

ATTACHMENT 2

Ordinance No. _____

Ordinance No. ____ Approving the Development Agreement between the Samoa Pacific Group and the County of Humboldt.

Exhibit A: Development Agreement

ORDINANCE APPROVING THE DEVELOPMENT AGREEMENT BETWEEN THE SAMOA PACIFIC GROUP AND THE COUNTY OF HUMBOLDT [DA-17-001 (SAMOA TOWN MASTER PLAN)]

ORDINANCE NO. _____

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864 et seq. (The “Development Agreement Statute”) which authorizes counties to enter into agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and

WHEREAS, in accordance with the Development Agreement Statute, the County of Humboldt (the “County”) has enacted regulations (the “Development Agreement Regulations”) to implement procedures for the processing and approval of development agreements in accordance with the Development Agreement Statute; and

WHEREAS, Developer has a legal interest in those certain parcels of land making up the Project site and encompassing approximately 171 acres (and not including 2.4 acres of railway right-of-way that lie within the site, but are not owned by the Developer). Developer represents that it has an equitable and legal interest in the Project Site and that all other persons holding legal or equitable interests in the Project Site are to be bound by the Development Agreement. The subject of the Development Agreement is the development of those certain parcels of land within the Project Site; and

WHEREAS, Planning for the Project began in 2001, when the Samoa Pacific Group, LLC purchased the historic town of Samoa. In 2002, a draft Samoa Town Master Plan (STMP) was prepared. A revised STMP was prepared in 2005. The STMP was again revised in 2006 in response to concerns raised by the California Coastal Commission (“**Coastal Commission**”) regarding tsunami issues. Thereafter, the County Planning Division released a Draft Master EIR prepared pursuant to CEQA for public review and comment (State Clearinghouse No. 2003052054); and

WHEREAS, a draft Final EIR was prepared in April 2006, but the STMP was once again revised to address additional comments and concerns received. The revisions necessitated further environmental review. A Recirculated Draft 1 Master EIR was released for public review and comment in June 2006. In March 2007, a Recirculation Draft 2 Master EIR was also released for public review and comment, including

information regarding the Tsunami Vulnerability Evaluation. In September 2007, a Recirculation Draft 3 Master EIR was circulated; and

WHEREAS, the County Planning Commission held numerous public hearings on the Project, including on March 16, 2006, April 6, 2006, April 13, 2006, and January 9, 2008. At its January 9, 2008 meeting, the Planning Commission adopted Resolution No. 08-01 recommending the Board approve the proposed Project and related entitlements; and

WHEREAS, on October 27, 2009, the Board certified the Final EIR for the Project and conditionally approved the proposed General Plan Amendment, Zone Reclassification and Urban Limit Line Extension subject to Coastal Commission review and approval. The Board also approved a resolution of submittal to the Coastal Commission; and

WHEREAS, at the Coastal Commission hearing of March 10, 2011, the Commission denied certification of the then proposed Humboldt County LCP Amendment No. HUM-MAJ-01-08, and recommended modifications to the County Approvals. The Coastal Commission held a public hearing and vote on the recommended modifications at its June 17, 2011 meeting and determined that its revised findings support its action on the LCP Amendment at the prior hearing on March 10, 2011; and

WHEREAS, on December 6, 2011, and upon review and acceptance of the Coastal Commission's recommended modifications, the Board of Supervisors approved and adopted Resolution Number 11-95, approving the General Plan amendment of the Humboldt County General Plan (HBAP), and approved and adopted Ordinance Number 2466 amending Sections 313-15 and 313-34 to add a Samoa Town Special Area Combining Zone and Samoa Town Plan Standards, and amending Section 313-19, Design Review, of the Coastal Zoning Regulations to establish a Samoa Design Review Committee and add standards for protection of historic structures; and

