

# ORD-19

## ORDINANCE NO.

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2  
3 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
4 OF LONG BEACH APPROVING A FIRST AMENDMENT TO  
5 THE RIVERWALK DEVELOPMENT AGREEMENT IN  
6 SUBSTANTIALLY THE SAME FORM AS ATTACHED; AND  
7 AUTHORIZING AND DIRECTING THE CITY MANAGER TO  
8 EXECUTE THE FIRST AMENDMENT WITH RIVERWALK 131  
9 GROUP, LLC  
10

11 WHEREAS, on November 17, 2015, the City Council adopted Ordinance No.  
12 ORD-15-0034 approving the Development Agreement with The Long Beach Project Owner,  
13 LLC, and DEM Investment Company, and authorized its execution on behalf of the City;

14 WHEREAS, The Long Beach Project Owner, LLC, and DEM Investment  
15 Company assigned their rights and obligations under the Development Agreement to  
16 Riverwalk Builder, LLC, and, subsequently, Riverwalk Builder, LLC assigned its rights and  
17 obligations to current owner, Riverwalk 131 Group, LLC;

18 WHEREAS, the purpose of the First Amendment to Development Agreement  
19 is (i) to provide owner with additional time within which to complete the construction of  
20 Oregon Park, (ii) reduce the size of the park by removing that portion of the park on County-  
21 owned land, and (iii) to change the name of the park from Oregon Park to the C. Molina  
22 Park;

23 NOW, THEREFORE, the City Council of the City of Long Beach ordains as  
24 follows:

### 25 Section 1. Recitals.

26 A. In response to requirements of State law, the City Council has enacted  
27 Chapter 21.29 of the Long Beach Municipal Code to establish procedures and requirements  
28 for the consideration of development agreements upon application of persons having a legal

1 or equitable interest in property proposed to be subject to such an agreement;

2 B. The City has conducted discussions initiated by property interest  
3 holders in that development commonly known as Riverdale (formerly known as Riverwalk)  
4 in the vicinity of north-central Long Beach just north of the Virginia Country Club between  
5 Long Beach Boulevard and Interstate 710;

6 C. The application having been deemed complete by the Director of  
7 Development Services, and environmental review having been prepared as required by law,  
8 the Long Beach Planning Commission conducted a public hearing on this matter on March  
9 15, 2018. Following the hearing, the Commission recommended to the City Council  
10 approval of the application for said First Amendment to Development Agreement;

11 D. Following receipt of a report of such action by the Planning  
12 Commission, and notice having been duly given by the City Clerk, the City Council  
13 conducted a public hearing on this matter on April 17, 2018. At such public hearing, all  
14 persons were given a full and fair opportunity to be heard and to present written or oral  
15 testimony;

16 E. Following such public hearing, the City Council deliberated, considered  
17 and acted upon the application in accordance with provisions of law and set forth in this  
18 ordinance.

19 Section 2. First Amendment to Development Agreement Application.

20 An application for a First Amendment to Development Agreement has been  
21 filed with the Director of Development Services by Riverwalk 131 Group, LLC.

22 Section 3. Findings.

23 A. Based on facts supporting such Findings as set forth in the record of  
24 the public hearing conducted by the City Council on April 17, 2018, related to the First  
25 Amendment to Development Agreement, the City hereby finds:

26 1. That the First Amendment to Development Agreement is  
27 consistent with the Long Beach General Plan and any and all applicable specific plans, and

28 2. That the First Amendment to Development Agreement will

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 promote the general welfare and public interest of the City of Long Beach.

2                                 3.       That the First Amendment to the Development Agreement is  
3 within the scope of the project analyzed under the Riverwalk Residential Development  
4 Project EIR (SCH #2014091011), and will not result in any new impacts upon the  
5 environment.

6                                 Section 4.   Approval.

7                                 A.       Based upon such findings and upon the recommendation of the Long  
8 Beach Planning Commission, and after a full, fair and duly noticed public hearing, the City  
9 Council hereby approves the First Amendment to Development Agreement and such  
10 agreement is incorporated into this ordinance by reference in substantially the form as set  
11 forth in Exhibit "A".

