

2020 JAN -2 PM 2:20 RESOLUTION No. 87991 C.M.S.


City Attorney

Introduced by Councilmember _____

**RESOLUTION ACCEPTING COMPLETED PUBLIC IMPROVEMENTS
IN THE RIGHT-OF-WAY OF EMBARCADERO PER THE
AGREEMENT FOR PRIVATE CONSTRUCTION OF PUBLICLY
MAINTAINED INFRASTRUCTURE DATED JUNE 9, 2015 AND
DIRECTING THE FILING OF THE UNCONDITIONAL CERTIFICATE
OF COMPLETION FOR THE BROOKLYN BASIN OFFSITE
IMPROVEMENTS**

WHEREAS, on June 9, 2015, Zarsion-OHP 1, LLC, a California limited liability company ("Subdivider") and the City of Oakland, a California municipal corporation, entered into an Agreement for Private Construction of Publicly Maintained Infrastructure (the "Agreement") for the Brooklyn Basin Embarcadero Offsite Improvements; and

WHEREAS, the Subdivider obtained construction permit PX1400053 for the public infrastructure work identified in the Agreement and provided surety in the form of a Performance Bond in the amount of \$5,521,017.00 and Labor and Materials Bond in the amount of \$2,760,509.00; and

WHEREAS, the public improvements required by the Agreement were completed, inspected, and approved by the City on December 1, 2019; and

WHEREAS, the public infrastructure permit was finalized on December 1, 2019 and the Agreement further requires that a one (1) 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 date the permit was finalized; and

WHEREAS, the City will retain for a period of two (2) years a Maintenance Bond by retaining a portion of the infrastructure Performance Bond in the amount of \$1,380,254.25, one-quarter of the Performance Bond; and

WHEREAS, this action is exempt from the California Environmental Quality Act ("CEQA") and the CEQA Guidelines because the City's acceptance of the completed improvements is a ministerial action that is exempt from the requirements of CEQA pursuant to Public Resources Code section 21080(b)(1) and CEQA Guidelines section 15268; and

WHEREAS, the City will release of three-quarters of Performance Bond in the amount of \$4,140,762.75 and the Labor and Materials Bond in the full amount of \$2,760,509.00

that were posted for the construction of public infrastructure under permit PX1400053; upon executing and recording the unconditional Certificate of Completion, and be it

RESOLVED: That the two (2) year warranty period for all public improvements shall commence on the date of December 1, 2019; and terminate on the date of December 1, 2021 as requested by the Subdivider; and be it

FURTHER RESOLVED: That the Maintenance Bond for the two (2) year warranty period shall be retained by the City from the infrastructure Performance Bond in the amount of \$1,380,254.25, one-quarter of the Performance Bond maintenance bond as requested by the Subdivider; and be it

FURTHER RESOLVED: That the public improvements required by the Agreement are hereby accepted as complete as of December 1, 2019; and be it

FURTHER RESOLVED: The Council finds and determines that this action is exempt from the California Environmental Quality Act ("CEQA") and the CEQA Guidelines because the City's acceptance of the completed improvements is a ministerial action that is exempt from the requirements of CEQA pursuant to Public Resources Code section 21080(b)(1) and CEQA Guidelines section 15268; and be it

FURTHER RESOLVED: That the hereinabove conditions shall be binding upon the Subdivider and its successors or assigns, 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 directed to file the completed unconditional Certificate of Completion with the Alameda County Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN 21, 2020

PASSED BY THE FOLLOWING VOTE:

AYES – FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO
AND PRESIDENT KAPLAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:

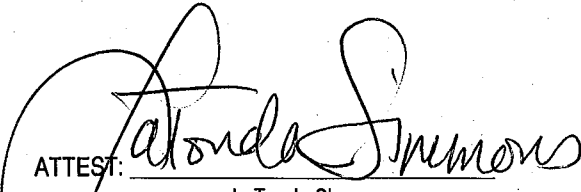

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Exhibit A: Unconditional Certificate of Completion (sample)

Exhibit B: Improvement Plans Cover Sheet (PX1400053)

Exhibit C: Agreement for Private Construction of Publicly Maintained Infrastructure (Permit Number PX1400053)

EXHIBIT A

Unconditional Certificate of Completion (sample)

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: Kevin Kashi, 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:

Name	Street and No.	City	State
City of Oakland	250 Frank H. Ogawa Plaza, 4 th Fl.	Oakland	CA

3. On December 1, 2019, there was completed upon the hereinafter described real property a work of improvement as a whole and described as follows: **Brooklyn Basin Embarcadero Offsite Improvements City Permit Number PX1400053**

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: **375 8th Avenue, Oakland, CA**

6. That certain Agreement for Private Construction of Publicly Maintained Infrastructure dated June 9, 2015, entered into by and between Zarsion-OHP 1, LLC, and the City of Oakland, and recorded July 14, 2015, in the Official Records of Alameda County as document number 2015193215, shall terminate as of December 1, 2021 after completion of the two (2) year maintenance period.

By: _____
Owner's Authorized Agent's Signature – Sign Before Notary
Wladimir Wlassowsky, City of Oakland Assistant Director