WHEREAS, at its December 6, 2011 meeting, the Board of Supervisors also adopted Resolution Number 11-94, a Resolution of Transmittal to the Coastal Commission for the proposed LCP Amendment and transmittal of the Local Coastal Program Amendments to the HBAP land use plan and implanting zoning maps and text changes to the Coastal Commission for certification in accordance with the California Coastal Act; and

WHEREAS, on July 17, 2012, and upon review and acceptance of the Coastal Commission's recommendations, the Board approved and adopted Resolution Number 12-63, approving LCP amendments to include revised land use and zone maps for the Project Site that incorporated the special modifications recommended by the Coastal Commission and Ordinance Number 2482 amending Section 311-7 of the Humboldt County Code for the approximate 171 acres making up the STMP by designating the boundary lines of the following zones and combining zones: Residential Single Family (RS), Residential Multi-Family (RM), Commercial General (CG), Commercial

Recreation (CR), Natural Resources (NR), Public Recreation (PR), Public facilities (PF), and Coastal Dependent Industrial (MC) zones; and Planned Unit Development (P), Wetland (W), Archaeological Resource (A) and Design Review (D) combining zones, as generally depicted in the Samoa Town Master Plan Zoning Map; and

WHEREAS, at its July 17, 2012 meeting, the Board of Supervisors also adopted Resolution Number 12-62, directing Planning staff to submit the STMP amendments to the Coastal Commission for review and certification in accordance with the California Coastal Act; and

WHEREAS, at the August 10, 2012 Coastal Commission meeting, the Coastal Commission concurred with the Executive Director that the County fulfilled the requirements of Section 13544.5(a) of the California Code of Regulations, and in accordance with Sections 13544(b) and 13544.5(b) of the same, the Director determined that the County's actions were legally adequate. This completed the Coastal Commission's initial approval of the LCP Amendments needed for the Project; and

WHEREAS, in 2013-2014 the Developer proposed, through the County and Coastal Commission, amendments to the HBAP LCP and related zone reclassifications to allow revisions to the phasing provisions of the STMP previously adopted into the HBAP. The amendment was found to be in the public interest because they will facilitate obtaining an infrastructure grant to upgrade the wastewater treatment facility (WWTF) to serve low-income multi-family housing, funding which otherwise would be unavailable and would delay the improvement. The State of California's promotion of a grant therefore changed the timing of the Project's development; and

WHEREAS, the LCP Amendment (LCP-1-HUM-15-0004-1) included several changes to previous development phasing requirements of the Project, including requirements that any affordable housing that occurs in new Master Parcel 2 would be allowed to occur prior to: (a) the comprehensive subdivision of STMP lands; (b) the development of various public access and recreational improvements; (c) the development of low-cost visitor serving improvements; and (d) the renovation of the existing residences in the historic town; and

WHEREAS, as part of its adoption of Resolution No. 16-48, the Board of Supervisors agreed to issue coastal development permits ("CDPs") subject to the approved LCP, including certification of the LCP Amendment No. LCP-1-HUM-15-0004-1; and

WHEREAS, on or about May 12, 2016, the Executive Director of the Coastal Commission found that County Board of Supervisors Resolutions No. 16-48 and 16-49 and Ordinance Number 2549 were legally adequate, thus completing the Commission's approval of the LCP amendment process for LCP Amendment Number LCP-1-HUM-15-0004-1; and

WHEREAS, on July 16, 2019, the County Planning Division released a draft Supplemental Environmental Impact Report (SEIR) prepared pursuant to CEQA for public review and comment (State Clearinghouse No. 2003052054). The SEIR was prepared to address utilization of the Humboldt Bay Harbor, Recreation and Conservation District's Marine Terminal II Ocean Outfall line for disposal of treated sewage effluent for the STMP lands among other changes to the project description. The public comment period closed on August 30, 2019 and responses to comments were prepared. On October 3, 2019, the Planning Commission following a duly noticed public hearing certified the SEIR and adopting a Statement of Overriding Considerations; and

