) An estimate of the fair and reasonable cost of the Facilities including the cost of acquisition of lands, rights-of-way and easements, any physical facilities required in conjunction therewith and incidental expenses in connection therewith, including the costs of the proposed bond financing and all other related costs as provided in Section 53345.3 of the Act.

(c) An estimate of the fair and reasonable cost of the Services and incidental expenses in connection therewith, and all other related costs.

For particulars, reference is made to the Resolution of Intention for CFD No. 2023-1, as previously approved and adopted by the City Council.

NOW, THEREFORE, I, the City’s Director of Public Works, do hereby submit the following data:

A. **DESCRIPTION OF FACILITIES AND SERVICES.** A general description of the proposed Facilities and Services is as shown in Exhibit A attached hereto and hereby made a part hereof.

Facilities. CFD No. 2023-1 will be authorized to finance the Facilities without limitation.

The Rate and Method shall authorize the financing of Facilities through the direct levy of the Facilities Special Taxes described therein and the issuance of bonds and other debt. The use of those Facilities Special Taxes will be limited as set forth in the Acquisition Agreement between the City and property owners in CFD No. 2023-1.

Services. CFD No. 2023-1 will be authorized to finance the Services without limitation through the levy of a Services Special Tax described in the Rate and Method.

B. PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT. The proposed boundaries of CFD No. 2023-1 are those properties and parcels in which special taxes may be levied to pay for the costs and expenses of the Facilities and the Services. The proposed boundaries of CFD No. 2023-1 are described on the map of CFD No. 2023-1 on file with the City Clerk, to which reference is hereby made.

C. COST ESTIMATE. The cost estimate for the Facilities and the Services for CFD No. 2023-1 is set forth in Exhibit B attached hereto and hereby made a part hereof.

Dated as of September 1, 2023

By: 

Director of Public Works,
City of Oakland

EXHIBIT A

City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)

AUTHORIZED FACILITIES

It is intended that CFD No. 2023-1 will be authorized to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 that are required as conditions of development of the property within CFD No. 2023-1 and that will be owned and operated by the City or any other public agency (which may include the Port of Oakland) or utility identified by the City (subject to compliance with the Act), including, but not limited to, the following:

Phase II Improvements

Park and park and open space improvements consisting of the following improvements:

Completion of Phase II Township Commons Park (formerly referred to as Shoreline Park), initial phase of Clinton Basin Boardwalk, and Brooklyn Plaza (formerly referred to as Gateway Park) open space improvements. Improvements consist of removal of the existing wharf structure, landscape improvements (hardscape and landscaping), construction of a pile supported promenade improvement, installation of bike paths, pedestrian walkways, bay trail connections, park furnishings and shoreline improvements.

Phase III Improvements

Sii Tka Park (formerly referred to as South Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape improvements), installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

5th Avenue Improvements – Efforts include demolition of existing 5th Avenue improvements, installation of wet and dry utilities, re-construction of 5th Avenue surface improvements including sidewalks and landscape improvements.

Phase IV Improvements

Mayhew Park (formerly referred to as Channel Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape) installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

4th Avenue Improvements – construction of wet and dry utilities, construction of street improvements, sidewalks and landscape improvements.

Facilities Special Taxes may be collected and set-aside in designated funds and collected

over several years (i.e., reserves), and used to fund facilities authorized to be financed by CFD No. 2023-1.

AUTHORIZED SERVICES

Special Taxes collected in CFD No. 2023-1 may finance, in whole or in part, the following services ("services" shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982):

The full cost of all direct and incidental costs related to providing public services and maintenance, operation, repair, or replacement of certain public infrastructure within the areas shown on Attachment 1 attached hereto and incorporated herein. More specifically, the services may include, but are not limited to:

- (i) maintenance, repair, and replacement of parks and landscaping in public areas and in the public right of way along public streets, , including, but not limited to, irrigation, tree trimming, mowing, hardscape, sidewalk, trails including the reconstructed trestle structure within Township Commons park and related maintenance of equipment specific to the Brooklyn Basin facilities, and vegetation maintenance and control;
- (ii) solely with respect to that portion of Embarcadero located adjacent to Brooklyn Basin: maintenance of the landscaping on Embarcadero (trees, palms and shrubs) and reserves for the replacement of landscaping, maintenance of the sidewalk (on the south side of Embarcadero), maintenance and reserves for irrigation and utility costs incurred for controller operations and irrigation
- (iii) operation and maintenance of street lights, street furniture, and other appurtenances;
- (iv) maintenance and operations of storm water treatment/protection services ("stormwater services"), including, but not limited to, the operation and maintenance, repair, and replacement of storm drainage systems that are necessary for the City to comply with the stormwater management and treatment requirements imposed by the City and the Municipal Regional Stormwater Permit (issued by the San Francisco Bay Regional Water Quality Control Board), and the CEQA mitigation requirements for the Updated Brooklyn Basin Project. These stormwater services shall be performed for all pump stations and gravity conveyance storm drainage improvements that are located within or downstream of any pump station and any bioretention/stormwater treatment basin, including the applicable drainage inlets, pipes, and stormwater outfall structures that discharge stormwater to the San Francisco Bay (stormwater protection services expressly exclude the operation, maintenance, repair and replacement of all other gravity conveyance stormwater improvements located within the Updated Brooklyn Basin Project);
- (v) maintenance of a small watercraft launch/water taxi dock improvement;

- (vi) shared maintenance costs of public restrooms located within the 9th Avenue Terminal Shed Building;
- (vii) annual inspection and reporting obligations associated with the parks, open space areas, public rights-of-way and ground water monitoring wells as required by the applicable operations and maintenance plan; and
- (viii) any other public services authorized to be funded under California Government Code Section 53313 that are also stipulated as maintenance obligations pursuant to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Updated Brooklyn Basin Project and recorded against all of the real property covered thereby (as amended and assigned, the "Development Agreement"), by and between the City of Oakland, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company, as successor by assignment from Oakland Harbor Partners, LLC.

Maintenance as used herein includes replacement and the creation and funding of a reserve fund to pay for a replacement of such facilities. The Services Special Taxes shall only fund authorized Services to the extent that they are in addition to those provided to land within CFD No. 2023-1 prior to the creation of CFD No. 2023-1.

ADMINISTRATIVE AND INCIDENTAL EXPENSES

CFD No. 2023-1 may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees of the City and the bond trustee or fiscal agent related to CFD 2023-1 and the Bonds.
3. Reimbursement of costs related to the formation of CFD No. 2023-1 advanced by the City, the landowner(s) in CFD No. 2023-1, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in CFD No. 2023-1 or any party related to any of the foregoing, for facilities, fees or other purposes or costs of CFD No. 2023-1.
4. All "costs" and "incidental expenses" related to the eligible facilities as those terms are defined in the Act.

Special Taxes may be collected and set-aside in designated funds and collected over several years and used to fund facilities or services authorized to be financed by CFD No. 2023-1.

EXHIBIT B

**CITY OF OAKLAND
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**

Facilities

The following is a summary of the estimated costs of acquisition and construction of the Facilities. In addition to the acquisition and construction costs of the Facilities, the City will finance bond issuance costs, capitalized interest, a debt service reserve fund and other costs associated with the sale of bonds and other debt and annual administration of CFD No. 2023-1.

<u>Facility</u>	<u>Estimated Cost</u>
1. Street and Utility Improvements	
a. Domestic Water Improvements	\$ 500,000
b. Sanitary Sewer Improvements	\$ 300,000
c. Storm Drainage Improvements	\$ 900,000
d. Joint Trench Improvements	\$1,400,000
e. Roadway Improvements	<u>\$ 800,000</u>
Subtotal	\$3,900,000
2. Park and Landscape Improvements	
a. Landscape Improvements	\$ 9,200,000
b. Shoreline Improvements	<u>\$20,800,000</u>
Subtotal	\$30,000,000
Total	\$33,900,000

Services

It is estimated that the cost of providing the Services to the territory in CFD No. 2023-1 will be the following, with the cost escalating annually thereafter.

<u>Service</u>	<u>Estimated Cost</u>
Maintenance Services	\$1,602,000
Contingent-Repair/Replacement	<u>\$1,103,700</u>
Total	\$ 3,100,000

Other

The City estimates the costs of incidental expenses to be paid by CFD No. 2023-1 include the following:

- Administrative fees of the City and the bond trustee or fiscal agent related to CFD No. 2023-1 and the Bonds. These annual costs are estimated as follows:

Description	Cost(1)
CFD Administrator (2)	\$25,000
Fiscal Agent/Trustee (3)	18,000
Treasury Administration (4)	30,000
Project Management (5)	35,000
Department of Public Works (6)	75,000
Arbitrage Rebate Reports (7)	2,800
Miscellaneous/Contingency	3,900
County Auditor-Controller, Tax Collector (8)	<u>93,000</u>
Total	282,700

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- (1) Assumes four bond sales for CFD.
 - (2) Including continuing disclosure
 - (3) \$4,500 per year per bond series
 - (4) Includes costs for requisition processing not paid from bond proceeds and not expected to be recurring for the life of the bonds.
 - (5) Charged to administration to the extent not paid from bond proceeds.
 - (6) Related to Services Special Tax only.
 - (7) \$3,500 per bond series every 5 years
 - (8) 1.7% of the amount levied (assumes estimated first year Facilities Special Tax and Services Special Tax levy of \$2.465 and \$3 million, respectively).

- Bond related expenses, including but not limited to, underwriters discount, bond and disclosure counsel fees and expenses, municipal advisor, special tax consultant and appraisal fees and, if applicable, letter of credit fees and expenses and bond remarketing costs. Some of these costs are based upon percentages of the principal amount of each series of bond issue. Total bond issuance costs are not expected to exceed 5% of the principal amount of the bonds.
- Funds set aside for security for and payment of bonds: Reserve fund equal to no more than the lesser of (i) ten per cent of the principal amount of the bond, (ii) maximum annual debt service; and (iii) 125% of average annual debt service. Capitalized interest to fund the initial interest payment(s) on the bonds.

EXHIBIT C

**CITY OF OAKLAND
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**

Rate and Method of Apportionment of Special Taxes

(attached)

CITY OF OAKLAND
COMMUNITY FACILITIES DISTRICT NO. 2023-1
(BROOKLYN BASIN FACILITIES AND SERVICES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor's Parcel in City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services) shall be levied and collected according to the tax liability determined by the City Council of the City of Oakland through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in the CFD, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD.

Because CFD No. 2017-1 (as defined herein) and the CFD were formed by the City as part of a common plan of financing to provide funds to maintain certain public parks and other public improvements related to the Brooklyn Basin Project, the City intends, as described in this RMA, to use good faith efforts, and to the maximum extent permitted by law, to establish a proportional relationship in each Fiscal Year between to the levy of the special tax in CFD No. 2017-1 and the levy of the Services Special Tax in the CFD.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other recorded County parcel map.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Part 1, Division 2, of Title 5 of the Government Code of the State of California.

“Administrative Expenses” means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City in carrying out its duties with respect to the CFD and the Bonds, including, but not limited to, the levy and collection of Special Taxes, the fees and expenses of its counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Taxes, costs associated with appeals or requests for interpretation associated with the Special Tax and this RMA, amounts needed to calculate or pay rebate to the federal government with respect to Bonds, costs associated with complying with continuing disclosure requirements for the City and any major property owners or other obligated parties, costs associated with foreclosure and collection of delinquent Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” shall mean the person or firm designated by the City to administer the Special Taxes according to this RMA.

“Aggregate Services Special Tax Requirement” means the Services Special Tax Requirement plus the CFD No. 2017-1 special tax requirement, which shall constitute the entire special tax requirement associated with providing services to the Brooklyn Basin Project.

“Assessor’s Parcel” or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating Parcels by Assessor’s Parcel number.

“Authorized Facilities” means the public facilities authorized to be financed, in whole or in part, by the CFD.

“Authorized Services” means the public services authorized to be funded, in whole or in part, by the CFD.

“Average Sales Price” means the weighted average sales price for all For Sale Units that have sold within the last 18 months or are expected to sell in a normal marketing environment, and shall not include prices for such For Sale Units that are sold at a discount for the purpose of stimulating initial sales activity. The sales price shall include the actual sales price of the For Sale Units that have sold in the past 18 months including, but not limited to, options, upgrades, and premiums.

“Base Special Tax” means, individually, the Base Facilities Special Tax and the Base Services Special Tax.

“Base Facilities Special Tax” means, for any Land Use Category, the applicable Facilities Special Tax initially identified in Table 1 of Section C, as may be adjusted pursuant to Sections D and H.

“Base Services Special Tax” means, for any Land Use Category, the applicable Services Special Tax initially identified in Tables 2 and 3 of Section C, as may be adjusted pursuant to Section D.

“Bonds” means bonds or other debt (as defined in the Act), whether in one or more series, secured by the Facilities Special Tax and issued or assumed by the CFD to fund Authorized Facilities.

“Building Department” means a designee from the Planning and Building Department of the City or any alternate department responsible for Building Permit issuance, inspections, and final approval. If there is any doubt as to the responsible party, the Administrator shall coordinate with the City to determine the appropriate party to serve as the Building Department for purposes of this RMA.

“Building Permit” means a single permit or set of permits required to construct a residential or mixed-use structure. If a permit is issued for a foundation, parking, landscaping or other related facility or amenity, but a building permit has not yet been issued for the structure served by these facilities or amenities, such permit shall not be considered a “Building Permit” for purposes of application of the Special Taxes herein.

“Capitalized Interest” means funds in any capitalized interest account available to pay debt service on Bonds.

“Certificate of Occupancy” or **“COO”** means the first certificate issued by the City or a letter written by the Building Department to the Administrator to confirm that a building or a portion of a building has met all of the building codes and can be occupied for residential and/or non-residential use. “Certificate of Occupancy” may include any temporary certificate of occupancy issued by the City.

“CFD” means the City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services).

“CFD Formation” means the date on which the Resolution of Formation to form the CFD was adopted by the City Council.

“CFD No. 2017-1” means the City of Oakland Community Facilities District No. 2017-1 (Brooklyn Basin Public Services).

“City” means the City of Oakland, California.

“City Council” means the City Council of the City, acting as the legislative body of the CFD.

“County” means the County of Alameda.

“CPI” means, for each Fiscal Year, the Consumer Price Index (CPI) for All Urban Consumers in the San Francisco – Oakland – Hayward region (base years 1982-1984=100) published by the Bureau of Labor Statistics of the United States Department of Labor, measured as of the month of December in the calendar year that ends in the previous Fiscal Year. In the event this index ceases to be published, the CPI shall be another index as determined by the Administrator that is reasonably comparable to the CPI for the San Francisco – Oakland – Hayward region.

“Developed Property” means, for each Fiscal Year, all Assessor’s Parcels of Taxable Property that are not Taxable Welfare Exemption Property for which a Certificate of Occupancy was issued after January 1, 2023, and on or before June 30 of the previous Fiscal Year.

“Development Class” means, individually, Developed Property and Taxable Welfare Exemption Property.

“Expected Land Uses” means the amount and type of Residential Property and Non-Residential Property expected in the CFD at CFD Formation, as identified in Attachment 2 of this RMA. Pursuant to Section D of this RMA, the Administrator shall update Attachment 2 each time there is a Land Use Change. Such update shall be maintained internally by the Administrator and shall not require recordation of an amended RMA.

“Expected Maximum Services Special Tax Revenues” means the aggregate Services Special Tax that can be levied based on application of the Base Services Special Tax prior to the Trigger Event to the Expected Land Uses. The Expected Maximum Services Special Tax Revenues at CFD Formation are shown in Attachment 2 and may be revised pursuant to Section D below.

“Facilities Special Tax” means a special tax levied in any Fiscal Year on Residential Property to pay the Facilities Special Tax Requirement.

“Facilities Special Tax Requirement” means the amount necessary in any Fiscal Year to: (i) pay principal and interest on Bonds that are due in the calendar year that begins in such Fiscal Year; (ii) pay periodic costs on the Bonds, including but not limited to, credit enhancement, liquidity support, and rebate payments on the Bonds; (iii) replenish reserve funds created for the Bonds under the Indenture to the extent such replenishment has not been included in the computation of the Facilities Special Tax Requirement in a previous Fiscal Year; (iv) cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year; (v) pay Administrative Expenses not covered in the Services Special Tax Requirement; and (vi) pay directly for Authorized Facilities, so long as such levy under this clause (vi) does not increase the Facilities Special Tax levied on Taxable Welfare Exemption Property. The amounts referred to in clauses (i) and (ii) of the definition of Facilities Special Tax Requirement may be reduced in any Fiscal Year by: (a) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against such costs pursuant to the Indenture; (b) in the sole and absolute discretion of the City, proceeds received by the CFD from the collection of penalties associated with delinquent Facilities Special Taxes; and (c) any other revenues available to pay such costs, each as determined in the sole discretion of the City.

“Final Map” mean a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates individual lots on which a Building Permit for new construction may be issued without further subdivision.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“For Sale Unit” means, for each Fiscal Year, a residential dwelling unit which has been, or is deemed to be, offered for sale as part of an Initial Offering Event.

“Improvement Fund” means the account (regardless of its name) identified in the Indenture to hold funds that are available for expenditure to acquire or construct Authorized Facilities.

“Indenture” means the bond indenture, fiscal agent agreement, trust agreement, resolution, or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“Initial Offering Event” will be deemed to have occurred for all Residential Units within a given Offering Building if, in any Fiscal Year, the Administrator has determined that any Residential Units in such Offering Building have been offered to the public for sale or rent for the first time during or following construction of the Offering Building and on or before June 30 of the previous Fiscal Year. An Initial Offering Event shall only occur once for each Offering Building and shall apply uniformly to all Residential Units within each Offering Building, as either a for sale offering or rental offering, regardless of whether every Residential Unit in an Offering Building was actually offered at the time of the Initial Offering Event.

“Interim Unit” means, for each Fiscal Year, a planned or constructed residential dwelling unit which has not been, or has not been deemed to be, offered for sale or rent as part of an Initial Offering Event.

“Land Use Category” means the categories of land use identified in Tables 1, 2, and 3 in Section C below.

“Land Use Change” means a proposed or approved change to the Expected Land Uses in the CFD.

“Master Developer” means ZARSION-OHP I, LLC, a California limited liability company, and its successors and assigns.

“Maximum Allowable Effective Tax Rate” means 2.0% of the Average Sales Price of a For Sale Unit, or such other maximum effective tax rate set forth in the City’s *Amended and Restated Local Goals and Policies and Appraisal Standards for Community Facilities Districts* as the maximum allowable total tax rate on any single family home, condominium, or town home within a CFD in the City.

“Maximum CFD Services Revenues” means the aggregate Maximum Services Special Tax that can be levied on all Parcels of Taxable Property within both Tax Zones in the CFD in any given Fiscal Year. As shown in Attachment 2 hereto, based on the Expected Land Uses at CFD Formation, the total Maximum CFD Services Revenues for Fiscal Year 2022-23 is \$2,519,797, which amount shall be adjusted on July 1, 2023, and each July 1 thereafter, as described below in Section C.

“Maximum Facilities Special Tax” means the greatest amount of Facilities Special Tax that can be levied on a Parcel of Taxable Property in any Fiscal Year, as determined in accordance with Sections C, D, and H below.

“Maximum Services Special Tax” means the greatest amount of Services Special Tax that can be levied on a Parcel of Taxable Property in any Fiscal Year, as determined in accordance with Sections C and D below.

“Maximum Special Taxes” means, collectively, the Maximum Facilities Special Tax and the Maximum Services Special Tax.

“Non-Residential” means any buildings or portions of buildings that are used for or are expected to be used for a commercial lodging use, commercial retail use, institutional use (e.g., churches, private schools), commercial restaurant use, office use, industrial use, or any other Taxable Property use except Residential Property.

“Non-Residential Property” means, for each Fiscal Year, all or a portion of any Assessor’s Parcel of Developed Property that is used for or is expected to be used for a Non-Residential use.

“Offering Building” means an exclusive group of Residential Units within a permanent, enclosed structure that is planned for or constructed on an Assessor’s Parcel of Taxable Property. An Offering Building shall consist of adjacent Residential Units on the same Assessor’s Parcel that are expected to be offered to the public at approximately the same time either exclusively for sale or exclusively for rent. An Offering Building may be physically connected to another structure or Offering Building, but each individual Offering Building will be treated separately for purposes of determining the Special Tax for each Residential Unit within an Offering Building.

“Owners Association” means a homeowners or property owners association, including any master or sub-association, that provides services to, and collects dues, fees, or charges from, property within the CFD.

“Owners Association Property” means a Parcel in the CFD that is owned by an Owners Association.

“Price Point Consultant” means any consultant or firm selected by the City that: (a) has substantial experience in performing price point studies for For Sale Units within community facilities districts or otherwise estimating or confirming pricing for For Sale Units in community facilities districts; (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of For Sale Units in community facilities districts; (c) is independent and not under the control of the City or any developer of Parcels in the CFD; (d) does not have any substantial interest, direct or indirect, with or in: (i) the CFD, (ii) the City, or (iii) any owner of real property in the CFD; and (e) is not connected with the City as an officer or employee thereof, but who may be regularly retained to make reports to the City.

“Price Point Study” means a price point study or letter updating a previous price point study prepared by the Price Point Consultant pursuant to Section D herein. The price point study shall analyze For Sale Units with similar density, square footage ranges, and product type as the For Sale Units included in the CFD. The Master Developer will be provided the opportunity to review and comment on the draft price point study before a final version is presented to the City.

“Proportionately” means, for each Development Class, that: (i) the ratio of the actual Facilities Special Tax levied in any Fiscal Year to the Maximum Facilities Special Tax authorized to be levied in that Fiscal Year is equal for all parcels assigned to the Development Class; and (ii) the ratio of the actual Services Special Tax levied in any Fiscal Year to the Maximum Services Special Tax authorized to be levied in that Fiscal Year is equal for all parcels assigned to the Development Class.

“Public Property” means any Parcel within the boundaries of the CFD that is owned by the City, County, State of California, federal government, or other public agency.

“Rental Unit” means, for each Fiscal Year, a residential dwelling unit which has been, or is deemed to be, offered for rent, including but not limited to senior assisted living units, as part of an Initial Offering Event.

“Required Coverage” means the amount or percentage by which the Maximum Facilities Special Tax revenues less priority Administrative Expenses (if any) must exceed the Bond debt service as set forth in the Indenture, Certificate of Special Tax Consultant, or other formation or bond document that sets forth the minimum required debt service coverage.

“Required Services Revenues” means the required Services Special Tax revenues from Taxable Property in each Tax Zone within the CFD that must be available to the City in any Fiscal Year in order for the City to pay the Services Special Tax Requirement, although the actual amount levied in such Fiscal Year may be less than the Maximum CFD Services Revenues. For Fiscal Year 2022-23, the Required Services Revenues for Tax Zone 1 is \$1,165,477 and the Required Services Revenues for Tax Zone 2 is \$1,354,320, as shown in Attachment 2 hereto, which amounts shall be

adjusted on July 1, 2023, and each July 1 thereafter, as described below in Section C. The Required Services Revenues will also be adjusted, as needed, based on Land Use Changes within the CFD.

“Residential Property” means, for each Fiscal Year, all or a portion of any Assessor’s Parcel of Developed Property that is planned for, or constructed as, one or more Residential Units.

“Residential Unit” means a For Sale Unit, Rental Unit, or Interim Unit.

“RMA” means this Rate and Method of Apportionment of Special Taxes.

“Services Special Tax” means a special tax levied in any Fiscal Year on Residential Property and Non-Residential Property to pay the Services Special Tax Requirement.

“Services Special Tax Requirement” means the amount necessary in any Fiscal Year to pay for the following: (i) Authorized Services; (ii) Administrative Expenses not covered in the Facilities Special Tax Requirement; and (iii) amounts needed to cure any delinquencies in the payment of Services Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the Special Tax will be collected. The Services Special Tax Requirement may be reduced in any Fiscal Year by taking into account money reasonably expected to be available from one or more of the following sources: (a) surplus Services Special Tax revenues collected in prior Fiscal Years; and (b) any other funds available to apply against the Services Special Tax Requirement as determined by the Administrator.

“Special Taxes” means, collectively, the Facilities Special Tax and the Services Special Tax.

“Square Footage” or **“Square Foot”** or **“Sq. Ft.”** means the gross leasable square footage of a Non-Residential Property as reflected on a Building Permit or Certificate of Occupancy issued by the City, a lease agreement, or other such document.

“Taxable Property” means all Parcels within the boundaries of the CFD that are not exempt from the Special Tax pursuant to law or Section G below.

“Taxable Welfare Exemption Property” means in any Fiscal Year after the first series of Bonds have been sold for the CFD, any Parcel of Welfare Exemption Property that satisfies all three of the following conditions: (i) the Parcel had not been Welfare Exemption Property on the date of sale of the first series of Bonds; (ii) the Parcel was not anticipated to be Welfare Exemption Property based on the Expected Land Uses, as determined by the Administrator, on the date of issuance of the first series of Bonds; and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it has become Welfare Exemption Property, the Maximum Facilities Special Tax revenues, based on the Expected Land Uses, would be reduced to a point at which Required Coverage could not be maintained.

“Tax Zone” means a mutually exclusive geographic area in the CFD within which the Special Tax may be levied pursuant to this RMA. The two Tax Zones at CFD Formation are identified in Attachment 1 hereto.

“Tax Zone 1” means the Parcels specifically identified as within Tax Zone 1 in Attachment 1 of this RMA.

“Tax Zone 2” means the Parcels specifically identified as within Tax Zone 2 in Attachment 1 of this RMA.

“Tentative Map” means a tentative map or substantial conformance exhibit for property in the CFD, including any adjustments or amendments thereto.

“Total Tax Burden” means, for any For Sale Unit, the Special Taxes for such For Sale Unit, together with ad valorem property taxes, special assessments, special taxes for any overlapping community facilities districts, or any other taxes, fees and charges which would be collected by the County on property tax bills (assuming that such For Sale Unit has an assessed value equal to the Average Sales Price), and which are payable from and secured by the property assuming such For Sale Unit had been completed, sold, and subject to such levies and impositions.

“Trigger Event” means that (i) all Bonds secured by the levy and collection of Facilities Special Taxes have been fully repaid, (ii) all Administrative Expenses from prior Fiscal Years have been paid, funded, and/or reimbursed to the City, and (iii) there are no other Authorized Facilities that the City intends to fund with Bonds and Facilities Special Taxes. In the first Fiscal Year in which the Administrator determines that the Trigger Event occurred in the prior Fiscal Year, and in each Fiscal Year thereafter, the Facilities Special Tax shall cease to be levied, and the Maximum Services Special Tax for each Parcel shall be adjusted pursuant to Section C.1b below.

“Welfare Exemption Property” means, in any Fiscal Year, any Parcels in the CFD that have received a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code and for which such welfare exemption is still in place.

B. DATA FOR ADMINISTRATION OF THE SPECIAL TAXES

Each Fiscal Year, the Administrator shall: (i) assign each Parcel of Taxable Property to the appropriate Development Class; (ii) for Developed Property, categorize each Parcel as Residential Property or Non-Residential Property; (iii) for Residential Property, determine the number of For Sale Units, Rental Units, or Interim Units on each Parcel; (iv) for Non-Residential Property, determine the Square Footage on each Parcel; (v) determine the Facilities Special Tax Requirement and Services Special Tax Requirement for the Fiscal Year; and (vi) determine if the Trigger Event occurred in the prior Fiscal Year. In addition, the Administrator shall, on an ongoing basis, monitor Tentative Maps, Final Maps, Building Permits, and Certificates of Occupancy to determine if there are any proposed Land Use Changes that would change the Expected Maximum Services Special Tax Revenues. If the Expected Maximum Services Special Tax Revenues will be revised pursuant to a proposed Land Use Change, the Administrator shall apply the steps set forth in Section D below.

In addition, the Administrator shall ensure that the Aggregate Special Tax Requirement is equal to the Services Special Tax Requirement plus the CFD No. 2017-1 special tax requirement. The Administrator shall further ensure that the Aggregate Special Tax Requirement is divided between the Services Special Tax Requirement and the CFD No. 2017-1 special tax requirement so that, in any Fiscal Year, the ratio of the actual Services Special Tax levied in the CFD relative to the Maximum Services Special Tax is as close as possible to the ratio of the actual special tax levied in CFD No. 2017-1 relative to the CFD No. 2017-1 maximum special tax. An example calculation

demonstrating how the proportionality ratios of CFD No. 2017-1 and the CFD would be aligned is provided in Attachment 3.

In any Fiscal Year, if it is determined that: (i) a Final Map for property in the CFD was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created parcels into the then current tax roll), (ii) because of the date the Final Map was recorded, the Assessor does not yet recognize the new parcels created by the Final Map, and (iii) one or more of the newly-created parcels is in a different Development Class than other parcels created by the subdivision, the Administrator shall calculate the Special Taxes for the property affected by recordation of the Final Map by determining the Special Taxes that apply separately to the property within each Development Class, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map.

C. MAXIMUM SPECIAL TAXES

1. *Developed Property*

a. Facilities Special Tax

The Maximum Facilities Special Tax for a Parcel of Developed Property before the Trigger Event is the greater of: (i) the Base Facilities Special Tax set forth in Table 1 below; or (ii) the amount determined pursuant to Section D. After the Trigger Event, the Maximum Facilities Special Tax shall be reduced to \$0 for all Residential Units in both Tax Zones.

**TABLE 1
BASE FACILITIES SPECIAL TAX
BEFORE TRIGGER EVENT
FISCAL YEAR 2022-23***

Land Use Category	Tax Zone 1	Tax Zone 2
Residential Property:		
For Sale Unit	\$436 per Residential Unit	\$1,500 per Residential Unit
Rental Unit	\$436 per Residential Unit	\$1,500 per Residential Unit
Interim Unit	\$436 per Residential Unit	\$1,500 per Residential Unit
Non-Residential Property	Not Applicable	Not Applicable

* Beginning July 1, 2023, and each July 1 thereafter, all figures shown in Table 1 above shall be subject to an automatic increase at a rate equal to 2.0% of the amount in effect for the prior Fiscal Year.

Once a Facilities Special Tax has been levied on a Parcel of Developed Property, the Maximum Facilities Special Tax applicable to that Parcel may only be reduced in future Fiscal Years prior to the date of issuance of the first series of Bonds or after the date of the Trigger Event, regardless of changes in land use or other changes on the Parcel as described below in Section D.

b. Services Special Tax

The Maximum Services Special Tax for a Parcel of Developed Property before the Trigger Event is the greater of: (i) the Base Services Special Tax set forth in Table 2 below; or (ii) the amount determined pursuant to Section D. The Maximum Services Special Tax for a Parcel of Developed Property after the Trigger Event is the greater of: (i) the Base Services Special Tax set forth in Table 3 below; or (ii) the amount determined pursuant to Section D.

**TABLE 2
BASE SERVICES SPECIAL TAX
BEFORE TRIGGER EVENT
FISCAL YEAR 2022-23***

Land Use Category	Tax Zone 1	Tax Zone 2
Residential Property:		
For Sale Unit	\$857 per Residential Unit	\$1,293 per Residential Unit
Rental Unit	\$704 per Residential Unit	\$1,140 per Residential Unit
Interim Unit	\$704 per Residential Unit	\$1,140 per Residential Unit
Non-Residential Property	\$1.1378 per Sq. Ft.	\$1.1378 per Sq. Ft.

*Beginning July 1, 2023, and each July 1 thereafter, all figures shown in Table 2 above shall be subject to an automatic increase at a rate equal to the greater of: (i) the percentage increase from the prior Fiscal Year, if any, in the CPI; or (ii) 4.8% of the amount in effect for the prior Fiscal Year.

**TABLE 3
BASE SERVICES SPECIAL TAX
AFTER TRIGGER EVENT
FISCAL YEAR 2022-23***

Land Use Category	Tax Zone 1	Tax Zone 2
Residential Property:		
For Sale Unit	\$1,293 per Residential Unit	\$1,293 per Residential Unit
Rental Unit	\$1,140 per Residential Unit	\$1,140 per Residential Unit
Interim Unit	\$1,140 per Residential Unit	\$1,140 per Residential Unit
Non-Residential Property	\$1.1378 per Sq. Ft.	\$1.1378 per Sq. Ft.

*Beginning July 1, 2023, and each July 1 thereafter, all figures shown in Table 3 above shall be subject to an automatic increase at a rate equal to the greater of: (i) the percentage increase from the prior Fiscal Year, if any, in the CPI; or (ii) 4.8% of the amount in effect for the prior Fiscal Year.

c. Multiple Land Use Categories

If a Parcel is developed with multiple Land Use Categories, the Administrator shall apply the following steps to allocate the Maximum Special Taxes to the Land Use Categories on the Parcel:

- Step 1.** Identify the number of Residential Units and of the Square Footage of Non-Residential Property on the Parcel.
- Step 2.** Multiply the number of Residential Units and the Square Footage of Non-Residential Property on the Parcel by the applicable Base Special Taxes for the Land Use Category.
- Step 3.** Sum the amounts determined for each Land Use Category in Step 2 to calculate the Maximum Special Taxes for the Parcel.

2. *Taxable Welfare Exemption Property*

The Maximum Facilities Special Tax for Taxable Welfare Exemption Property prior to the Trigger Event is \$202,049 per Acre for Fiscal Year 2022-23, which amount shall increase on July 1, 2023, and each July 1 thereafter by an amount equal to 2.0% of the amount in effect for the prior Fiscal Year. After the Trigger Event the Maximum Facilities Special Tax for Taxable Welfare Exemption Property is \$0 per Acre. No Services Special Tax shall be levied on Welfare Exemption Property.

D. CHANGES TO THE MAXIMUM SPECIAL TAXES

1. *Land Use Change*

The Expected Maximum Services Special Tax Revenues shown in Attachment 2 were calculated based on the Expected Land Uses at CFD Formation. Attachment 2 is subject to modification upon the occurrence of Land Use Changes, as described below. The Administrator shall review all Land Use Changes and compare the revised land uses to the Expected Land Uses to evaluate the impact on the Expected Maximum Services Special Tax Revenues.

