

RESOLUTION NO. 106-2008

Adopted as amended October 21, 2008

AUTHORIZING A SECOND AMENDMENT TO THE OWNER PARTICIPATION AGREEMENT WITH 766 HARRISON, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, TO MODIFY THE TERMS OF THE AGREEMENT TO ALLOW THE OWNER TO SELL OR RENT THE UNITS AND TO MODIFY THE TERMS GOVERNING THE BELOW-MARKET RATE UNITS IN THE PROJECT, 766 HARRISON STREET; YERBA BUENA CENTER REDEVELOPMENT PROJECT AREA

BASIS FOR RESOLUTION

1. In December 2005, the Agency Commission approved an Owner Participation Agreement (the "OPA") with Baker Hamilton Properties, LLC, a California limited liability company, for a 98-unit, rental project (the "Development") at 766 Harrison Street (the "Site") in the Yerba Buena Center Redevelopment Project Area. The Development, which consists exclusively of mini-studios, including ten Below-Market-Rate units ("BMR"), has since been conveyed to 766 Harrison LLC, a California limited liability company (the "Owner").
2. The Owner has developed the new eight-story rental project with 98 mini-studios, 4,500 square feet of retail, a 581-square-foot side yard, 4,370 square feet of common resident open space on a roof deck, and required parking. The mini-studios are small (the average size is 273 square feet), similar to a Single-Room-Occupancy ("SRO") unit. SRO units are permitted on this Site because it falls within the Yerba Buena Center Service/Secondary Office Use District ("SSO/YBC District") under the Yerba Buena Center Redevelopment Plan (the "Plan"). In the SSO/YBC District, the Plan defers to the City Planning Code, which permits SRO units. Under the City Planning Code, the maximum size of an SRO unit is 350 square feet.
3. When the OPA was approved, the Owner was subject to the Agency's Housing Participation Policy ("AHPP") that was in place at that time. Under the AHPP at that time, a minimum of 10% (or ten units) of the total number of rental units in the Development were to be affordable to households earning up to 60% of Area Median Income ("AMI"). The ten BMR units were distributed throughout floors 2-8 of the Development.
4. Construction is nearly complete. In May 2008, the Owner notified staff that, due to changing market conditions, it would like greater flexibility to initially offer the Development's units as either for-sale or rental units. After extensive discussions, Agency staff and the Owner proposed a Second Amendment to the OPA to allow this greater flexibility.

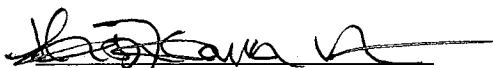
5. The existing OPA contemplated a rental project and a possible later conversion to condominiums. Under the existing OPA, if a conversion to condominiums occurred, the renters in the ten affordable rental units would get first preference to purchase their units at the same affordability level (i.e., 60% of AMI).
6. The Owner has agreed that the BMR units will be priced, as either for-sale or rental condominiums, at a much deeper level of affordability than previously agreed, consistent with the Agency's recently revised AHPP. In exchange, the number of BMR units will be reduced from ten to seven and will be located on floors 2-8 of the Development. Additionally, the BMR and Market-Rate units will have the same finishes.
7. The proposed Second Amendment provides for the following:
 - The Owner agrees that it will determine whether to open the Development on a for-sale or rental basis, including the BMR units, within three (3) months of the date of the adoption of the Second Amendment by the Agency Commission;
 - If the Owner initially elects to sell the market rate dwelling units, the Owner will offer the BMR units as first-time homeownership condominiums, to households earning up to 60% of AMI (priced at 55% of AMI or approximately \$100,000);
 - Any BMR units remaining unsold after a minimum of a six-month good faith effort from Owner following the lottery and selection process may be offered for sale to households earning up to 80% of AMI without an increase in pricing, or may be rented to eligible households at the 40% AMI level;
 - If the Owner initially elects to rent the BMR units, the BMR units will be offered to households earning up to 40% of AMI (currently \$26,400 for a single person household) and a BMR unit's monthly affordable rent will be 1/12th of 30% of, 40% of AMI which for a Household Size of one person is currently \$660;
 - In the future, the Owner has the option to convert the for-rent BMR units to for-sale BMR units.
 - If the Owner initially elects to rent the BMR units and later convert them to for-sale units, the Affordable Purchase Price for the tenant-occupied BMR units shall be the price which is affordable to a purchaser earning up to 40% of AMI, (priced at 35% AMI). Any unoccupied BMR unit may be offered to households earning up to 60% of AMI (priced at 55%).

- Pursuant to a Right of First Refusal, an existing tenant may purchase their occupied unit, and the Owner shall provide the existing tenant with a credit in the amount of five percent (5%) of the entire purchase price for the unit, which shall be in the form of a credit against the purchase price down payment; and,
 - For any existing tenant that does not elect to purchase the occupied unit, Owner shall reimburse such existing tenant for moving expenses in the amount of five percent (5%) of the purchase price set by Owner for such existing tenant's unit.
8. On December 20, 2005, the Agency Commission adopted Resolution No. 209-2005, adopting the Negative Declaration prepared for the Development pursuant to the requirements of the California Environmental Quality Act ("CEQA"). The Negative Declaration found that the Development will not have significant effect on the environment based on CEQA Guidelines Sections 15064, 15065, and 15070. The Negative Declaration included specific mitigation measures related to construction traffic and construction air quality that were adopted as part of the Development. Implementation of the mitigation measures ensures that no significant environmental impacts would occur. Staff has reviewed the proposed changes to the Development, whereby the rental mini-studios would be changed to for-sale mini-studios and the terms governing the BMR units would be modified. Staff finds the proposed changes would not result in physical changes to the building, and therefore, would not change the scope of the project analyzed in the Negative Declaration.

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that the Executive Director is authorized to execute a Second Amendment to the Owner Participation Agreement and related documents with 766 Harrison LLC, a California limited liability company, to modify the terms of the Agreement to allow the Owner to sell or rent the units and to modify the terms governing the below market-rate units in a 98-unit, residential project at 766 Harrison Street, in the Yerba Buena Center Redevelopment Project Area, substantially in the form lodged with the Agency General Counsel.

APPROVED AS TO FORM:


James B. Morales
Agency General Counsel