12                                B.       In substantially the same form and content as set forth in Exhibit "A"  
13 herein, and when approved as to form by the City Attorney, the City Manager is hereby  
14 authorized and directed to execute the First Amendment to Development Agreement on  
15 behalf of the City.

16                                C.       The Director of Development Services shall cause a copy of said First  
17 Amendment to Development Agreement to be recorded in the office of the Registrar/  
18 Recorder of the County of Los Angeles no later than ten (10) days after its execution.

19                                Section 5.   As provided in Subsection 21.29.030.F of the Long Beach  
20 Municipal Code, this ordinance may be subject to referendum in the manner provided by  
21 law.

22                                Section 6.   The City Clerk shall certify to the passage of this ordinance by  
23 the City Council and cause it to be posted in three (3) conspicuous places in the City of  
24 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the  
25 Mayor.

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OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Lana Beach, CA 90802-4664

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Section 7. I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 20\_\_\_\_, by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved: \_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

City of Long Beach  
333 W Ocean Blvd.  
Long Beach, CA 90802

Attn: City Clerk

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(Space Above For Recorder's Use)

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**

**(Riverwalk)**

This First Amendment to Development Agreement ("First Amendment") is entered into this \_\_\_ day of \_\_\_\_\_, 2018 pursuant to actions taken by the City Council of the City of Long Beach at its meeting held on \_\_\_\_\_, 2018, by and between the City of Long Beach, a California Municipal Corporation ("City") and Riverwalk 131 Group, LLC ("Owner"). City and Owner hereafter are referred to collectively as the "Parties" and individually as a "Party."

**RECITALS**

1. City is authorized to enter into development agreements with persons having legal or equitable interests in real property for the development of such property pursuant to Article 2.5 of Chapter 4 of Division I of Title 7 of the California Government Code commencing with Section 65864 (the "Development Agreement Law"), and Article XI, Section 7 of the California Constitution.

2. City has enacted an ordinance, incorporated into the Long Beach Municipal Code as Title 21, Chapter 29 that establishes the procedures and requirements for its consideration of such development agreements upon application by, or on behalf of, persons having legal or equitable interests in real property pursuant to the Development Agreement Law and applicable City General and Specific Plans, policies and regulations.

3. Owner now owns approximately 10.56 acres of real property in north-central Long Beach just north of the Virginia Country Club between Long Beach Blvd. and Interstate 710, as more specifically described in Exhibit "A-1" and as illustrated in the depiction set forth in Exhibit "A-2" (the "Subject Property").

4. Owner's predecessor in interest proposed a project for the Subject Property consisting of approximately 131 residential units, a park and a community center (the "Project"), which requires a General Plan amendment, zone change, vesting tentative tract map and a site plan. The impacts of the Project have been fully analyzed by the Riverwalk Environmental Impact Report (SCH # 2014031011). On October 15, 2015, the Planning Commission of City, at a duly noticed public hearing, recommended that the City Council certify the EIR (SCH # 2014031011). The Planning Commission also recommended that the City Council

approve the Project's General Plan amendment, vesting tentative tract map, site plan, and other associated approvals.

5. On November 10, 2015 the City Council of City, at a duly noticed public hearing, adopted Resolution RES-15-0138 certifying the Final Environmental Impact Report, SCH # 2014031011 (the "Final EIR") for the Project and the related Mitigation Monitoring and Reporting Program and also adopted various resolutions and ordinances with respect to the Project ("Project Approvals").

6. On November 10, 2015, after a duly noticed public hearing held pursuant to the Development Agreement Law and City's Municipal Code, the City Council of City approved the introduction of Ordinance No. ORD-15-0034 (the "Enacting Ordinance") that approved the original Development Agreement and authorized its execution on behalf of City. On November 17, 2015, the City Council of City adopted the Enacting Ordinance.

7. That certain Development Agreement dated as of December 17, 2015 (as assigned, the "Development Agreement") was entered into among the City, The Long Beach Project Owner, LLC, and DEM Investment Company. Thereafter, the previous owners assigned their rights and obligations under the Development Agreement to Riverwalk Builder, LLC. Subsequently, Riverwalk Builder, LLC assigned its rights and obligations to Owner.