If a Land Use Change would result in a change to the Expected Maximum Services Special Tax Revenues for a particular Tax Zone, no action will be needed pursuant to this Section D if the change does not cause the Expected Maximum Services Special Tax Revenues to be less than the Required Services Revenues for such Tax Zone. Upon approval or identification of the Land Use Change, the Administrator shall update Attachment 2 to show the revised Expected Maximum Services Special Tax Revenues and Maximum CFD Services Revenues.

If a Land Use Change would reduce the Expected Maximum Services Special Tax Revenues in a Tax Zone below the Required Services Revenues, the Base Services Special Tax for Parcels that are subject to the Land Use Change (as determined by the Administrator) shall be increased proportionately until the amount that can be levied on Taxable Property subject to the Land Use Change, combined with the Expected Maximum Services Special Tax Revenues from other Taxable Property within the Tax Zone, is sufficient to maintain the Required Services Revenues. In conjunction with the increase in the Base Services Special Tax for Parcels subject to the Land

Use Change, the Base Facilities Special Tax for such Parcels shall be reduced, up to the Maximum Facilities Special Tax for the then current Fiscal Year, by an amount equal to the increase in the Base Service Special Tax for such Parcels. The Administrator shall use these adjusted rates to calculate the Maximum Special Taxes for all Parcels subject to the Land Use Change. The Administrator shall confirm that the sum of the increased Maximum Services Special Tax and the decreased Maximum Facilities Special Tax for such Parcels for the then current Fiscal Year is equal to the sum of the Maximum Services Special Tax and the Maximum Facilities Special Tax for such Parcels prior to the Land Use Change. The Administrator shall also revise Attachment 2 to reflect the new Expected Maximum Services Special Tax Revenues for the affected Tax Zone.

2. *Simultaneous Land Use Changes*

If multiple Land Use Changes are proposed simultaneously by a single landowner, and that landowner requests that the impact of two or more of the Land Use Changes be considered together, the Administrator shall consider the combined effect of the Land Use Changes to determine if there is a reduction in Expected Maximum Services Special Tax Revenues. If there is a reduction that would reduce the Required Services Revenues, then the Base Services Special Tax and Base Facilities Special Tax used to determine the Maximum Special Taxes for each Parcel of Taxable Property in the areas affected by the Land Use Changes (as determined by the Administrator) shall be adjusted as set forth in Section D.1 above. If Land Use Changes are proposed simultaneously by multiple landowners, or if an individual landowner proposing multiple Land Use Changes does not request that such Land Use Changes be considered together, the Administrator shall consider the proposed Land Use Changes individually.

3. *Change in Land Use Category*

If the Land Use Category on any Parcel that had been taxed as Developed Property in a prior Fiscal Year is rezoned or otherwise changes Land Use Category, the Administrator shall multiply the Base Services Special Tax by the new Land Use Category(ies). If the amount determined is greater than the Maximum Services Special Tax that applied to the Taxable Parcel prior to the change in Land Use Category, the Administrator shall increase the Maximum Services Special Tax for the Parcel to the amount calculated for the new Land Use Category(ies). If the amount determined is less than the Maximum Services Special Tax that applied prior to the change in Land Use Category, there will be no change to the Maximum Services Special Tax for the Parcel. Except as otherwise provided in this RMA, under no circumstances shall the Maximum Services Special Tax on any Parcel of Developed Property be reduced regardless of changes in Land Use Category on the Parcel, including reductions in the number of Residential Units or Square Footage on Non-Residential Property that may occur due to demolition, fire, water damage, or acts of God.

Similarly, if the Land Use Category on any Parcel that had been taxed as Developed Property in a prior Fiscal Year is rezoned or otherwise changes Land Use Category, the Administrator shall multiply the Base Facilities Special Tax by the new Land Use Category(ies). If the amount determined is greater than the Maximum Facilities Special Tax that applied to the Taxable Parcel prior to the change in Land Use Category, the Administrator shall increase the Maximum Facilities Special Tax for the Parcel to the amount calculated for the new Land Use Category(ies). If the amount determined is less than the Maximum Facilities Special Tax that applied prior to the change in Land Use Category, there will be no change to the Maximum Facilities Special Tax for the Parcel. Except as otherwise provided in this RMA, under no circumstances shall the Maximum

Facilities Special Tax on any Parcel of Developed Property be reduced regardless of changes in Land Use Category on the Parcel, including reductions in the number of Residential Units or Square Footage on Non-Residential Property that may occur due to demolition, fire, water damage, or acts of God. Notwithstanding Section G below, if in any future Fiscal Year, a Parcel that had been taxed as Developed Property becomes Public Property or Owners Association Property, such Parcel shall continue to be taxed as Developed Property, and the Maximum Special Taxes that applied to the Parcel prior to it becoming Public Property or Owners Association Property shall continue to apply.

4. Duties of Administrator

The duties imposed on the Administrator pursuant to this Section D to review Land Use Changes and changes to Land Use Categories and to make certain calculations are intended only to facilitate the administration of the Special Taxes, and to better assure the sufficiency of tax capacity to pay for Authorized Services and Authorized Facilities. Such duties are not intended to give any developer, subdivider, or owner of property the right to receive notice of the potential impact of Land Use Changes on the Special Taxes applicable to a Parcel; and each developer, subdivider, or owner of property whose property is the subject of a Land Use Change or change to a Land Use Category shall be responsible for understanding the impact thereof on the Special Taxes applicable to such property.

5. Reduction in Maximum Facilities Special Tax

The Base Facilities Special Taxes for For Sale Units set forth in Table 1 in Section C above may be proportionately or disproportionately reduced prior to issuance of the first series of Bonds that is fully or partially secured by Facilities Special Taxes levied on For Sale Units. Such a reduction shall be made without a vote of the qualified electors in the CFD if either of the following occur: (i) the Master Developer requests a reduction in the Base Facilities Special Tax; or (ii) the City makes a determination that the Total Tax Burden may, without a reduction in the Base Facilities Special Tax, exceed the Maximum Allowable Effective Tax Rate.

Upon such determination by the City and prior to the first Bond sale that is fully or partially secured by Facilities Special Taxes levied on For Sale Units, the City shall hire a Price Point Consultant to prepare a Price Point Study setting forth the Average Sales Price. If, based on the Price Point Study, the Administrator calculates that the Total Tax Burden will exceed the Maximum Allowable Effective Tax Rate, the Administrator and the City shall meet with the Master Developer to discuss the findings. If the City determines that the Total Tax Burden is likely to exceed the Maximum Allowable Effective Tax Rate, the Administrator shall reduce the Base Facilities Special Tax to the point at which the Total Tax Burden is equal to the Maximum Allowable Effective Tax Rate, unless such reduction is waived in writing by the City Manager. Any such reduction shall occur at least 30 days prior to the first Bond sale that is fully or partially secured by Facilities Special Taxes levied on For Sale Units.

The Base Facilities Special Tax reductions permitted pursuant to this paragraph shall be reflected in an Amended Notice of Special Tax Lien, which the Administrator shall cause to be recorded. If, based on the Price Point Study, the Administrator determines that the Total Tax Burden will not exceed the Maximum Allowable Effective Tax Rate, then there shall be no change in the Base Facilities Special Tax for For Sale Units unless so requested by the Master Developer.

E. METHOD OF LEVY OF THE SPECIAL TAXES

1. *Facilities Special Tax*

Each Fiscal Year, the Facilities Special Tax shall be levied according to the following steps:

- Step 1.** The Administrator shall determine the Facilities Special Tax Requirement to be collected in that Fiscal Year.
- Step 2.** The Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property up to 100% of the Maximum Facilities Special Tax for each Parcel until the amount levied is equal to the Facilities Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts.
- Step 3.** If additional revenue is needed after Step 1 and after Capitalized Interest has been applied to reduce the Facilities Special Tax Requirement, the Facilities Special Tax shall be levied Proportionately on each Parcel of Taxable Welfare Exemption Property, up to 100% of the Maximum Facilities Special Tax for each Parcel until the amount levied is equal to the Facilities Special Tax Requirement.

2. *Services Special Tax*

Each Fiscal Year, the Services Special Tax shall be levied according to the following steps:

- Step 1.** The Administrator shall determine the Services Special Tax Requirement to be collected in that Fiscal Year.
- Step 2.** The Services Special Tax shall be levied Proportionately on each Parcel of Developed Property, up to 100% of the Maximum Services Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Services Special Tax Requirement.
- Step 3.** The Administrator shall ensure that the proportionality ratio applied in Step 2 is equal, to the maximum extent possible, to the proportionality ratio applied to the levy in CFD No. 2017-1. Notwithstanding the foregoing, nothing in this Step 3 shall result in the special tax levied in CFD No. 2017-1 being used to pay for expenses that are not costs of the authorized services for CFD No. 2017-1, or in the Services Special Tax levied in the CFD being used to pay for expenses that are not costs of the Authorized Services.

F. MANNER OF COLLECTION OF SPECIAL TAXES

The Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that the City may directly bill the Special Taxes, may collect Special Taxes at a different time or in a different manner, and may collect delinquent Special Taxes through foreclosure or other available methods.

The Facilities Special Tax shall be levied and collected until the earlier of (i) the Trigger Event, or (ii) Fiscal Year 2072-73. The Services Special Tax shall be levied in perpetuity. Under no circumstances may the Facilities Special Tax on a Parcel of Developed Property in residential use be increased in any Fiscal Year as a consequence of delinquency or default in payment of the Facilities Special Tax levied on another Parcel or Parcels by more than ten percent (10%) above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults.

G. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Special Taxes shall be levied in any Fiscal Year on the following:

- (1) Public Property.
- (2) Owners Association Property.
- (3) Welfare Exemption Property, except Taxable Welfare Exemption Property.
- (4) Parcels owned by a public utility for an unmanned facility.
- (5) Parcels subject to an easement that precludes any other use on the Parcel.

H. INTERPRETATION OF RMA

Interpretations may be made by Resolution of the City to interpret, clarify, and/or revise this RMA to correct any inconsistency, vagueness, or ambiguity as it relates to the Special Taxes, method of apportionment, classification of properties, or any definition applicable to the CFD, as long as such correction does not materially affect the levy and collection of Special Taxes and any security for any Bonds. Under no circumstances may such revisions to the RMA decrease; (i) the Expected Maximum Services Special Tax Revenues to an amount less than the Required Services Revenues; or (ii) the Maximum Facilities Special Tax revenues to a level that will reduce debt service coverage on Bonds below the Required Coverage.

I. APPEALS

Any property owner may file a written appeal of the Special Taxes claiming that the amount or application of the Special Taxes is not correct. The appeal must be filed not later than one calendar year after having paid the Special Taxes that are disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

The appeal must specify the reasons why the appellant claims the Special Taxes are in error. The Administrator shall review the appeal, meet with the appellant if the Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council, whose subsequent decision shall be final and binding on all interested parties. If the decision of the Administrator or subsequent decision by the City Council requires the Special Taxes to be modified or changed in favor of the property owner, then the Administrator shall determine if sufficient Special Tax revenue is available to make a cash refund. If a cash refund cannot be made, then an adjustment shall be made to credit future Special Tax levies, subject to maintaining Required Coverage.



This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

Attachment 1
City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)

Identification of Tax Zones



Legend

-  Tax Zone 1
-  Tax Zone 2

ATTACHMENT 2

**City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**

**Expected Land Uses and
Expected Maximum Services Special Tax Revenues
Before Trigger Event**

Land Use Category	Expected Residential Units/ Non-Residential Sq. Ft.	Base Services Special Tax Fiscal Year 2022-23*	Expected Maximum Services Special Tax Revenues*
Tax Zone 1			
For Sale Units	0 Residential Units	\$857 per Residential Unit	\$0
Rental Units	1,565 Residential Units	\$704 per Residential Unit	\$1,101,760
Interim Units	0 Residential Units	\$704 per Residential Unit	\$0
Non-Residential Property	56,000 Square Feet	\$1.1378 per Sq. Ft.	\$63,717
Tax Zone 1 Expected Maximum Services Special Tax Revenues (FY 2022-23 \$)*			\$1,165,477
Tax Zone 2			
For Sale Units	0 Residential Units	\$1,293 per Residential Unit	\$0
Rental Units	1,188 Residential Units	\$1,140 per Residential Unit	\$1,354,320
Interim Units	0 Residential Units	\$1,140 per Residential Unit	\$0
Non-Residential Property	0 Square Feet	\$1.1378 per Sq. Ft.	\$0
Tax Zone 2 Expected Maximum Services Special Tax Revenues (FY 2022-23 \$)*			\$1,354,320
Maximum CFD Services Revenues (FY 2022-23 \$)*			\$2,519,797

* Beginning July 1, 2023, and each July 1 thereafter, the dollar amounts shown above shall be subject to an automatic increase at a rate equal to the greater of: (i) the percentage increase from the prior Fiscal Year, if any, in the CPI; or (ii) 4.8% of the amount in effect for the prior Fiscal Year.

ATTACHMENT 3

**City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**

**Example Calculation
Aligning Proportionality Ratios of CFD No. 2017-1 and the CFD
Actual Services Special Tax Relative to Maximum Services Special Tax**

**Assuming a Fiscal Year 2022-23 Special Tax Levy
And All Land Uses are Built Out as Expected**

	Maximum Services Special Tax per Rental Unit	Expected Maximum Services Special Tax Revenues	% of Total
The CFD			
Tax Zone 1	\$704	\$1,165,477	
Tax Zone 2	\$1,140	\$1,354,320	
Subtotal		\$2,519,797	82.10%
CFD No. 2017-1 (482 Rental Units)	\$1,140	\$549,480	17.90%
Total		\$3,069,277	100.00%
<hr/>			
If Aggregate Services Special Tax Requirement =		\$2,590,000 (hypothetical)	
Then Administrator Divides Aggregate Services Special Tax Requirement as Follows:			
The CFD		\$2,126,323	82.10%
CFD No. 2017-1		\$463,677	17.90%
Total		\$2,590,000	100.00%
<hr/>			
And Actual Special Tax Levy per Rental Unit Would Be:		Special Tax per Rental Unit	Proportionality Ratio*
<hr/>			
The CFD			
Tax Zone 1		\$594	84.38%
Tax Zone 2		\$962	84.38%
CFD No. 2017-1		\$962	84.38%

* Proportionality ratio = the actual Special tax as a percent of the Maximum Special Tax; the proportionality ratio would apply to each Land Use Category.





CFD Report CFD 2023-1 BBasin

Final Audit Report

2023-09-05

Created:	2023-09-01
By:	Jamie Cheng (JCheng2@oaklandca.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAH0pTSp_4fUiptlzOpfJNVyjTbjQYseIH

"CFD Report CFD 2023-1 BBasin" History

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City of
Oakland

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Attachment B

ACQUISITION AGREEMENT

Relating to:

**City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**

THIS ACQUISITION AGREEMENT, dated as of _____, 2023, is by and between the City of Oakland, a municipal corporation (the “**City**”), with respect to City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services) (the “**CFD**” or “**CFD No. 2023-1**”), and Zarsion-OHP I, LLC, a California limited liability company (the “**Developer**”). . This Acquisition Agreement, the recitals, definitions, and exhibits are, and shall be construed as, a single instrument and are referred herein as this “**Agreement**”.

RECITALS

This Agreement is entered into upon the basis of the following facts, understandings and intentions of City and Developer:

A. The City approved a development now known as Brooklyn Basin (and formerly known as the Oak-to-Ninth Avenue Mixed Use Development) 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 200,000 square feet of commercial space, a minimum of 3,534 parking spaces, approximately 31 acres of open space, two renovated marinas, as well as shoreline improvements, new roads, and other infrastructure and improvement (the “**Original Brooklyn Basin Project**”).

B. The City, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Developer, as successor by assignment from Oakland Harbor Partners, LLC, are parties to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Original Brooklyn Basin Project (as amended and assigned, the “**Development Agreement**”).

C. The Development Agreement required the formation of a community facilities district for the Original Brooklyn Basin Project.

D. Under the Mello-Roos Community Facilities Act of 1982, as amended (Government Code Section 53311 et seq.) (the “**Act**”), the City Council is authorized to establish a community facilities district and to act as the legislative body for a community facilities district.

E. In accordance with the Development Agreement, the City Council previously established City of Oakland Community Facilities District No. 2017-1 (Brooklyn Basin Public Services) (“**CFD No. 2017-1**”) pursuant to Resolution No. 86960 C.M.S. to provide funds to maintain certain public parks and other public improvements.

F. On May 16, 2023 the City Council adopted Ordinance No. 13789 C.M.S., which approved a Third Amendment to the Development Agreement, which together with the related additional entitlements approved by the City Council, permits the development of an additional six hundred (600) residential units within the Original Brooklyn Basin Project (the “**Updated Brooklyn Basin Project**”).

G. Section 4.13 of the Development Agreement permits the Developer to request the City to use any public financing method available for the Original Brooklyn Basin Project and/or the Updated Brooklyn Basin Project.

H. Certain property owners of the Updated Brooklyn Basin Project submitted a written petition to the City Council asking the City Council to (1) establish CFD No. 2023-1 to finance costs of public infrastructure and certain public services necessary or incident to development of the Updated Brooklyn Basin Project, (2) include the taxable properties in a portion of Phase I and in Phases II-IV of the Updated Brooklyn Basin Project in CFD No.2023-1, and (3) cease levying the CFD No. 2017-1 special tax on the taxable properties in that portion of Phase I and all of Phases II-IV of the Updated Brooklyn Basin Project and extinguish the related lien.

I. The City Council established CFD No. 2023-1 under the Act for the financing, among other things, of the public facilities described in the City’s Resolution No. _____ C.M.S adopted by the City Council on _____, 2023 (the “**Resolution of Formation**”) and listed on Exhibit A hereto (the “**Facilities**”).

J. This Agreement applies to the financing of Facilities through CFD No. 2023-1.

K. The Developer is developing land within CFD No. 2023-1.

L. The Facilities are required as a condition of developing the land within CFD No. 2023-1 or are necessary to mitigate impacts arising from development occurring in CFD No. 2023-1, and the City will benefit from a coordinated plan of design, engineering and construction of the Facilities and the development of the land owned by the Developer that is located within CFD No. 2023-1. p

M. The City has determined that it will obtain no advantage from undertaking the construction of the Facilities and that the Facilities may be constructed by the Developer as if they had been constructed under the direction and supervision, or under the authority of, the City.

N. The City is proceeding with the authorization and issuance of one or more series of bonds and other debt (as defined in the Act) for and on behalf of CFD No. 2023-1 (collectively, the “**Bonds**”) under the Act.

DEFINITIONS

Capitalized terms used in this Agreement, in addition to those defined in the introductory paragraph and the Recitals to this Agreement, shall have the following meanings:

“**Acceptance Date**” means the date upon which the City or another public agency accepts fee simple title or an irrevocable offer of dedication of one or more Facilities.

“**Actual Cost**” means, with respect to a Facility or a Discrete Component, an amount equal to the sum of (a) the Developer’s actual, reasonable cost of constructing such Facility or Discrete Component, including labor, material, and equipment costs, (b) the Developer’s actual, reasonable cost of preparing the Plans for such Facility or Discrete Component, (c) the Developer’s actual, reasonable cost of environmental evaluations required in the City’s reasonable determination specifically for such Facility or Discrete Component, (d) the amount of the fees actually paid by the Developer to governmental agencies in order to obtain permits, licenses, or other necessary governmental approvals for such Facility or Discrete Component, (e) the Developer’s actual, reasonable cost for construction management services for such Facility or Discrete Component not exceeding five percent (5%) of the costs described in (a) above (provided that the Developer shall not be required to provide evidence of actual costs if the construction management services are provided by employees of the Developer), (f) the Developer’s actual cost for professional services directly related to the construction of such Facility or Discrete Component, including engineering, inspection, certification (including the certification of quantities), construction staking, materials testing, and similar professional services, (g) the Developer’s actual, reasonable cost of any title insurance required under this Agreement for such Facility or Discrete Component, and (h) the Developer’s actual, reasonable cost of any real property or interest therein acquired from a party other than the Developer, which real property or interest therein is either necessary for the construction of such Facility or Discrete Component (e.g., temporary construction easements, haul roads, etc.) or is required to be conveyed with such Facility or Discrete Component in order to convey Acceptable Title thereto to the City, all as specified in a Disbursement Request that has been reviewed and approved by the City Engineer or his designee who will be responsible for administering the acquisition of the Facility or Discrete Improvement; provided, however, that no item of cost relating to a Facility or Discrete Component shall be included in more than one category of cost under this definition; and provided further, however, that each item of cost shall be chargeable to the capital account for the Facility under generally accepted accounting principles. For purposes of this definition, there shall be a presumption of reasonableness as to costs incurred under a construction contract (or change order) entered into as a result of a call for bids by the Developer in compliance with this Agreement (or similar procedure approved by the Public Works Director), provided that no extraordinary limitations or requirements (such as a short time frame) are imposed by the Developer on the performance of such contracts.

“**Affiliate**” or “**Affiliates**” means any entity that controls, is controlled by, or is under common control with Developer, where control means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of an entity or possession of the right to vote more than fifty percent (50%) of the voting interest in the ordinary direction of the entity’s affairs.

“**Authorize**” or “**Authorization**” means either of the following, as the context requires: (a) where payment of a requisition is to be made from Funding Sources held and maintained by the Fiscal Agent, the terms mean that the City provides whatever documentation and written authorization under the Fiscal Agent Agreement as is necessary for the Fiscal Agent to make payment on the requisition from the applicable Funding Sources; and (b) where payment of a requisition is to be made from Funding Sources held and maintained by the City, the terms mean

that the City authorizes and pays the applicable amount to the Developer pursuant to the requisition.

“City Engineer” means the City Administrator of the City, or the designee of such official.

“Development Agreement” is defined in Recital B.

“Discrete Components” means the Discrete Components of each Facility described in Exhibit A attached hereto, which are functional segments or discrete components of a Facility the Actual Cost of which exceeds One Million Dollars (\$1,000,000), which segments or components can be separately identified and inspected, and be the subject of, a payment request under this Agreement.

“Facilities Special Tax” means the Facilities Special Tax identified in the Rate and Method.

“Fiscal Agent” means the state or national banking association acting as fiscal agent under the Fiscal Agent Agreement.

“Fiscal Agent Agreement” means the indenture, fiscal agent agreement, resolution or other agreement under which the Bonds are issued, as such Fiscal Agent Agreement may be supplemented from time to time to accommodate additional bond issuances or as it may be amended from time to time.

“Funding Sources” means, collectively, (a) the proceeds of Bonds for CFD No. 2023-1 and (b) Facilities Special Taxes collected to directly finance Facilities under the Rate and Method, as further described in Section 4 herein.

“Implementation Agreement” means, as applicable to the Facilities or Discrete Component thereof, (a) a subdivision improvement agreement required by a subdivision map, (b) the Development Agreement, or (c) any other agreement with the City governing the installation of the Facilities or any portion thereof, including Permits for Improvements; which require payment and performance bonds and warranty periods.

“Improvement Fund” or **“Improvement Funds”** have the meaning given those terms in Section 3(c).

“Permits for Improvements” means, as applicable to the Facilities or Discrete Components thereof, a PX Permit or PZ Permit, or comparable permit issued by the City.

“Plans” means the plans, specifications, schedules and related construction contracts for the Facilities and/or any Discrete Components thereof approved pursuant to the applicable standards of the City or other entity, that will own, operate or maintain, the Facilities when completed and acquired.

“**Purchase Price**” means the amount paid by the City for a Facility and/or any Discrete Components thereof determined in accordance with this Agreement.

“**Rate and Method**” means the rate and method of apportionment of special taxes (including the Facilities Special Tax) for CFD No. 2023-1 approved by the City Council pursuant to the Resolution of Formation, and attached to the Resolution of Formation as Exhibit B.

“**Remainder Taxes**” has the meaning given that term in Section 4.

“**Remainder Taxes Fund**” has the meaning given that term in Section 4.

“**Substantially Complete**” means, with respect to a Facility or Discrete Component thereof, that the construction by the Developer has, in the reasonable judgment of the City Engineer, reached a stage of completion sufficient to allow such Facility or Discrete Component to be utilized for the purpose for which it is intended and that only the construction of punch list items and final layer of finish surface remain incomplete, it being understood that the intent of this Agreement is to pay for the Facilities in advance of final completion.

AGREEMENTS

In consideration of the mutual promises and covenants set forth herein, and for other valuable consideration, the sufficiency of which is hereby acknowledged, the City and the Developer agree as follows:

1. Recitals. The City and the Developer represent, each to the other, that the above Recitals, as applicable to each, are true and correct.

2. Sale of Bonds.

a. City Proceedings.

(i) From time to time, following the Developer’s written request and deposit for non-contingent costs, the City shall conduct all necessary proceedings under the Act for the issuance, sale and delivery of one or more series of Bonds; provided that such proceedings and the principal amount, rates, terms and conditions and timing of the sale of each series of Bonds shall at least meet the then current underwriting and market standards for California land secured bonds and shall be in all respects subject to the final approval of the City Council or its designee. Nothing herein shall be construed as requiring the City to issue any Bonds for CFD No. 2023-1 or that the City has in any way engaged the Developer to construct the Facilities, except as specifically provided in this Agreement.

(ii) At the request of the Developer, the City shall consider the issuance of one or more series of federally taxable Bonds to finance Facilities that cannot be financed on a federally tax-exempt basis.

b. Principal Amount.

(i) The maximum principal amount of the Bonds authorized for CFD No. 2023-1 is \$50,000,000.

(ii) The City can provide no assurances that it will issue any or all of the authorized amount of the Bonds and the City or related entities shall have no liability to the Developer for the failure of any anticipated bond issuance to occur, or for the amount or timing of any bond issuance that does occur.

c. Termination.

(i) General. This Agreement shall terminate upon the earlier of (A) payment in full from Funding Sources for all eligible Facilities or (B) expenditure in full of all net proceeds of the final series of Bonds to finance the Facilities. In this regard, the parties acknowledge that Section 4 limits the period of time in which the Developer may be reimbursed from Remainder Taxes (as defined in Section 4).

(ii) Mutual Consent. This Agreement may be terminated by the mutual, written consent of the parties, in which event the City may let contracts for any remaining work related to the Facilities not theretofore acquired from the Developer hereunder, and use all or any portion of the monies in the Improvement Funds to pay for same, and the Developer shall have no claim or right to any further payments for the Facilities or Discrete Components, except as otherwise may be provided in such written consent.

(iii) City Election for Cause. The following events shall constitute grounds for the City to terminate this Agreement, without the consent of the Developer:

(A) The Developer shall be delinquent in the payment of two consecutive installments of special taxes levied in CFD No. 2023-1.

(B) The Developer is not in an Event of Default, as defined in, and pursuant to, the Development Agreement.

(C) The Developer shall fail to construct the Facilities within the timeframe required under any applicable Implementation Agreement or Permit for Improvements.

(D) The Developer shall breach any material covenant or default in the performance of any material obligation hereunder, beyond any applicable notice and cure period.

(E) The Developer shall transfer any of its rights or obligations under this Agreement in violation of Section 19.

(F) The Developer shall have made any material misrepresentation or omission in any written materials furnished in connection with any

preliminary official statement, official statement, continuing disclosure agreement, or bond purchase contract used in connection with the sale of the Bonds.

(G) The Developer shall at any time challenge the validity of CFD No. 2023-1 or any of the Bonds, or the levy of special taxes within CFD No. 2023-1, other than on the grounds that such levy was not made in accordance with the terms of the Rate and Method.

Notwithstanding the foregoing, so long as any event listed in any of clauses (A) through and including (G) above has occurred, notice of which has been given by the City to the Developer, and such event has not been cured or otherwise eliminated by the Developer, the City may in its discretion cease making payments for the Purchase Price of Facilities or Discrete Components except with respect to Facilities or Discrete Components for which a payment request has been submitted to the City Engineer prior to the giving of such notice.

If any event listed in any of clauses (A) through and including (G) above has occurred, the City shall give written notice of its knowledge thereof to the Developer, and the Developer agrees to meet and confer with the City Engineer and other appropriate City staff and consultants within twenty-one (21) calendar days of receipt of such notice as to options available to assure timely completion of the Facilities. Such options may include, but not be limited to, the termination of this Agreement by the City. If the City elects to terminate this Agreement, the City shall first notify the Developer (and any mortgagee or trust deed beneficiary specified in writing by the Developer to the City to receive such notice) of the grounds for such termination and allow the Developer a minimum of thirty (30) calendar days to eliminate or mitigate to the satisfaction of the City Engineer the grounds for such termination. Such period shall be extended, at the sole discretion of the City, if the Developer, to the satisfaction of the City, is proceeding with diligence to eliminate or mitigate such grounds for termination. If at the end of such period (and any extension thereof), as determined solely by the City, the Developer has not eliminated or satisfactorily mitigated such grounds, to the satisfaction of the City, the City may then terminate this Agreement.

3. Use of Financing Proceeds.

a. Facilities Special Taxes. The City will levy Facilities Special Taxes and allocate revenues from the Facilities Special Taxes as a Funding Source as described in Section 4.

b. Reserved.

c. Bond Proceeds.

(i) The proceeds of each series of Bonds shall be deposited, held, invested, reinvested and disbursed as provided in the Fiscal Agent Agreement. The net proceeds of each series of Bonds in excess of the cost of issuance, reserves, and capitalized interest, if any, shall be set aside under the Fiscal Agent Agreement in a separate improvement fund (each, an “**Improvement Fund**”; collectively the “**Improvement Funds**”). Moneys in an Improvement Fund shall be withdrawn therefrom, in accordance with the provisions of the Fiscal Agent

Agreement, for payment of all or a portion of the costs of acquisition of the Facilities and the payment for Discrete Components thereof, including costs incurred by the City to review payment requests submitted by the Developer under Section 6(b) of this Agreement, all as determined by the City in consultation with the Developer and as herein provided. The City makes no warranty, express or implied, that the proceeds of the Bonds deposited and held in the Improvement Fund(s), along with other Funding Sources, will be sufficient for payment of the Purchase Price of the Facilities.

(ii) The Developer agrees that the City shall direct the investment of the funds on deposit in the funds and accounts established by or pursuant to each Fiscal Agent Agreement, including each Improvement Fund, and that the Developer has no right whatsoever to direct investments under a Fiscal Agent Agreement(s). However, all investment earnings on the Improvement Fund shall remain in the Improvement Fund and be used to finance Facilities, except as needed to comply with a rebate obligation under federal tax law or replenish a debt service reserve fund, as set forth in the Fiscal Agent Agreement.

(iii) The City shall have no responsibility whatsoever to the Developer with respect to any investment of funds under a Fiscal Agent Agreement, including any loss of all or a portion of the principal invested or any penalty for liquidation of an investment. Any such loss may diminish the amounts available in the Improvement Fund to pay the Purchase Price of Facilities and Discrete Components hereunder. Any proceeds of the Bonds invested by the City shall be invested in the authorized investments defined in the Fiscal Agent Agreement. The Developer further acknowledges that the obligation of any owner of real property in CFD No. 2023-1, including the Developer to the extent it owns any real property in CFD No. 2023-1, to pay Facilities Special Taxes levied in CFD No. 2023-1 is not in any way dependent on (A) the availability of amounts in the Improvement Fund to pay for all or any portion of the Facilities or Discrete Components thereof hereunder, or (B) the alleged or actual misconduct of the City in the performance of its obligations under this Agreement, the Fiscal Agent Agreement(s), any subdivision agreement or amendment thereto or any other agreement to which the Developer and the City are signatories.

(iv) The Developer acknowledges that any lack of availability of amounts in the Improvement Fund(s) to pay the Purchase Price of Facilities or any Discrete Components thereof shall in no way diminish any obligation of the Developer with respect to the construction of, or contributions for, public facilities required by the applicable Implementation Agreement.

4. Facilities Special Taxes.

a. The City shall not levy Facilities Special Taxes for the direct payment of Facilities or Discrete Components if such additional levy increases the Facilities Special Taxes on Taxable Welfare Exemption Property (as such term is defined in the Rate and Method). However, the preceding sentence shall not prevent the issuance of Bonds secured by Facilities Special Taxes levied on Taxable Welfare Exemption Property.

b. Subject to applicable limits in the Rate and Method and during the period described in Section 4(c), the City shall levy at the maximum rate permitted by the Rate and Method and collect Facilities Special Taxes on Developed Property (as defined in the Rate and Method) to provide a Funding Source to fund the acquisition by the City of the Facilities and Discrete Components thereof pursuant to this Agreement.

c. Beginning with the initial fiscal year in which a Facilities Special Tax is levied in CFD No. 2023-1 and continuing through the date that occurs ten (10) years thereafter, any Facilities Special Tax revenues that are not needed to pay debt service on any Bonds or other debt, to replenish any debt service reserve accounts or to pay administrative expenses (“**Remainder Taxes**”) will be deposited in a special fund for CFD No. 2023-1 (“**Remainder Taxes Fund**”) to be held in the manner determined by the City, separate and apart from any fund in which Bond proceeds are deposited. During the period described in the first sentence, moneys in the Remainder Taxes Fund shall be used as Funding Sources to pay for all or a portion of the costs of acquisition by the City of the Facilities and any Discrete Components pursuant to this Agreement. Following the expiration of the ten (10)-year period described hereinabove, the City shall have no obligation to levy the Facilities Special Tax at its maximum rate under the Rate and Method and may collect and direct the use of Remainder Special Taxes in its discretion subject to the limits set forth in the Resolution of Formation.

