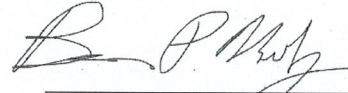


2023 DEC -8 AM 11:29

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 90043 C.M.S.

**RESOLUTION AUTHORIZING AMENDMENT OF THE SUBDIVISION
IMPROVEMENT AGREEMENT BETWEEN THE CITY OF OAKLAND
AND ZARSION OHP-1, LLC FOR DEFERRED CONSTRUCTION OF
PUBLIC INFRASTRUCTURE IMPROVEMENTS AT 845
EMBARCADERO, AND MAKING CALIFORNIA ENVIRONMENTAL
QUALITY ACT 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 a Subdivision Improvement Agreement for Deferred Construction of Public Infrastructure Improvements recorded in the Official Records of Alameda County as Series No. 2016113104 ("Agreement") for Brooklyn Basin Embarcadero Phase One related to Tract Map No. 7621, filed June 2, 2015 in Book 331 of Maps, page 81 through 86, inclusive, in the Alameda County Official Records; and

WHEREAS, the Subdivider obtained construction permit PX1400059 for the public infrastructure work required by the Agreement and provided surety in the form of a Performance Bond in the amount of \$4,311,018 and Labor and Materials Bond in the amount of \$2,155,509; and

WHEREAS, the Subdivider has completed the majority of the public improvements as required by the Agreement; and

WHEREAS, the public improvements that have been completed were inspected and deemed acceptable by the City; and

WHEREAS, as between the Subdivider and the applicable third-party developer, the Subdivider has transferred the responsibility for construction of certain of the public improvements to facilitate the construction of buildings located on portions of the Project commonly known as Parcel A and Parcel G; and

WHEREAS, the transferred improvements related to Parcel G are subject to an Agreement – Private Construction of Publicly Maintained Improvements, by and between the

City and 260 BB Way Development, LLC (“Parcel G Developer”), designated PX Permit No. PX2100011, dated May 2, 2022 and recorded in the Official Records as Series No. 2022116287 (the “Parcel G P-Job Agreement”); and

WHEREAS, the transferred improvements related to Parcel A are the subject of that certain Agreement – Private Construction of Publicly Maintained Improvements, by and between the City and Brooklyn Basin Associates IV, L.P. (“Parcel A Developer”), designated PX Permit No. PX2200016, dated January 24, 2023 and recorded in the Alameda County Official Records as Series No. 2023076357 (the “Parcel A P-Job Agreement”); and

WHEREAS, the Parcel G Developer and the Parcel A Developer have submitted Performance Bonds and Labor and Material Bonds for the Parcel G P-Job Agreement and the Parcel A P-Job Agreement respectively; and

WHEREAS, the Subdivider has petitioned the City to amend the Agreement substantially in the form attached to the Agenda Report (“First Amendment”) related to this item to remove the transferred public improvements subject to the Parcel G P-Job Agreement and the Parcel A P-Job Agreement (collectively, the “Transferred Improvements”) and to acknowledge that the Transferred Improvements will be accepted in accordance with the Parcel G P-Job Agreement and the Parcel A P-Job Agreement, as applicable; 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 City Administrator or designee is hereby authorized to enter into the First Amendment of the Agreement; 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 City Engineer is authorized to cause the fully executed First Amendment to be filed for recordation by the Alameda County Clerk-Recorder; 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 this Resolution shall be effective upon its adoption by a sufficient affirmative vote of the elected members of the City Council, as provided by the City Charter.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: **DEC 19 2023**

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, ~~REED~~, AND
PRESIDENT FORTUNATO BAS **-7**

NOES **0**

ABSENT **0**

ABSTENTION **0**
1 Excused-Reid

ATTEST:



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