8. Over the course of the past year, Owner has been working diligently to implement the Project Approvals and anticipates closing escrow on 48 homes by June of 2018.

9. One of the major public benefits set forth in the original Development Agreement was Owner's agreement to construct and deliver what is described as "Oregon Park" in the original Development Agreement. A small part of Oregon Park is to be constructed upon real property owned by the County of Los Angeles. City and County have failed to come to an agreement on the terms for the joint use and maintenance agreement for the County-owned portion of Oregon Park.

10. Certain delays in processing and permitting, along with potential delays in delivery of long lead-time components of Oregon Park, have pushed the expected completion date of the City-owned portion of Oregon park into mid-year, 2018.

11. Owner has posted bonds for 100% of the onsite and offsite improvements for Oregon Park, has contracted for approximately \$3,500,000 of park improvements, and has funded approximately \$1,000,000 of park improvements, permits and consultant work.

12. The purpose of this First Amendment to Development Agreement is (i) to provide Owner with additional time within which to complete the park, (ii) reduce the size of the park by removing that portion of the park on County-owned land, and (iii) to change the name of the park from Oregon Park to the C. Molina Park.

## AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Owner hereby amend the Development Agreement as follows:

1. Recitals Incorporated. The foregoing Recitals are true and correct and are incorporated herein by reference.

2. Amendment to Section 1.13: The term "Oregon Park" is revised to reflect the assigned name "C. Molina Park", and shall mean only the portion of the park lying within City of Long Beach jurisdiction, and excluding County of Los Angeles owned lands, as further depicted in Exhibit "C-1". All references to "Oregon Park" in the Development Agreement are hereby deleted and replaced with "C. Molina Park".

3. Amendment to portion of Section 4.14.1, Timing. Owner shall complete construction of C. Molina Park prior to issuance of the 49<sup>th</sup> certificate of occupancy for the Project, not including temporary certificates of occupancy for the model homes. City shall not perform any rough framing inspections for the Project after the issuance of the 48<sup>th</sup> certificate of occupancy for the Project, not including temporary certificates of occupancy for the model homes, until C. Molina Park is complete. Completion, for the purposes of starting the 90 day maintenance period, shall mean that (a) all C. Molina Park Offsite Improvements within the City's jurisdiction are installed, (b) construction items requiring building permits issued by City Building & Safety Department have been inspected and received final approval from City, (c) an initial site walk has been conducted with representatives of the City's Parks, Recreation and Marine Department, Public Works Department and Owner representatives present to review the C. Molina Park Offsite Improvements and to confirm that such Offsite Improvements and all equipment and systems related thereto are in proper operating order, and (d) an initial punch list has been issued by City staff identifying items in C. Molina Park needing correction. C. Molina Park Offsite Improvements must be accepted for maintenance by the City prior to the issuance of the 97<sup>th</sup> certificate of occupancy for the Project, not including temporary certificates of occupancy for the model homes. City shall not issue any more than 117 building permits for single-family homes within the Project until C. Molina Park has been accepted for maintenance purposes by the City. Acceptance of C. Molina Park for maintenance purposes means that (a) the park punch list items have been corrected to the satisfaction of the City Public Works and Parks, Recreation and Marine Departments and signed-off, (b) a final site walk has been conducted with representatives of the City Parks, Recreation and Marine and Public Works Departments and the Developer to review the completed punch list items, and (c) Notices of Completion have been filed and recorded in the County Recorder's office for the C. Molina Park Offsite Improvements.

4. No Further Amendments. Except as expressly set forth herein, the provisions of the Development Agreement shall remain in full force and effect.

