

RESOLUTION NO. 24-2010

Adopted March 16, 2010

AUTHORIZING A FIRST AMENDMENT TO THE GROUND LEASE AGREEMENT WITH THE CITY AND COUNTY OF SAN FRANCISCO TO CHANGE THE PERMITTED USES AND RELATED TERMS TO ALLOW FOR NON-PARKING USES OF A PORTION OF ASSESSOR'S PARCEL 0817, LOT 30, KNOWN AS CENTRAL FREEWAY PARCEL K, AND ADOPTING ENVIRONMENTAL FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; CITYWIDE TAX INCREMENT HOUSING PROGRAM

BASIS FOR RESOLUTION

1. On March 19, 2002, the Redevelopment Agency of the City and County of San Francisco (the "Agency") and the City and County of San Francisco (the "City") executed a Transfer of Real Estate Agreement, to transfer seven Central Freeway parcels to the Agency for the express purpose of developing affordable housing. This transfer included certain real property consisting of parcels known as Parcels A, C, G, K, O, Q, and U.
2. On January 30, 2004, the Agency executed a Ground Lease (the "Ground Lease" or the "Lease") with the City, authorized by Resolution No. 38-2002, adopted February 26, 2002, concerning the lease of a portion of Lot 030, Block 0817, (the "Premises"), known as Central Freeway Parcel K, on a month-to-month term for the parking uses consistent with the parking uses that existed on the Premises as of the date of the Lease, and for use as a staging area for construction purposes in connection with the City's Octavia Boulevard Project.
3. The Premises have been designated as a future site for housing development as part of the Agency's Citywide Tax Increment Housing Program. The Agency does not intend to develop the Premises within the next three years.
4. The City has requested that terms of the Lease be amended to allow for uses other than parking or construction staging and to extend the term of the Lease for three years.
5. The Agency and the City desire to modify certain terms of the Ground Lease and are entering into a First Amendment to the Ground Lease (the "First Amendment").
6. Development of Central Freeway Parcel K is included in the Market and Octavia Area Plan (the "Area Plan" or the "Project"), which was adopted by the City Planning Commission ("Planning Commission") by Resolution No. 17408 on April 5, 2007. The Area Plan was subsequently adopted by the Board of Supervisors by Ordinance No. 246-07 on October 23, 2007.

7. On June 25, 2005, the City's Planning Department ("Planning Department") published the Draft Environmental Impact Report ("Draft EIR") on the Project. The Draft EIR included program-level analysis of development of the Central Freeway Parcels, including Parcel K.
8. On September 26, 2006, the Planning Department published a Comments and Responses document that included responses to public comments on the Draft EIR. The Comments and Responses document, together with the Draft EIR, constitute the Final Environmental Impact Report ("Final EIR") for the Project.
9. On April 5, 2007, the Planning Commission adopted Motion No. 17406, certifying the Final EIR, and Motion No. 17407, adopting environmental findings and a Statement of Overriding Considerations pursuant to the California Environmental Quality Act ("CEQA") in connection with adoption of the Area Plan.
10. The Agency is a Responsible Agency pursuant to State CEQA Guidelines Section 15381 for the implementation of the Area Plan. Authorization of the First Amendment for Central Freeway Parcel K is an action that the Agency proposes to take in furtherance of the implementation of the Project.
11. Based on the analysis contained in the Final EIR and the CEQA findings adopted by the Planning Commission on April 5, 2007, Agency staff requests that the Agency Commission adopt findings in accordance with CEQA that the First Amendment is an Implementing Action of the Project analyzed in the Final EIR. Staff, in making the necessary findings for the Implementing Action contemplated herein, considered and reviewed the Final EIR. Documents related to the Implementing Action and the Final EIR have been and continue to be available for review by the Agency Commission and the public and are part of the record before the Agency Commission.

FINDINGS

1. The Agency Commission hereby finds that the approval of the First Amendment related to implementation of the Area Plan will be of benefit to the City generally and, in particular, to the Market and Octavia community.
2. The Agency Commission hereby further finds and determines that the First Amendment is an Implementing Action of the Project analyzed in the Final EIR and requires no additional environmental review pursuant to State CEQA Guidelines Section 15096 for the following reasons:
 - a. The Project evaluated in the Final EIR is the Market and Octavia Area Plan, a comprehensive proposal for land use, height, bulk, building design, parking and loading, open space, rear yards, public improvements, and other controls and includes new Planning Code controls and public improvements funding. The Area Plan includes development of the Central Freeway Parcels, and the Final EIR is a program-level EIR for development of the Central Freeway Parcels.