WHEREAS, on February 20, 2020, the County Planning Commission held a duly noticed public hearing to approve the Tentative Map for the phased subdivision of Master Parcels 2 and 3 encompassing approximately 185 acres into 332 parcels and adopted Resolution Number 20-15. Subsequently, on July 9, 2020, the County Planning Commission held a duly noticed public hearing (continued from June 18, 2020) to approve a Coastal Development Permit for the phased subdivision approved at the February 20, 2020 meeting and to consider this Agreement and issue a recommendation to the Board pursuant to Government Code Section 65867 and County Code section 2171-13. The Planning Commission adopted Resolution Number 20-39 approving the Coastal Development Permit and Resolution Number 20-40 recommending that the Board of Supervisors approve the Development Agreement.

NOW, THEREFORE, The Board of Supervisors of the County of Humboldt do ordain as follows:

SECTION 1. This Ordinance incorporates, and by this reference makes a part hereof, the Development Agreement attached hereto as Exhibit A, subject to the provisions of Section 5 hereof.

SECTION 2. This Ordinance is adopted under the authority of Government Code Section 65864 et seq., and pursuant to "Development Agreement Regulations."

SECTION 3. In accordance with the Development Agreement Regulations, the Board of Supervisors hereby finds and determines, as follows:

- (a) The Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan, as amended, in that it establishes certain development rights, obligations and conditions for the implementation of the Samoa Town Master Plan;

- (b) The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the general plan designations which apply to the Samoa Town Master Plan;
- (c) The Development Agreement is in conformity with public convenience, general welfare and good land use practice;
- (d) The Development Agreement will not be detrimental to the public health, safety and general welfare;
- (e) The Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and
- (f) The Development Agreement is within the scope of the Supplemental Master EIR adopted by the Planning Commission on October 3, 2019.

SECTION 4. The foregoing findings and determinations are based upon the following:

- (a) The Recitals set forth in this Ordinance, which are deemed true and correct;
- (b) Resolution No. _____, adopted by the Board of Supervisors on December 8, 2020, making findings as to the Supplemental Final EIR for the Samoa Town Master Plan;
- (c) The County's Local Coastal Program for the Humboldt Bay Area Plan approved by the Board of Supervisors on April 26, 2016 by Resolutions 16-48 and 16-49;
- (d) All County staff reports (and all other public reports and documents) prepared for the Planning Commission, Board of Supervisors, or others relating to the Supplemental Final EIR, the Local Coastal Program for the Humboldt Bay Area Plan Amendment, the Development Agreement, and other actions relating to the Property;
- (e) All documentary and oral evidence received at public hearings or submitted to the Planning Commission, or County during the comment period relating to the Supplemental Final EIR, the Local Coastal Program for the Humboldt Bay Area Plan Amendment, the Development Agreement, and other actions relating to the Property; and

(f) All other matters of common knowledge to the Board of Supervisors, including but not limited to the County's fiscal and financial status, County general ordinances, policies and regulations.

SECTION 5. The Board of Supervisors hereby approves the Development Agreement, attached hereto as Exhibit A and subject further to such minor, conforming and clarifying changes consistent with the terms thereof as may be approved by the Planning Director, in consultation with County Counsel prior to execution thereof, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto, as approved by the Board of Supervisors.

SECTION 6. Upon the effective date of this Ordinance as provided in Section 8 hereof, the Board of Supervisors and Clerk of the Board are hereby authorized and directed to execute the Development Agreement on behalf of the County of Humboldt.

SECTION 7. The Planning Director is hereby authorized and directed to perform all acts authorized to be performed by the Planning Director in the administration of the Development Agreement pursuant to the terms of the Development Agreement.

SECTION 8. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after the date of its passage.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 20__, on the following vote, to wit:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Chairperson of the Board of Supervisors of the
County of Humboldt, State of California

(SEAL)

ATTEST:
Kathy Hayes
Clerk of the Board of Supervisors of the
County of Humboldt, State of California

By: _____
Ryan Sharp, Deputy Clerk

Date:

EXHIBIT A

Development Agreement