5. Construction of the Facilities.

a. Plans and Specifications. The Developer shall obtain approval of the Plans from the City and from any other public entity or public utility from which such approval must be obtained. Copies of all Plans shall be provided to the City Engineer.

b. Construction. All Facilities to be acquired hereunder shall be constructed by, or at the direction of, the Developer in accordance with the approved Plans and if applicable, the applicable Implementation Agreement. The Developer shall perform, or shall cause to be performed, all of its obligations hereunder and shall conduct, or cause to be conducted, all operations with respect to the construction of the Facilities in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by duly qualified persons utilizing their commercially reasonable efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. The Developer shall employ at all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, acquisition, construction and installation of the Facilities to be acquired by the City from the Developer hereunder. The Developer shall be obligated to use its own funds to pay all costs of designing and constructing the Facilities in excess of the Purchase Price thereof to be paid therefor hereunder and available Funding Sources therefor, except as may be otherwise expressly provided in the applicable Implementation Agreement.

c. The Developer shall not be relieved of its obligation to construct each Facility (including Discrete Components thereof) and convey each such Facility to the City in accordance with the Conditions of Approval, even if there are insufficient Funding Sources to pay the Purchase Price thereof, and, in any event, this Agreement shall not affect any obligation of any

owner of land in CFD No. 2023-1 under any Conditions of Approval or any governmental approval to which any land within CFD No. 2023-1 is subject, with respect to the public improvements required in connection with the development of the land within CFD No. 2023-1.

d. Relationship to Public Works. This Agreement is for the payment of the Purchase Price of the Facilities or Discrete Components thereof by the City from Funding Sources and is not intended to be a public works contract. The City and the Developer agree that the Facilities are of local, and not state-wide concern, and that the provisions of the California Public Contracts Code shall not apply to the construction of the Facilities. The City and the Developer agree that this Agreement is necessary to assure the timely and satisfactory completion of the Facilities and that compliance with the Public Contracts Code with respect to the Facilities would work an incongruity and would not produce an advantage to the City or CFD No. 2023-1.

e. Prevailing Wages. The Developer covenants that, with respect to any contracts for the construction of the Facilities, it will require the contracts (and all subcontracts issued thereunder) to contain a covenant to pay prevailing wages and to follow any applicable law or regulation for the payment of prevailing wages for such construction and the Developer shall use commercially reasonable efforts to enforce such contracts.

e. Bidding Procedures.

(i) General Rule. Except with respect to the Exhibit C Contracts (as defined in subsection (j) below) and any In-Water Facilities (as defined below), the following bidding procedures shall apply to all work to be performed by Developer under this Agreement.

(A) Prior to letting contracts for each portion of the work, Developer shall prepare a bid package (including the proposed form of contract), the form of the required notices and the list of proposed recipients for review and comment by the City Engineer. The City Engineer shall make good faith efforts to respond with any comments within twenty (20) calendar days.

(B) Developer shall send notices inviting formal bids to the recipients approved by the City Engineer. The notices shall be distributed (by mail or electronic mail) no less than twenty (20) calendar days before the opening date of the bids. The notices shall distinctly describe the scope of work for which bids are being solicited and shall state the time and place for submission of bids and disclose the Developer's right to elect to perform the work under Section 53329.5 of the Act. Developer shall use commercially reasonable efforts to obtain competitive bids from a minimum of three (3) bidders.

(C) Bids shall be submitted to the Developer either via hard copy or email. The bids shall be received and opened by the Developer and there shall be no requirement for a public bid opening. After the bids are received and opened by the Developer, the Developer may contact one or more of the bidders and request clarification of any bid or adjustments to the bid to comply with the specifications of the proposed project so that all bids may be evaluated on a comparable basis.

(D) After the actions described in Section 5(e)(i)(C) above, Developer shall submit to the City written evidence of compliance with the competitive bidding procedures set forth herein, including evidence of the required noticing, a listing of all responsive bids and their amounts, and the name or names of the contractor or contractors to whom Developer proposed to award the contracts for such construction.

(E) The contract for the construction of any Facilities or Discrete Component shall be awarded to the responsible bidder submitting the lowest responsive bid for the construction of such Facilities or Discrete Components or, if the Developer elects to perform the work pursuant to Section 53329.5 of the Act, the Developer shall perform the work at the prices specified in the bid of the lowest responsible bidder.

(ii) In-Water Construction Facilities. The construction of the Facilities involving “in-water” construction (the “**In-Water Construction Facilities**”) requires the retention and coordination of specialized trade contractors to protect the estuarine environment and comply with relevant law and regulations; therefore, Developer previously engaged a general contractor to advise Developer and to coordinate the evaluation, retention and management of those specialized trade contractors required to construct such Facilities. The City agrees that Developer may contract for the construction of those Facilities that will be acquired by the City with funds from CFD No. 2023-1 in the same manner used for the Exhibit C Contracts, subject to the following modifications:

(A) Prior to letting trade contracts for each portion of the work, Developer’s general contractor to prepare bid packages for the scope (including the proposed form of contract), the form of the required notices and the list of proposed trade contractor recipients for review and comment by the City Engineer. The City Engineer shall make good faith efforts to respond with any comments within twenty (20) calendar days. Developer’s general contractor shall endeavor to provide notice of the competitive bid process to and obtain competitive bids from a minimum of three (3) bidders.

(B) Developer’s general contractor shall send notices inviting formal bids to the recipients approved by the City Engineer. The notices shall be distributed (by mail or electronic mail) no less than twenty (20) calendar days before the opening date of the bids. The notices shall distinctly describe the project, scope of work to be bid and state the time and place for submission of bids and disclose the Developer’s right to elect to perform the work under Section 53329.5 of the Act.

(C) Bids may be submitted to the Developer’s general contractor either via hard copy or email. The bids shall be received and opened by Developer’s general contractor and there shall be no requirement for a public bid opening. After the bids are received and opened, the Developer or Developer’s general contractor may contact one or more of the bidders and request clarification of any bid or adjustments to the bid to comply with the specifications of the proposed project so that all bids may be evaluated on a comparable basis.

(D) After the actions described in Section 5(e)(ii)(C) above, Developer or its general contractor shall submit to the City written evidence of compliance with

the competitive bidding procedures set forth herein, including evidence of the required noticing, a listing of all responsive bids and their amounts, and the name or names of the trade contractor or contractors to whom Developer's general contractor awarded the contracts for such construction.

(E) The trade contracts for the construction of any Facilities or Discrete Component shall be awarded to the responsible bidder submitting the lowest responsive bid for the construction of such Facilities or Discrete Components or, if the Developer or its general contractor elects to perform the work pursuant to Section 53329.5 of the Act, the Developer shall perform the work at the prices specified in the bid of the lowest responsible bidder.

f. Performance and Payment Bonds. The Developer agrees to comply with all applicable performance and payment bonding requirements of the City (and other applicable public entities and/or public utilities) set forth in an applicable Implementation Agreement with respect to the construction of the Facilities or as required by the Oakland Municipal and Planning Codes, including, but not limited to, Section 16.20.100 thereof. Nothing in this Agreement shall alter or amend any provisions an applicable Implementation Agreement as to the provision or exoneration of any applicable payment or performance bonds.

g. Contracts and Change Orders.

(i) This subsection (g) does not apply to any change orders that were approved by the Developer with respect to the Exhibit C Contracts (defined in subsection (j) below) prior to execution hereof. However, nothing in this subsection (g)(i) is intended to excuse the Developer from complying with the provisions of Section 6 related to submission, review and approval of payment requests.

(ii) All contracts for construction of the Facilities shall be submitted to the City Engineer for review and approval as to cost and quantity and quality of work.

(iii) Each change order shall be submitted to the City Engineer for review and approval as to cost and quantity and quality of work if (A) the cumulative total of the change orders for any Payment Request exceeds \$250,000 or (B) the change order involves a major scope change in materials, regulatory compliance or overall nature of the work as determined by the City Engineer or the Department of Public Works. Each change order shall be itemized as part of a Payment Request, using a Change Order Log substantially in the form attached to this Agreement as Exhibit B, Attachment 2 (or such other form approved in writing by the City Engineer). The City Engineer shall make good faith efforts to respond with any comments within twenty (20) calendar days.

h. Second Notice; City Engineer. If the City Engineer fails to respond to a submittal of Developer within the time periods set forth in Sections 5(e)(i)(A), 5(e)(ii)(A), or 5(g)(ii), above, Developer may submit a second written notice to the City Engineer requesting response be given within five (5) Business Days after the date of receipt by the City Engineer of Developer's second notice. The second notice shall display prominently on the envelope enclosing such request and the first page of such request, substantially the following: "APPROVAL REQUEST FOR ACQUISITION AGREEMENT. IMMEDIATE ATTENTION REQUIRED."

i. Independent Contracting Entity. In performing this Agreement, the Developer is an independent contracting entity and not the agent or employee of the City or CFD No. 2023-1. Neither the City nor CFD No. 2023-1 shall be obligated for making any payments to any contractor, subcontractor, agent, employee or supplier of the Developer.

j. Periodic Meetings. From time to time at the request of the City Engineer or Developer, representatives of the Developer shall meet and confer with City staff, consultants and contractors regarding matters arising hereunder with respect to the Facilities and the progress in constructing and acquiring the same, and as to any other matter related to the Facilities or this Agreement. The Developer shall advise the City Engineer in advance of any coordination and scheduling meetings to be held with contractors relating to the Facilities, in the ordinary course of performance of an individual contract. The City Engineer or his/her designated representative shall have the right to be present at such meetings, and to meet and confer with individual contractors if deemed advisable by the City Engineer to resolve disputes and/or ensure the proper completion of the Facilities.

k. Exhibit C Contracts. Notwithstanding anything in this Agreement to the contrary, as described in Section 5(e) above, prior to the execution of this Agreement, the Developer engaged a general contractor to award trade contracts and began construction of the Facilities listed in Exhibit C attached hereto (the “**Exhibit C Contracts**”). The Developer certifies that the bids were received in an arms-length transaction with the Developer’s general contractor, and the bidders have no proprietary interest in the overall Project. In addition, Exhibit C also lists all change orders that have already been approved by the Developer for the construction of Facilities.

l. Facilities Constructed by Third-Parties. In some cases, Facilities may be constructed by a related (e.g., an affiliate) or unrelated (e.g., a merchant builder) entity. For purposes of this Agreement, Facilities constructed by a related, or unrelated, entity are referred to as “**Third-Party Facilities.**” The City agrees that so long as the Third-Party Facilities are constructed in accordance with the provisions of this Agreement, the Third-Party Facilities may be financed by available Funding Sources notwithstanding that the Third-Party Facilities being acquired hereunder will be purchased from an affiliated, or unaffiliated, entity and that the affiliated, or unaffiliated, entity bid and entered into, and paid the costs under, the contracts for the constructed Third-Party Facilities. The City shall make all payments for the Purchase Price of any Third-Party Facilities to the Developer and shall not be obligated to make any payments to such other entities.

6. Payment for the Facilities. The Developer hereby agrees to sell the Facilities to the City hereby agrees to use available Funding Sources to pay the Purchase Price thereof, to the Developer, subject to the terms and conditions hereof.

a. Inspection. No payment hereunder shall be made by the City to the Developer for a Facility, or Discrete Component thereof, until the Facility or Discrete Component thereof, has been inspected by the City, or other applicable public entity or utility, and found to be constructed in accordance with the Plans approved by the City and are Substantially Complete.

For Facilities to be acquired by the City, the Developer shall request inspection using applicable City procedures. For Facilities to be acquired by other public entities or utilities, the Developer shall be responsible for obtaining such inspections, and providing written evidence thereof to the City Engineer. The Developer agrees to pay all inspection, permit and other similar fees of the City applicable to construction of the Facilities, and such fees are subject to reimbursement under this Agreement as part of the Actual Cost of the Facilities.

b. Request for Payment. Any request for payment hereunder by the Developer shall be in a form substantially similar to the form attached to this Agreement as Exhibit B and shall include such supporting documentation to substantiate such request as the City may require. For any request for payment, the following shall apply:

(i) Substantiation of Actual Costs. The Developer shall provide documentation substantiating the Actual Cost of the Facilities reasonably requested by the City Engineer, including, but not limited to, a review of the Actual Costs (including certified quantities) by the Developer's civil engineer and determination that they are consistent with the Plans approved by the City. There shall be a presumption of reasonableness as to costs incurred under a construction contract (or change order) entered into under the procedures described or approved in this agreement (or similar procedure approved by the City Engineer), provided that no extraordinary limitations or requirements (such as a short time frame) are imposed by the Developer on the performance of such contracts. For any Facility to be acquired by a public entity or utility other than the City, the Developer shall provide written evidence of the approval of such cost substantiation and approval of such Facility from such entity or utility when requesting payment.

(ii) Payment of Claims. In order to receive the Purchase Price for a Facility or Discrete Component, inspection thereof under Section 6(a) shall have been made and the Developer shall deliver to the City Engineer a payment request for such Facility or Discrete Component, together with all supporting documentation required by this Agreement to be included therewith.

(iii) City Fees. The Developer agrees to pay the fees imposed by the City for its review of payment requests hereunder if Funding Sources are not then available for such purpose, and such fees paid by the Developer are subject to reimbursement from Funding Sources under this Agreement.

c. Conditions for Acceptance. The City shall not be obligated to pay the Purchase Price of any Facility or Discrete Component until the Facility or Discrete Component is Substantially Complete and the processing requirements of this Section 6 for such Facility or Discrete Component have occurred. The Developer acknowledges that the Discrete Components have been identified for payment purposes only, and that the City shall not accept a Facility of which a Discrete Component is a part until the entire Facility has been completed in accordance with the applicable Implementation Agreement. The City acknowledges that the Facilities or Discrete Components do not have to be accepted by the City as a condition precedent to the payment of the Purchase Price therefor, but any such payment shall not be made until the Facilities or Discrete Component is Substantially Complete in accordance with the Plans approved by the

City therefor, as determined by the City Engineer. The City acknowledges that the procedure described in this Agreement for the approval of a payment request with respect to Discrete Components is distinct from the procedures for the City's acceptance of improvements under an applicable Implementation Agreement. In any event, the City shall not be obligated to pay the Purchase Price for any Facility or Discrete Component except from the Funding Sources.

d. Purchase Price. The Purchase Price shall be calculated by the Developer's civil engineer based on the criteria of Section 6(a)-(c) above, and submitted to the City Engineer for final determination. The Purchase Price shall include the substantiated Actual Costs related to the Facilities (or Discrete Component thereof) or each of them. The Purchase Price paid hereunder for any Facility or Discrete Component thereof may be paid in any number of installments as Funding Sources become available. The City and Developer acknowledge that the Purchase Price paid will be for the costs the Developer incurred to Substantially Complete the Facilities or Discrete Component, and that the remaining costs to complete the Facilities or Discrete Components will be paid by the Developer as and when required.

e. Payments to the Developer. The Developer may request in writing a payment of the Purchase Price of any Facility or Discrete Component thereof as described in Exhibit A hereto subject to the following:

(i) Compliance with Conditions. The Developer shall first comply with Subsections 6(a) through (c) above and shall have demonstrated the ability to comply with Section 7 below, all to the satisfaction of the City Engineer.

(ii) Source of Payments. The City and the Developer expect the Purchase Price, in some cases, may be partially paid from Bond proceeds and partially from other available Funding Sources.

(iii) Requests for Payment. Any request for payment by the Developer shall be made to the City Engineer in the form attached to this Agreement as Exhibit B and include the supporting documentation herein specified. Within thirty (30) calendar days of receipt of any request, the City Engineer shall review such request and advise the Developer in writing of its approval or denial, in whole or in part, and setting forth the reasons for any denial. The Developer shall be entitled to resubmit any request or portion thereof so denied if it is able to address the reasons for the denial. The Developer shall not submit more than one (1) payment request in a thirty (30)-day calendar period, unless all such payment requests are submitted simultaneously.

(iv) Payment by the City.

(A) The City shall Authorize payment to be made to the Developer pursuant to the applicable provisions of the Fiscal Agent Agreement within twenty (20) business days of the approval pursuant to Subsection 6(e)(iii) above, or within twenty (20) business days of receiving Funding Sources as described in Subsection 6(e)(iv)(C). The City may Authorize any payment jointly to the Developer and any mortgagee or trust deed beneficiary, contractor or supplier of materials, as their interests may appear, or solely to any such third party, if the

Developer so requests the same in writing or as the City otherwise determines such joint or third party payment is necessary to obtain lien releases.

(B) Subject to Section 3(a), if there are insufficient Funding Sources to pay the full amount of a payment request, then the City shall Authorize as much of the amount on the payment request as there are Funding Sources available, and the payment of the balance of the payment request shall be deferred until there are sufficient Funding Sources available to the remaining balance of the payment request. Promptly following the availability of Funding Sources, the City shall, from time to time and in as many installments as necessary, Authorize the remaining balance of the payment request.

(C) Payment requests may be paid (1) in any number of installments as Funding Sources become available and (2) irrespective of the length of time of such deferral of payment.

(D) The City shall also have the right to temporarily withhold payment for the acquisition of a Facility or Discrete Component if: (1) the Developer or any of its Affiliates is delinquent in the payment of any special taxes levied within CFD No. 2023-1 on property then owned by the Developer or any of its affiliates within the CFD; or (2) the Developer is in an Event of Default, as defined in, and pursuant to, the Development Agreement.

(v) Allocation of Costs.

(A) If Developer incurs costs that (1) apply to more than one Facility or Discrete Component (e.g., soft costs), or (2) apply to both Facilities or Discrete Components and improvements other than the Facilities or Discrete Components (e.g., grading), Developer shall allocate, or cause the contractor to reasonably allocate, such costs between the Facilities or Discrete Components (in the case of clause (1) hereof) or between the Facilities or Discrete Components and the improvements other than the Facilities or Discrete Components (in the case of clause (2) hereof) (the “**Developer Allocation**”).

(B) The Developer Allocation shall be presumed to be reasonable and shall be accepted for all purposes of this Agreement unless the City notifies Developer of its good-faith reasonable disapproval of the allocation within the period specified in Section 6.e.(iv) above.

(C) If the City has properly disapproved the Developer Allocation, then the City and Developer shall promptly allocate such costs, on a reasonable basis, between the Facilities or Discrete Components (in the case of Section 6(e)(v)(A)(1)) or between the Facilities or Discrete Components and the improvements other than the Facilities or Discrete Components (in the case of Section 6(e)(v)(A)(2)) (the “**Agreed-Upon Allocation**”).

(D) Based on the Developer Allocation or the Agreed-Upon Allocation, if applicable, the City shall include the costs allocated to a specific Facility or Discrete Component as part of the Actual Costs of such Facility or Discrete Component when such Facility or Discrete Component is subject to a payment request.

(vi) General Cooperation. In connection with processing any payment request under this Agreement, the City and the City Engineer will use good faith efforts to request any additional information required to process the request as soon as practicable following the submission of the original materials, and to make each additional information request comprehensive and thorough to minimize the number of requests delivered, and Developer will use its good faith efforts to provide a thorough, organized, and complete response to each request. Developer is authorized to communicate directly with the City, the City Engineer, and their designees, agents, and contractors to facilitate any additional information request, to facilitate the prompt resolution of any technical issues, and to minimize the amount of time it takes to resolve outstanding issues.

(A) In addition to the foregoing, and except as otherwise is provided for herein, the parties agree that: (1) if a payment request includes more than one Discrete Component or Facility, the City will not withhold payment Authorization on any Discrete Component or Facility that has been approved and will withhold payment Authorization only on such Discrete Components and Facilities that have not been approved; and (2) in no event will the City make a partial payment for a single Discrete Component or Facility (except in cases where the Facility is comprised of more than one Discrete Component, in which case the City will make separate payments for each Discrete Component of such Facility otherwise eligible for payment hereunder, if requested by Developer).

(B) The City will ensure that any consultants assisting it with implementation of this Agreement have reviewed the relevant provisions of this Agreement.

(vii) Expectations of the Parties.

(A) The City understands and agrees that:

(1) Developer may be constructing Facilities or Discrete Components prior to the availability of Funding Sources that will be used to pay for such Facilities or Discrete Components;

(2) the City or the other public agencies that will own and operate such Facilities or Discrete Components may be inspecting such Facilities or Discrete Components and processing and completing payment requests for the payment on such Facilities or Discrete Components with knowledge that there may be insufficient Funding Sources available at such time;

(3) the Facilities or Discrete Components may be conveyed to and accepted by the City or other local agency that will own and operate such Facilities or Discrete Components when there are insufficient Funding Sources to pay the Purchase Prices of such Facilities or Discrete Components; and

(4) in any such case, the payment of any approved payment requests for the Purchase Prices of such Facilities or Discrete Components will be deferred until there are sufficient Funding Sources available to pay the Purchase Prices of such Facilities or Discrete Components, at which time the City will make such payments in accordance with this Agreement.

(B) At all times, Developer will be constructing such Facilities or Discrete Components with the expectation that the Purchase Prices for such Facilities or Discrete Components will be paid from the Funding Sources, subject to the limitations set forth in this Agreement.

(C) The conveyance of Facilities or Discrete Components to the City or a local agency that will own and operate such Facilities or Discrete Components prior to receipt of the Purchase Prices for such Facilities or Discrete Components shall not be construed as a dedication or gift, or a waiver of the payment of the Purchase Prices, or any part thereof, for such Facilities or Discrete Components.

(viii) Maximum Amount of Design Engineering and Related Costs. Payment requests solely for design engineering and related costs prior to construction of the related Facilities shall not exceed ten percent (10%) of the estimated construction costs of such Facilities, as reviewed and approved by the City Engineer. Payment requests received in excess of ten percent (10%) of the estimated construction costs of such Facilities shall include justification and related documentation for review, with determination of costs in excess of ten percent (10%) to be made by the City Engineer based on the extent to which Facilities have been completed or are reasonably expected to be completed. In clarification of the foregoing, this subsection (viii) does not, in any way, limit the amount of design engineering and related costs that may be financed as part of the Actual Cost of a Facility; this section only limits the amount of such costs that may be requisitioned prior to requisitioning for the construction costs of the Facilities.

(ix) Retention. The amount to be paid to the Developer for any Facility or Discrete Component which has not been completed shall be equal to the Purchase Price less a retention equal to the greater of (A) the amount that the Developer is withholding from its contractor under the applicable contract for such Facility or Discrete Component at the time of Developer's request for payment therefor and (B) five percent (5%) of the contract price applicable to the Facility or Discrete Component. Upon completion of constructed Facilities or Discrete Components in their entirety, including all "punch list" work, for which the City has held a retention hereunder, the City shall authorize and shall pay from the Funding Sources the balance of the Purchase Price then due to the Developer for such constructed Facility or Discrete Component, including any retentions previously retained by City with respect thereto. The City shall not withhold retention hereunder from the Purchase Price due Developer for any Facility or Discrete Component which has been completed, including all "punch list" work with respect thereto, at the time Developer submits its request for payment.

7. Ownership and Transfer of the Facilities; Maintenance; Warranties.

To the extent of any inconsistency between the provisions of this Section and the provisions of an Implementation Agreement, the provision of the Implementation Agreement shall govern, so long as such provision of the Implementation Agreement is not inconsistent with applicable law or the CFD No. 2023-1 proceedings.

a. Any of the Facilities to be owned by public entities or utilities other than the City shall be conveyed in accordance with the entity's or utility's policies and procedures. Conveyance of the Facility or the Land (as defined herein) underlying the Facility or Discrete

Component is not a condition to the payment of the Purchase Price of a Substantially Complete Facility or Discrete Component. For the Facilities to be owned by the City, the following applies:

i. Land. For purposes of this Agreement, the term “Land” includes fee simple title or such lesser interests (including easement and/or rights of way or an irrevocable offer of dedication of the real property with interests therein) as are required and approved by the City and are included in the description of the Facilities to be acquired. The Developer agrees to cause the owners of real property in CFD No. 2023-1 to execute and deliver to the City such documents as are required to complete the transfer of Land, free and clear of all liens, taxes, assessments, easements, leases, or other encumbrances (whether recorded or not), except for those which the City Engineer determines in writing will not interfere with the intended use of the land or related Facilities. If the Land is within the boundaries of any existing community facilities district (including CFD No. 2023-1), an assessment district, or other financing district, then the lien of the special taxes or assessments shall be a permitted exception to title so long as the Land, while owned by the City or other public agency, is exempt from the special tax or assessments to be levied by the community facilities district, assessment district, or other financing district. Completion of the transfer of title to land shall be evidenced by recordation of the acceptance of thereof by the City Council or the designee thereof.

ii. Facilities Constructed on Private Lands. If any Facility to be acquired is located on privately-owned Land, the owner thereof shall retain title to the Land and the completed Facilities until acquisition under Subsection 7(a) above, which shall apply to such transfer. Pending the completion of such transfer and where the Developer has received any payment for any such Facility, the Developer shall be responsible for maintaining the Land and any Facilities in good and safe condition.

iii. Facilities Constructed on City Land. If the Facilities to be acquired are on Land owned by the City, the City hereby grants to the Developer a license to enter upon such Land for purposes related to the construction (and maintenance pending acquisition) of the Facilities. The provisions for inspection and acceptance of such Facilities otherwise provided herein shall apply.

iv. Warranties; Maintenance. The Developer shall maintain each Discrete Component in good and safe condition until the Acceptance Date of the Facility of which such Discrete Component is a part. Prior to the Acceptance Date, the Developer shall be responsible for performing any required maintenance on any completed Discrete Component or Facility.

b. (i) On or before the Acceptance Date, the Developer shall assign to the City all of the Developer’s rights in any warranties, guarantees, maintenance obligations or other evidence of contingent obligations of third persons with respect to such Facility (collectively, the “**Assigned Rights**”), subject to the reservation to Developer of the nonexclusive right to enforce all of Developer’s rights and remedies with respect to matters accruing or relating to the Warranty Period (defined below), including, without limitation, (A) the right to enforce various warranties and indemnities, (B) claims under any insurance policies maintained by Developer, (C) claims and rights under any contracts for the construction or installation of any Facilities or Discrete

Components, and (D) any other claims and rights against third parties that, if made, would reduce the exposure or liability of Developer or reimburse Developer for costs or expenses incurred or to be incurred by Developer, without limitation, any indemnification obligation of Developer hereunder, under an Implementation Agreement or the Development Agreement.

(ii) The Developer shall maintain, or cause to be maintained, each Facility to be owned by the City (including the repair or replacement thereof) (A) as required by the applicable Implementation Agreement, or (B) if there is no applicable Implementation Agreement, for a period of one (1) year from the Acceptance Date thereof (the “**Warranty Period**”), or, alternatively, shall provide a bond reasonably acceptable in form and substance to the City Engineer for the Warranty Period and for such purpose, to insure that defects, which appear within the Warranty Period will be repaired, replaced, or corrected by the Developer, at its own cost and expense, to the satisfaction of the City Engineer. During any such Warranty Period, the Developer shall commence to repair, replace or correct any such defects within thirty (30) days after written notice thereof by the City to the Developer (or such longer period that may be set forth in the applicable Implementation Agreement), and shall use commercially reasonable efforts to complete such repairs, replacement or correction as soon as practicable. After the applicable Warranty Period, the City shall be responsible for maintaining such Facility. Copies of any warranties, guarantees or other evidences of contingent obligations of third persons with respect to the Facilities to be acquired by the City, shall be delivered to the City Engineer as part of the transfer of title.

c. For purposes of this Section 7, after the City has accepted a Facility, the terms “maintain” and “maintenance” mean the repair, replacement, or correction of any defects in the Facility or Discrete Component, and shall not mean the day-to-day upkeep or correction of normal wear and tear of the Facility or Discrete Component (such as watering or weeding for landscape improvements, painting, graffiti removal, etc.).

8. Limitation of Liability; Excess Costs; Surplus in the Improvement Funds.

a. The Developer agrees that any and all obligations of the City arising out of, or related to, this Agreement are special and limited obligations of the City, and the City’s obligations to make any payments hereunder are restricted entirely to the Funding Sources and shall be made from no other source. The Developer agrees to pay all costs of the Facilities it is constructing that are in excess of the Funding Sources. No City Council member, City staff member, employee or agent shall incur any liability hereunder to the Developer or any other party in their individual capacities by reason of their actions hereunder or execution hereof.

b. If the construction and acquisition of all the Facilities listed on Exhibit A have been Substantially Complete and the Purchase Price with respect thereto has been paid, and Funding Sources remain or become available through, among other things, the issuance of additional Bonds, the City shall determine the use of such funds consistent with the terms of the Fiscal Agent Agreement and the Resolution of Formation.

9. Reserved.

10. Indemnification and Hold Harmless.

a. The Developer shall take and assume all responsibility for the work performed as part of the Facilities constructed pursuant to this Agreement until the acceptance by the City of the respective Facilities occurs.

b. The Developer shall assume the defense of and indemnify and save harmless the City, CFD No. 2023-1, and the City's Councilmembers, officers, employees and agents, from and against any and all claims, losses, damage, expenses and liability of every kind, nature, and description, directly or indirectly arising from any breach by the Developer of this Agreement, the performance of the work covered by this Agreement, from the Developer's or any other entity's negligent design, engineering and/or construction of any of the Facilities acquired from the Developer hereunder, the Developer's non-payment under contracts between the Developer and its consultants, engineer's, advisors, contractors, subcontractors and suppliers in the provision of the Facilities, or any claims of persons employed by the Developer or its agents to construct the Facilities. In accordance with Civil Code section 2782, nothing in this Section 10 shall require defense or indemnification for death, bodily injury, injury to property, or any other loss, damage or expense arising from the active or sole negligence or willful misconduct of the City, and its consultants, and its Councilmembers, agents, servants or independent contractors who are directly responsible to the City, or for defects in design furnished by such persons. Moreover, nothing in this Section 10 shall apply to impose on the Developer, or to relieve the City from, liability for active negligence of the City, or its consultants as delineated in Civil Code Section 2782. Any relief for determining the City's sole or active negligence shall be determined by a court of law.

c. The City does not, and shall not, waive any rights against the Developer, which it may have by reason of the aforesaid hold harmless agreements because of the acceptance by the City, or deposit with the City by the Developer of any insurance policies required by the City. The hold harmless agreement by the Developer set forth in this Section 10 shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered by reasons of any of the aforesaid operations of the Developer, or any subcontractor, regardless of whether or not such insurance policies are determined to be applicable to any of such damages or claims for damages.

d. No act by the City, or its representatives in processing or accepting any plans, in releasing any bond, in inspecting or accepting any work, or of any other nature, shall in any respect relieve the Developer or anyone else from any legal responsibility, obligation or liability it might otherwise have.

11. Representations and Covenants of the Developer.

a. Representations of the Developer. The Developer represents and warrants for the benefit of the City and CFD No. 2023-1 as follows:

(i) Organization. The Developer is a limited liability company duly organized and validly existing under the laws of the State of California, is qualified to do business

in California, is in compliance with all applicable laws of the State of California, and has the power and authority to own its properties and assets and to carry on its business as now being conducted and as now contemplated.

(ii) Authority. The Developer has the power and authority to enter into this Agreement and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the Developer.

(iii) Binding Obligation. This Agreement is a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms, subject to bankruptcy and other equitable principles.

(iv) Requests for Payment. The Developer represents and warrants that (A) it will not request payment from the City for the acquisition of any improvements that are not part of the Facilities, and (B) it will diligently follow all procedures set forth in this Agreement with respect to the payment requests.

(v) Plans. The Developer represents that it has obtained, or will obtain, approval of the Plans for the Facilities to be acquired from the Developer hereunder, from the City and from any other public entity or public utility from which such approval must be obtained. The Developer further agrees that the Facilities and Discrete Components to be acquired from the Developer hereunder have been, or will be, constructed in full compliance with such approved plans and specifications, any supplemental agreements (change orders) thereto.

b. Covenants of the Developer. The Developer covenants for the benefit of the City and CFD No. 2023-1 as follows:

(i) Financial Records. Until the final acceptance of the Facilities, the Developer covenants to maintain proper books of record and account for the construction of the Facilities and all costs related thereto. Such accounting books shall be maintained in accordance with generally accepted accounting principles and shall be available for inspection by the City or its agent at any reasonable time during regular business hours on reasonable notice.

(ii) Land Owners. The Developer agrees that in the event that it sells any land owned by it within the boundaries of CFD No. 2023-1 to another builder or developer where all or part of this Agreement will be assigned, the Developer will (A) notify the City within thirty (30) calendar days of the sale, in writing, identifying the legal name of and mailing address for the purchaser, the applicable County Assessor's parcel number or numbers for the land sold and the acreage of the land sold, and (B) notify the purchaser in writing prior to the closing of any such sale of the existence of this Agreement and, in general, the Developer's rights and obligations hereunder with respect to the construction of and payment for the Facilities. For any sale of property, the Developer shall notify the purchaser in writing of the existence of CFD No. 2023-1 and the special tax lien in connection therewith, and otherwise comply with any applicable provision of Section 53341.5 of the Act.

(iii) Additional Information. The Developer agrees to cooperate with all reasonable written requests by the City for nonproprietary information of Developer related to the status of construction of the Facilities and the anticipated completion dates for future Facilities.

(iv) Initial Disclosure; Continuing Disclosure. The Developer agrees to provide such information about its development and its financing plan that may reasonably be requested by the City, the City's bond counsel or disclosure counsel or a bond underwriter in connection with the issuance of Bonds. The Developer agrees to comply with all of its obligations under any continuing disclosure agreement or certificate executed by it in connection with the offering and sale of any of the Bonds.

(v) Compliance With Applicable Law. The Developer accepts responsibility for, and shall be responsible for, identification of, and compliance with, all applicable laws pertaining to the construction and installation of the Facilities, subject to Section 3.5 of the Development Agreement, as such may be limited by applicable law, and the contract or contracts pertaining thereto, including, but not limited to, such applicable laws as may be contained in the California Labor Code, the California Public Contract Code, and the California Government Code. The Developer will neither seek to hold, or hold, the City liable for, and will hold the City harmless with respect to any third-party claim brought against the City by reason of the Developer's failure to correctly determine the applicability of any such requirements to any contract it enters into related to this Agreement. This subsection (vii) shall only apply to any third-party enforcement action, whether public or private, and whether brought by a public enforcement agency or by private civil litigation, against the Developer, the City or CFD No. 2023-1, or any of them, with respect to the matters addressed by this subsection (vii).

12. Limitation. Nothing in this Agreement shall be construed as affecting the Developer's or the City's duty to perform their respective obligations under any other agreements, land use regulations, or subdivision requirements related to the property being developed by the Developer in CFD No. 2023-1 (if any), including Implementation Agreements and Permits for Improvements, which obligations (if any) are and shall remain independent of the Developer's and the City's right and obligations under this Agreement.

13. Cooperation. The City and Developer agree to cooperate with respect to the completion of the financing of the Facilities by CFD No. 2023-1 through the levy of Facilities Special Taxes and issuance of one or more series of Bonds, as set forth in this Agreement. The City and the Developer agree to meet in good faith to resolve any differences on future matters which are not specifically covered by the Agreement.

14. General Standard of Reasonableness. Any provision of this Agreement which requires the consent, approval or acceptance of either party hereto or any of their respective employees, officers, or agents shall be deemed to require that the consent, approval, or acceptance not be unreasonably withheld or delayed, unless the provision expressly incorporates a different standard. The foregoing provision shall not apply to provisions in the Agreement which provide for decisions to be in the sole discretion of the party making the decision.