- b. The Implementing Action will not change the scope of the Project analyzed in the Final EIR, and no major revisions are required due to the involvement of new significant environmental effects or a substantial increase in the severity of significant effects previously identified in the Final EIR.
 - c. No substantial changes have occurred with respect to the circumstances under which the Project analyzed in the Final EIR would be undertaken that would require major revisions to the Final EIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the Final EIR.
 - d. No new information of substantial importance to the Project analyzed in the Final EIR has become available that would indicate that (a) the Implementing Action will have significant effects not discussed in the Final EIR; (b) significant environmental effects will be substantially more severe; (c) mitigation measures found not feasible that would reduce one or more significant effects have become feasible; or (d) mitigation measures or alternatives that are considerably different from those in the Final EIR will substantially reduce one or more significant effects on the environment.
3. The Agency Commission hereby further finds, pursuant to State CEQA Guidelines Section 15091, that the Final EIR and the Planning Commission's CEQA findings were and remain adequate, accurate and objective and are applicable to the Implementing Action.
4. The Agency Commission hereby declares the following Statement of Overriding Considerations, pursuant to CEQA Guidelines Sections 15096(h) and 15093:
 - a. As evaluated in the Final EIR, the following impacts of the Project have been determined to be significant and unavoidable, either in whole or in part, following adoption and implementation of the Mitigation Measures described in the Final EIR:
 - i. Shadow on the War Memorial Open Space: Development on Franklin Street could cast mid-afternoon shadows year round on the War Memorial Open space that could result in a potentially significant impact. Even with mitigation measures, the potentially significant impact listed above may not be reduced or avoided.
 - ii. Shadow on the United Nations Plaza: Incremental shading on United Nations Plaza from towers at the Market Street and Van Ness Avenue intersection would occur in later winter afternoons resulting in a potentially significant impact. Even with mitigation measures, the potentially significant impact listed above may not be reduced or avoided.
 - iii. Traffic at the Laguna/Market/Hermann/Guerrero Streets Intersection: The Laguna/Market/Hermann/Guerrero Streets intersection would degrade from LOS D to LOS F in the PM peak hour, resulting in a significant and unavoidable impact. The feasibility of the signal timing changes for this intersection has not been fully assessed and secondary effects (e.g., on transit and pedestrians) have not been fully

analyzed, and therefore, the potential for a significant and unavoidable impact would still exist.

- iv. Traffic at the Market/Sanchez/Fifteenth Streets Intersection: The Market/Sanchez/Fifteenth Streets intersection (LOS E) would experience increased delays in the PM peak hour, resulting in a significant and unavoidable impact. The feasibility of the signal timing changes for this intersection has not been fully assessed and secondary effects (e.g., on transit and pedestrians) have not been fully analyzed, and therefore, the potential for a significant and unavoidable impact would still exist.
- v. Traffic at the Market/Church/Fourteenth Streets Intersection: The Market/Sanchez/Fourteenth Streets intersection (LOS E) would experience increased delays in the PM peak hour, resulting in a significant and unavoidable impact. The feasibility of the signal timing changes for this intersection has not been fully assessed and secondary effects (e.g., on transit and pedestrians) have not been fully analyzed, and therefore, the potential for a significant and unavoidable impact would still exist.
- vi. Traffic at the Mission Street/Otis Street/South Van Ness Avenue Intersection: The Mission Street/Otis Street/South Van Ness Avenue intersection (LOS E) would experience increased delays in the PM peak hour, resulting in a significant and unavoidable impact. The feasibility of the signal timing changes for this intersection has not been fully assessed and secondary effects (e.g., on transit and pedestrians) have not been fully analyzed, the potential for a significant and unavoidable impact would still exist.
- vii. Traffic at the Hayes Street/Van Ness Avenue Intersection: The Hayes/Van Ness Avenue intersection (LOS F) would experience increased delays in the PM peak hour, resulting in a significant and unavoidable impact. As a partial mitigation, the westbound travel lane could be reestablished, which would eliminate proposed changes to Hayes Street (which would provide an eastbound lane on Hayes Street between Gough Street and Van Ness Avenue by eliminating a westbound lane). The mitigation measure would substantially reduce, but would not eliminate the significant and unavoidable impact. The Planning Commission found this mitigation measure to be infeasible and did not adopt it.
- viii. Traffic at the Hayes and Gough Streets Intersection: The Hayes/Gough Street intersection would degrade from LOS C to LOS F in the PM peak hour, resulting in a significant and unavoidable impact, unless the existing traffic configuration is maintained. The Planning Commission found that implementation of the mitigation measure would effectively eliminate the Project's proposed changes along Hayes Street (which would provide an eastbound lane on Hayes Street between Gough Street and Van Ness Avenue by eliminating a westbound lane). The Planning Commission found this mitigation measure to be infeasible and did not adopt it.

