

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 FOR THE BROOKLYN BASIN PHASE ONE IMPROVEMENTS PER THE AGREEMENT FOR DEFERRED CONSTRUCTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS, AND MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS.

WHEREAS, on May 15, 2015, Zarsion-OHP 1, LLC, a California limited liability company (“Subdivider”) and the City of Oakland, a California municipal corporation (“City”), entered into an Agreement for Deferred Construction of Public Infrastructure Improvements (“Agreement”) for the Brooklyn Basin Embarcadero Phase One project; and

WHEREAS, the Subdivider obtained construction permit PX1400059 for the public infrastructure work identified in the Agreement and provided surety in the form of a Performance Bond in the amount of \$4,311,018.00 and Labor and Materials Bond in the amount of \$2,155,509.00; and

WHEREAS, the public improvements required by the Agreement were completed, inspected and approved by the City; and

WHEREAS, the public infrastructure permit was final on or about December 19, 2023, and the Agreement further requires that a two (2) year maintenance period commence on the date the Unconditional Certificate of Completion is issued; and

WHEREAS, the Subdivider has requested to provide surety for a two (2) year maintenance period if the acceptance of the infrastructure improvements begins on the dated the permit was final; and

WHEREAS, the City will retain for a period of two (2) years a Maintenance Bond by retaining a portion the infrastructure Performance Bond in the amount of \$1,077,754.50, one-quarter of the Performance Bond; and

WHEREAS, the City will release the Performance Bond in the full amount, and the Labor and Materials Bond in the full amount that were posted for the construction of public infrastructure under permit PX1400059; upon executing and recording the unconditional Certificate of Completion; and

WHEREAS, acceptance of public infrastructure and issuance of an Unconditional Certificate of Completion 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); therefore, be it

RESOLVED: That the two (2) year warranty period for all public improvements shall commence on or about December 19, 2023 when the public infrastructure permit is final; and terminate on or about December 19, 2025; and be it

FURTHER RESOLVED: That the public improvements required by the Agreement are hereby accepted as complete as of December 19, 2023; and be it

FURTHER RESOLVED: That the Council finds and determines that the project 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 the hereinabove conditions shall be binding upon the Subdivider and its successors or assignees, affiliated companies or corporations, parent companies or corporations, or partners; and be it

FURTHER RESOLVED: That the City Engineer is hereby authorized to execute the Unconditional Certificate of Completion and is directed to file the completed Unconditional Certificate of Completion with the Alameda County Recorder as denoted in **Exhibit A**.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

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

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

City of Oakland
Department of Transportation
Engineering Services
Dalziel Admin. Building
250 Frank H. Ogawa Plaza – 4th Floor
Oakland, CA 94612
Attn: Ishrat Jahan, P.E.
Supervising Civil Engineer

This document is exempt from payment of a recording fee pursuant to California Government Code section 27383.

Index – Notice of Completion

space above for Recorder's use only

UNCONDITIONAL CERTIFICATE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

- 1. The undersigned is an owner of an interest of estate in the hereinafter described real property, the nature of which interest or estate is: fee simple.
2. The full name and address of the undersigned owner and of any and all co-owners are:

Table with 4 columns: Name, Street and No., City, State. Row 1: City of Oakland, 250 Frank H. Ogawa Plaza, 4th Fl., Oakland, CA

- 3. On January 16, 2024, there was completed upon the hereinafter described real property a work of improvement as a whole and described as follows: Brooklyn Basin Embarcadero Phase One Offsite Improvements City Permit Number PX1400059
4. The real property herein referred to is situated in the City of Oakland, County of Alameda, State of California, and described as follows: Embarcadero from the Lake Merritt Channel Bridge to the end of the Intersection of 9th Avenue and Embarcadero
5. The street address of the property is: 845 Embacadero, Oakland, CA
6. That certain Agreement for Deferred Construction of Public Infrastructure Improvements dated May 15, 2015, entered into by and between Zarsion-OHP 1, LLC, and the City of Oakland, and recorded May 04, 2016, in the Official Records of Alameda County as document number 2016113104, shall terminate as of approximately January 16, 2026 after completion of the two (2) year maintenance period.

By: _____

_____, City Engineer, City of Oakland