

RESOLUTION NO. 148-2008

Adopted December 9, 2008

AUTHORIZING A LETTER AGREEMENT WITH THE CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF PUBLIC WORKS IN AN AMOUNT NOT TO EXCEED \$1,800,000 TO MAKE CERTAIN REPAIRS TO THE FILLMORE STREETScape IMPROVEMENTS AND TO MAINTAIN THE FILLMORE STREETScape IMPROVEMENTS AS CITY-OWNED PROPERTY; WESTERN ADDITION REDEVELOPMENT PROJECT AREA A-2

BASIS FOR RESOLUTION

1. On August 28, 2000, by Resolution No. 748-00, the Board of Supervisors of the City and County of San Francisco ("Board of Supervisors") granted revocable permission to the Redevelopment Agency of the City and County of San Francisco ("Agency") to construct privately maintained improvements including new sidewalk interlocking pavers, new pedestrian lighting, new street trees, sidewalk furniture and the widening of the pedestrian bridge (collectively, the "Streetscape Improvements") within the Western Addition Redevelopment Project Areas A-1 and A-2, on Fillmore Street between Post Street and Golden Gate Avenue.
2. Pursuant to Resolution No. 748-00, the City and County of San Francisco Department of Public Works ("DPW") entered into a Street Encroachment and Street Tree Maintenance Agreement ("DPW Agreement") with the Agency dated July 25, 2000 to permit the Agency to construct and maintain the Streetscape Improvements.
3. Pursuant to Resolution No. 748-00 and the DPW Agreement, DPW issued Order No. 172,568 dated September 20, 2000 granting the Agency permission to construct and maintain the Streetscape Improvements.
4. Pursuant to Resolution No. 748-00 and the DPW Agreement, DPW issued Minor Sidewalk Encroachment Permit No. 01MSE-441 dated October 17, 2001 to El Bethel Arms, Inc.; Minor Sidewalk Encroachment Permit No. 01MSE-442 dated October 17, 2001 to El Bethel Terrace, Inc.; and Minor Sidewalk Encroachment Permit No. 01IE-486 dated October 26, 2001 to the Agency, each permit allowed the Agency to extend the Sidewalk Improvements along portions of Fillmore Street.
5. The Agency did construct, maintain, and own all the Streetscape Improvements. However, the Redevelopment Plan for the Western Addition Approved Redevelopment Project Area A-1 ("A-1 Plan") terminated on May 10, 2000 and

Plan”) terminates on January 1, 2009 (the “Redevelopment Plan Termination Date”). Since the A-2 Plan was adopted before December 31, 1993, it is subject to the limitations in Section 33333.6(a) of the California Health and Safety Code. Section 33333.6(a) states that after the Redevelopment Plan Termination Date, the Agency shall thereafter “have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness, to comply with Section 33333.8 [affordable housing obligations] and to enforce existing covenants, contracts, or other obligations.”

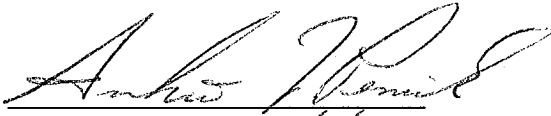
6. The City, the Agency and the community desire that the City accept ownership of the Streetscape Improvements, that they remain on Fillmore Street, and that the City maintain them in good order and repair.
7. The City is willing and able to accept the Streetscape Improvements on condition that the Agency pay for certain needed repairs. City staff and Agency staff have negotiated a letter agreement (“Letter Agreement”) that when duly executed by the parties and acknowledged and approved by the Board of Supervisors, requires the Agency to pay One Million Eight Hundred Thousand Dollars (\$1,800,000) for repairs to the Streetscape Improvement deemed necessary by the DPW.
8. The DPW Director, in a letter dated December 2008, has consented to the terms of the transfer pursuant to the Letter Agreement and recommends to the Board of Supervisors that it acknowledges and approves the actions contemplated therein.
9. Agency staff recommends that the Agency Commission: (a) authorize the Letter Agreement with DPW in an amount not to exceed \$1,800,000 for repair, maintenance and ownership of the Fillmore Streetscape Improvements; and (b) request the Board of Supervisors revoke the Board’s resolution granting the major encroachment permit and accept ownership of the Streetscape Improvements as City-owned property.
10. Activities undertaken pursuant to the Letter Agreement for repair and maintenance of the Fillmore Streetscape Improvements are categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections 15301(d) and 15301(h). Maintenance of the improvements will not result in a significant effect on the physical environment. The transfer of ownership of the Fillmore Streetscape Improvements from the Agency to the City is not a Project, as defined by CEQA Guidelines Section 15378. The transfer of ownership will allow the City to maintain the improvements, will not change any use, and will not cause any physical change in the environment.

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that the Executive Director is authorized to:

- (1) enter into a Letter Agreement with the City and County of San Francisco Department of Public Works ("DPW") in an amount not to exceed \$1,800,000 for DPW to make certain repairs to the Fillmore Streetscape Improvements and to maintain the Streetscape Improvements as City-owned property, subject to the acknowledgement and approval of the Board of Supervisors;
- (2) request on behalf of the Agency that the Board of Supervisors terminate the major encroachment permit which authorized the construction of the Fillmore Streetscape Improvements and further request that the Board of Supervisors acknowledge and approval the Letter Agreement between the Agency and DPW; and
- (3) take any and all actions ancillary and necessary to consummate this transaction.

APPROVED AS TO FORM:


for James B. Morales 12/4/08
Agency General Counsel