

**ORDINANCE NO. XX-15**

**AN ORDINANCE OF THE CITY OF OAKLEY CITY COUNCIL  
APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLEY  
AND ACD-TI OAKLEY, LLC RELATING TO THE PROJECT KNOWN AS "DAL  
PORTO SOUTH, PLANNING AREA 3" PART OF THE EAST CYPRESS CORRIDOR  
SPECIFIC PLAN**

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***RECITALS***

**WHEREAS**, the City has enacted a Development Agreement Ordinance, Title 9, Chapter 3 of the Municipal Code establishing the procedures and requirements for the consideration of development agreements pursuant to California Government Code Section 65864 et seq.; and

**WHEREAS**, on February 26, 2015, Owen Poole of ACD-TI Oakley, LLC ("Applicant") submitted a request for approval of a development agreement for the property referred to as Dal Porto South and occupying "Planning Area 3" of the East Cypress Corridor Specific Plan ("Project") 032-050-003; and

**WHEREAS**, on July 14, 2015, the City Council adopted Resolution \_\_-\_\_, approving a vesting tentative map for Dal Porto South Subdivision 9401 (TM 02-15); and

**WHEREAS**, the East Cypress Corridor Specific Plan Revised Final EIR identifies potentially significant environmental impacts and related mitigation measures, which mitigation measures shall apply to development in the Specific Plan Area; and

**WHEREAS**, the Revised Final EIR also identifies potentially significant environmental impacts that will remain significant despite adoption of the mitigation measures that will apply to development in the Specific Plan Area, and for which the City adopted a statement of overriding considerations pursuant to CEQA; and

**WHEREAS**, the components of the Revised Final EIR are separately bound documents, incorporated herein by reference, and are available for review in the City's Planning Division. The custodian of the documents and other materials which constitute the record of proceedings for the East Cypress Corridor Specific Plan and the Revised Final EIR is the City of Oakley Community Development Director at 3231 Main Street, Oakley, California 94561; and

**WHEREAS**, on March 10, 2009 the City Council adopted City Council Resolution 46-09 certifying the East Cypress Corridor Specific Plan Revised Final EIR, making certain findings concerning environmental impacts and mitigation measures, adopting a mitigation monitoring program, making findings concerning alternatives, and adopting a statement of overriding considerations in connection with the East Cypress Corridor Specific Plan; and

**WHEREAS**, on March 24, 2009, the City Council adopted City Council Ordinance 10-09 with the second reading waived, making findings and adopting the East Cypress Corridor Specific Plan; and

**WHEREAS**, on July 14, 2015, the City Council held a properly noticed public hearing at which it considered the Project's Development Agreement, Staff's Report, Oakley 2020 General Plan, the City's Zoning and Subdivision Ordinances, the East Cypress Corridor Specific Plan, the Revised EIR, and all comments received in writing and all testimony received at the public hearing (together the "Record"); and

**WHEREAS**, development of the Project in accordance with the Development Agreement will be consistent with the approved Vesting Tentative Map for the project and will provide for orderly growth consistent with the goals, policies, and other provisions of the General Plan; and

**WHEREAS**, in exchange for the foregoing benefits to the City, the Development Agreement vests Developer's right to develop the Project as approved by the City Council, subject to the terms and conditions contained in the Development Agreement and the conditions of approval for the Vesting Tentative Map and other discretionary approvals for the Project. The Development Agreement is intended to grant Developer a vested right to develop the project as provided therein, and to provide the City with certain binding assurances with respect to the nature, scope and timing of such development and related public improvements; and

**WHEREAS**, for those reasons, the City has determined that the project is a development for which the Development Agreement is appropriate in order to achieve the goals and objectives of the City's land use planning policies; and

**WHEREAS**, on the basis of (a) the foregoing Recitals, (b) the City of Oakley 2020 General Plan, (c) the Revised EIR, and (d) the specific conclusions set forth below, as supported by substantial evidence in the Record.

The City Council of the City of Oakley does ordain as follows:

#### SECTION 1. Findings

Pursuant to Chapter 9.3 of the Oakley Municipal Code, the City Council of the City of Oakley hereby finds and determines as follows:

A. Regarding the application requesting approval of a Development Agreement between the City of Oakley and ACD-TI Oakley, LLC for the property known as "Dal Porto South" and Planning Area 3 of the East Cypress Corridor Specific Plan:

1. The Project is consistent with the objectives, policies, general land uses and programs specified in the General Plan and the East Cypress Corridor Specific

Plan. The Project will consist of 403 residential lots, a neighborhood park, community park, lake, and a 300-year storm event levee, and other improvements consistent with Planning Area 3 of the adopted East Cypress Corridor Specific Plan. The Project is consistent with Policies 2.2.1 through 2.2.6 and other residential development policies in the Oakley 2020 General Plan: it is a predominantly residential master-planned development; the scale and appearance of the proposed structures will be compatible with the existing character of the City; it will not introduce incompatible uses into existing residential areas; it will reasonably avoid disruptive traffic; and it will pay its fair share for necessary public services and infrastructure;

2. The Project is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located in that the project is designed in substantial compliance with the conceptual development plan approved in the East Cypress Corridor Specific Plan, and has received an entitlement for a vesting tentative map;
3. The Project is in conformity with public convenience, general welfare and good land use practice. The Revised East Cypress Corridor Specific Plan EIR, certified March 10, 2009 by Resolution No. 46-09, identified and provided mitigation measures for significant environmental impacts associated with development of the East Cypress Corridor Specific Plan. The Development Agreement authorizes development consistent with the East Cypress Corridor Specific Plan and approved vesting tentative map;
4. For the reasons set forth in Finding 3, the Project will not be detrimental to the health, safety and general welfare; and
5. The Project will not adversely affect the orderly development of property. The Project will actually enhance the orderly development of property by assuring that improvements to the Property within the East Cypress Corridor Specific Plan Area are consistent with the General Plan and development as approved in the East Cypress Corridor Specific Plan.

## SECTION 2. Approval of the Amendment to the Development Agreement

The City Council hereby approves the Development Agreement (Exhibit "A") and authorizes and directs the Mayor to sign it.

## SECTION 3. Recordation of Development Agreement

Within ten (10) days after the Mayor executes the Development Agreement, the City Clerk shall submit the Agreement to the County Recorder for recordation.

SECTION 4. Effective Date and Posting

This ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk shall cause the ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation, or by publishing a summary of the proposed ordinance, posting a certified copy of the proposed ordinance in the City Clerk's Office at least five (5) days prior to the City Council meeting at which the ordinance is to be adopted, and within fifteen (15) days after its adoption, publishing a summary of the ordinance with the names of the Council Members voting for and against the ordinance.

The foregoing ordinance was adopted with the reading waived at a regular meeting of the Oakley City Council on \_\_\_\_\_, 2015 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

\_\_\_\_\_  
Doug Hardcastle, Mayor

ATTEST:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date