15. Audit. The City Engineer and the City's chief financial officer shall have the right, during normal business hours and upon the giving of ten days written notice to the Developer, to review all books and records of the Developer pertaining to costs and expenses for which Developer has requested payment under this Agreement relating to the construction of any of the Facilities or Discrete Components and any bids taken or received for the construction thereof.

16. Attorneys' Fees. In the event of the bringing of any action or suit by either party against the other arising out of this Agreement, the party in whose favor final judgment shall be entered shall be entitled to recover from the other party all costs and expenses of suit, including reasonable attorneys' fees.

17. Notices. Any notice, payment or instrument required or permitted by this Agreement to be give or delivered to either party shall be deemed to have been received when personally delivered or one week following deposit of the same in any United States Post Office, registered or certified mail, postage prepaid, addressed as follows:

Developer: Zarsion-OHP I, LLC
c/o Signature Development Group, Inc.
2335 Broadway, Suite 200
Oakland, CA 94612
Attention: Michael Ghielmetti

City and/or CFD: City of Oakland
Department of Public Works
City of Oakland
250 Frank H Ogawa Plaza, Ste 4314
Oakland, CA 94612
Attention: Agency Administrative Manager

With a copy to: Office of Oakland City Attorney
One Frank H. Ogawa Plaza, Sixth Floor
Oakland, CA 94612
Attention: Supervising City Attorney for Real Estate

Each party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

18. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

19. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. This Agreement may not be assigned by the Developer without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed. In connection with any such consent of the City, the City may condition its consent upon the acceptability of the financial condition of the proposed assignee and

upon any other factor which the City deems relevant in the circumstances. Nothing in this Section 19 shall prevent the Developer from assigning all or any part of the Purchase Price or the right to receive the return of any Deposits to a third party without the consent of, or advance notice to, the City, but the City is not required to make payment to any party other than Developer unless provided a copy of the assignment at least five calendar days prior to any expenditure.

20. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

21. Merger. No other agreement, statement or promise made by any party or any employee, officer or agent of any party with respect to any matters covered hereby that is not in writing and signed by all the parties to this Agreement shall be binding.

22. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

23. Amendments. Amendments to this Agreement shall be made only by written instrument executed by each of the parties hereto.

24. Governing Law. The provisions of this Agreement shall be governed by the laws of the State of California applicable to contracts made and performed in the State of California.

25. Electronic Signatures.

a. The parties hereto acknowledge and agree that this Agreement may be executed by one or more electronic means (hereinafter referred to as "**Electronic Signatures**"). Each party hereto agrees that Electronic Signatures provided by such party shall constitute effective execution and delivery of this Agreement by such party to all other parties to or relying on this Agreement. Each party hereto agrees that Electronic Signatures shall constitute complete and satisfactory evidence of the intent of such party to be bound by those signatures and by the terms and conditions of this Agreement as signed. Each party agrees that Electronic Signatures shall be deemed to be original signatures for all purposes.

b. Each party hereto agrees to accept Electronic Signatures provided by any and all other parties to this Agreement as (i) full and sufficient intent by such parties to be bound hereunder, (ii) effective execution and delivery of this Agreement and (iii) constituting this Agreement an original for all purposes, without the necessity for any manually signed copies to be provided, maintained or to exist for back up or for any other purpose.

c. If Electronic Signatures are used to execute this Agreement, each party hereto hereby accepts the terms of, and intends and does sign, this Agreement by its Electronic Signature hereto.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first-above written.

CITY OF OAKLAND,
a municipal corporation

By: _____
Jestin D. Johnson
City Administrator

Approved as to Form and Legality:

By: _____
JoAnne Dunec
Deputy City Attorney

JONES HALL,
A Professional Law Corporation

By: _____
Christopher K. Lynch
Vice President

Zarsion-OHP I, LLC,
a California limited liability company

By: _____
Michael Ghielmetti
Authorized Individual

EXHIBIT A ⁽⁴⁾

FACILITIES AND DISCRETE COMPONENTS

Improvements⁽²⁾⁽³⁾

Estimated Costs⁽¹⁾

Total Improvements

\$

Notes:

1. These are estimated costs only. The Purchase Price of the Facilities will be the Actual Costs (as defined in the Acquisition Agreement) of the Facilities, including, but not limited to, eligible soft costs, permit fees, title insurance, and construction management.
2. The quantities, measurements, sizes and types of the components of each Facility described above shall be those specified in the Plans for the Facility approved by the City.
3. Discrete Components of each Facility may be identified upon the written request of the Developer and subject to the approval of the City Engineer.
4. This Exhibit A may be amended at any time by the mutual written agreement of the Developer and the City, without requiring approval by the City Council, so long as the facilities added to Exhibit A pursuant to such amendment are authorized to be financed by CFD No. 2023-1.

EXHIBIT B

FORM OF PAYMENT REQUEST (Facilities and Discrete Components)

City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)

Zarsion-OHP I, LLC, a California limited liability company (the “**Developer**”), hereby requests payment of the Purchase Price of the Facilities and the Discrete Components (as those terms are defined in the Acquisition Agreement, dated as of _____, 2023 (the “**Acquisition Agreement**”), by and between the City of Oakland (the “**City**”) and the Developer) described in Attachment 1 hereto. Capitalized undefined terms shall have the meanings ascribed thereto in the Acquisition Agreement.

In connection with this Payment Request, the undersigned hereby represents and warrants to the City as follows:

1. The undersigned is an authorized representative of the Developer, qualified to execute this request for payment on behalf of the Developer and knowledgeable as to the matters set forth herein.

2. The Developer has submitted or submits herewith to the City Engineer Plans for each of the Facilities and/or Discrete Components described in Attachment 1, and such drawings or Plans, as applicable, are true, correct and complete representations of the Facilities and/or Discrete Components listed in Attachment 1.

3. Each of the Facilities and Discrete Components described in Attachment 1 has been constructed in accordance with the Plans therefor, the applicable Implementation Agreement, all applicable City standards and the requirements of the Acquisition Agreement. The foregoing representation and warranty is hereby given solely to support Developer’s application for payment.

4. The true and correct Actual Cost of each of the Facilities and Discrete Components described in Attachment 1 is set forth in Attachment 1.

5. To the extent applicable, the Developer has submitted or submits herewith to the City Engineer a copy of each trade contract for each of the Facilities and Discrete Components described in Attachment 1, a copy of the bid notice for each such contract and a copy of each change order applicable to each such contract, , together with the written approval of each such change order by the City Engineer of the City, if required by the Acquisition Agreement. Each change order is listed in the Change Order Log attached hereto as Attachment 2. Each change order is listed in the Change Order Log attached hereto as Attachment 2. The requirements of this paragraph 5 shall not apply to Exhibit C Contracts to the extent set forth in Sections 5(e) and 5(j) of the Acquisition Agreement.

6. The Developer has submitted or submits herewith to the City Engineer a letter from the Developer’s civil engineer evaluating invoices, receipts, worksheets and other evidence of costs for

each of the Facilities and Discrete Components described in Attachment 1, which are in sufficient detail to allow the City Engineer to verify the Actual Cost of such Facilities and Discrete Components. If any of such invoices, receipts, worksheets or other evidence of costs include costs for facilities other than such Facilities and Discrete Components, the Developer has submitted or submits herewith to the City Engineer a written description as to how the items and amounts in such invoices, receipts, worksheets and other evidence of costs have been allocated among such other Facilities and Discrete Components, and such allocation shall be evaluated pursuant to Section 6.e.(v) of the Acquisition Agreement.

7. The Developer has submitted or submits herewith to the City Engineer evidence that each of the invoices, receipts, worksheets and other evidence of costs referred to in the preceding paragraph, has been paid in full, which evidence is (i) in the form of copies of cancelled checks, (ii) electronic payment receipts, or (iii) such other form as the City Engineer of the City has approved in writing.

8. There has not been filed with or served upon the Developer notice of any lien, right to lien or attachment upon, or claim affecting the right to receive, the payment of the Purchase Price of each of the Facilities and Discrete Components described in Attachment 1 which (i) has not been released or will not be released simultaneously with the payment of such obligation or (ii) has been covered by a bond, other than materialmen's or mechanics' liens accruing by operation of law.

9. The Developer has submitted or submits herewith to the City Engineer copies of unconditional or conditional (providing for release upon payment) lien releases from all contractors, subcontractors and materialmen for all work with respect to each of the Facilities and Discrete Components described in Attachment 1, in a form subject to review and approval by the City Attorney.

10. The representations and warranties of the Developer set forth in Section 11(a) of the Acquisition Agreement are true and correct in all material respects on and as of the date hereof with the same force and effect as if made on and as of the date hereof.

11. The Developer represents that it has satisfied the conditions specified in the Acquisition Agreement for the payment of the Purchase Price by the City.

12. As used in this Section 12, the terms "**ARC**" [Active Remediation Completion report], "**APC**" [approval to proceed with construction], "**CCR/RACR**" [Construction Completion/Remedial Action Completion Report], "**IP**" [Implementation Plan] "**Pre-Construction Plan**", and "**SMP**" [Soil Management Plan] are each as described or defined in the Process Letter attached as Schedule 5.2 to the First Administrative Amendment to the Development Agreement (Oak to Ninth/Brooklyn Basin) dated August 28, 2014. Other terms not defined in this Section 12, shall have the meanings ascribed to them in the Development Agreement, including Exhibit D thereof.

(a) If this Payment Request is being submitted prior to the final completion and acceptance of the Facilities and Discrete Components pursuant to the applicable Implementation Agreement, the Developer represents and warrants that, to its actual knowledge, as of the date hereof, the Developer has (i) completed the active Remediation of any Hazardous Materials required by the

Implementation Plan applicable to the any of the Facilities and Discrete Components described in Attachment 1, or any portion thereof (collectively, the “**Subject Improvements**”), (ii) submitted an ARC and a site-specific SMP with respect to the applicable IP and (c) received the DTSC’s APC on the portion of the Project where the Applicable Improvements are located.

(b) If this Payment Request is being submitted concurrently with, or following, the final completion and acceptance of the Subject Improvements pursuant to the applicable Implementation Agreement, the Developer represents and warrants that, to its actual knowledge, as of the date hereof, the Developer has (i) completed the active Remediation of any Hazardous Materials required by the IP applicable to the any of the Subject Improvements, (ii) submitted an ARC and a site-specific SMP with respect to the applicable IP, (iii) received the DTSC’s APC on the portion of the Project where the Subject Improvements are located, (iv) completed the work required by the DTSC-approved Pre-Construction Plan applicable to the Subject Improvements and (v) submitted and received DTSC’s approval of a CCR/RACR with respect to the work set forth in the DTSC-approved Pre-Construction Plan.

I hereby declare under penalty of perjury that the above representations and warranties are true and correct.

Zarsion-OHP I, LLC,
a California limited liability company

By: _____
Michael Ghielmetti
Authorized Individual

APPROVAL BY THE [CITY ENGINEER/PUBLIC WORKS DIRECTOR]

The [City Engineer/Public Works Director] of the City of Oakland hereby certifies as follows:

(i) Zarsion-OHP I, LLC, a California limited liability company (the “**Developer**”), has requested payment of the Purchase Price of the Facilities and the Discrete Components described in Attachment 1 hereto.

(ii) The City Engineer has confirmed that each of the Facilities and Discrete Components described in Attachment 1 is Substantially Complete in accordance with the Plans.

(iii) The Developer’s civil engineer has provided documentation to the City Engineer that the Facilities and Discrete Components installed are consistent with those presented in the documentation of Actual Costs.

(iv) The Actual Cost of the Facilities and Discrete Components described in Attachment 1 has been reviewed, verified and approved by the City Engineer under the terms specified in Section 5 of the Acquisition Agreement. As such, Payment of the Purchase Price of each of the Facilities and Discrete Components described in Attachment 1 is hereby approved.

The City is obligated to pay the Purchase Price from Funding Sources only, and from no other funds, as set forth more completely in the Acquisition Agreement (defined below).

Capitalized undefined terms shall have the meanings ascribed thereto in the Acquisition Agreement, dated as of [Acquisition Agreement Date] (the “**Acquisition Agreement**”), by and between the City of Oakland (the “**City**”) and the Developer.

Date:

**[CITY ENGINEER/PUBLIC WORKS
DIRECTOR], CITY OF
OAKLAND**

By: _____

ATTACHMENT 1

Facility or Discrete Component	Actual Cost	Purchase Price
Total		

ATTACHMENT 2

CHANGE ORDER LOG

EXHIBIT C

EXHIBIT C CONTRACTS

Attachment C

**PETITION TO CREATE A NEW
COMMUNITY FACILITIES DISTRICT,
CEASE LEVYING A SPECIAL TAX FOR AN EXISTING COMMUNITY FACILITIES DISTRICT
AND EXTINGUISH THE RELATED LIEN,
AND RELATED WAIVERS AND CONSENTS**

June 28, 2023

City Council of the
City of Oakland
1 Frank H Ogawa Plaza
Oakland, California 94612

Members of the Council:

This petition (the “**Petition**”) is submitted to the City Council of the City of Oakland (the “**City**”) under the Mello-Roos Community Facilities Act of 1982 (Section 53311 and following of the California Government Code) (the “**Act**”).

The Property Owner (as defined below) is petitioning the City Council to create a new CFD No. 2023-1 (as defined below) and to include the Property (as defined below) in CFD No. 2023-1

Because the Property will be subject to the Facilities Special Tax and the Services Special Tax (as defined below) levied in CFD No. 2023-1, the Property Owner is also petitioning the City Council to adopt a resolution determining that the CFD No. 2017-1 Special Tax (as defined below) shall not be levied on the Property and the related lien on the Property shall be extinguished.

The City approved a development now known as Brooklyn Basin Project (and formerly known as the Oak-to-Ninth Avenue Mixed Use Development) 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 200,000 square feet of commercial space, a minimum of 3,534 parking spaces, approximately 31 acres of open space, two renovated marinas, as well as shoreline improvements, new roads, and other infrastructure and improvement (the “**Brooklyn Basin Project**”).

The City, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company (“Developer”), as successor by assignment from Oakland Harbor Partners, LLC, are parties to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Brooklyn Basin Project (as amended and assigned, the “**Development Agreement**”).

The Development Agreement required the formation of a community facilities district for the Brooklyn Basin Project. In accordance with the Development Agreement, the City Council established City of Oakland Community Facilities District No. 2017-1 (Brooklyn Basin Public Services) (“**CFD No. 2017-1**”) pursuant to Resolution No. 86960 C.M.S. to provide funds to maintain

certain public parks and other public improvements, which includes all of the taxable property that will be developed as the Brooklyn Basin Project, including Phases I-IV.

On May 16, 2023 the City Council adopted Ordinance No. 13789 C.M.S., which approved a Third Amendment to the Development Agreement, which together with the related additional entitlements approved by the City Council, permits the development of an additional six hundred (600) residential units within the Brooklyn Basin Project.

Section 4.13 of the Development Agreement permits the Developer to request the City to use any public financing method available for the Brooklyn Basin Project.

1. Petitioners. This Petition is submitted pursuant to the Act to the City by the owner (the “**Property Owner**”) of 100% of the fee simple interest in the real property identified in Exhibit C attached hereto (the “**Property**”). The Property Owner warrants to the City with respect to the Property that the signatories are authorized to execute this Petition and that the submission of this Petition and participation in the City’s proceedings under the Act will not constitute a violation or event of default under any existing financing arrangement in any way affecting the Property Owner and such Property, including any “due-on-encumbrance” clauses under any existing deeds of trust secured by the Property.

2. Request to Institute Proceedings for a New Community Facilities District. The City Council is hereby requested to do all of the following:

- a. Undertake proceedings under the Act to create a new community facilities district to be designated “City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)” (“**CFD No. 2023-1**”), which CFD No. 2023-1 shall initially include the Property.
- b. Conduct a landowner-voter election in accordance with the Act to obtain authorization (i) to levy a special tax for facilities (the “Facilities Special Tax”) and a special tax for services (the “Services Special Tax”) on the non-exempt property located within CFD No. 2023-1; (ii) to authorize the issue of special tax bonds and other debt for CFD No. 2023-1, all as shall be more fully established during the course of the requested legal proceedings for establishment of CFD No. 2023-1; and (iii) to establish an appropriations limit for CFD No. 2023-1.
- c. Conduct proceedings for the items described in (a) and (b) above.

3. Boundaries of CFD No. 2023-1. The Property Owner hereby asks that the territory within the boundaries of CFD No. 2023-1 be as shown on the map attached hereto as Exhibit B, which includes the Property and encompasses a portion of Phase I and all of Phases II-IV of the Brooklyn Basin Project.

4. Purpose of CFD No. 2023-1. CFD No. 2023-1 shall be created for the purpose of financing the facilities (the “**Authorized CFD No. 2023-1 Improvements**”) and the public services (the “**Authorized CFD No. 2023-1 Services**”) described in Exhibit A attached hereto and incorporated herein by reference. The City Council will be authorized, on behalf of CFD No. 2023-1, to issue special tax bonds and other debt (as defined in the Act) in one or more series to finance the Authorized CFD No. 2023-1 Improvements and the related incidental expenses of the proceedings and bond financing.

5. Elections for CFD No. 2023-1. The Property Owner hereby asks that the special election to be held under the Act to authorize the special taxes and the issuance of the bonds and other debt and to establish an appropriations limit for CFD No. 2023-1 be consolidated into a single election and that the election be conducted by the City and its officials, using mailed or hand-delivered ballots, and that such ballots be opened and canvassed and the results certified at the same meeting of the City Council as the public hearings on CFD No. 2023-1 under the Act or as soon thereafter as possible.

6. Waivers for CFD No. 2023-1. To expedite the completion of the proceedings for CFD No. 2023-1, all notices of hearings and all notices of election, applicable waiting periods under the Act for the election and all ballot analyses and arguments for the election are hereby waived. The Property Owner also waives any requirement as to the specific form of the ballot to be used for the election, whether under the Act, the California Elections Code or otherwise.

The Property Owner expressly acknowledges and consents to the public hearings for CFD No. 2023-1 being held on September 19, 2023 or such other date determined by the City Council, and acknowledges and agrees that, notwithstanding Section 53321(e) of the Act, holding such public hearings on a date that is more than 60 days after the City Council adopts a resolution of intention to establish CFD No. 2023-1 does not directly affect the jurisdiction of the City Council to order the installation of the Authorized CFD No. 2023-1 Facilities or the provision of the Authorized CFD No. 2023-1 Services, and shall not void or invalidate any proceedings related to CFD No. 2023-1, any levy of special taxes for the costs of such Authorized CFD No. 2023-1 Facilities or Authorized CFD No. 2023-1 Services or any bonds or debt issued for CFD No. 2023-1. The Property Owner acknowledges that the City has informed the Property Owner that it is relying on, and would not proceed with, the formation of CFD No. 2023-1 without receiving, such waivers, acknowledgements, consents and agreements in initiating formation of CFD 2023-1.

7. Request for Proceedings for CFD No. 2017-1. The City Council previously conducted proceedings under the Act to form CFD No. 2017-1 and authorize the levy of a special tax (the “**CFD No. 2017-1 Special Tax**”) on the taxable properties in CFD No. 2017-1, including the Property. The Property Owner hereby asks the City to cease levying the CFD No. 2017-1 Special Tax on the Property and extinguish the related lien upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1. More specifically, the Property Owner hereby requests the City Council to do the following:

- a. Adopt a resolution determining that the CFD No. 2017-1 Special Tax shall not be levied on the Property upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1.
- b. Upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1, cause the City Clerk to record in the real property records of the County of Alameda a Notice of Cessation of Special Tax that complies with the requirements of Section 53330.5 of the Act.

8. Deposits. Compliance with the provisions of subsection (d) of Section 53318 of the Act has been accomplished by a deposit of funds by the Property Owner with the City, made not

later than the date of submission of this petition to the City Clerk, pursuant to a Deposit and Reimbursement Agreement, between the City and the Property Owner, to pay the estimated costs to be incurred by the City in conducting proceedings for establishment of CFD No. 2023-1 and discharging the lien of the CFD No. 2017-1 Special Taxes on the Property.


9. Counterparts. This Petition may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

By executing this Petition, the persons below agree to all of the above.

The property that is the subject of this Petition is identified on Exhibit C

The name of the owner of record of such property and the petitioner and its mailing address is:

CV OW PARCEL D OWNER, LLC,
a Delaware limited liability company

By:  _____

Name: Damian Gancman

Title: Authorized Individual

Mailing Address:

1901 Avenue of the Stars, Suite 1950
Attention: Damian Gancman
Telephone: 310-566-8700
Email: dgancman@cityview.com

EXHIBIT A

PROPOSED DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY CFD No. 2023-1

City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)

AUTHORIZED FACILITIES

It is intended that CFD No. 2023-1 will be authorized to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 that are required as conditions of development of the property within CFD No. 2023-1 and that will be owned and operated by the City or any other public agency (which may include the Port of Oakland) or utility identified by the City (subject to compliance with the Act), including, but not limited to, the following:

Phase II Improvements

Park and park and open space improvements consisting of the following improvements:

Completion of Phase II Township Commons Park (formerly referred to as Shoreline Park), initial phase of Clinton Basin Boardwalk, and Brooklyn Plaza (formerly referred to as Gateway Park) open space improvements. Improvements consist of removal of the existing wharf structure, landscape improvements (hardscape and landscaping), construction of a pile supported promenade improvement, installation of bike paths, pedestrian walkways, bay trail connections, park furnishings and shoreline improvements.

Phase III Improvements

Sii Tka Park (formerly referred to as South Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape improvements), installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

5th Avenue Improvements – Efforts include demolition of existing 5th Avenue improvements, installation of wet and dry utilities, re-construction of 5th Avenue surface improvements including sidewalks and landscape improvements.

Phase IV Improvements

Mayhew Park (formerly referred to as Channel Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape) installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

4th Avenue Improvements – construction of wet and dry utilities, construction of street improvements, sidewalks and landscape improvements.

Facilities Special Taxes may be collected and set-aside in designated funds and collected over several years (i.e., reserves), and used to fund facilities authorized to be financed by CFD No. 2023-1.

AUTHORIZED SERVICES

Special Taxes collected in CFD No. 2023-1 may finance, in whole or in part, the following services (“services” shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982):

The full cost of all direct and incidental costs related to providing public services and maintenance, operation, repair, or replacement of certain public infrastructure within the areas shown on Attachment 1 attached hereto and incorporated herein. More specifically, the services may include, but are not limited to:

- (i) maintenance, repair, and replacement of parks and landscaping in public areas and in the public right of way along public streets, , including, but not limited to, irrigation, tree trimming, mowing, hardscape, sidewalk, trails including the reconstructed trestle structure within Township Commons park and related maintenance of equipment specific to the Brooklyn Basin facilities, and vegetation maintenance and control;
- (ii) solely with respect to that portion of Embarcadero located adjacent to Brooklyn Basin: maintenance of the landscaping on Embarcadero (trees, palms and shrubs) and reserves for the replacement of landscaping, maintenance of the sidewalk (on the south side of Embarcadero), maintenance and reserves for irrigation and utility costs incurred for controller operations and irrigation
- (iii) operation and maintenance of street lights, street furniture, and other appurtenances;
- (iv) maintenance and operations of storm water treatment/protection services ("stormwater services"), including, but not limited to, the operation and maintenance, repair, and replacement of storm drainage systems that are necessary for the City to comply with the stormwater management and treatment requirements imposed by the City and the Municipal Regional Stormwater Permit (issued by the San Francisco Bay Regional Water Quality Control Board), and the CEQA mitigation requirements for the Updated Brooklyn Basin Project. These stormwater services shall be performed for all pump stations and gravity conveyance storm drainage improvements that are located within or downstream of any pump station and any bioretention/stormwater treatment basin, including the applicable drainage inlets, pipes, and stormwater outfall structures that discharge stormwater to the San Francisco Bay (stormwater protection services expressly exclude the operation, maintenance, repair and replacement of all

other gravity conveyance stormwater improvements located within the Updated Brooklyn Basin Project);

- (v) maintenance of a small watercraft launch/water taxi dock improvement;
- (vi) shared maintenance costs of public restrooms located within the 9th Avenue Terminal Shed Building;
- (vii) annual inspection and reporting obligations associated with the parks, open space areas, public rights-of-way and ground water monitoring wells as required by the applicable operations and maintenance plan; and
- (viii) any other public services authorized to be funded under California Government Code Section 53313 that are also stipulated as maintenance obligations pursuant to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Updated Brooklyn Basin Project and recorded against all of the real property covered thereby (as amended and assigned, the “Development Agreement”), by and between the City of Oakland, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company, as successor by assignment from Oakland Harbor Partners, LLC.

Maintenance as used herein includes replacement and the creation and funding of a reserve fund to pay for a replacement of such facilities. The Services Special Taxes shall only fund authorized Services to the extent that they are in addition to those provided to land within CFD No. 2023-1 prior to the creation of CFD No. 2023-1.

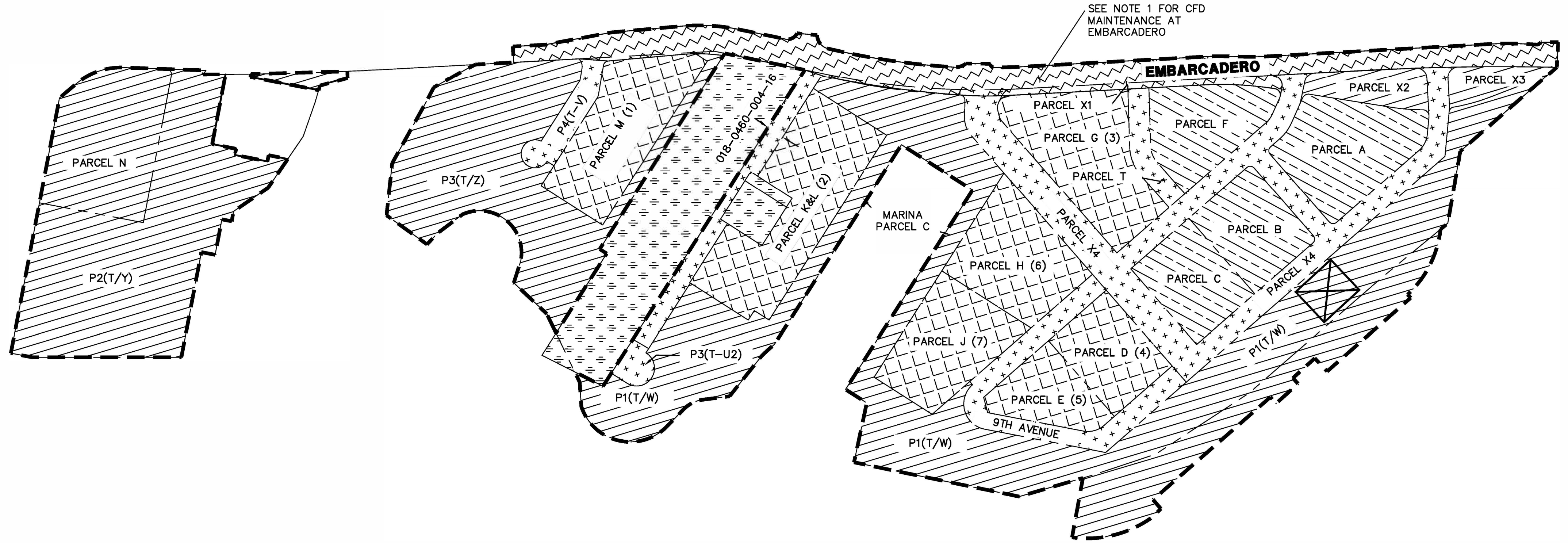
ADMINISTRATIVE AND INCIDENTAL EXPENSES

CFD No. 2023-1 may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees of the City and the bond trustee or fiscal agent related to CFD 2023-1 and the Bonds.
3. Reimbursement of costs related to the formation of CFD No. 2023-1 advanced by the City, the landowner(s) in CFD No. 2023-1, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in CFD No. 2023-1 or any party related to any of the foregoing, for facilities, fees or other purposes or costs of CFD No. 2023-1.
4. All “costs” and “incidental expenses” related to the eligible facilities as those terms are defined in the Act.

Special Taxes may be collected and set-aside in designated funds and collected over several years and used to fund facilities or services authorized to be financed by CFD No. 2023-1.

MAP OF AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CITY OF OAKLAND
COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES),
CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA


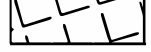
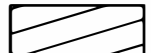
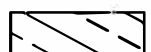
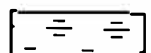
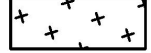




SEE NOTE 1 FOR CFD
MAINTENANCE AT
EMBARCADERO

TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY
FACILITIES DISTRICT NO. 2023-1:

- (1) 018-0430-001-14 - PARCEL M
- (2) 018-0460-004-11 - PARCELS K&L
- (2) 018-0465-002-30 - PARCEL G
- (3) 018-0465-015-00 - PARCEL D
- (4) 018-0465-016-00 - PARCEL E
- (5) 018-0465-017-00 - PARCEL H
- (6) 018-0465-018-00 - PARCEL J

LINETYPES & SYMBOLS

-  CFD 2023-1 BOUNDARY
-  TAXABLE PROPERTIES WITHIN CFD 2023-1
-  AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CFD 2023-1
-  ORIGINAL TAXABLE PROPERTIES WITHIN CFD 2017-1
-  PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS
-  PUBLIC STREETS MAINTENANCE AND RESERVES LIMITED TO LANDSCAPE IMPROVEMENTS, IRRIGATION IMPROVEMENTS, SIDEWALKS, STREETLIGHTS, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION
-  DEPICTS GENERAL AREA OF 9TH AVENUE TERMINAL SHED BUILDING SOLELY FOR PURPOSES OF INDICATING THAT PUBLIC RESTROOMS WITHIN THE BUILDING ARE WITHIN THE SERVICES AREA OF CFD 2023-1
-  EMBARCADERO SERVICE AREA. SEE MAINTENANCE NOTE 1 BELOW

MAINTENANCE NOTE:

1. TO THE EXTENT CONSISTENT WITH THE DESCRIPTION OF AUTHORIZED SERVICES IN THE CFD 2023-1 PROCEEDINGS, CFD MAINTENANCE ON EMBARCADERO INCLUDES ALL OF THE LANDSCAPING ON EMBARCADERO (TREES, PALMS AND SHRUBS) AND RESERVES FOR THE REPLACEMENT OF LANDSCAPING, MAINTENANCE OF THE SIDEWALK (ON THE SOUTH SIDE OF EMBARCADERO), MAINTENANCE, RESERVES FOR IRRIGATION, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION.

BOUNDARY NOTE:
REFERENCE IS HEREBY MADE TO THE MAPS MAINTAINED BY THE ALAMEDA COUNTY ASSESSOR FOR AN EXACT DESCRIPTION OF THE LINES AND DIMENSIONS OF EACH LOT AND PARCEL.

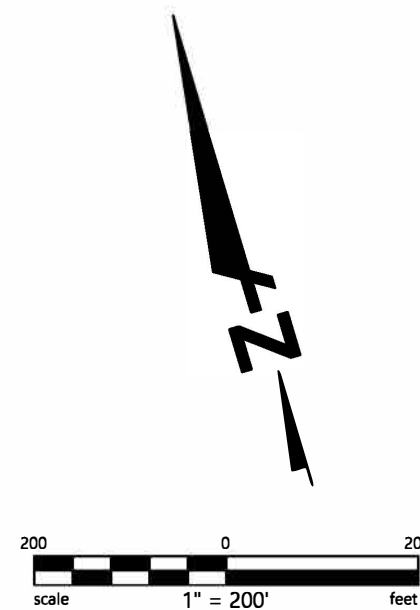
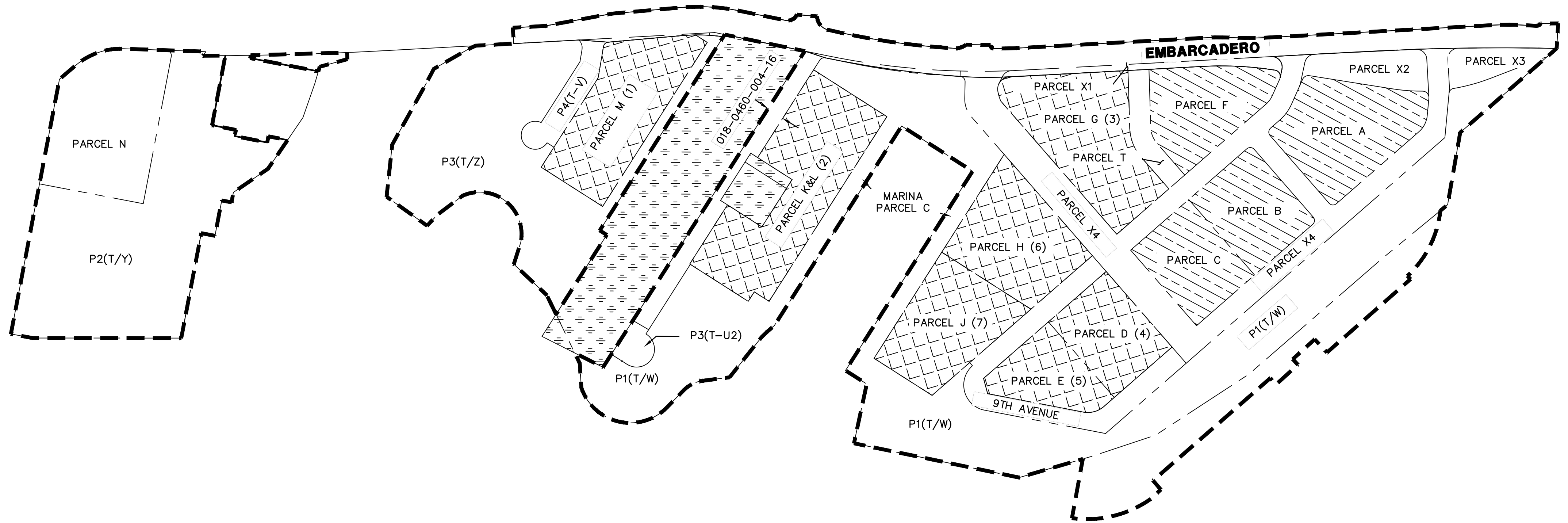


EXHIBIT B

PROPOSED BOUNDARY MAP

**City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**



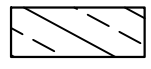
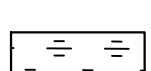
PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1:

- (1) 018-0430-001-14 - PARCEL M
- (2) 018-0460-004-11 - PARCELS K&L
- (2) 018-0465-002-30 - PARCEL G
- (3) 018-0465-015-00 - PARCEL D
- (4) 018-0465-016-00 - PARCEL E
- (5) 018-0465-017-00 - PARCEL H
- (6) 018-0465-018-00 - PARCEL J

LINETYPES & SYMBOLS

-  CFD 2023-1 BOUNDARY
-  TAXABLE PROPERTIES WITHIN CFD 2023-1
-  TAXABLE PROPERTIES WITHIN CFD 2017-1 (FOR REFERENCE ONLY)
-  PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLAND THIS ____ DAY OF _____, 20__.

