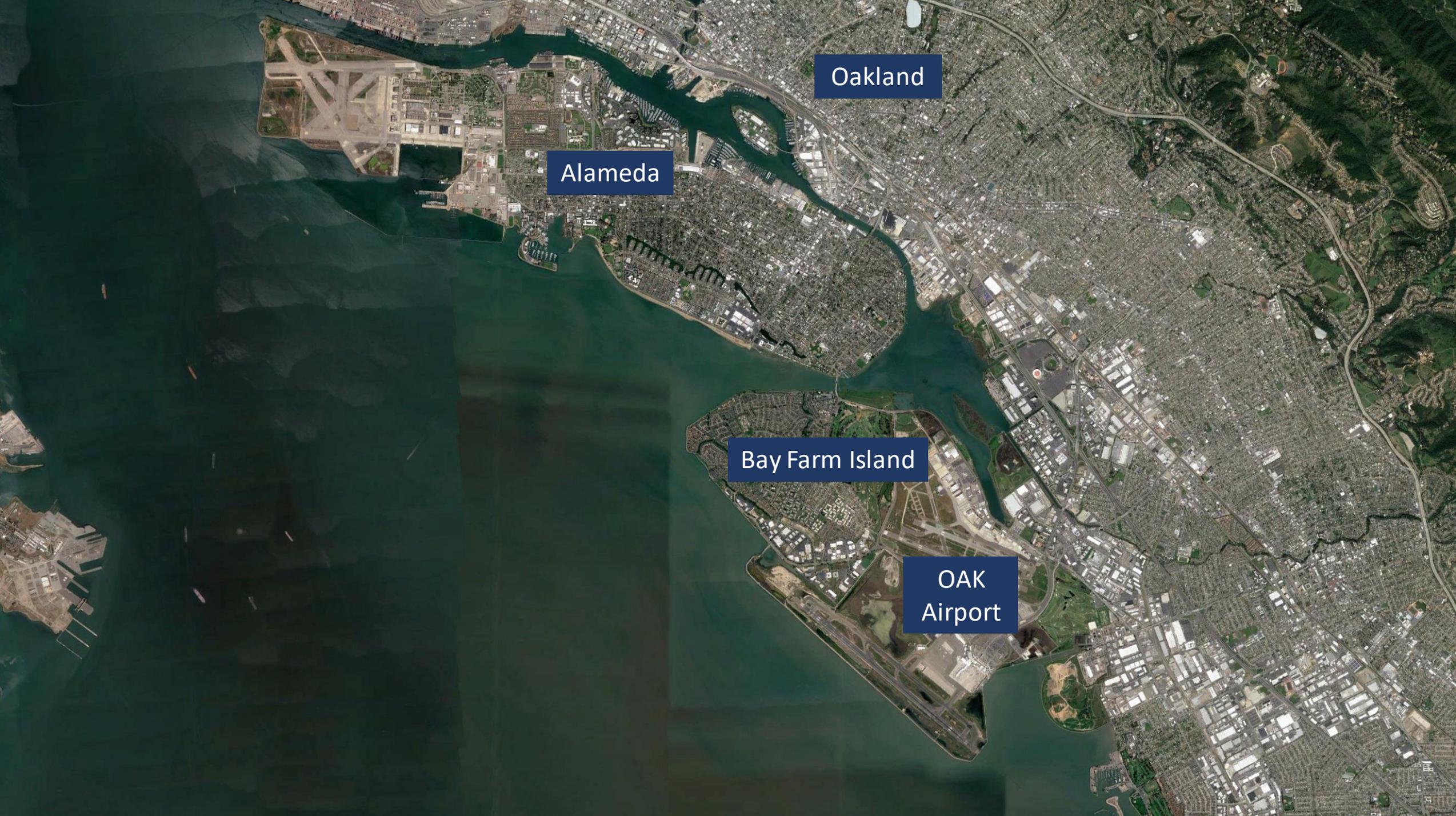


Agreement Terminating Third Amended Third
Supplementary Agreement

**Harbor Bay Isle Shoreline Park, Harbor Bay
Business Park – Phase III, Alameda**

**Marc Zeppetello
Chief Counsel**





Oakland

Alameda

Bay Farm Island

OAK
Airport

Original Agreement: 1975

First and Second
Supplementary Agreements:
1978
(Tract 3773 & Tract 3810)

Third Supplementary
Agreement: 1984
(Tract 4500)

Fourth Supplementary
Agreement: 1990
(Tract 5905)





Harbor Bay Business Park

Third Supplementary Agreement Harbor Bay Business Park – Phase 3

Agreement adopted in 1984 and amended in 1987, 1990, and 2013.

Agreement changed the land use designation of one parcel from Shoreline Restaurant to Shoreline Restaurant/Office.

- Shoreline Restaurant/Office Site (2350 Harbor Bay Parkway)



City of Alameda Ordinance 3086 (February 2014)

Zoning designation for parcel at 2350 Harbor Bay Parkway changed from Open Space to Commercial Manufacturing with a Planned Development overlay with conditions:

- Use. Consistent with the Third Amended Third Supplementary Agreement, use should be limited to: (1) a single use building containing either a restaurant or office; or (2) a mixed-use building containing on the upper floors private offices and on the ground floor one or more visitor-serving commercial uses such as a restaurant.

Staff Recommendation of Conditional Approval, February 10, 2017

Special Condition II.A.

- No later than 60 days after permit issuance, HBIA, permittee, and Executive Director shall enter into an amendment to the existing agreement to include as an approved land use the hotel project and public access improvements authorized by the BCDC permit.
- As a party to the amended agreement, the permittee shall be bound by its terms insofar as it establishes standards for the project site.

Reasons to Terminate Rather than Amend the Agreement

- Amendment Unnecessary Because Harbor Bay Shoreline Park Completely Developed Except for One Remaining Parcel
- Termination Would Allow the City of Alameda to Determine the Appropriate Land Use for the Remaining Site
- If Agreement Terminated, BCDC Permit Will Be Required for Development of Remaining Site (After Local Approval) and Public Access Will Be Governed by McAteer-Petris Act
- Termination Ensures that Any Future Development Along Harbor Bay Business Park Shoreline Will Be Required to Obtain a BCDC Permit, Which Will Be Considered Under the McAteer-Petris Act and Bay Plan

Principal Terms of Termination Agreement

- Existing Agreement Terminated
- City of Alameda Shall Determine Appropriate Land Use for the Remaining Site
- Site Owner Shall Apply to BCDC for a Permit.
 - Ram Hotels Shall Apply for a BCDC Permit after it Obtains All Local Approvals
 - BCDC Jurisdiction Determined Per Government Code Section 66610
 - Commission Shall Consider Permit Application Per Government Code Sections 66632(f) and 66632.4 and Applicable Bay Plan Policies
- If City Does Not Approve Hotel or Ram Hotels Abandons Project, Ram Hotels or Any Successor Shall Apply to BCDC for Any Alternative Development Proposal

Principal Terms of Termination Agreement

- Jurisdictional dispute between BCDC and HBIA is moot.
- All future development or redevelopment of any areas formerly subject to the existing agreement that are within an area of BCDC jurisdiction at the Harbor Bay Business Park shall be subject to BCDC permitting requirements.