

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

**RESOLUTION ACCEPTING PUBLIC INFRASTRUCTURE
IMPROVEMENTS, DIRECTING THE FILING OF AN
UNCONDITIONAL CERTIFICATE OF COMPLETION (UCC) FOR THE
BROOKLYN BASIN PHASE TWO IMPROVEMENTS PER THE
SUBDIVISION IMPROVEMENT AGREEMENT (“SIA”) FOR
DEFERRED CONSTRUCTION OF PUBLIC INFRASTRUCTURE
IMPROVEMENTS, AND MAKING CALIFORNIA ENVIRONMENTAL
QUALITY ACT (“CEQA”) FINDINGS.**

WHEREAS, on April 18, 2017, Zarsion-OHP 1, LLC, a California limited liability company (“Developer”) and the City of Oakland, a California municipal corporation (“City”), entered into a Subdivision Improvement Agreement (“SIA”) for Deferred Construction of Public Infrastructure Improvements recorded in the Official Records of Alameda County as Series No. 2017121182 for Brooklyn Basin Embarcadero Phase Two related to Tract Map No. 8395, filed July 19, 2017 in Book 349 of Maps, pages 4 through 8, inclusive, Alameda County Records; and

WHEREAS, the Developer obtained construction permit PX1600019 for the public infrastructure work identified in the SIA and provided surety in the form of a Performance Bond in the amount of \$1,490,141.00 and Labor and Materials Bond in the amount of \$745,070.50; and

WHEREAS, on December 26, 2019, the Developer had completed approximately eighty percent (80%) of the work associated with the subject permit in accordance with the SIA, and at that time, the City authorized the partial release of the Faithful Performance and Labor and Materials Bonds by 80%, retaining 20%—amounting to \$298,029.20 for the Performance Bond and \$149,014.10 for the Labor and Materials Bond—for deferred improvements; and

WHEREAS, the public improvements required by the SIA have now been completed, inspected and approved by the City; and

WHEREAS, the SIA requires that a two (2) year maintenance period commence upon the City Engineer filing the Unconditional Certificate of Completion (“UCC”) with the Alameda County Recorder’s Office; and

WHEREAS, the City will retain a Maintenance Bond of \$372,535.25, equivalent to one-quarter of the Performance Bond, for the two year-maintenance period; and

WHEREAS, the Developer has provided a surety bond for the two-year maintenance period; and

WHEREAS, the City will release the remaining retained amounts of the Performance Bond, and the Labor and Materials Bond for the public infrastructure construction under permit PX1600019; upon executing and recording the UCC; and

WHEREAS, acceptance of public infrastructure and issuance of a UCC is a ministerial action that is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Code section 21080 (b)(1) and CEQA Guidelines section 15268 (Ministerial Projects); and

WHEREAS, in addition, this action complies with CEQA because the improvements in question were approved as part of the entitlements for the Brooklyn Basin Project, which was analyzed under the 2009 Brooklyn Basin (formerly “Oak to Ninth Avenue Project”) Environmental Impact Report (2009 EIR), and this action implements the previously approved entitlements that were analyzed under the 2009 EIR; and

WHEREAS, there are no circumstances pursuant to CEQA Guidelines sections 15162 or 15164 that would necessitate further environmental review; and therefore, be it

RESOLVED: That the City Engineer is hereby authorized to execute the UCC and is directed to file the completed UCC with the Alameda County Recorder as denoted in **Exhibit A**; and be it

FURTHER RESOLVED: That all documents related to this Resolution shall be reviewed and approved by the Office of the City Attorney prior to execution; and be it

FURTHER RESOLVED: That the Council finds and determines that this action is exempt from CEQA pursuant to Public Resources Code section 21080 (b)(1) and CEQA Guidelines section 15268 (Ministerial Projects); and be it

FURTHER RESOLVED: That this action also complies with CEQA because the improvements in question were approved as part of the entitlements for the Brooklyn Basin Project, which was analyzed under the 2009 Brooklyn Basin (formerly “Oak to Ninth Avenue Project”) Environmental Impact Report (2009 EIR), and this action implements the previously approved entitlements that were analyzed under the 2009 EIR. As such, there are no circumstances pursuant to CEQA Guidelines sections 15162 or 15164 that would necessitate further environmental review; and therefore, be it

FURTHER RESOLVED: That this Resolution shall be effective upon its adoption by a sufficient affirmative vote of the elected members of Council of the City of Oakland, as provided in the Charter of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, GALLO, HOUSTON, RAMACHANDRAN, UNGER, WANG AND
PRESIDENT JENKINS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

Exhibit A: Draft Unconditional Certificate of Completion (“UCC”)