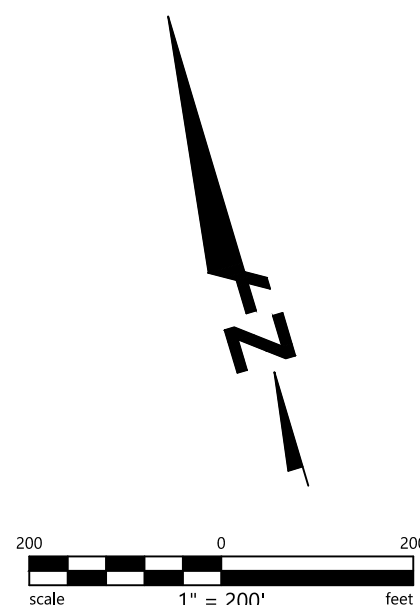
CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF OAKLAND AT A MEETING THEREOF, HELD ON THE ____ DAY OF _____, 20__ BY ITS RESOLUTION NO. _____.

CITY CLERK

FILED THIS ____ DAY OF _____, 20__, AT THE HOUR OF _____ O'CLOCK __M., IN BOOK ____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE ____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

COUNTY RECORDER, COUNTY OF ALAMEDA



BOUNDARY NOTE:
REFERENCE IS HEREBY MADE TO THE MAPS MAINTAINED BY THE ALAMEDA COUNTY ASSESSOR FOR AN EXACT DESCRIPTION OF THE LINES AND DIMENSIONS OF EACH LOT AND PARCEL.

EXHIBIT C
LIST OF PARCELS

APN	Acreage
018-0465-015-00	1.43 acres

**PETITION TO CREATE A NEW
COMMUNITY FACILITIES DISTRICT,
CEASE LEVYING A SPECIAL TAX FOR AN EXISTING COMMUNITY FACILITIES DISTRICT
AND EXTINGUISH THE RELATED LIEN,
AND RELATED WAIVERS AND CONSENTS**

June 28, 2023

City Council of the
City of Oakland
1 Frank H Ogawa Plaza
Oakland, California 94612

Members of the Council:

This petition (the "**Petition**") is submitted to the City Council of the City of Oakland (the "**City**") under the Mello-Roos Community Facilities Act of 1982 (Section 53311 and following of the California Government Code) (the "**Act**").

The Property Owner (as defined below) is petitioning the City Council to create a new CFD No. 2023-1 (as defined below) and to include the Property (as defined below) in CFD No. 2023-1

Because the Property will be subject to the Facilities Special Tax and the Services Special Tax (as defined below) levied in CFD No. 2023-1, the Property Owner is also petitioning the City Council to adopt a resolution determining that the CFD No. 2017-1 Special Tax (as defined below) shall not be levied on the Property and the related lien on the Property shall be extinguished.

The City approved a development now known as Brooklyn Basin Project (and formerly known as the Oak-to-Ninth Avenue Mixed Use Development) 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 200,000 square feet of commercial space, a minimum of 3,534 parking spaces, approximately 31 acres of open space, two renovated marinas, as well as shoreline improvements, new roads, and other infrastructure and improvement (the "**Brooklyn Basin Project**").

The City, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company ("Developer"), as successor by assignment from Oakland Harbor Partners, LLC, are parties to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Brooklyn Basin Project (as amended and assigned, the "**Development Agreement**").

The Development Agreement required the formation of a community facilities district for the Brooklyn Basin Project. In accordance with the Development Agreement, the City Council established City of Oakland Community Facilities District No. 2017-1 (Brooklyn Basin Public Services) ("**CFD No. 2017-1**") pursuant to Resolution No. 86960 C.M.S. to provide funds to maintain

certain public parks and other public improvements, which includes all of the taxable property that will be developed as the Brooklyn Basin Project, including Phases I-IV.

On May 16, 2023 the City Council adopted Ordinance No. 13789 C.M.S., which approved a Third Amendment to the Development Agreement, which together with the related additional entitlements approved by the City Council, permits the development of an additional six hundred (600) residential units within the Brooklyn Basin Project.

Section 4.13 of the Development Agreement permits the Developer to request the City to use any public financing method available for the Brooklyn Basin Project.

1. Petitioners. This Petition is submitted pursuant to the Act to the City by the owner (the "**Property Owner**") of 100% of the fee simple interest in the real property identified in Exhibit C attached hereto (the "**Property**"). The Property Owner warrants to the City with respect to the Property that the signatories are authorized to execute this Petition and that the submission of this Petition and participation in the City's proceedings under the Act will not constitute a violation or event of default under any existing financing arrangement in any way affecting the Property Owner and such Property, including any "due-on-encumbrance" clauses under any existing deeds of trust secured by the Property.

2. Request to Institute Proceedings for a New Community Facilities District. The City Council is hereby requested to do all of the following:

- a. Undertake proceedings under the Act to create a new community facilities district to be designated "City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)" ("**CFD No. 2023-1**"), which CFD No. 2023-1 shall initially include the Property.
- b. Conduct a landowner-voter election in accordance with the Act to obtain authorization (i) to levy a special tax for facilities (the "Facilities Special Tax") and a special tax for services (the "Services Special Tax") on the non-exempt property located within CFD No. 2023-1; (ii) to authorize the issue of special tax bonds and other debt for CFD No. 2023-1, all as shall be more fully established during the course of the requested legal proceedings for establishment of CFD No. 2023-1; and (iii) to establish an appropriations limit for CFD No. 2023-1.
- c. Conduct proceedings for the items described in (a) and (b) above.

3. Boundaries of CFD No. 2023-1. The Property Owner hereby asks that the territory within the boundaries of CFD No. 2023-1 be as shown on the map attached hereto as Exhibit B, which includes the Property and encompasses a portion of Phase I and all of Phases II-IV of the Brooklyn Basin Project.

4. Purpose of CFD No. 2023-1. CFD No. 2023-1 shall be created for the purpose of financing the facilities (the "**Authorized CFD No. 2023-1 Improvements**") and the public services (the "**Authorized CFD No. 2023-1 Services**") described in Exhibit A attached hereto and incorporated herein by reference. The City Council will be authorized, on behalf of CFD No. 2023-1, to issue special tax bonds and other debt (as defined in the Act) in one or more series to finance the Authorized CFD No. 2023-1 Improvements and the related incidental expenses of the proceedings and bond financing.

5. Elections for CFD No. 2023-1. The Property Owner hereby asks that the special election to be held under the Act to authorize the special taxes and the issuance of the bonds and other debt and to establish an appropriations limit for CFD No. 2023-1 be consolidated into a single election and that the election be conducted by the City and its officials, using mailed or hand-delivered ballots, and that such ballots be opened and canvassed and the results certified at the same meeting of the City Council as the public hearings on CFD No. 2023-1 under the Act or as soon thereafter as possible.

6. Waivers for CFD No. 2023-1. To expedite the completion of the proceedings for CFD No. 2023-1, all notices of hearings and all notices of election, applicable waiting periods under the Act for the election and all ballot analyses and arguments for the election are hereby waived. The Property Owner also waives any requirement as to the specific form of the ballot to be used for the election, whether under the Act, the California Elections Code or otherwise.

The Property Owner expressly acknowledges and consents to the public hearings for CFD No. 2023-1 being held on September 19, 2023 or such other date determined by the City Council, and acknowledges and agrees that, notwithstanding Section 53321(e) of the Act, holding such public hearings on a date that is more than 60 days after the City Council adopts a resolution of intention to establish CFD No. 2023-1 does not directly affect the jurisdiction of the City Council to order the installation of the Authorized CFD No. 2023-1 Facilities or the provision of the Authorized CFD No. 2023-1 Services, and shall not void or invalidate any proceedings related to CFD No. 2023-1, any levy of special taxes for the costs of such Authorized CFD No. 2023-1 Facilities or Authorized CFD No. 2023-1 Services or any bonds or debt issued for CFD No. 2023-1. The Property Owner acknowledges that the City has informed the Property Owner that it is relying on, and would not proceed with, the formation of CFD No. 2023-1 without receiving, such waivers, acknowledgements, consents and agreements in initiating formation of CFD 2023-1.

7. Request for Proceedings for CFD No. 2017-1. The City Council previously conducted proceedings under the Act to form CFD No. 2017-1 and authorize the levy of a special tax (the "**CFD No. 2017-1 Special Tax**") on the taxable properties in CFD No. 2017-1, including the Property. The Property Owner hereby asks the City to cease levying the CFD No. 2017-1 Special Tax on the Property and extinguish the related lien upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1. More specifically, the Property Owner hereby requests the City Council to do the following:

- a. Adopt a resolution determining that the CFD No. 2017-1 Special Tax shall not be levied on the Property upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1.
- b. Upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1, cause the City Clerk to record in the real property records of the County of Alameda a Notice of Cessation of Special Tax that complies with the requirements of Section 53330.5 of the Act.

8. Deposits. Compliance with the provisions of subsection (d) of Section 53318 of the Act has been accomplished by a deposit of funds by the Property Owner with the City, made not

later than the date of submission of this petition to the City Clerk, pursuant to a Deposit and Reimbursement Agreement, between the City and the Property Owner, to pay the estimated costs to be incurred by the City in conducting proceedings for establishment of CFD No. 2023-1 and discharging the lien of the CFD No. 2017-1 Special Taxes on the Property.

9. Counterparts. This Petition may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

By executing this Petition, the persons below agree to all of the above.

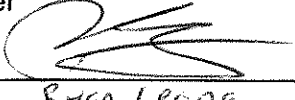
The property that is the subject of this Petition is identified on Exhibit C

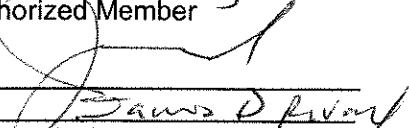
The name of the owner of record of such property and the petitioner and its mailing address is:

SRMBROOKLYN, LLC
a Washington limited liability company

By: SRMJVOZ, LLC,
a Washington limited liability company
Its: Manager

By: SRM Development, LLC,
a Washington limited liability company
Its: Manager

By: 
Name: Ryan Leong
Its: Authorized Member

By: 
Name: James O'Rourke
Its: Authorized Member

Mailing Address:
111 N. Post St., Suite 200
Spokane, WA 99201
Attention: Ryan Leong
Telephone: (509) 944-4557
Email: ryan@srmdevelopment.com

EXHIBIT A

PROPOSED DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY CFD No. 2023-1

City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)

AUTHORIZED FACILITIES

It is intended that CFD No. 2023-1 will be authorized to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 that are required as conditions of development of the property within CFD No. 2023-1 and that will be owned and operated by the City or any other public agency (which may include the Port of Oakland) or utility identified by the City (subject to compliance with the Act), including, but not limited to, the following:

Phase II Improvements

Park and park and open space improvements consisting of the following improvements:

Completion of Phase II Township Commons Park (formerly referred to as Shoreline Park), initial phase of Clinton Basin Boardwalk, and Brooklyn Plaza (formerly referred to as Gateway Park) open space improvements. Improvements consist of removal of the existing wharf structure, landscape improvements (hardscape and landscaping), construction of a pile supported promenade improvement, installation of bike paths, pedestrian walkways, bay trail connections, park furnishings and shoreline improvements.

Phase III Improvements

Sii Tka Park (formerly referred to as South Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape improvements), installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

5th Avenue Improvements – Efforts include demolition of existing 5th Avenue improvements, installation of wet and dry utilities, re-construction of 5th Avenue surface improvements including sidewalks and landscape improvements.

Phase IV Improvements

Mayhew Park (formerly referred to as Channel Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape) installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

4th Avenue Improvements – construction of wet and dry utilities, construction of street improvements, sidewalks and landscape improvements.

Facilities Special Taxes may be collected and set-aside in designated funds and collected over several years (i.e., reserves), and used to fund facilities authorized to be financed by CFD No. 2023-1.

AUTHORIZED SERVICES

Special Taxes collected in CFD No. 2023-1 may finance, in whole or in part, the following services (“services” shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982):

The full cost of all direct and incidental costs related to providing public services and maintenance, operation, repair, or replacement of certain public infrastructure within the areas shown on Attachment 1 attached hereto and incorporated herein. More specifically, the services may include, but are not limited to:

- (i) maintenance, repair, and replacement of parks and landscaping in public areas and in the public right of way along public streets, , including, but not limited to, irrigation, tree trimming, mowing, hardscape, sidewalk, trails including the reconstructed trestle structure within Township Commons park and related maintenance of equipment specific to the Brooklyn Basin facilities, and vegetation maintenance and control;
- (ii) solely with respect to that portion of Embarcadero located adjacent to Brooklyn Basin: maintenance of the landscaping on Embarcadero (trees, palms and shrubs) and reserves for the replacement of landscaping, maintenance of the sidewalk (on the south side of Embarcadero), maintenance and reserves for irrigation and utility costs incurred for controller operations and irrigation
- (iii) operation and maintenance of street lights, street furniture, and other appurtenances;
- (iv) maintenance and operations of storm water treatment/protection services ("stormwater services"), including, but not limited to, the operation and maintenance, repair, and replacement of storm drainage systems that are necessary for the City to comply with the stormwater management and treatment requirements imposed by the City and the Municipal Regional Stormwater Permit (issued by the San Francisco Bay Regional Water Quality Control Board), and the CEQA mitigation requirements for the Updated Brooklyn Basin Project. These stormwater services shall be performed for all pump stations and gravity conveyance storm drainage improvements that are located within or downstream of any pump station and any bioretention/stormwater treatment basin, including the applicable drainage inlets, pipes, and stormwater outfall structures that discharge stormwater to the San Francisco Bay (stormwater protection services expressly exclude the operation, maintenance, repair and replacement of all

other gravity conveyance stormwater improvements located within the Updated Brooklyn Basin Project);

- (v) maintenance of a small watercraft launch/water taxi dock improvement;
- (vi) shared maintenance costs of public restrooms located within the 9th Avenue Terminal Shed Building;
- (vii) annual inspection and reporting obligations associated with the parks, open space areas, public rights-of-way and ground water monitoring wells as required by the applicable operations and maintenance plan; and
- (viii) any other public services authorized to be funded under California Government Code Section 53313 that are also stipulated as maintenance obligations pursuant to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Updated Brooklyn Basin Project and recorded against all of the real property covered thereby (as amended and assigned, the “Development Agreement”), by and between the City of Oakland, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company, as successor by assignment from Oakland Harbor Partners, LLC.

Maintenance as used herein includes replacement and the creation and funding of a reserve fund to pay for a replacement of such facilities. The Services Special Taxes shall only fund authorized Services to the extent that they are in addition to those provided to land within CFD No. 2023-1 prior to the creation of CFD No. 2023-1.

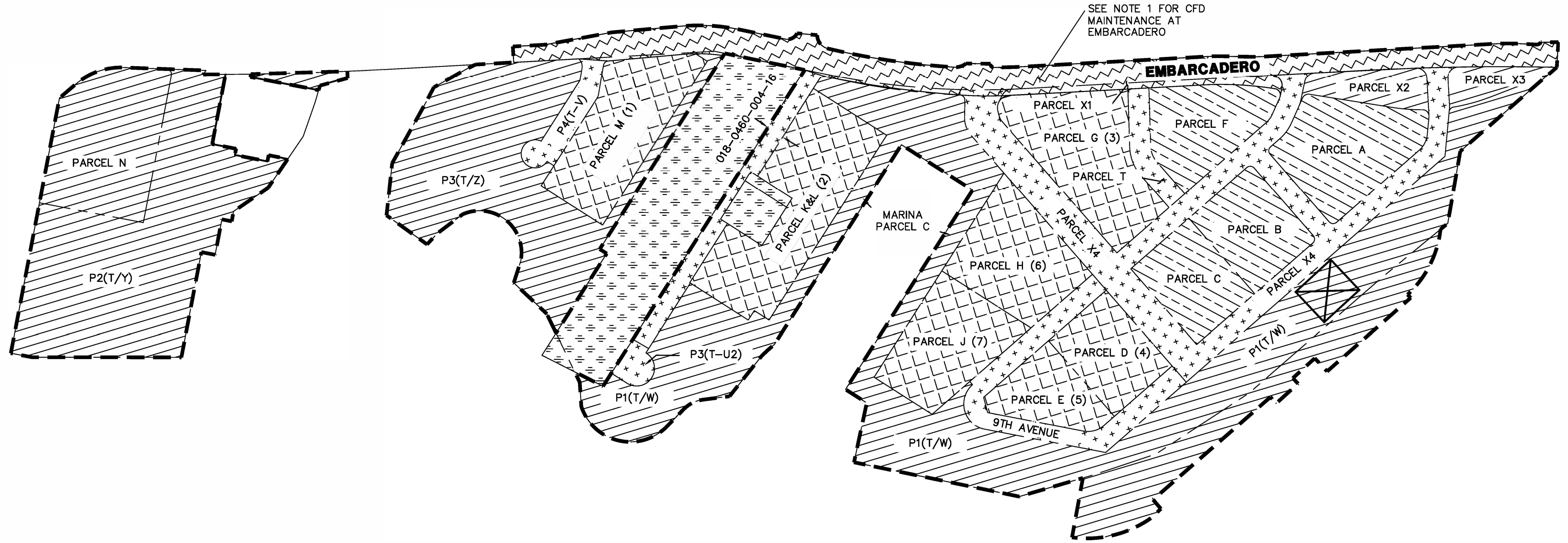
ADMINISTRATIVE AND INCIDENTAL EXPENSES

CFD No. 2023-1 may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees of the City and the bond trustee or fiscal agent related to CFD 2023-1 and the Bonds.
3. Reimbursement of costs related to the formation of CFD No. 2023-1 advanced by the City, the landowner(s) in CFD No. 2023-1, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in CFD No. 2023-1 or any party related to any of the foregoing, for facilities, fees or other purposes or costs of CFD No. 2023-1.
4. All “costs” and “incidental expenses” related to the eligible facilities as those terms are defined in the Act.

Special Taxes may be collected and set-aside in designated funds and collected over several years and used to fund facilities or services authorized to be financed by CFD No. 2023-1.

MAP OF AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CITY OF OAKLAND
COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES),
CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA


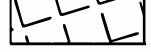
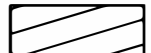
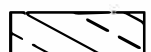
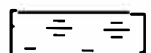
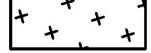




SEE NOTE 1 FOR CFD MAINTENANCE AT EMBARCADERO

TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1:

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LINETYPES & SYMBOLS

-  CFD 2023-1 BOUNDARY
-  TAXABLE PROPERTIES WITHIN CFD 2023-1
-  AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CFD 2023-1
-  ORIGINAL TAXABLE PROPERTIES WITHIN CFD 2017-1
-  PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS
-  PUBLIC STREETS MAINTENANCE AND RESERVES LIMITED TO LANDSCAPE IMPROVEMENTS, IRRIGATION IMPROVEMENTS, SIDEWALKS, STREETLIGHTS, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION
-  DEPICTS GENERAL AREA OF 9TH AVENUE TERMINAL SHED BUILDING SOLELY FOR PURPOSES OF INDICATING THAT PUBLIC RESTROOMS WITHIN THE BUILDING ARE WITHIN THE SERVICES AREA OF CFD 2023-1
-  EMBARCADERO SERVICE AREA. SEE MAINTENANCE NOTE 1 BELOW

MAINTENANCE NOTE:

1. TO THE EXTENT CONSISTENT WITH THE DESCRIPTION OF AUTHORIZED SERVICES IN THE CFD 2023-1 PROCEEDINGS, CFD MAINTENANCE ON EMBARCADERO INCLUDES ALL OF THE LANDSCAPING ON EMBARCADERO (TREES, PALMS AND SHRUBS) AND RESERVES FOR THE REPLACEMENT OF LANDSCAPING, MAINTENANCE OF THE SIDEWALK (ON THE SOUTH SIDE OF EMBARCADERO), MAINTENANCE, RESERVES FOR IRRIGATION, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION.

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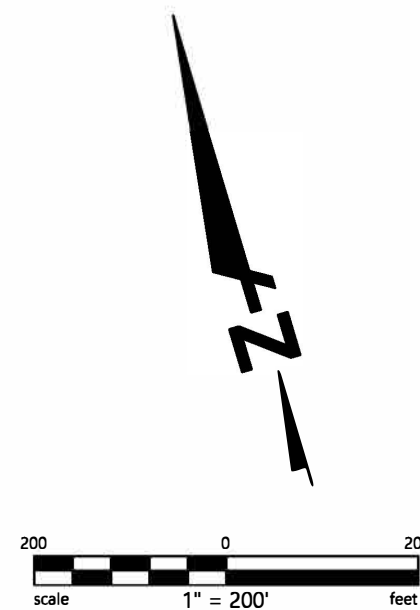
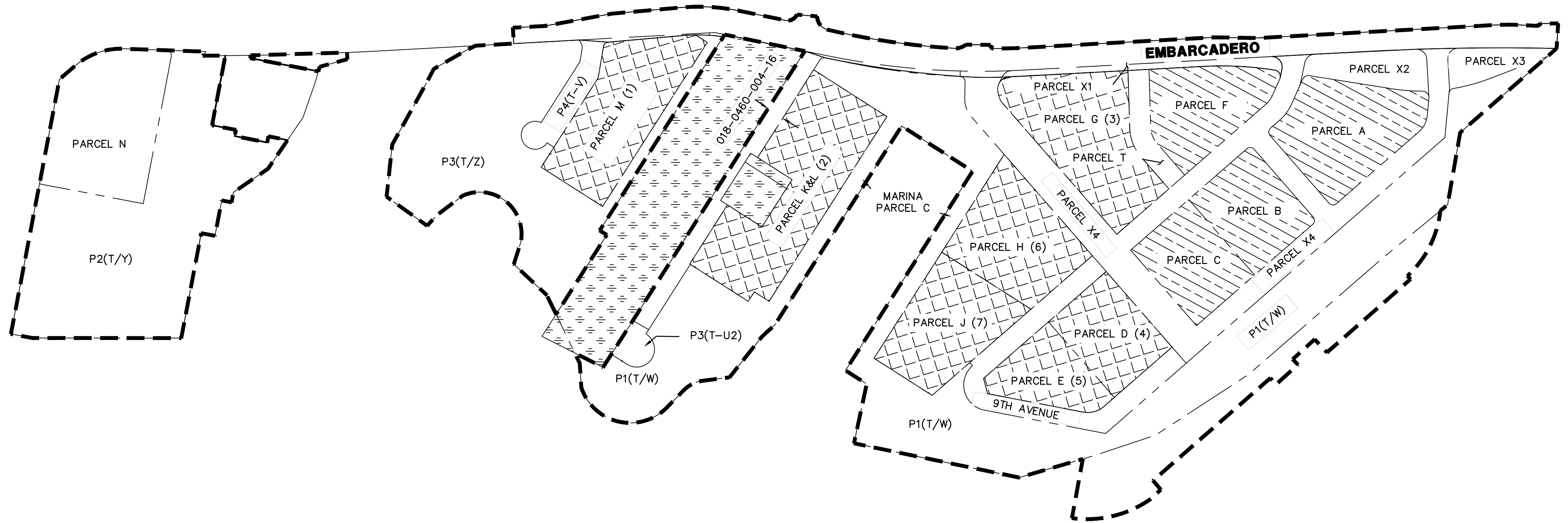


EXHIBIT B

PROPOSED BOUNDARY MAP

**City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**



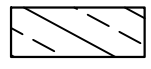
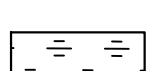
PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



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-  PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLAND THIS ____ DAY OF _____, 20__.

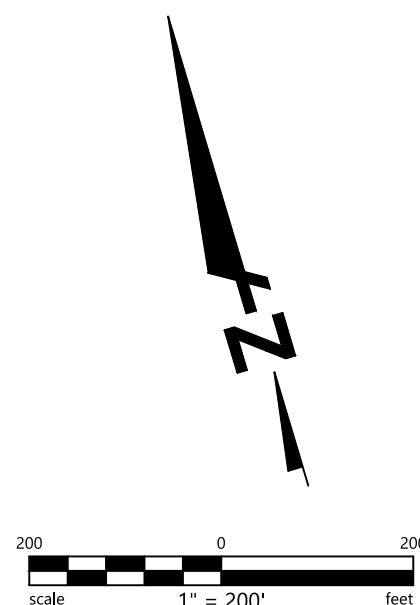
CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF OAKLAND AT A MEETING THEREOF, HELD ON THE ____ DAY OF _____, 20__ BY ITS RESOLUTION NO. _____.

CITY CLERK

FILED THIS ____ DAY OF _____, 20__, AT THE HOUR OF _____ O'CLOCK __M., IN BOOK ____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE ____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

COUNTY RECORDER, COUNTY OF ALAMEDA



BOUNDARY NOTE:
REFERENCE IS HEREBY MADE TO THE MAPS MAINTAINED BY THE ALAMEDA COUNTY ASSESSOR FOR AN EXACT DESCRIPTION OF THE LINES AND DIMENSIONS OF EACH LOT AND PARCEL.

EXHIBIT C
LIST OF PARCELS

APN	Acreage
018-0465-016-00	1.18 acres

**PETITION TO CREATE A NEW
COMMUNITY FACILITIES DISTRICT,
CEASE LEVYING A SPECIAL TAX FOR AN EXISTING COMMUNITY FACILITIES DISTRICT
AND EXTINGUISH THE RELATED LIEN,
AND RELATED WAIVERS AND CONSENTS**

June 28, 2023

City Council of the
City of Oakland
1 Frank H Ogawa Plaza
Oakland, California 94612

Members of the Council:

This petition (the “**Petition**”) is submitted to the City Council of the City of Oakland (the “**City**”) under the Mello-Roos Community Facilities Act of 1982 (Section 53311 and following of the California Government Code) (the “**Act**”).

The Property Owner (as defined below) is petitioning the City Council to create a new CFD No. 2023-1 (as defined below) and to include the Property (as defined below) in CFD No. 2023-1

Because the Property will be subject to the Facilities Special Tax and the Services Special Tax (as defined below) levied in CFD No. 2023-1, the Property Owner is also petitioning the City Council to adopt a resolution determining that the CFD No. 2017-1 Special Tax (as defined below) shall not be levied on the Property and the related lien on the Property shall be extinguished.

The City approved a development now known as Brooklyn Basin Project (and formerly known as the Oak-to-Ninth Avenue Mixed Use Development) 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 200,000 square feet of commercial space, a minimum of 3,534 parking spaces, approximately 31 acres of open space, two renovated marinas, as well as shoreline improvements, new roads, and other infrastructure and improvement (the “**Brooklyn Basin Project**”).

The City, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company (“Developer”), as successor by assignment from Oakland Harbor Partners, LLC, are parties to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Brooklyn Basin Project (as amended and assigned, the “**Development Agreement**”).

The Development Agreement required the formation of a community facilities district for the Brooklyn Basin Project. In accordance with the Development Agreement, the City Council established City of Oakland Community Facilities District No. 2017-1 (Brooklyn Basin Public Services) (“**CFD No. 2017-1**”) pursuant to Resolution No. 86960 C.M.S. to provide funds to maintain

certain public parks and other public improvements, which includes all of the taxable property that will be developed as the Brooklyn Basin Project, including Phases I-IV.

On May 16, 2023 the City Council adopted Ordinance No. 13789 C.M.S., which approved a Third Amendment to the Development Agreement, which together with the related additional entitlements approved by the City Council, permits the development of an additional six hundred (600) residential units within the Brooklyn Basin Project.

Section 4.13 of the Development Agreement permits the Developer to request the City to use any public financing method available for the Brooklyn Basin Project.

1. Petitioners. This Petition is submitted pursuant to the Act to the City by the owner (the “**Property Owner**”) of 100% of the fee simple interest in the real property identified in Exhibit C attached hereto (the “**Property**”). The Property Owner warrants to the City with respect to the Property that the signatories are authorized to execute this Petition and that the submission of this Petition and participation in the City’s proceedings under the Act will not constitute a violation or event of default under any existing financing arrangement in any way affecting the Property Owner and such Property, including any “due-on-encumbrance” clauses under any existing deeds of trust secured by the Property.

2. Request to Institute Proceedings for a New Community Facilities District. The City Council is hereby requested to do all of the following:

- a. Undertake proceedings under the Act to create a new community facilities district to be designated “City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)” (“**CFD No. 2023-1**”), which CFD No. 2023-1 shall initially include the Property.
- b. Conduct a landowner-voter election in accordance with the Act to obtain authorization (i) to levy a special tax for facilities (the “Facilities Special Tax”) and a special tax for services (the “Services Special Tax”) on the non-exempt property located within CFD No. 2023-1; (ii) to authorize the issue of special tax bonds and other debt for CFD No. 2023-1, all as shall be more fully established during the course of the requested legal proceedings for establishment of CFD No. 2023-1; and (iii) to establish an appropriations limit for CFD No. 2023-1.
- c. Conduct proceedings for the items described in (a) and (b) above.

3. Boundaries of CFD No. 2023-1. The Property Owner hereby asks that the territory within the boundaries of CFD No. 2023-1 be as shown on the map attached hereto as Exhibit B, which includes the Property and encompasses a portion of Phase I and all of Phases II-IV of the Brooklyn Basin Project.

4. Purpose of CFD No. 2023-1. CFD No. 2023-1 shall be created for the purpose of financing the facilities (the “**Authorized CFD No. 2023-1 Improvements**”) and the public services (the “**Authorized CFD No. 2023-1 Services**”) described in Exhibit A attached hereto and incorporated herein by reference. The City Council will be authorized, on behalf of CFD No. 2023-1, to issue special tax bonds and other debt (as defined in the Act) in one or more series to finance the Authorized CFD No. 2023-1 Improvements and the related incidental expenses of the proceedings and bond financing.

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6. Waivers for CFD No. 2023-1. To expedite the completion of the proceedings for CFD No. 2023-1, all notices of hearings and all notices of election, applicable waiting periods under the Act for the election and all ballot analyses and arguments for the election are hereby waived. The Property Owner also waives any requirement as to the specific form of the ballot to be used for the election, whether under the Act, the California Elections Code or otherwise.

The Property Owner expressly acknowledges and consents to the public hearings for CFD No. 2023-1 being held on September 19, 2023 or such other date determined by the City Council, and acknowledges and agrees that, notwithstanding Section 53321(e) of the Act, holding such public hearings on a date that is more than 60 days after the City Council adopts a resolution of intention to establish CFD No. 2023-1 does not directly affect the jurisdiction of the City Council to order the installation of the Authorized CFD No. 2023-1 Facilities or the provision of the Authorized CFD No. 2023-1 Services, and shall not void or invalidate any proceedings related to CFD No. 2023-1, any levy of special taxes for the costs of such Authorized CFD No. 2023-1 Facilities or Authorized CFD No. 2023-1 Services or any bonds or debt issued for CFD No. 2023-1. The Property Owner acknowledges that the City has informed the Property Owner that it is relying on, and would not proceed with, the formation of CFD No. 2023-1 without receiving, such waivers, acknowledgements, consents and agreements in initiating formation of CFD 2023-1.

7. Request for Proceedings for CFD No. 2017-1. The City Council previously conducted proceedings under the Act to form CFD No. 2017-1 and authorize the levy of a special tax (the “**CFD No. 2017-1 Special Tax**”) on the taxable properties in CFD No. 2017-1, including the Property. The Property Owner hereby asks the City to cease levying the CFD No. 2017-1 Special Tax on the Property and extinguish the related lien upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1. More specifically, the Property Owner hereby requests the City Council to do the following:

- a. Adopt a resolution determining that the CFD No. 2017-1 Special Tax shall not be levied on the Property upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1.
- b. Upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1, cause the City Clerk to record in the real property records of the County of Alameda a Notice of Cessation of Special Tax that complies with the requirements of Section 53330.5 of the Act.

8. Deposits. Compliance with the provisions of subsection (d) of Section 53318 of the Act has been accomplished by a deposit of funds by the Property Owner with the City, made not

later than the date of submission of this petition to the City Clerk, pursuant to a Deposit and Reimbursement Agreement, between the City and the Property Owner, to pay the estimated costs to be incurred by the City in conducting proceedings for establishment of CFD No. 2023-1 and discharging the lien of the CFD No. 2017-1 Special Taxes on the Property.

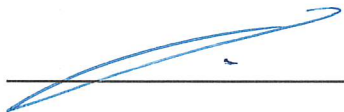
9. Counterparts. This Petition may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

By executing this Petition, the persons below agree to all of the above.

The property that is the subject of this Petition is identified on Exhibit C

The name of the owner of record of such property and the petitioner and its mailing address is:

260 BB WAY DEVELOPMENT, LLC,
a Delaware limited liability company

By:  _____

Name: Michael Ghielmetti

Title: Authorized Individual

Mailing Address:

2335 Broadway, Suite 200
Oakland, CA 94612
Attention: Michael Ghielmetti
Telephone: (510) 251-9270
Email: mghielmetti@signaturedevelopment.com

EXHIBIT A

PROPOSED DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY CFD No. 2023-1

City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)

AUTHORIZED FACILITIES

It is intended that CFD No. 2023-1 will be authorized to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 that are required as conditions of development of the property within CFD No. 2023-1 and that will be owned and operated by the City or any other public agency (which may include the Port of Oakland) or utility identified by the City (subject to compliance with the Act), including, but not limited to, the following:

Phase II Improvements

Park and park and open space improvements consisting of the following improvements:

Completion of Phase II Township Commons Park (formerly referred to as Shoreline Park), initial phase of Clinton Basin Boardwalk, and Brooklyn Plaza (formerly referred to as Gateway Park) open space improvements. Improvements consist of removal of the existing wharf structure, landscape improvements (hardscape and landscaping), construction of a pile supported promenade improvement, installation of bike paths, pedestrian walkways, bay trail connections, park furnishings and shoreline improvements.