- ix. Traffic at the Hayes and Franklin Streets Intersection: The Hayes/Franklin Street intersection would degrade from LOS D to LOS F in the PM peak hour, resulting in a significant and unavoidable impact, unless the existing traffic configuration is maintained. The Planning Commission found that implementation of this mitigation measure would effectively eliminate the Project's proposed changes along Hayes Street (which would provide an eastbound lane on Hayes Street between Gough Street and Van Ness Avenue by eliminating a westbound lane). The Planning Commission found this mitigation measure to be infeasible and did not adopt it.

 - x. Transit Operational Delays and Service Disruption to MUNI 21 Hayes Line: Severe operational delays and service disruptions affecting MUNI's 21-Hayes line due to severe delays experienced at three successive intersections on Hayes, resulting in a significant and unavoidable impact, unless the existing traffic configuration is maintained. The Planning Commission found that implementation of the mitigation measure would effectively eliminate the Project's proposed changes along Hayes Street (which would provide an eastbound lane on Hayes Street between Gough Street and Van Ness Avenue by eliminating a westbound lane). The Planning Commission found this mitigation measure to be infeasible and did not adopt it.
- b. The following specific overriding economic, legal, social, technological, and other considerations outweigh the identified significant effects on the environment:
- i. The Project will implement and fulfill the policies and objectives of the General Plan including, but not limited to: reducing mobile sources of air pollution through implementation of the Transportation Element and improving the City's pedestrian circulation system.
 - ii. The Project will improve the operation and convenience of all transportation modes required for a vibrant transit-oriented place, with a focus on transit, bicycle, and pedestrian movement.
 - iii. The Project will increase the mix of land uses and the density required to create a successful vibrant transit-oriented neighborhood reflecting the unique character of the Plan Area.
 - iv. The Project will revise the height districts throughout the Plan Area to sculpt an urban form that maximizes housing opportunities mediated by building type, street-level livability, views, and skyline effects.
 - v. Within the controls required to create a vibrant and transit oriented neighborhood, the Project will provide flexibility in the development of the Plan Area so that development can respond to market conditions over time.
 - vi. The Project will enhance the quality of life in the Plan Area.

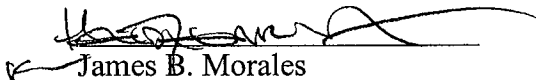
- vii. The Project will create a dense, vibrant and transit-oriented neighborhood that capitalizes on all of the unique characteristics and development opportunities of the Plan Area.
 - viii. The Project will focus design attention especially on the development need and opportunities in two subareas: (1) reintegrating the vacant Central Freeway parcels into the neighborhood and (2) creating a high-density new neighborhood around South Van Ness Avenue, Market Street and Mission Street that takes advantage of that area's high height potential and elegantly designed residential towers.
 - ix. The Project will promote enhanced community facilities and open space for residents of the area.
 - x. The Project will improve the area's public streets and open spaces necessary for a vibrant transit oriented neighborhood, including incorporating traffic calming strategies, street tree planning, new park creation, and streetscape improvements.
 - xi. The Project will further the City's housing goals as established in the Housing Element of the General Plan and elsewhere.
 - xii. The Project will strengthen the community's supply of housing by increasing well-designed infill housing.
 - xiii. The Project will generate substantial economic benefits to the City.
 - xiv. The Project will strengthen the economic base of the Plan Area and the community by increasing neighborhood-serving retail and service businesses throughout the Plan Area.
 - xv. The Project will undertake the proposed public improvements in a manner that makes them affordable to the City by using innovatively the full range of public financing tools to support the City in meeting its share of the planning and development responsibility for the quality and character of the public realm.
5. Having considered these specific benefits, the Agency finds that the Project's benefits outweigh the unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.
 6. The Agency Commission hereby further finds that, based on the Final EIR and the Planning Commission's CEQA findings, all other impacts of the Project would either be less than significant or could be mitigated to less than significant levels, with implementation of Mitigation Monitoring and Reporting Program ("MMRP") for all mitigation measures identified in the Final EIR. The MMRP is attached as Exhibit 1 and incorporated herein. The purpose of the MMRP is to determine the stage at which each of the adopted mitigation measures must be imposed to ensure that the measure is carried out by the responsible official or entity. The Planning Department will implement all of the measures proposed for implementation in these findings.

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that:

- (1) It has reviewed and considered the Market and Octavia Area Plan Final Environmental Impact Report and hereby adopts the CEQA findings herein.
- (2) The Executive Director is authorized to execute a First Amendment to the Ground Lease Agreement with the City and County of San Francisco, a municipal corporation, to change the permitted uses and related terms to allow for non-parking uses for a portion of Assessor's Parcel 0817, Lot 30, known as Central Freeway Parcel K, substantially in the form lodged with the Agency General Counsel.

APPROVED AS TO FORM:


James B. Morales
Agency General Counsel