[SIGNATURES ON  
FOLLOWING PAGE]

City:

CITY OF LONG BEACH

By

\_\_\_\_\_  
Patrick H. West  
City Manager, City of Long Beach

Owner:

RIVERWALK 131 GROUP, LLC, a Delaware limited liability  
company

By:

\_\_\_\_\_  
LB131 GROUP, LLC  
A Delaware limited liability company.  
Its Managing Member

By:

\_\_\_\_\_  
BRANDYWINE HOMES,  
a California corporation  
its Managing Member

By:

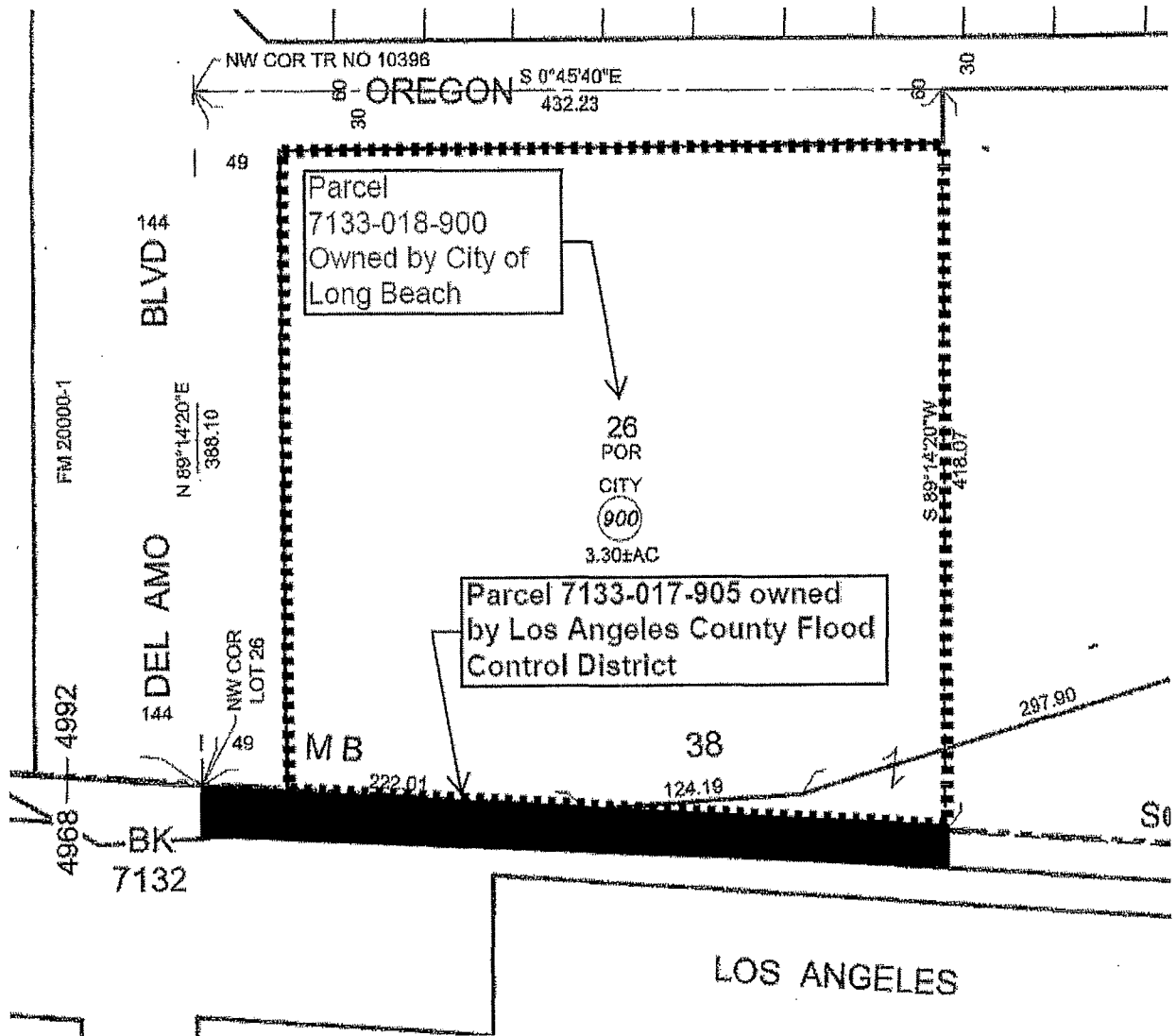
Brett Whitehead

Its:

President



EXHIBIT "C-1"  
 C. MOLINA PARK – CITY AND COUNTY OWNERSHIP



A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Los Angeles )

On \_\_\_\_\_, before me, \_\_\_\_\_,  
(insert name and title of the officer)

Notary Public, personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)