Phase III Improvements

Sii Tka Park (formerly referred to as South Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape improvements), installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

5th Avenue Improvements – Efforts include demolition of existing 5th Avenue improvements, installation of wet and dry utilities, re-construction of 5th Avenue surface improvements including sidewalks and landscape improvements.

Phase IV Improvements

Mayhew Park (formerly referred to as Channel Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape) installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

4th Avenue Improvements – construction of wet and dry utilities, construction of street improvements, sidewalks and landscape improvements.

Facilities Special Taxes may be collected and set-aside in designated funds and collected over several years (i.e., reserves), and used to fund facilities authorized to be financed by CFD No. 2023-1.

AUTHORIZED SERVICES

Special Taxes collected in CFD No. 2023-1 may finance, in whole or in part, the following services (“services” shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982):

The full cost of all direct and incidental costs related to providing public services and maintenance, operation, repair, or replacement of certain public infrastructure within the areas shown on Attachment 1 attached hereto and incorporated herein. More specifically, the services may include, but are not limited to:

- (i) maintenance, repair, and replacement of parks and landscaping in public areas and in the public right of way along public streets, , including, but not limited to, irrigation, tree trimming, mowing, hardscape, sidewalk, trails including the reconstructed trestle structure within Township Commons park and related maintenance of equipment specific to the Brooklyn Basin facilities, and vegetation maintenance and control;
- (ii) solely with respect to that portion of Embarcadero located adjacent to Brooklyn Basin: maintenance of the landscaping on Embarcadero (trees, palms and shrubs) and reserves for the replacement of landscaping, maintenance of the sidewalk (on the south side of Embarcadero), maintenance and reserves for irrigation and utility costs incurred for controller operations and irrigation
- (iii) operation and maintenance of street lights, street furniture, and other appurtenances;
- (iv) maintenance and operations of storm water treatment/protection services ("stormwater services"), including, but not limited to, the operation and maintenance, repair, and replacement of storm drainage systems that are necessary for the City to comply with the stormwater management and treatment requirements imposed by the City and the Municipal Regional Stormwater Permit (issued by the San Francisco Bay Regional Water Quality Control Board), and the CEQA mitigation requirements for the Updated Brooklyn Basin Project. These stormwater services shall be performed for all pump stations and gravity conveyance storm drainage improvements that are located within or downstream of any pump station and any bioretention/stormwater treatment basin, including the applicable drainage inlets, pipes, and stormwater outfall structures that discharge stormwater to the San Francisco Bay (stormwater protection services expressly exclude the operation, maintenance, repair and replacement of all

other gravity conveyance stormwater improvements located within the Updated Brooklyn Basin Project);

- (v) maintenance of a small watercraft launch/water taxi dock improvement;
- (vi) shared maintenance costs of public restrooms located within the 9th Avenue Terminal Shed Building;
- (vii) annual inspection and reporting obligations associated with the parks, open space areas, public rights-of-way and ground water monitoring wells as required by the applicable operations and maintenance plan; and
- (viii) any other public services authorized to be funded under California Government Code Section 53313 that are also stipulated as maintenance obligations pursuant to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Updated Brooklyn Basin Project and recorded against all of the real property covered thereby (as amended and assigned, the “Development Agreement”), by and between the City of Oakland, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company, as successor by assignment from Oakland Harbor Partners, LLC.

Maintenance as used herein includes replacement and the creation and funding of a reserve fund to pay for a replacement of such facilities. The Services Special Taxes shall only fund authorized Services to the extent that they are in addition to those provided to land within CFD No. 2023-1 prior to the creation of CFD No. 2023-1.

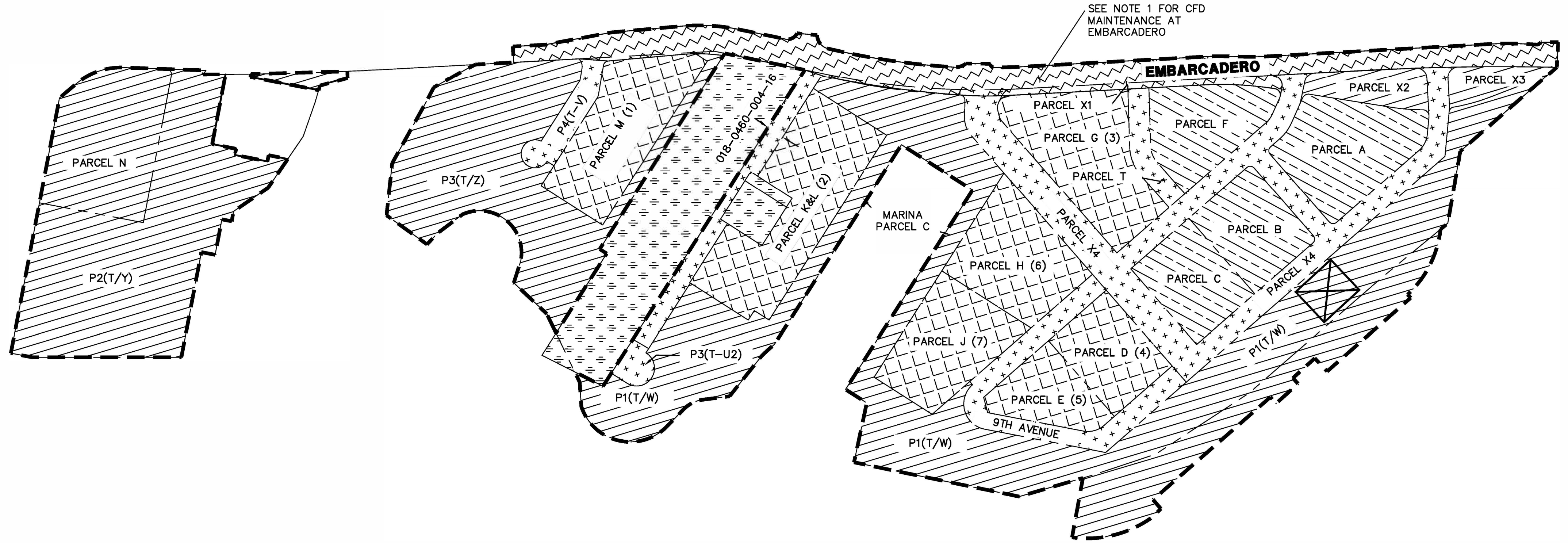
ADMINISTRATIVE AND INCIDENTAL EXPENSES

CFD No. 2023-1 may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees of the City and the bond trustee or fiscal agent related to CFD 2023-1 and the Bonds.
3. Reimbursement of costs related to the formation of CFD No. 2023-1 advanced by the City, the landowner(s) in CFD No. 2023-1, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in CFD No. 2023-1 or any party related to any of the foregoing, for facilities, fees or other purposes or costs of CFD No. 2023-1.
4. All “costs” and “incidental expenses” related to the eligible facilities as those terms are defined in the Act.

Special Taxes may be collected and set-aside in designated funds and collected over several years and used to fund facilities or services authorized to be financed by CFD No. 2023-1.

MAP OF AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CITY OF OAKLAND
COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES),
CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1:

- (1) 018-0430-001-14 - PARCEL M
- (2) 018-0460-004-11 - PARCELS K&L
- (2) 018-0465-002-30 - PARCEL G
- (3) 018-0465-015-00 - PARCEL D
- (4) 018-0465-016-00 - PARCEL E
- (5) 018-0465-017-00 - PARCEL H
- (6) 018-0465-018-00 - PARCEL J

LINETYPES & SYMBOLS

- CFD 2023-1 BOUNDARY
- TAXABLE PROPERTIES WITHIN CFD 2023-1
- AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CFD 2023-1
- ORIGINAL TAXABLE PROPERTIES WITHIN CFD 2017-1
- PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS
- PUBLIC STREETS MAINTENANCE AND RESERVES LIMITED TO LANDSCAPE IMPROVEMENTS, IRRIGATION IMPROVEMENTS, SIDEWALKS, STREETLIGHTS, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION
- DEPICTS GENERAL AREA OF 9TH AVENUE TERMINAL SHED BUILDING SOLELY FOR PURPOSES OF INDICATING THAT PUBLIC RESTROOMS WITHIN THE BUILDING ARE WITHIN THE SERVICES AREA OF CFD 2023-1
- EMBARCADERO SERVICE AREA. SEE MAINTENANCE NOTE 1 BELOW

MAINTENANCE NOTE:

1. TO THE EXTENT CONSISTENT WITH THE DESCRIPTION OF AUTHORIZED SERVICES IN THE CFD 2023-1 PROCEEDINGS, CFD MAINTENANCE ON EMBARCADERO INCLUDES ALL OF THE LANDSCAPING ON EMBARCADERO (TREES, PALMS AND SHRUBS) AND RESERVES FOR THE REPLACEMENT OF LANDSCAPING, MAINTENANCE OF THE SIDEWALK (ON THE SOUTH SIDE OF EMBARCADERO), MAINTENANCE, RESERVES FOR IRRIGATION, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION.

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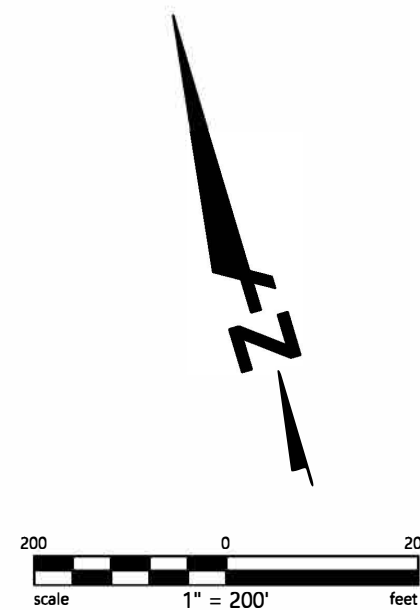
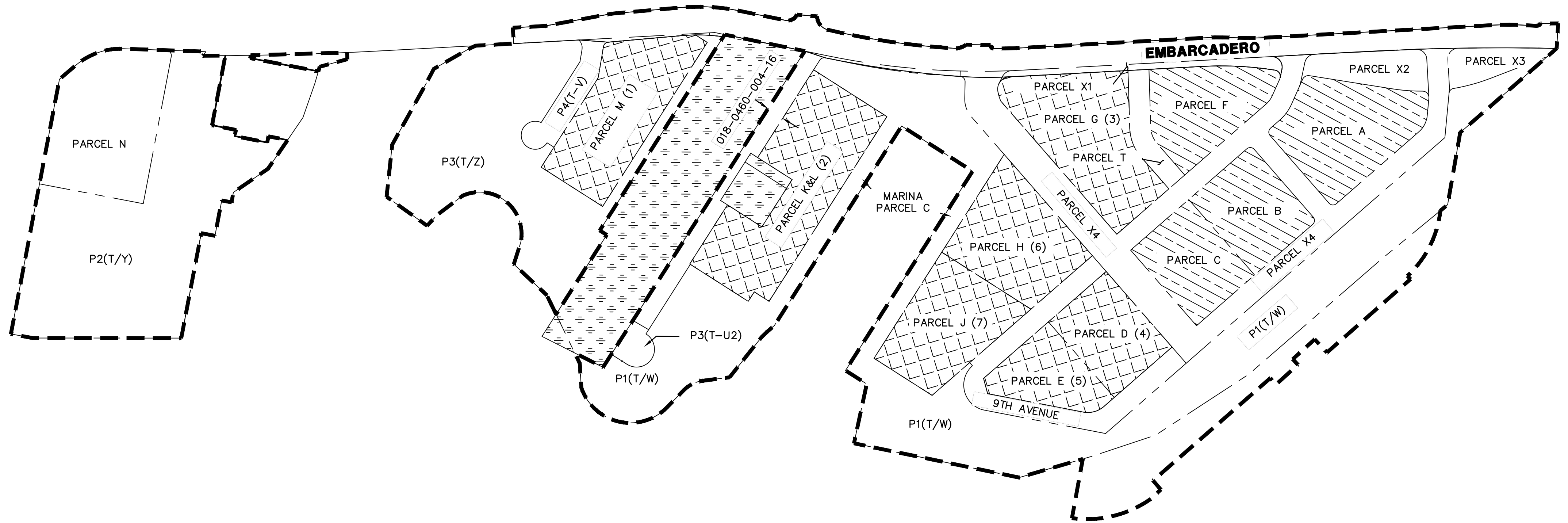


EXHIBIT B

PROPOSED BOUNDARY MAP

**City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**



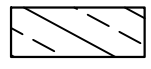
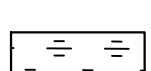
PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



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- (5) 018-0465-017-00 - PARCEL H
- (6) 018-0465-018-00 - PARCEL J

LINETYPES & SYMBOLS

-  CFD 2023-1 BOUNDARY
-  TAXABLE PROPERTIES WITHIN CFD 2023-1
-  TAXABLE PROPERTIES WITHIN CFD 2017-1 (FOR REFERENCE ONLY)
-  PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLAND THIS ____ DAY OF _____, 20__.

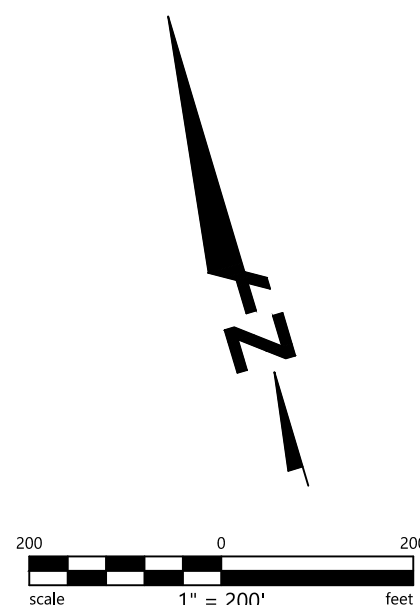
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June 28, 2023

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4. Purpose of CFD No. 2023-1. CFD No. 2023-1 shall be created for the purpose of financing the facilities (the “**Authorized CFD No. 2023-1 Improvements**”) and the public services (the “**Authorized CFD No. 2023-1 Services**”) described in Exhibit A attached hereto and incorporated herein by reference. The City Council will be authorized, on behalf of CFD No. 2023-1, to issue special tax bonds and other debt (as defined in the Act) in one or more series to finance the Authorized CFD No. 2023-1 Improvements and the related incidental expenses of the proceedings and bond financing.

5. Elections for CFD No. 2023-1. The Property Owner hereby asks that the special election to be held under the Act to authorize the special taxes and the issuance of the bonds and other debt and to establish an appropriations limit for CFD No. 2023-1 be consolidated into a single election and that the election be conducted by the City and its officials, using mailed or hand-delivered ballots, and that such ballots be opened and canvassed and the results certified at the same meeting of the City Council as the public hearings on CFD No. 2023-1 under the Act or as soon thereafter as possible.

6. Waivers for CFD No. 2023-1. To expedite the completion of the proceedings for CFD No. 2023-1, all notices of hearings and all notices of election, applicable waiting periods under the Act for the election and all ballot analyses and arguments for the election are hereby waived. The Property Owner also waives any requirement as to the specific form of the ballot to be used for the election, whether under the Act, the California Elections Code or otherwise.

The Property Owner expressly acknowledges and consents to the public hearings for CFD No. 2023-1 being held on September 19, 2023 or such other date determined by the City Council, and acknowledges and agrees that, notwithstanding Section 53321(e) of the Act, holding such public hearings on a date that is more than 60 days after the City Council adopts a resolution of intention to establish CFD No. 2023-1 does not directly affect the jurisdiction of the City Council to order the installation of the Authorized CFD No. 2023-1 Facilities or the provision of the Authorized CFD No. 2023-1 Services, and shall not void or invalidate any proceedings related to CFD No. 2023-1, any levy of special taxes for the costs of such Authorized CFD No. 2023-1 Facilities or Authorized CFD No. 2023-1 Services or any bonds or debt issued for CFD No. 2023-1. The Property Owner acknowledges that the City has informed the Property Owner that it is relying on, and would not proceed with, the formation of CFD No. 2023-1 without receiving, such waivers, acknowledgements, consents and agreements in initiating formation of CFD 2023-1.

7. Request for Proceedings for CFD No. 2017-1. The City Council previously conducted proceedings under the Act to form CFD No. 2017-1 and authorize the levy of a special tax (the “**CFD No. 2017-1 Special Tax**”) on the taxable properties in CFD No. 2017-1, including the Property. The Property Owner hereby asks the City to cease levying the CFD No. 2017-1 Special Tax on the Property and extinguish the related lien upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1. More specifically, the Property Owner hereby requests the City Council to do the following:

- a. Adopt a resolution determining that the CFD No. 2017-1 Special Tax shall not be levied on the Property upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1.
- b. Upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1, cause the City Clerk to record in the real property records of the County of Alameda a Notice of Cessation of Special Tax that complies with the requirements of Section 53330.5 of the Act.

8. Deposits. Compliance with the provisions of subsection (d) of Section 53318 of the Act has been accomplished by a deposit of funds by the Property Owner with the City, made not

later than the date of submission of this petition to the City Clerk, pursuant to a Deposit and Reimbursement Agreement, between the City and the Property Owner, to pay the estimated costs to be incurred by the City in conducting proceedings for establishment of CFD No. 2023-1 and discharging the lien of the CFD No. 2017-1 Special Taxes on the Property.

9. Counterparts. This Petition may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

By executing this Petition, the persons below agree to all of the above.

The property that is the subject of this Petition is identified on Exhibit C

The name of the owner of record of such property and the petitioner and its mailing address is:

277 BROOKLYN BASIN WAY, LLC,
a Delaware limited liability company

By:  _____

Name: Michael Ghielmetti

Title: Authorized Individual

Mailing Address:

2335 Broadway, Suite 200
Oakland, CA 94612
Attention: Michael Ghielmetti
Telephone: (510) 251-9270
Email: mghielmetti@signaturedevelopment.com

EXHIBIT A

PROPOSED DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY CFD No. 2023-1

City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)

AUTHORIZED FACILITIES

It is intended that CFD No. 2023-1 will be authorized to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 that are required as conditions of development of the property within CFD No. 2023-1 and that will be owned and operated by the City or any other public agency (which may include the Port of Oakland) or utility identified by the City (subject to compliance with the Act), including, but not limited to, the following:

Phase II Improvements

Park and park and open space improvements consisting of the following improvements:

Completion of Phase II Township Commons Park (formerly referred to as Shoreline Park), initial phase of Clinton Basin Boardwalk, and Brooklyn Plaza (formerly referred to as Gateway Park) open space improvements. Improvements consist of removal of the existing wharf structure, landscape improvements (hardscape and landscaping), construction of a pile supported promenade improvement, installation of bike paths, pedestrian walkways, bay trail connections, park furnishings and shoreline improvements.

Phase III Improvements

Sii Tka Park (formerly referred to as South Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape improvements), installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

5th Avenue Improvements – Efforts include demolition of existing 5th Avenue improvements, installation of wet and dry utilities, re-construction of 5th Avenue surface improvements including sidewalks and landscape improvements.

Phase IV Improvements

Mayhew Park (formerly referred to as Channel Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape) installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

4th Avenue Improvements – construction of wet and dry utilities, construction of street improvements, sidewalks and landscape improvements.

Facilities Special Taxes may be collected and set-aside in designated funds and collected over several years (i.e., reserves), and used to fund facilities authorized to be financed by CFD No. 2023-1.

AUTHORIZED SERVICES

Special Taxes collected in CFD No. 2023-1 may finance, in whole or in part, the following services (“services” shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982):

The full cost of all direct and incidental costs related to providing public services and maintenance, operation, repair, or replacement of certain public infrastructure within the areas shown on Attachment 1 attached hereto and incorporated herein. More specifically, the services may include, but are not limited to:

- (i) maintenance, repair, and replacement of parks and landscaping in public areas and in the public right of way along public streets, , including, but not limited to, irrigation, tree trimming, mowing, hardscape, sidewalk, trails including the reconstructed trestle structure within Township Commons park and related maintenance of equipment specific to the Brooklyn Basin facilities, and vegetation maintenance and control;
- (ii) solely with respect to that portion of Embarcadero located adjacent to Brooklyn Basin: maintenance of the landscaping on Embarcadero (trees, palms and shrubs) and reserves for the replacement of landscaping, maintenance of the sidewalk (on the south side of Embarcadero), maintenance and reserves for irrigation and utility costs incurred for controller operations and irrigation
- (iii) operation and maintenance of street lights, street furniture, and other appurtenances;
- (iv) maintenance and operations of storm water treatment/protection services ("stormwater services"), including, but not limited to, the operation and maintenance, repair, and replacement of storm drainage systems that are necessary for the City to comply with the stormwater management and treatment requirements imposed by the City and the Municipal Regional Stormwater Permit (issued by the San Francisco Bay Regional Water Quality Control Board), and the CEQA mitigation requirements for the Updated Brooklyn Basin Project. These stormwater services shall be performed for all pump stations and gravity conveyance storm drainage improvements that are located within or downstream of any pump station and any bioretention/stormwater treatment basin, including the applicable drainage inlets, pipes, and stormwater outfall structures that discharge stormwater to the San Francisco Bay (stormwater protection services expressly exclude the operation, maintenance, repair and replacement of all

other gravity conveyance stormwater improvements located within the Updated Brooklyn Basin Project);

- (v) maintenance of a small watercraft launch/water taxi dock improvement;
- (vi) shared maintenance costs of public restrooms located within the 9th Avenue Terminal Shed Building;
- (vii) annual inspection and reporting obligations associated with the parks, open space areas, public rights-of-way and ground water monitoring wells as required by the applicable operations and maintenance plan; and
- (viii) any other public services authorized to be funded under California Government Code Section 53313 that are also stipulated as maintenance obligations pursuant to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Updated Brooklyn Basin Project and recorded against all of the real property covered thereby (as amended and assigned, the “Development Agreement”), by and between the City of Oakland, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company, as successor by assignment from Oakland Harbor Partners, LLC.

Maintenance as used herein includes replacement and the creation and funding of a reserve fund to pay for a replacement of such facilities. The Services Special Taxes shall only fund authorized Services to the extent that they are in addition to those provided to land within CFD No. 2023-1 prior to the creation of CFD No. 2023-1.

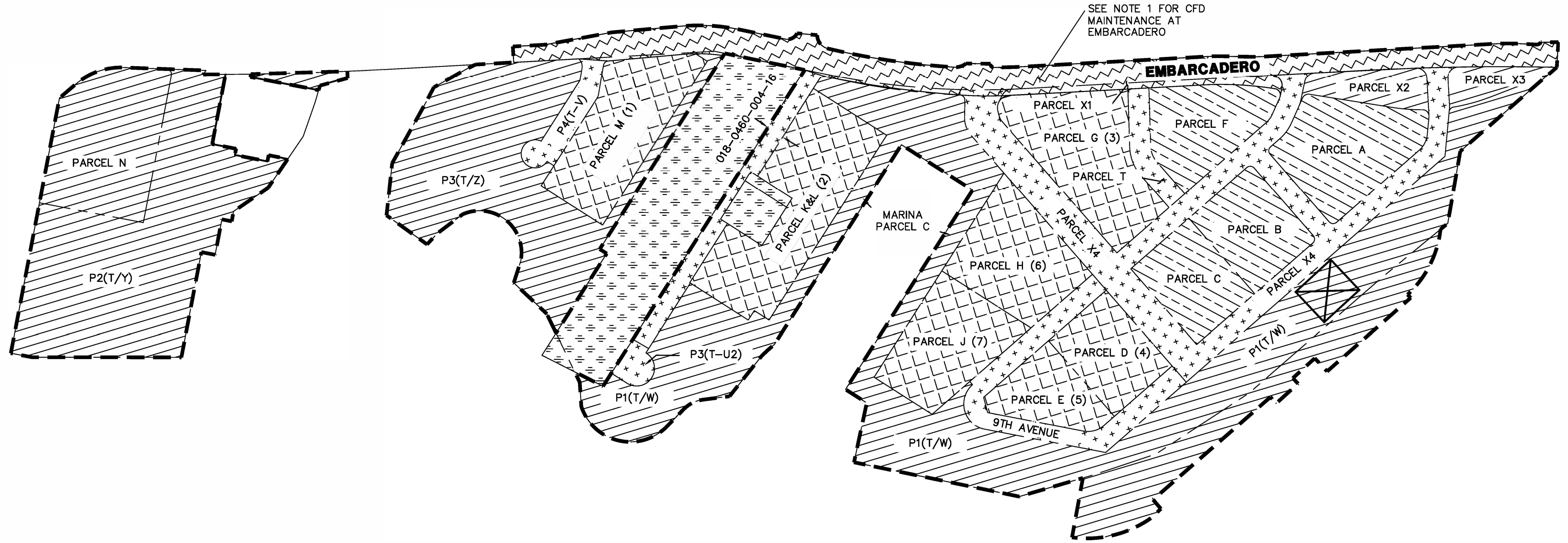
ADMINISTRATIVE AND INCIDENTAL EXPENSES

CFD No. 2023-1 may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees of the City and the bond trustee or fiscal agent related to CFD 2023-1 and the Bonds.
3. Reimbursement of costs related to the formation of CFD No. 2023-1 advanced by the City, the landowner(s) in CFD No. 2023-1, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in CFD No. 2023-1 or any party related to any of the foregoing, for facilities, fees or other purposes or costs of CFD No. 2023-1.
4. All “costs” and “incidental expenses” related to the eligible facilities as those terms are defined in the Act.

Special Taxes may be collected and set-aside in designated funds and collected over several years and used to fund facilities or services authorized to be financed by CFD No. 2023-1.

MAP OF AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CITY OF OAKLAND
COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES),
CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1:

- (1) 018-0430-001-14 - PARCEL M
- (2) 018-0460-004-11 - PARCELS K&L
- (2) 018-0465-002-30 - PARCEL G
- (3) 018-0465-015-00 - PARCEL D
- (4) 018-0465-016-00 - PARCEL E
- (5) 018-0465-017-00 - PARCEL H
- (6) 018-0465-018-00 - PARCEL J

LINETYPES & SYMBOLS

- CFD 2023-1 BOUNDARY
- TAXABLE PROPERTIES WITHIN CFD 2023-1
- AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CFD 2023-1
- ORIGINAL TAXABLE PROPERTIES WITHIN CFD 2017-1
- PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS
- PUBLIC STREETS MAINTENANCE AND RESERVES LIMITED TO LANDSCAPE IMPROVEMENTS, IRRIGATION IMPROVEMENTS, SIDEWALKS, STREETLIGHTS, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION
- DEPICTS GENERAL AREA OF 9TH AVENUE TERMINAL SHED BUILDING SOLELY FOR PURPOSES OF INDICATING THAT PUBLIC RESTROOMS WITHIN THE BUILDING ARE WITHIN THE SERVICES AREA OF CFD 2023-1
- EMBARCADERO SERVICE AREA. SEE MAINTENANCE NOTE 1 BELOW

MAINTENANCE NOTE:

1. TO THE EXTENT CONSISTENT WITH THE DESCRIPTION OF AUTHORIZED SERVICES IN THE CFD 2023-1 PROCEEDINGS, CFD MAINTENANCE ON EMBARCADERO INCLUDES ALL OF THE LANDSCAPING ON EMBARCADERO (TREES, PALMS AND SHRUBS) AND RESERVES FOR THE REPLACEMENT OF LANDSCAPING, MAINTENANCE OF THE SIDEWALK (ON THE SOUTH SIDE OF EMBARCADERO), MAINTENANCE, RESERVES FOR IRRIGATION, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION.

BOUNDARY NOTE:
REFERENCE IS HEREBY MADE TO THE MAPS MAINTAINED BY THE ALAMEDA COUNTY ASSESSOR FOR AN EXACT DESCRIPTION OF THE LINES AND DIMENSIONS OF EACH LOT AND PARCEL.

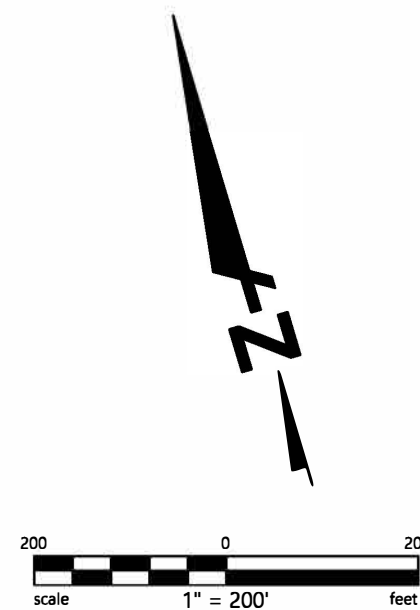
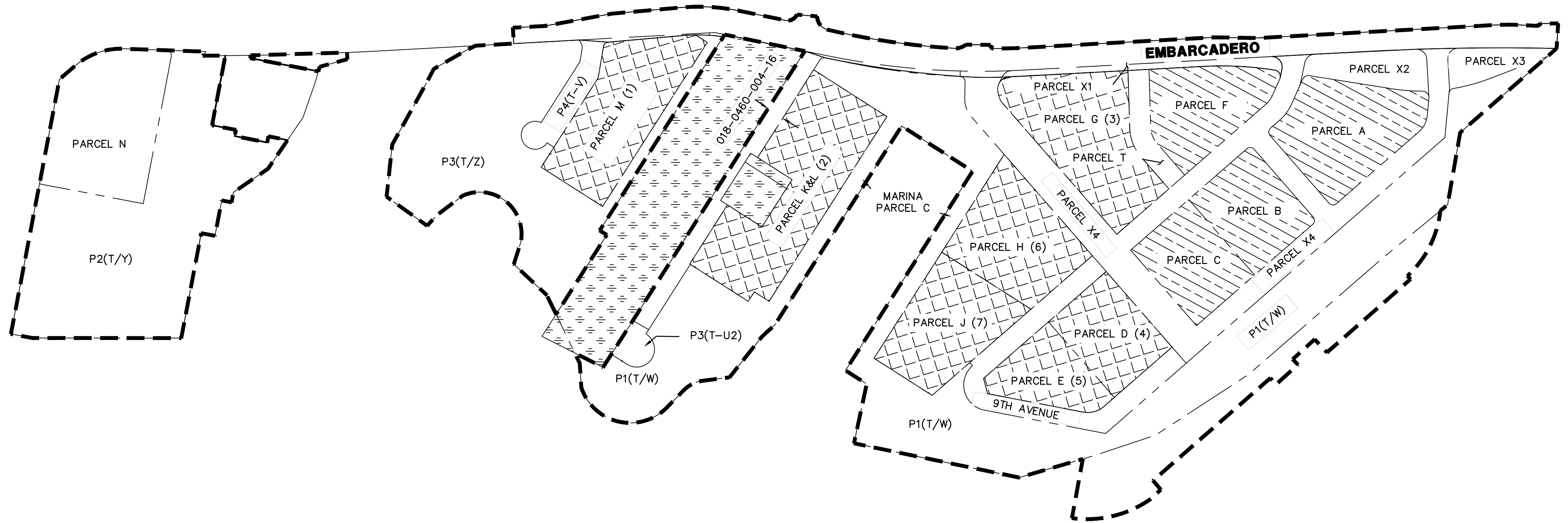


EXHIBIT B

PROPOSED BOUNDARY MAP

**City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**



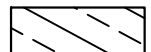
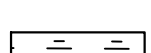
PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1:

- (1) 018-0430-001-14 - PARCEL M
- (2) 018-0460-004-11 - PARCELS K&L
- (2) 018-0465-002-30 - PARCEL G
- (3) 018-0465-015-00 - PARCEL D
- (4) 018-0465-016-00 - PARCEL E
- (5) 018-0465-017-00 - PARCEL H
- (6) 018-0465-018-00 - PARCEL J

LINETYPES & SYMBOLS

-  CFD 2023-1 BOUNDARY
-  TAXABLE PROPERTIES WITHIN CFD 2023-1
-  TAXABLE PROPERTIES WITHIN CFD 2017-1 (FOR REFERENCE ONLY)
-  PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLAND THIS ____ DAY OF _____, 20__.

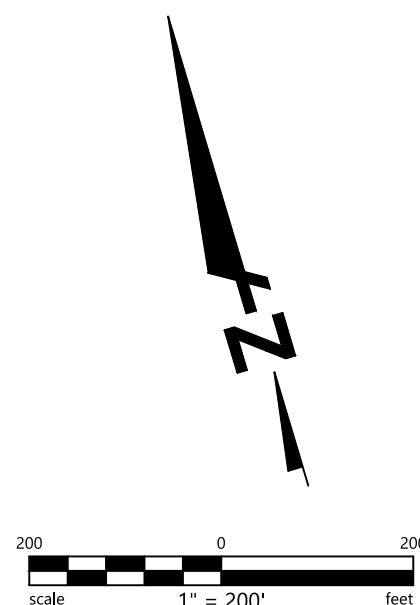
CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF OAKLAND AT A MEETING THEREOF, HELD ON THE ____ DAY OF _____, 20__ BY ITS RESOLUTION NO. _____.

CITY CLERK

FILED THIS ____ DAY OF _____, 20__, AT THE HOUR OF _____ O'CLOCK __M., IN BOOK ____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE ____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

COUNTY RECORDER, COUNTY OF ALAMEDA



BOUNDARY NOTE:
REFERENCE IS HEREBY MADE TO THE MAPS MAINTAINED BY THE ALAMEDA COUNTY ASSESSOR FOR AN EXACT DESCRIPTION OF THE LINES AND DIMENSIONS OF EACH LOT AND PARCEL.

EXHIBIT C
LIST OF PARCELS

APN	Acreage
018-0465-017-00	2.16

**PETITION TO CREATE A NEW
COMMUNITY FACILITIES DISTRICT,
CEASE LEVYING A SPECIAL TAX FOR AN EXISTING COMMUNITY FACILITIES DISTRICT
AND EXTINGUISH THE RELATED LIEN,
AND RELATED WAIVERS AND CONSENTS**

June 28, 2023

City Council of the
City of Oakland
1 Frank H Ogawa Plaza
Oakland, California 94612

Members of the Council:

This petition (the “**Petition**”) is submitted to the City Council of the City of Oakland (the “**City**”) under the Mello-Roos Community Facilities Act of 1982 (Section 53311 and following of the California Government Code) (the “**Act**”).

The Property Owner (as defined below) is petitioning the City Council to create a new CFD No. 2023-1 (as defined below) and to include the Property (as defined below) in CFD No. 2023-1

Because the Property will be subject to the Facilities Special Tax and the Services Special Tax (as defined below) levied in CFD No. 2023-1, the Property Owner is also petitioning the City Council to adopt a resolution determining that the CFD No. 2017-1 Special Tax (as defined below) shall not be levied on the Property and the related lien on the Property shall be extinguished.

The City approved a development now known as Brooklyn Basin Project (and formerly known as the Oak-to-Ninth Avenue Mixed Use Development) 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 200,000 square feet of commercial space, a minimum of 3,534 parking spaces, approximately 31 acres of open space, two renovated marinas, as well as shoreline improvements, new roads, and other infrastructure and improvement (the “**Brooklyn Basin Project**”).

The City, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company (“Developer”), as successor by assignment from Oakland Harbor Partners, LLC, are parties to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Brooklyn Basin Project (as amended and assigned, the “**Development Agreement**”).

The Development Agreement required the formation of a community facilities district for the Brooklyn Basin Project. In accordance with the Development Agreement, the City Council established City of Oakland Community Facilities District No. 2017-1 (Brooklyn Basin Public Services) (“**CFD No. 2017-1**”) pursuant to Resolution No. 86960 C.M.S. to provide funds to maintain

certain public parks and other public improvements, which includes all of the taxable property that will be developed as the Brooklyn Basin Project, including Phases I-IV.

On May 16, 2023 the City Council adopted Ordinance No. 13789 C.M.S., which approved a Third Amendment to the Development Agreement, which together with the related additional entitlements approved by the City Council, permits the development of an additional six hundred (600) residential units within the Brooklyn Basin Project.

Section 4.13 of the Development Agreement permits the Developer to request the City to use any public financing method available for the Brooklyn Basin Project.

1. Petitioners. This Petition is submitted pursuant to the Act to the City by the owner (the “**Property Owner**”) of 100% of the fee simple interest in the real property identified in Exhibit C attached hereto (the “**Property**”). The Property Owner warrants to the City with respect to the Property that the signatories are authorized to execute this Petition and that the submission of this Petition and participation in the City’s proceedings under the Act will not constitute a violation or event of default under any existing financing arrangement in any way affecting the Property Owner and such Property, including any “due-on-encumbrance” clauses under any existing deeds of trust secured by the Property.

2. Request to Institute Proceedings for a New Community Facilities District. The City Council is hereby requested to do all of the following:

- a. Undertake proceedings under the Act to create a new community facilities district to be designated “City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)” (“**CFD No. 2023-1**”), which CFD No. 2023-1 shall initially include the Property.
- b. Conduct a landowner-voter election in accordance with the Act to obtain authorization (i) to levy a special tax for facilities (the “Facilities Special Tax”) and a special tax for services (the “Services Special Tax”) on the non-exempt property located within CFD No. 2023-1; (ii) to authorize the issue of special tax bonds and other debt for CFD No. 2023-1, all as shall be more fully established during the course of the requested legal proceedings for establishment of CFD No. 2023-1; and (iii) to establish an appropriations limit for CFD No. 2023-1.
- c. Conduct proceedings for the items described in (a) and (b) above.

3. Boundaries of CFD No. 2023-1. The Property Owner hereby asks that the territory within the boundaries of CFD No. 2023-1 be as shown on the map attached hereto as Exhibit B, which includes the Property and encompasses a portion of Phase I and all of Phases II-IV of the Brooklyn Basin Project.

4. Purpose of CFD No. 2023-1. CFD No. 2023-1 shall be created for the purpose of financing the facilities (the “**Authorized CFD No. 2023-1 Improvements**”) and the public services (the “**Authorized CFD No. 2023-1 Services**”) described in Exhibit A attached hereto and incorporated herein by reference. The City Council will be authorized, on behalf of CFD No. 2023-1, to issue special tax bonds and other debt (as defined in the Act) in one or more series to finance the Authorized CFD No. 2023-1 Improvements and the related incidental expenses of the proceedings and bond financing.

5. Elections for CFD No. 2023-1. The Property Owner hereby asks that the special election to be held under the Act to authorize the special taxes and the issuance of the bonds and other debt and to establish an appropriations limit for CFD No. 2023-1 be consolidated into a single election and that the election be conducted by the City and its officials, using mailed or hand-delivered ballots, and that such ballots be opened and canvassed and the results certified at the same meeting of the City Council as the public hearings on CFD No. 2023-1 under the Act or as soon thereafter as possible.

6. Waivers for CFD No. 2023-1. To expedite the completion of the proceedings for CFD No. 2023-1, all notices of hearings and all notices of election, applicable waiting periods under the Act for the election and all ballot analyses and arguments for the election are hereby waived. The Property Owner also waives any requirement as to the specific form of the ballot to be used for the election, whether under the Act, the California Elections Code or otherwise.

The Property Owner expressly acknowledges and consents to the public hearings for CFD No. 2023-1 being held on September 19, 2023 or such other date determined by the City Council, and acknowledges and agrees that, notwithstanding Section 53321(e) of the Act, holding such public hearings on a date that is more than 60 days after the City Council adopts a resolution of intention to establish CFD No. 2023-1 does not directly affect the jurisdiction of the City Council to order the installation of the Authorized CFD No. 2023-1 Facilities or the provision of the Authorized CFD No. 2023-1 Services, and shall not void or invalidate any proceedings related to CFD No. 2023-1, any levy of special taxes for the costs of such Authorized CFD No. 2023-1 Facilities or Authorized CFD No. 2023-1 Services or any bonds or debt issued for CFD No. 2023-1. The Property Owner acknowledges that the City has informed the Property Owner that it is relying on, and would not proceed with, the formation of CFD No. 2023-1 without receiving, such waivers, acknowledgements, consents and agreements in initiating formation of CFD 2023-1.

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- a. Adopt a resolution determining that the CFD No. 2017-1 Special Tax shall not be levied on the Property upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1.
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later than the date of submission of this petition to the City Clerk, pursuant to a Deposit and Reimbursement Agreement, between the City and the Property Owner, to pay the estimated costs to be incurred by the City in conducting proceedings for establishment of CFD No. 2023-1 and discharging the lien of the CFD No. 2017-1 Special Taxes on the Property.

9. Counterparts. This Petition may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

By executing this Petition, the persons below agree to all of the above.

The property that is the subject of this Petition is identified on Exhibit C

The name of the owner of record of such property and the petitioner and its mailing address is:

CV OW PARCEL J OWNER, LLC,
a Delaware limited liability company

By:  _____

Name: Damian Gancman

Title: CFO

Mailing Address:

1901 Avenue of the Stars, Suite 1950
Attention: Damian Gancman
Telephone: 310-566-8700
Email: dgancman@cityview.com

EXHIBIT A

PROPOSED DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY CFD No. 2023-1

City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)

AUTHORIZED FACILITIES

It is intended that CFD No. 2023-1 will be authorized to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 that are required as conditions of development of the property within CFD No. 2023-1 and that will be owned and operated by the City or any other public agency (which may include the Port of Oakland) or utility identified by the City (subject to compliance with the Act), including, but not limited to, the following:

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Facilities Special Taxes may be collected and set-aside in designated funds and collected over several years (i.e., reserves), and used to fund facilities authorized to be financed by CFD No. 2023-1.

AUTHORIZED SERVICES

Special Taxes collected in CFD No. 2023-1 may finance, in whole or in part, the following services (“services” shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982):

The full cost of all direct and incidental costs related to providing public services and maintenance, operation, repair, or replacement of certain public infrastructure within the areas shown on Attachment 1 attached hereto and incorporated herein. More specifically, the services may include, but are not limited to:

- (i) maintenance, repair, and replacement of parks and landscaping in public areas and in the public right of way along public streets, , including, but not limited to, irrigation, tree trimming, mowing, hardscape, sidewalk, trails including the reconstructed trestle structure within Township Commons park and related maintenance of equipment specific to the Brooklyn Basin facilities, and vegetation maintenance and control;
- (ii) solely with respect to that portion of Embarcadero located adjacent to Brooklyn Basin: maintenance of the landscaping on Embarcadero (trees, palms and shrubs) and reserves for the replacement of landscaping, maintenance of the sidewalk (on the south side of Embarcadero), maintenance and reserves for irrigation and utility costs incurred for controller operations and irrigation
- (iii) operation and maintenance of street lights, street furniture, and other appurtenances;
- (iv) maintenance and operations of storm water treatment/protection services ("stormwater services"), including, but not limited to, the operation and maintenance, repair, and replacement of storm drainage systems that are necessary for the City to comply with the stormwater management and treatment requirements imposed by the City and the Municipal Regional Stormwater Permit (issued by the San Francisco Bay Regional Water Quality Control Board), and the CEQA mitigation requirements for the Updated Brooklyn Basin Project. These stormwater services shall be performed for all pump stations and gravity conveyance storm drainage improvements that are located within or downstream of any pump station and any bioretention/stormwater treatment basin, including the applicable drainage inlets, pipes, and stormwater outfall structures that discharge stormwater to the San Francisco Bay (stormwater protection services expressly exclude the operation, maintenance, repair and replacement of all

other gravity conveyance stormwater improvements located within the Updated Brooklyn Basin Project);

- (v) maintenance of a small watercraft launch/water taxi dock improvement;
- (vi) shared maintenance costs of public restrooms located within the 9th Avenue Terminal Shed Building;
- (vii) annual inspection and reporting obligations associated with the parks, open space areas, public rights-of-way and ground water monitoring wells as required by the applicable operations and maintenance plan; and
- (viii) any other public services authorized to be funded under California Government Code Section 53313 that are also stipulated as maintenance obligations pursuant to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Updated Brooklyn Basin Project and recorded against all of the real property covered thereby (as amended and assigned, the “Development Agreement”), by and between the City of Oakland, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company, as successor by assignment from Oakland Harbor Partners, LLC.

Maintenance as used herein includes replacement and the creation and funding of a reserve fund to pay for a replacement of such facilities. The Services Special Taxes shall only fund authorized Services to the extent that they are in addition to those provided to land within CFD No. 2023-1 prior to the creation of CFD No. 2023-1.

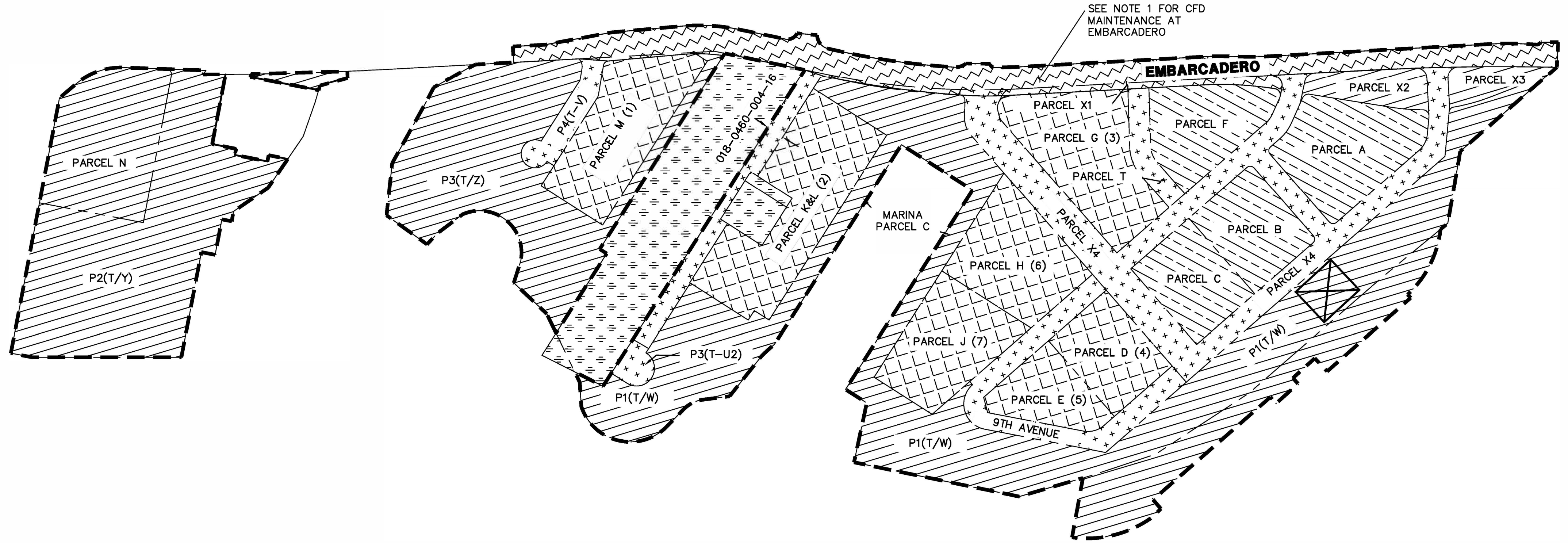
ADMINISTRATIVE AND INCIDENTAL EXPENSES

CFD No. 2023-1 may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees of the City and the bond trustee or fiscal agent related to CFD 2023-1 and the Bonds.
3. Reimbursement of costs related to the formation of CFD No. 2023-1 advanced by the City, the landowner(s) in CFD No. 2023-1, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in CFD No. 2023-1 or any party related to any of the foregoing, for facilities, fees or other purposes or costs of CFD No. 2023-1.
4. All “costs” and “incidental expenses” related to the eligible facilities as those terms are defined in the Act.

Special Taxes may be collected and set-aside in designated funds and collected over several years and used to fund facilities or services authorized to be financed by CFD No. 2023-1.

MAP OF AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CITY OF OAKLAND
COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES),
CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1:

- (1) 018-0430-001-14 - PARCEL M
- (2) 018-0460-004-11 - PARCELS K&L
- (2) 018-0465-002-30 - PARCEL G
- (3) 018-0465-015-00 - PARCEL D
- (4) 018-0465-016-00 - PARCEL E
- (5) 018-0465-017-00 - PARCEL H
- (6) 018-0465-018-00 - PARCEL J

LINETYPES & SYMBOLS

- CFD 2023-1 BOUNDARY
- TAXABLE PROPERTIES WITHIN CFD 2023-1
- AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CFD 2023-1
- ORIGINAL TAXABLE PROPERTIES WITHIN CFD 2017-1
- PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS
- PUBLIC STREETS MAINTENANCE AND RESERVES LIMITED TO LANDSCAPE IMPROVEMENTS, IRRIGATION IMPROVEMENTS, SIDEWALKS, STREETLIGHTS, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION
- DEPICTS GENERAL AREA OF 9TH AVENUE TERMINAL SHED BUILDING SOLELY FOR PURPOSES OF INDICATING THAT PUBLIC RESTROOMS WITHIN THE BUILDING ARE WITHIN THE SERVICES AREA OF CFD 2023-1
- EMBARCADERO SERVICE AREA. SEE MAINTENANCE NOTE 1 BELOW

MAINTENANCE NOTE:

1. TO THE EXTENT CONSISTENT WITH THE DESCRIPTION OF AUTHORIZED SERVICES IN THE CFD 2023-1 PROCEEDINGS, CFD MAINTENANCE ON EMBARCADERO INCLUDES ALL OF THE LANDSCAPING ON EMBARCADERO (TREES, PALMS AND SHRUBS) AND RESERVES FOR THE REPLACEMENT OF LANDSCAPING, MAINTENANCE OF THE SIDEWALK (ON THE SOUTH SIDE OF EMBARCADERO), MAINTENANCE, RESERVES FOR IRRIGATION, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION.

BOUNDARY NOTE:
REFERENCE IS HEREBY MADE TO THE MAPS MAINTAINED BY THE ALAMEDA COUNTY ASSESSOR FOR AN EXACT DESCRIPTION OF THE LINES AND DIMENSIONS OF EACH LOT AND PARCEL.

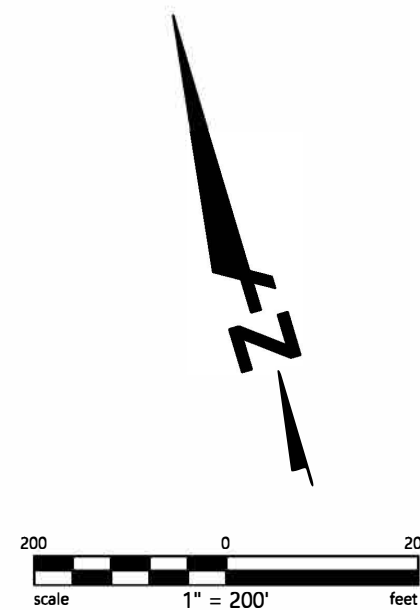
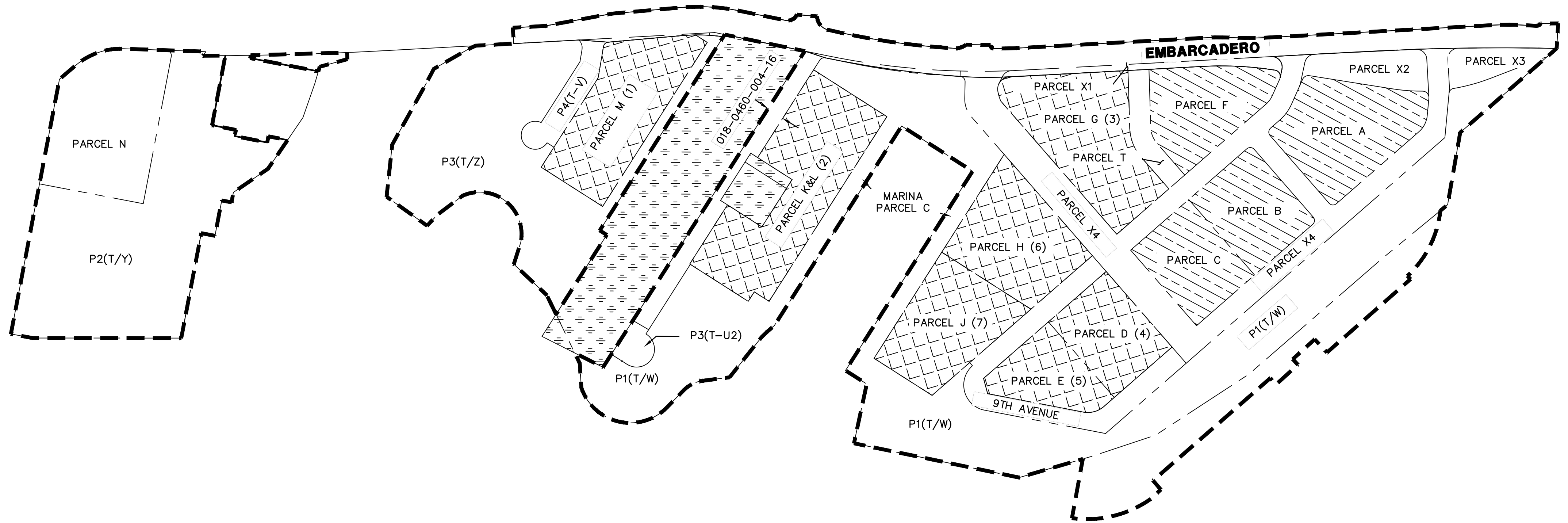


EXHIBIT B

PROPOSED BOUNDARY MAP

**City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**



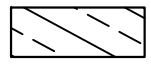
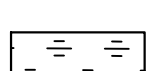
PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1:

- (1) 018-0430-001-14 - PARCEL M
- (2) 018-0460-004-11 - PARCELS K&L
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- (3) 018-0465-015-00 - PARCEL D
- (4) 018-0465-016-00 - PARCEL E
- (5) 018-0465-017-00 - PARCEL H
- (6) 018-0465-018-00 - PARCEL J

LINETYPES & SYMBOLS

-  CFD 2023-1 BOUNDARY
-  TAXABLE PROPERTIES WITHIN CFD 2023-1
-  TAXABLE PROPERTIES WITHIN CFD 2017-1 (FOR REFERENCE ONLY)
-  PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLAND THIS ____ DAY OF _____, 20__.

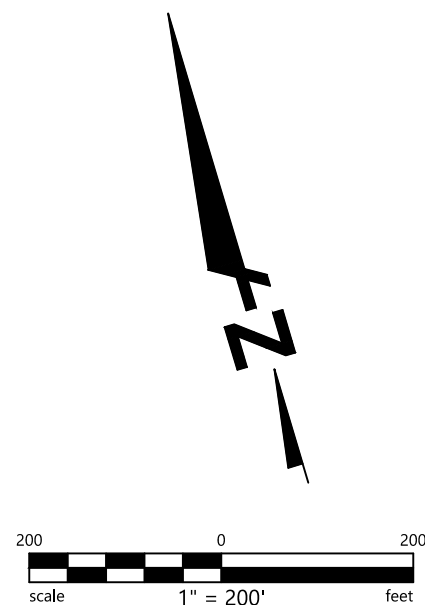
CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF OAKLAND AT A MEETING THEREOF, HELD ON THE ____ DAY OF _____, 20__ BY ITS RESOLUTION NO. _____.

CITY CLERK

FILED THIS ____ DAY OF _____, 20__, AT THE HOUR OF _____ O'CLOCK __M., IN BOOK ____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE ____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

COUNTY RECORDER, COUNTY OF ALAMEDA



BOUNDARY NOTE:
REFERENCE IS HEREBY MADE TO THE MAPS MAINTAINED BY THE ALAMEDA COUNTY ASSESSOR FOR AN EXACT DESCRIPTION OF THE LINES AND DIMENSIONS OF EACH LOT AND PARCEL.

EXHIBIT C
LIST OF PARCELS

APN	Acreage
018-0465-018-00	2.04 acres

**PETITION TO CREATE A NEW
COMMUNITY FACILITIES DISTRICT,
CEASE LEVYING A SPECIAL TAX FOR AN EXISTING COMMUNITY FACILITIES DISTRICT
AND EXTINGUISH THE RELATED LIEN,
AND RELATED WAIVERS AND CONSENTS**

June 28, 2023

City Council of the
City of Oakland
1 Frank H Ogawa Plaza
Oakland, California 94612

Members of the Council:

This petition (the “**Petition**”) is submitted to the City Council of the City of Oakland (the “**City**”) under the Mello-Roos Community Facilities Act of 1982 (Section 53311 and following of the California Government Code) (the “**Act**”).

The Property Owner (as defined below) is petitioning the City Council to create a new CFD No. 2023-1 (as defined below) and to include the Property (as defined below) in CFD No. 2023-1

Because the Property will be subject to the Facilities Special Tax and the Services Special Tax (as defined below) levied in CFD No. 2023-1, the Property Owner is also petitioning the City Council to adopt a resolution determining that the CFD No. 2017-1 Special Tax (as defined below) shall not be levied on the Property and the related lien on the Property shall be extinguished.

The City approved a development now known as Brooklyn Basin Project (and formerly known as the Oak-to-Ninth Avenue Mixed Use Development) 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 200,000 square feet of commercial space, a minimum of 3,534 parking spaces, approximately 31 acres of open space, two renovated marinas, as well as shoreline improvements, new roads, and other infrastructure and improvement (the “**Brooklyn Basin Project**”).

The City, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company (“Developer”), as successor by assignment from Oakland Harbor Partners, LLC, are parties to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Brooklyn Basin Project (as amended and assigned, the “**Development Agreement**”).

The Development Agreement required the formation of a community facilities district for the Brooklyn Basin Project. In accordance with the Development Agreement, the City Council established City of Oakland Community Facilities District No. 2017-1 (Brooklyn Basin Public Services) (“**CFD No. 2017-1**”) pursuant to Resolution No. 86960 C.M.S. to provide funds to maintain

certain public parks and other public improvements, which includes all of the taxable property that will be developed as the Brooklyn Basin Project, including Phases I-IV.

On May 16, 2023 the City Council adopted Ordinance No. 13789 C.M.S., which approved a Third Amendment to the Development Agreement, which together with the related additional entitlements approved by the City Council, permits the development of an additional six hundred (600) residential units within the Brooklyn Basin Project.

Section 4.13 of the Development Agreement permits the Developer to request the City to use any public financing method available for the Brooklyn Basin Project.

1. Petitioners. This Petition is submitted pursuant to the Act to the City by the owner (the “**Property Owner**”) of 100% of the fee simple interest in the real property identified in Exhibit C attached hereto (the “**Property**”). The Property Owner warrants to the City with respect to the Property that the signatories are authorized to execute this Petition and that the submission of this Petition and participation in the City’s proceedings under the Act will not constitute a violation or event of default under any existing financing arrangement in any way affecting the Property Owner and such Property, including any “due-on-encumbrance” clauses under any existing deeds of trust secured by the Property.

2. Request to Institute Proceedings for a New Community Facilities District. The City Council is hereby requested to do all of the following:

- a. Undertake proceedings under the Act to create a new community facilities district to be designated “City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)” (“**CFD No. 2023-1**”), which CFD No. 2023-1 shall initially include the Property.
- b. Conduct a landowner-voter election in accordance with the Act to obtain authorization (i) to levy a special tax for facilities (the “Facilities Special Tax”) and a special tax for services (the “Services Special Tax”) on the non-exempt property located within CFD No. 2023-1; (ii) to authorize the issue of special tax bonds and other debt for CFD No. 2023-1, all as shall be more fully established during the course of the requested legal proceedings for establishment of CFD No. 2023-1; and (iii) to establish an appropriations limit for CFD No. 2023-1.
- c. Conduct proceedings for the items described in (a) and (b) above.

3. Boundaries of CFD No. 2023-1. The Property Owner hereby asks that the territory within the boundaries of CFD No. 2023-1 be as shown on the map attached hereto as Exhibit B, which includes the Property and encompasses a portion of Phase I and all of Phases II-IV of the Brooklyn Basin Project.

4. Purpose of CFD No. 2023-1. CFD No. 2023-1 shall be created for the purpose of financing the facilities (the “**Authorized CFD No. 2023-1 Improvements**”) and the public services (the “**Authorized CFD No. 2023-1 Services**”) described in Exhibit A attached hereto and incorporated herein by reference. The City Council will be authorized, on behalf of CFD No. 2023-1, to issue special tax bonds and other debt (as defined in the Act) in one or more series to finance the Authorized CFD No. 2023-1 Improvements and the related incidental expenses of the proceedings and bond financing.

5. Elections for CFD No. 2023-1. The Property Owner hereby asks that the special election to be held under the Act to authorize the special taxes and the issuance of the bonds and other debt and to establish an appropriations limit for CFD No. 2023-1 be consolidated into a single election and that the election be conducted by the City and its officials, using mailed or hand-delivered ballots, and that such ballots be opened and canvassed and the results certified at the same meeting of the City Council as the public hearings on CFD No. 2023-1 under the Act or as soon thereafter as possible.

6. Waivers for CFD No. 2023-1. To expedite the completion of the proceedings for CFD No. 2023-1, all notices of hearings and all notices of election, applicable waiting periods under the Act for the election and all ballot analyses and arguments for the election are hereby waived. The Property Owner also waives any requirement as to the specific form of the ballot to be used for the election, whether under the Act, the California Elections Code or otherwise.

The Property Owner expressly acknowledges and consents to the public hearings for CFD No. 2023-1 being held on September 19, 2023 or such other date determined by the City Council, and acknowledges and agrees that, notwithstanding Section 53321(e) of the Act, holding such public hearings on a date that is more than 60 days after the City Council adopts a resolution of intention to establish CFD No. 2023-1 does not directly affect the jurisdiction of the City Council to order the installation of the Authorized CFD No. 2023-1 Facilities or the provision of the Authorized CFD No. 2023-1 Services, and shall not void or invalidate any proceedings related to CFD No. 2023-1, any levy of special taxes for the costs of such Authorized CFD No. 2023-1 Facilities or Authorized CFD No. 2023-1 Services or any bonds or debt issued for CFD No. 2023-1. The Property Owner acknowledges that the City has informed the Property Owner that it is relying on, and would not proceed with, the formation of CFD No. 2023-1 without receiving, such waivers, acknowledgements, consents and agreements in initiating formation of CFD 2023-1.

7. Request for Proceedings for CFD No. 2017-1. The City Council previously conducted proceedings under the Act to form CFD No. 2017-1 and authorize the levy of a special tax (the “**CFD No. 2017-1 Special Tax**”) on the taxable properties in CFD No. 2017-1, including the Property. The Property Owner hereby asks the City to cease levying the CFD No. 2017-1 Special Tax on the Property and extinguish the related lien upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1. More specifically, the Property Owner hereby requests the City Council to do the following:

- a. Adopt a resolution determining that the CFD No. 2017-1 Special Tax shall not be levied on the Property upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1.
- b. Upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1, cause the City Clerk to record in the real property records of the County of Alameda a Notice of Cessation of Special Tax that complies with the requirements of Section 53330.5 of the Act.

8. Deposits. Compliance with the provisions of subsection (d) of Section 53318 of the Act has been accomplished by a deposit of funds by the Property Owner with the City, made not

later than the date of submission of this petition to the City Clerk, pursuant to a Deposit and Reimbursement Agreement, between the City and the Property Owner, to pay the estimated costs to be incurred by the City in conducting proceedings for establishment of CFD No. 2023-1 and discharging the lien of the CFD No. 2017-1 Special Taxes on the Property.

9. Counterparts. This Petition may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

By executing this Petition, the persons below agree to all of the above.

The property that is the subject of this Petition is identified on Exhibit C

The name of the owner of record of such property and the petitioner and its mailing address is:

ZARSION-OHP I, LLC,
a California limited liability company

By:  _____

Name: Michael Ghielmetti

Title: Authorized Individual

Mailing Address:

2335 Broadway, Suite 200
Attention: Michael Ghielmetti
Telephone: (510) 251-9270
Email: mghielmetti@signaturedevelopment.com

EXHIBIT A

PROPOSED DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY CFD No. 2023-1

City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)

AUTHORIZED FACILITIES

It is intended that CFD No. 2023-1 will be authorized to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 that are required as conditions of development of the property within CFD No. 2023-1 and that will be owned and operated by the City or any other public agency (which may include the Port of Oakland) or utility identified by the City (subject to compliance with the Act), including, but not limited to, the following:

Phase II Improvements

Park and park and open space improvements consisting of the following improvements:

Completion of Phase II Township Commons Park (formerly referred to as Shoreline Park), initial phase of Clinton Basin Boardwalk, and Brooklyn Plaza (formerly referred to as Gateway Park) open space improvements. Improvements consist of removal of the existing wharf structure, landscape improvements (hardscape and landscaping), construction of a pile supported promenade improvement, installation of bike paths, pedestrian walkways, bay trail connections, park furnishings and shoreline improvements.

Phase III Improvements

Sii Tka Park (formerly referred to as South Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape improvements), installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

5th Avenue Improvements – Efforts include demolition of existing 5th Avenue improvements, installation of wet and dry utilities, re-construction of 5th Avenue surface improvements including sidewalks and landscape improvements.

Phase IV Improvements

Mayhew Park (formerly referred to as Channel Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape) installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

4th Avenue Improvements – construction of wet and dry utilities, construction of street improvements, sidewalks and landscape improvements.

Facilities Special Taxes may be collected and set-aside in designated funds and collected over several years (i.e., reserves), and used to fund facilities authorized to be financed by CFD No. 2023-1.

AUTHORIZED SERVICES

Special Taxes collected in CFD No. 2023-1 may finance, in whole or in part, the following services (“services” shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982):

The full cost of all direct and incidental costs related to providing public services and maintenance, operation, repair, or replacement of certain public infrastructure within the areas shown on Attachment 1 attached hereto and incorporated herein. More specifically, the services may include, but are not limited to:

- (i) maintenance, repair, and replacement of parks and landscaping in public areas and in the public right of way along public streets, , including, but not limited to, irrigation, tree trimming, mowing, hardscape, sidewalk, trails including the reconstructed trestle structure within Township Commons park and related maintenance of equipment specific to the Brooklyn Basin facilities, and vegetation maintenance and control;
- (ii) solely with respect to that portion of Embarcadero located adjacent to Brooklyn Basin: maintenance of the landscaping on Embarcadero (trees, palms and shrubs) and reserves for the replacement of landscaping, maintenance of the sidewalk (on the south side of Embarcadero), maintenance and reserves for irrigation and utility costs incurred for controller operations and irrigation
- (iii) operation and maintenance of street lights, street furniture, and other appurtenances;
- (iv) maintenance and operations of storm water treatment/protection services ("stormwater services"), including, but not limited to, the operation and maintenance, repair, and replacement of storm drainage systems that are necessary for the City to comply with the stormwater management and treatment requirements imposed by the City and the Municipal Regional Stormwater Permit (issued by the San Francisco Bay Regional Water Quality Control Board), and the CEQA mitigation requirements for the Updated Brooklyn Basin Project. These stormwater services shall be performed for all pump stations and gravity conveyance storm drainage improvements that are located within or downstream of any pump station and any bioretention/stormwater treatment basin, including the applicable drainage inlets, pipes, and stormwater outfall structures that discharge stormwater to the San Francisco Bay (stormwater protection services expressly exclude the operation, maintenance, repair and replacement of all

other gravity conveyance stormwater improvements located within the Updated Brooklyn Basin Project);

- (v) maintenance of a small watercraft launch/water taxi dock improvement;
- (vi) shared maintenance costs of public restrooms located within the 9th Avenue Terminal Shed Building;
- (vii) annual inspection and reporting obligations associated with the parks, open space areas, public rights-of-way and ground water monitoring wells as required by the applicable operations and maintenance plan; and
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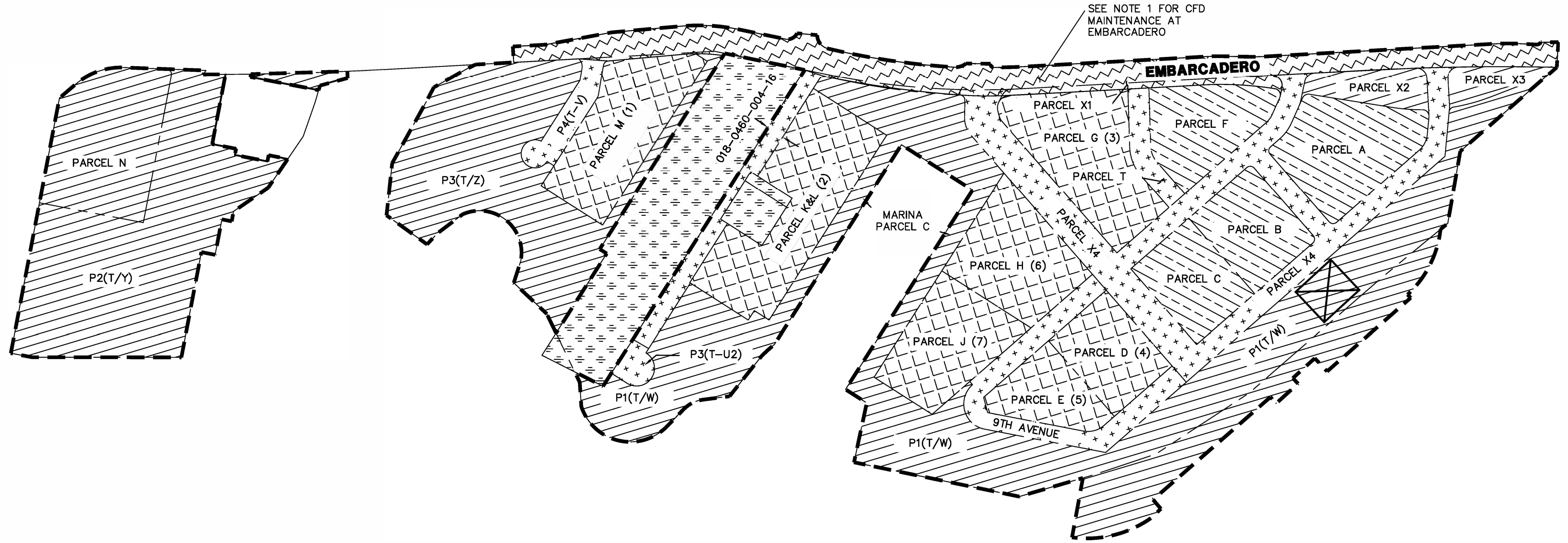
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CFD No. 2023-1 may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees of the City and the bond trustee or fiscal agent related to CFD 2023-1 and the Bonds.
3. Reimbursement of costs related to the formation of CFD No. 2023-1 advanced by the City, the landowner(s) in CFD No. 2023-1, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in CFD No. 2023-1 or any party related to any of the foregoing, for facilities, fees or other purposes or costs of CFD No. 2023-1.
4. All “costs” and “incidental expenses” related to the eligible facilities as those terms are defined in the Act.

Special Taxes may be collected and set-aside in designated funds and collected over several years and used to fund facilities or services authorized to be financed by CFD No. 2023-1.

MAP OF AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CITY OF OAKLAND
COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES),
CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1:

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- DEPICTS GENERAL AREA OF 9TH AVENUE TERMINAL SHED BUILDING SOLELY FOR PURPOSES OF INDICATING THAT PUBLIC RESTROOMS WITHIN THE BUILDING ARE WITHIN THE SERVICES AREA OF CFD 2023-1
- EMBARCADERO SERVICE AREA. SEE MAINTENANCE NOTE 1 BELOW

MAINTENANCE NOTE:

1. TO THE EXTENT CONSISTENT WITH THE DESCRIPTION OF AUTHORIZED SERVICES IN THE CFD 2023-1 PROCEEDINGS, CFD MAINTENANCE ON EMBARCADERO INCLUDES ALL OF THE LANDSCAPING ON EMBARCADERO (TREES, PALMS AND SHRUBS) AND RESERVES FOR THE REPLACEMENT OF LANDSCAPING, MAINTENANCE OF THE SIDEWALK (ON THE SOUTH SIDE OF EMBARCADERO), MAINTENANCE, RESERVES FOR IRRIGATION, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION.

BOUNDARY NOTE:
REFERENCE IS HEREBY MADE TO THE MAPS MAINTAINED BY THE ALAMEDA COUNTY ASSESSOR FOR AN EXACT DESCRIPTION OF THE LINES AND DIMENSIONS OF EACH LOT AND PARCEL.

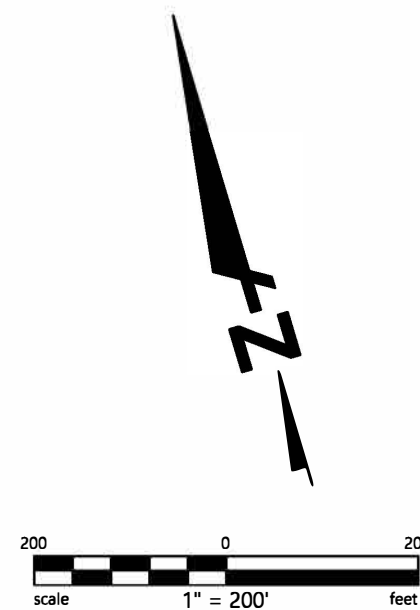
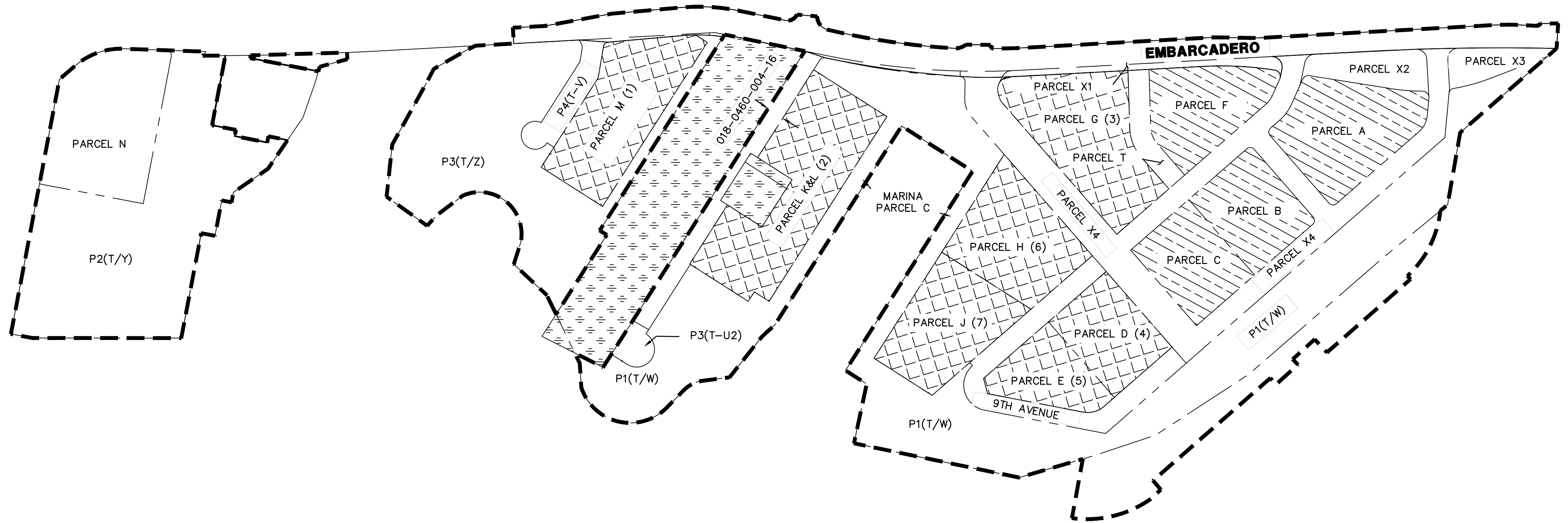


EXHIBIT B

PROPOSED BOUNDARY MAP

**City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**



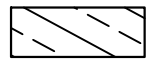
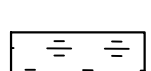
PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1:

- (1) 018-0430-001-14 - PARCEL M
- (2) 018-0460-004-11 - PARCELS K&L
- (2) 018-0465-002-30 - PARCEL G
- (3) 018-0465-015-00 - PARCEL D
- (4) 018-0465-016-00 - PARCEL E
- (5) 018-0465-017-00 - PARCEL H
- (6) 018-0465-018-00 - PARCEL J

LINETYPES & SYMBOLS

-  CFD 2023-1 BOUNDARY
-  TAXABLE PROPERTIES WITHIN CFD 2023-1
-  TAXABLE PROPERTIES WITHIN CFD 2017-1 (FOR REFERENCE ONLY)
-  PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLAND THIS ____ DAY OF _____, 20__.

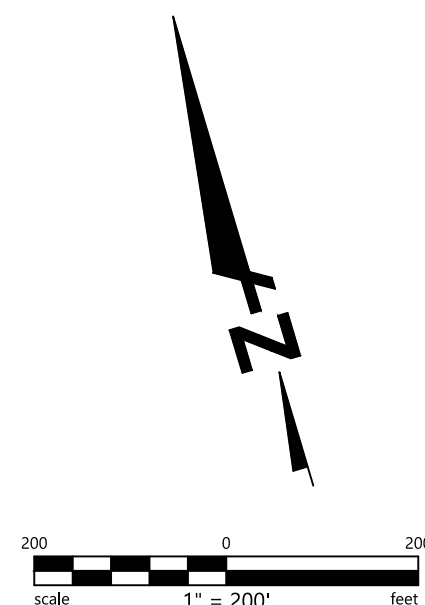
CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF OAKLAND AT A MEETING THEREOF, HELD ON THE ____ DAY OF _____, 20__ BY ITS RESOLUTION NO. _____.

CITY CLERK

FILED THIS ____ DAY OF _____, 20__, AT THE HOUR OF _____ O'CLOCK __M., IN BOOK ____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE ____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

COUNTY RECORDER, COUNTY OF ALAMEDA



BOUNDARY NOTE:
REFERENCE IS HEREBY MADE TO THE MAPS MAINTAINED BY THE ALAMEDA COUNTY ASSESSOR FOR AN EXACT DESCRIPTION OF THE LINES AND DIMENSIONS OF EACH LOT AND PARCEL.

EXHIBIT C
LIST OF PARCELS

APN	Acreage
018-0460-004-11	3.28 acres

**PETITION TO CREATE A NEW
COMMUNITY FACILITIES DISTRICT,
CEASE LEVYING A SPECIAL TAX FOR AN EXISTING COMMUNITY FACILITIES DISTRICT
AND EXTINGUISH THE RELATED LIEN,
AND RELATED WAIVERS AND CONSENTS**

June 28, 2023

City Council of the
City of Oakland
1 Frank H Ogawa Plaza
Oakland, California 94612

Members of the Council:

This petition (the “**Petition**”) is submitted to the City Council of the City of Oakland (the “**City**”) under the Mello-Roos Community Facilities Act of 1982 (Section 53311 and following of the California Government Code) (the “**Act**”).

The Property Owner (as defined below) is petitioning the City Council to create a new CFD No. 2023-1 (as defined below) and to include the Property (as defined below) in CFD No. 2023-1

Because the Property will be subject to the Facilities Special Tax and the Services Special Tax (as defined below) levied in CFD No. 2023-1, the Property Owner is also petitioning the City Council to adopt a resolution determining that the CFD No. 2017-1 Special Tax (as defined below) shall not be levied on the Property and the related lien on the Property shall be extinguished.

The City approved a development now known as Brooklyn Basin Project (and formerly known as the Oak-to-Ninth Avenue Mixed Use Development) 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 200,000 square feet of commercial space, a minimum of 3,534 parking spaces, approximately 31 acres of open space, two renovated marinas, as well as shoreline improvements, new roads, and other infrastructure and improvement (the “**Brooklyn Basin Project**”).

The City, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company (“Developer”), as successor by assignment from Oakland Harbor Partners, LLC, are parties to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Brooklyn Basin Project (as amended and assigned, the “**Development Agreement**”).

The Development Agreement required the formation of a community facilities district for the Brooklyn Basin Project. In accordance with the Development Agreement, the City Council established City of Oakland Community Facilities District No. 2017-1 (Brooklyn Basin Public Services) (“**CFD No. 2017-1**”) pursuant to Resolution No. 86960 C.M.S. to provide funds to maintain

certain public parks and other public improvements, which includes all of the taxable property that will be developed as the Brooklyn Basin Project, including Phases I-IV.

On May 16, 2023 the City Council adopted Ordinance No. 13789 C.M.S., which approved a Third Amendment to the Development Agreement, which together with the related additional entitlements approved by the City Council, permits the development of an additional six hundred (600) residential units within the Brooklyn Basin Project.

Section 4.13 of the Development Agreement permits the Developer to request the City to use any public financing method available for the Brooklyn Basin Project.

1. Petitioners. This Petition is submitted pursuant to the Act to the City by the owner (the “**Property Owner**”) of 100% of the fee simple interest in the real property identified in Exhibit C attached hereto (the “**Property**”). The Property Owner warrants to the City with respect to the Property that the signatories are authorized to execute this Petition and that the submission of this Petition and participation in the City’s proceedings under the Act will not constitute a violation or event of default under any existing financing arrangement in any way affecting the Property Owner and such Property, including any “due-on-encumbrance” clauses under any existing deeds of trust secured by the Property.

2. Request to Institute Proceedings for a New Community Facilities District. The City Council is hereby requested to do all of the following:

- a. Undertake proceedings under the Act to create a new community facilities district to be designated “City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)” (“**CFD No. 2023-1**”), which CFD No. 2023-1 shall initially include the Property.
- b. Conduct a landowner-voter election in accordance with the Act to obtain authorization (i) to levy a special tax for facilities (the “Facilities Special Tax”) and a special tax for services (the “Services Special Tax”) on the non-exempt property located within CFD No. 2023-1; (ii) to authorize the issue of special tax bonds and other debt for CFD No. 2023-1, all as shall be more fully established during the course of the requested legal proceedings for establishment of CFD No. 2023-1; and (iii) to establish an appropriations limit for CFD No. 2023-1.
- c. Conduct proceedings for the items described in (a) and (b) above.

3. Boundaries of CFD No. 2023-1. The Property Owner hereby asks that the territory within the boundaries of CFD No. 2023-1 be as shown on the map attached hereto as Exhibit B, which includes the Property and encompasses a portion of Phase I and all of Phases II-IV of the Brooklyn Basin Project.

4. Purpose of CFD No. 2023-1. CFD No. 2023-1 shall be created for the purpose of financing the facilities (the “**Authorized CFD No. 2023-1 Improvements**”) and the public services (the “**Authorized CFD No. 2023-1 Services**”) described in Exhibit A attached hereto and incorporated herein by reference. The City Council will be authorized, on behalf of CFD No. 2023-1, to issue special tax bonds and other debt (as defined in the Act) in one or more series to finance the Authorized CFD No. 2023-1 Improvements and the related incidental expenses of the proceedings and bond financing.

5. Elections for CFD No. 2023-1. The Property Owner hereby asks that the special election to be held under the Act to authorize the special taxes and the issuance of the bonds and other debt and to establish an appropriations limit for CFD No. 2023-1 be consolidated into a single election and that the election be conducted by the City and its officials, using mailed or hand-delivered ballots, and that such ballots be opened and canvassed and the results certified at the same meeting of the City Council as the public hearings on CFD No. 2023-1 under the Act or as soon thereafter as possible.

6. Waivers for CFD No. 2023-1. To expedite the completion of the proceedings for CFD No. 2023-1, all notices of hearings and all notices of election, applicable waiting periods under the Act for the election and all ballot analyses and arguments for the election are hereby waived. The Property Owner also waives any requirement as to the specific form of the ballot to be used for the election, whether under the Act, the California Elections Code or otherwise.

The Property Owner expressly acknowledges and consents to the public hearings for CFD No. 2023-1 being held on September 19, 2023 or such other date determined by the City Council, and acknowledges and agrees that, notwithstanding Section 53321(e) of the Act, holding such public hearings on a date that is more than 60 days after the City Council adopts a resolution of intention to establish CFD No. 2023-1 does not directly affect the jurisdiction of the City Council to order the installation of the Authorized CFD No. 2023-1 Facilities or the provision of the Authorized CFD No. 2023-1 Services, and shall not void or invalidate any proceedings related to CFD No. 2023-1, any levy of special taxes for the costs of such Authorized CFD No. 2023-1 Facilities or Authorized CFD No. 2023-1 Services or any bonds or debt issued for CFD No. 2023-1. The Property Owner acknowledges that the City has informed the Property Owner that it is relying on, and would not proceed with, the formation of CFD No. 2023-1 without receiving, such waivers, acknowledgements, consents and agreements in initiating formation of CFD 2023-1.

7. Request for Proceedings for CFD No. 2017-1. The City Council previously conducted proceedings under the Act to form CFD No. 2017-1 and authorize the levy of a special tax (the “**CFD No. 2017-1 Special Tax**”) on the taxable properties in CFD No. 2017-1, including the Property. The Property Owner hereby asks the City to cease levying the CFD No. 2017-1 Special Tax on the Property and extinguish the related lien upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1. More specifically, the Property Owner hereby requests the City Council to do the following:

- a. Adopt a resolution determining that the CFD No. 2017-1 Special Tax shall not be levied on the Property upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1.
- b. Upon completion of formation of CFD No. 2023-1 and recordation by the City Clerk of a notice of special tax lien for CFD No. 2023-1 that imposes a lien on the Property to secure payment of the special taxes to be levied in CFD No. 2023-1, cause the City Clerk to record in the real property records of the County of Alameda a Notice of Cessation of Special Tax that complies with the requirements of Section 53330.5 of the Act.

8. Deposits. Compliance with the provisions of subsection (d) of Section 53318 of the Act has been accomplished by a deposit of funds by the Property Owner with the City, made not

later than the date of submission of this petition to the City Clerk, pursuant to a Deposit and Reimbursement Agreement, between the City and the Property Owner, to pay the estimated costs to be incurred by the City in conducting proceedings for establishment of CFD No. 2023-1 and discharging the lien of the CFD No. 2017-1 Special Taxes on the Property.

9. Counterparts. This Petition may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

By executing this Petition, the persons below agree to all of the above.

The property that is the subject of this Petition is identified on Exhibit C

The name of the owner of record of such property and the petitioner and its mailing address is:

ZARSION-OHP I, LLC,
a California limited liability company

By:  _____

Name: Michael Ghielmetti

Title: Authorized Individual

Mailing Address:

2335 Broadway, Suite 200
Attention: Michael Ghielmetti
Telephone: (510) 251-9270
Email: mghielmetti@signaturedevelopment.com

EXHIBIT A

PROPOSED DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY CFD No. 2023-1

City of Oakland Community Facilities District No. 2023-1 (Brooklyn Basin Facilities and Services)

AUTHORIZED FACILITIES

It is intended that CFD No. 2023-1 will be authorized to finance all or a portion of the costs of acquisition, construction, and improvement of facilities permitted under the Mello-Roos Community Facilities Act of 1982 that are required as conditions of development of the property within CFD No. 2023-1 and that will be owned and operated by the City or any other public agency (which may include the Port of Oakland) or utility identified by the City (subject to compliance with the Act), including, but not limited to, the following:

Phase II Improvements

Park and park and open space improvements consisting of the following improvements:

Completion of Phase II Township Commons Park (formerly referred to as Shoreline Park), initial phase of Clinton Basin Boardwalk, and Brooklyn Plaza (formerly referred to as Gateway Park) open space improvements. Improvements consist of removal of the existing wharf structure, landscape improvements (hardscape and landscaping), construction of a pile supported promenade improvement, installation of bike paths, pedestrian walkways, bay trail connections, park furnishings and shoreline improvements.

Phase III Improvements

Sii Tka Park (formerly referred to as South Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape improvements), installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

5th Avenue Improvements – Efforts include demolition of existing 5th Avenue improvements, installation of wet and dry utilities, re-construction of 5th Avenue surface improvements including sidewalks and landscape improvements.

Phase IV Improvements

Mayhew Park (formerly referred to as Channel Park) Improvements – Construction of park and open space improvements consisting of landscaping (hardscape and landscape) installation of bike paths, pedestrian walkways, bay trail connections, park furnishings, bioretention basin and shoreline improvements.

4th Avenue Improvements – construction of wet and dry utilities, construction of street improvements, sidewalks and landscape improvements.

Facilities Special Taxes may be collected and set-aside in designated funds and collected over several years (i.e., reserves), and used to fund facilities authorized to be financed by CFD No. 2023-1.

AUTHORIZED SERVICES

Special Taxes collected in CFD No. 2023-1 may finance, in whole or in part, the following services (“services” shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982):

The full cost of all direct and incidental costs related to providing public services and maintenance, operation, repair, or replacement of certain public infrastructure within the areas shown on Attachment 1 attached hereto and incorporated herein. More specifically, the services may include, but are not limited to:

- (i) maintenance, repair, and replacement of parks and landscaping in public areas and in the public right of way along public streets, , including, but not limited to, irrigation, tree trimming, mowing, hardscape, sidewalk, trails including the reconstructed trestle structure within Township Commons park and related maintenance of equipment specific to the Brooklyn Basin facilities, and vegetation maintenance and control;
- (ii) solely with respect to that portion of Embarcadero located adjacent to Brooklyn Basin: maintenance of the landscaping on Embarcadero (trees, palms and shrubs) and reserves for the replacement of landscaping, maintenance of the sidewalk (on the south side of Embarcadero), maintenance and reserves for irrigation and utility costs incurred for controller operations and irrigation
- (iii) operation and maintenance of street lights, street furniture, and other appurtenances;
- (iv) maintenance and operations of storm water treatment/protection services ("stormwater services"), including, but not limited to, the operation and maintenance, repair, and replacement of storm drainage systems that are necessary for the City to comply with the stormwater management and treatment requirements imposed by the City and the Municipal Regional Stormwater Permit (issued by the San Francisco Bay Regional Water Quality Control Board), and the CEQA mitigation requirements for the Updated Brooklyn Basin Project. These stormwater services shall be performed for all pump stations and gravity conveyance storm drainage improvements that are located within or downstream of any pump station and any bioretention/stormwater treatment basin, including the applicable drainage inlets, pipes, and stormwater outfall structures that discharge stormwater to the San Francisco Bay (stormwater protection services expressly exclude the operation, maintenance, repair and replacement of all

other gravity conveyance stormwater improvements located within the Updated Brooklyn Basin Project);

- (v) maintenance of a small watercraft launch/water taxi dock improvement;
- (vi) shared maintenance costs of public restrooms located within the 9th Avenue Terminal Shed Building;
- (vii) annual inspection and reporting obligations associated with the parks, open space areas, public rights-of-way and ground water monitoring wells as required by the applicable operations and maintenance plan; and
- (viii) any other public services authorized to be funded under California Government Code Section 53313 that are also stipulated as maintenance obligations pursuant to that certain Development Agreement, dated August 24, 2006, approved by Ordinance No. 12760 C.M.S. adopted on July 18, 2006, related to development of the Updated Brooklyn Basin Project and recorded against all of the real property covered thereby (as amended and assigned, the “Development Agreement”), by and between the City of Oakland, as an original party and as successor to the Redevelopment Agency of the City of Oakland, and Zarsion-OHP I, LLC, a California limited liability company, as successor by assignment from Oakland Harbor Partners, LLC.

Maintenance as used herein includes replacement and the creation and funding of a reserve fund to pay for a replacement of such facilities. The Services Special Taxes shall only fund authorized Services to the extent that they are in addition to those provided to land within CFD No. 2023-1 prior to the creation of CFD No. 2023-1.

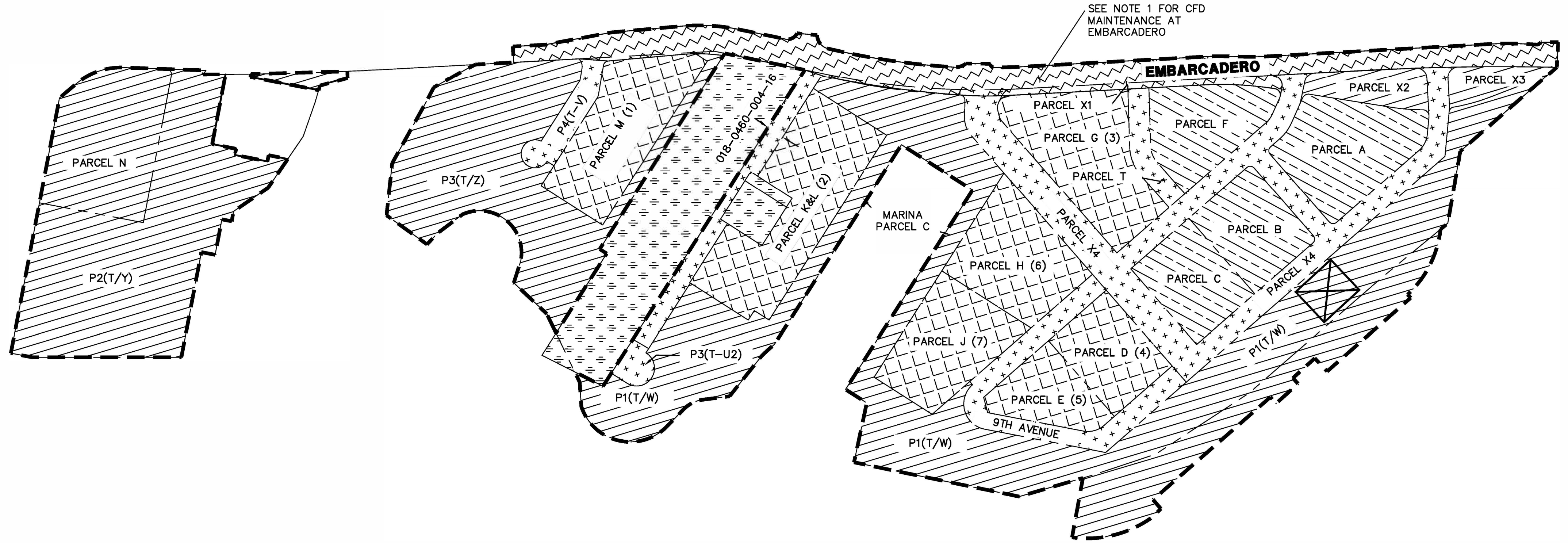
ADMINISTRATIVE AND INCIDENTAL EXPENSES

CFD No. 2023-1 may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees of the City and the bond trustee or fiscal agent related to CFD 2023-1 and the Bonds.
3. Reimbursement of costs related to the formation of CFD No. 2023-1 advanced by the City, the landowner(s) in CFD No. 2023-1, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in CFD No. 2023-1 or any party related to any of the foregoing, for facilities, fees or other purposes or costs of CFD No. 2023-1.
4. All “costs” and “incidental expenses” related to the eligible facilities as those terms are defined in the Act.

Special Taxes may be collected and set-aside in designated funds and collected over several years and used to fund facilities or services authorized to be financed by CFD No. 2023-1.


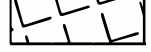
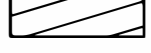
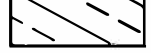
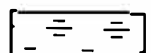
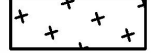


MAP OF AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CITY OF OAKLAND
COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES),
CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



TAXABLE PROPERTIES WITHIN OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1:

- (1) 018-0430-001-14 - PARCEL M
- (2) 018-0460-004-11 - PARCELS K&L
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- (5) 018-0465-017-00 - PARCEL H
- (6) 018-0465-018-00 - PARCEL J

LINETYPES & SYMBOLS

-  CFD 2023-1 BOUNDARY
-  TAXABLE PROPERTIES WITHIN CFD 2023-1
-  AREAS WHERE AUTHORIZED SERVICES ARE FINANCED BY CFD 2023-1
-  ORIGINAL TAXABLE PROPERTIES WITHIN CFD 2017-1
-  PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS
-  PUBLIC STREETS MAINTENANCE AND RESERVES LIMITED TO LANDSCAPE IMPROVEMENTS, IRRIGATION IMPROVEMENTS, SIDEWALKS, STREETLIGHTS, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION
-  DEPICTS GENERAL AREA OF 9TH AVENUE TERMINAL SHED BUILDING SOLELY FOR PURPOSES OF INDICATING THAT PUBLIC RESTROOMS WITHIN THE BUILDING ARE WITHIN THE SERVICES AREA OF CFD 2023-1
-  EMBARCADERO SERVICE AREA. SEE MAINTENANCE NOTE 1 BELOW

MAINTENANCE NOTE:

1. TO THE EXTENT CONSISTENT WITH THE DESCRIPTION OF AUTHORIZED SERVICES IN THE CFD 2023-1 PROCEEDINGS, CFD MAINTENANCE ON EMBARCADERO INCLUDES ALL OF THE LANDSCAPING ON EMBARCADERO (TREES, PALMS AND SHRUBS) AND RESERVES FOR THE REPLACEMENT OF LANDSCAPING, MAINTENANCE OF THE SIDEWALK (ON THE SOUTH SIDE OF EMBARCADERO), MAINTENANCE, RESERVES FOR IRRIGATION, AND UTILITY COSTS INCURRED FOR CONTROLLER OPERATIONS AND IRRIGATION.

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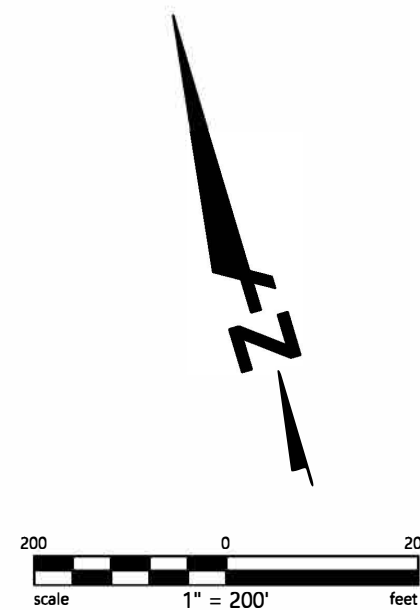
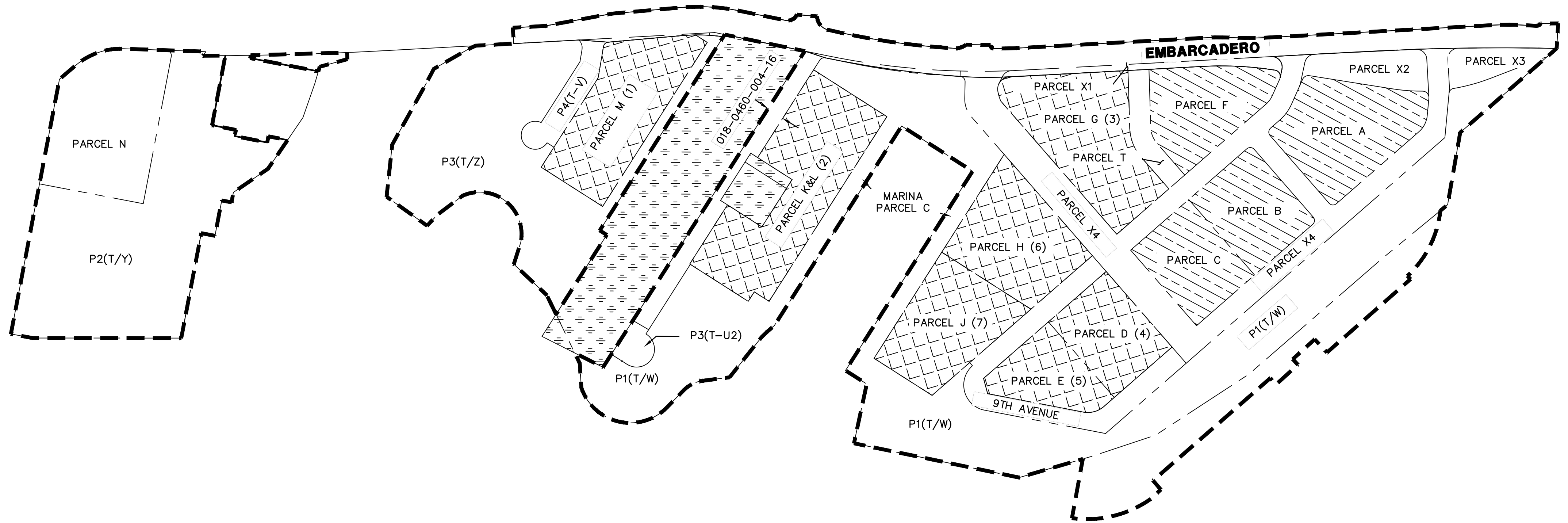


EXHIBIT B

PROPOSED BOUNDARY MAP

**City of Oakland
Community Facilities District No. 2023-1
(Brooklyn Basin Facilities and Services)**



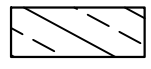
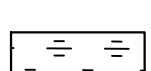
PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA



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-  PARCELS NOT INCLUDED IN BROOKLYN BASIN PROJECT, CFD 2023-1 BOUNDARY OR SERVICES AREAS

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OAKLAND THIS ____ DAY OF _____, 20__.

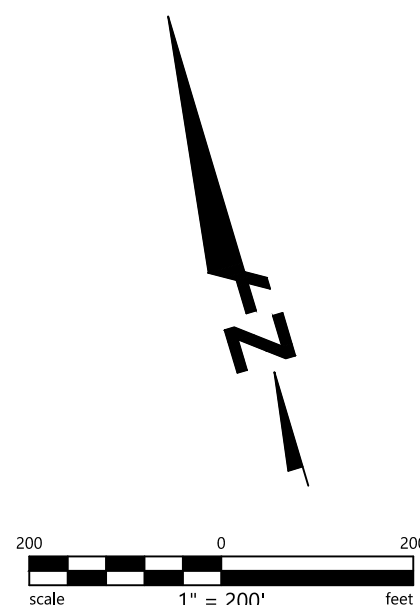
CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2023-1 (BROOKLYN BASIN FACILITIES AND SERVICES), CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF OAKLAND AT A MEETING THEREOF, HELD ON THE ____ DAY OF _____, 20__ BY ITS RESOLUTION NO. _____.

CITY CLERK

FILED THIS ____ DAY OF _____, 20__, AT THE HOUR OF _____ O'CLOCK __M., IN BOOK ____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE ____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

COUNTY RECORDER, COUNTY OF ALAMEDA



BOUNDARY NOTE:
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EXHIBIT C
LIST OF PARCELS

APN	Acreage
018-0430-001-14	2.46 acres