

**RESOLUTION NO. 32-2010**

*Adopted April 6, 2010*

**AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A SECOND AMENDMENT TO THE SECOND AMENDED AND RESTATED EXCLUSIVE NEGOTIATIONS AND PLANNING AGREEMENT FOR THE HUNTERS POINT SHIPYARD PHASE 2-CANDLESTICK POINT PROJECT BETWEEN THE REDEVELOPMENT AGENCY AND HPS DEVELOPMENT CO., LP, A DELAWARE LIMITED PARTNERSHIP (“HPS DEVELOPER”), AND CP DEVELOPMENT CO., LP, A DELAWARE LIMITED PARTNERSHIP (“CP DEVELOPER”), TO (1) ELIMINATE THE TERM SHEET REQUIREMENT, (2) MAKE CONFORMING CHANGES TO THE SCHEDULE OF PERFORMANCE AND RELATED PROVISIONS, (3) AMEND THE PREDEVELOPMENT BUDGET, AND (4) ASSIGN RIGHTS, TITLE, INTEREST, AND OBLIGATIONS FROM THE HPS DEVELOPER TO THE CP DEVELOPER; BAYVIEW HUNTERS POINT REDEVELOPMENT PROJECT AREA AND HUNTERS POINT SHIPYARD REDEVELOPMENT PROJECT AREA**

**BASIS FOR RESOLUTION**

1. The Redevelopment Agency of the City and County of San Francisco (the “Agency”), HPS Development Co., LP, a Delaware limited partnership (“HPS Developer”), and CP Development Co., LP, a Delaware limited partnership (“CP Developer”, and together with HPS Developer, “Developer”) are parties to that certain Second Amended and Restated Exclusive Negotiations and Planning Agreement (Phase 2 of Hunters Point Shipyard, with an Option to Expand Planning and Exclusive Negotiations to Include Candlestick Point) dated as of May 1, 2007, as amended by that certain First Amendment to Second Amended and Restated Exclusive Negotiations and Planning Agreement (Hunters Point Shipyard Phase 2 and Candlestick Point) dated as of August 29, 2008 (collectively, the “Phase 2 ENA”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Phase 2 ENA.
2. The Phase 2 ENA requires Developer to work with the City and County of San Francisco (the “City”) and the Agency to negotiate a Term Sheet for the Project on or before the date set forth in the Schedule of Performance. After the parties commenced negotiations for the Term Sheet, the parties agreed, in the interest of time, to eliminate the Term Sheet and instead begin negotiations for the following plans, which, subject to ongoing negotiations between the parties, are intended to become either attachments to the Disposition and Development Agreement (Hunters Point Shipyard Phase 1) (as amended, the “DDA”) or approved by the Agency Commission concurrently with the Disposition and Development Agreement for Phase 2 (the “Phase 2 DDA”): the “Financing Plan”, the “Land Use Plan”, the phasing plan, the “Parks and Open Space Plan”, the “Housing Plan”, the “Community Benefits Plan”, the “Transportation Plan”, the “Design for


Development Documents”, the “Sustainability Plan”, the “Infrastructure Plan”, and amendments to the Shipyard and Bayview Hunters Point Redevelopment Plans (collectively, the “Plans”). The Plans serve the same purpose as was envisioned by the parties for the Term Sheet.

3. The City, the Agency and Developer have been negotiating diligently and in good faith to negotiate and finalize mutually acceptable Plans and project documents. On October 27, 2008, the Agency Commission endorsed the Finance Plan and on November 23, 2008, the Board of Supervisors and Mayor endorsed the same. On January 28, 2009, the Bayview Hunters Point Project Area Committee and the Hunters Point Shipyard Citizens Advisory Committee endorsed the Urban Design Plan, which will inform the Land Use Plan, the Parks and Open Space Plan, and the Design for Development Documents.
4. To date, there have been more than 200 public meetings and workshops on the Plans, including, but not limited to: the Housing Plan, the Community Benefits Plan, the Transportation Plan, the Infrastructure Plan, the Sustainability Plan, the Parks and Open Space Plan, the Financing Plan and other related project elements such as the rebuild of Alice Griffith Public Housing, workforce development and local hiring goals, and planning for the Arts district and artist replacement space.
5. The Agency and Developer desire to enter into this Second Amendment to the Second Amended and Restated Exclusive Negotiations and Planning Agreement (the “Second Amendment”) to set forth their mutual agreement to eliminate the Term Sheet requirement from the ENA and to revise the Schedule of Performance accordingly.
6. In recognition of the additional time and related costs associated with the negotiations and preparation of the Project’s Plans and transaction documents, the Agency and Developer desire to enter into this Second Amendment to amend and update the Predevelopment Budget.
7. The Agency and Developer also seek to enter into this Second Amendment to assign all of the HPS Developer’s rights, title, interest and obligations under the Phase 2 ENA to the CP Developer. The composition of the HPS Developer and CP Developer are nearly identical; both development entities consist of a joint venture between Lennar and Scala Real Estate Partners, LP, Hillwood, and Estein and Associates, USA. The CP Developer’s rights, title, interest and obligations under the Phase 2 ENA will remain unchanged.
8. The Second Amendment Predevelopment Budget modifications would facilitate completion of planning and feasibility studies and would not change the physical environment and is statutorily exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15262 of the State CEQA Guidelines. The provisions of the Second Amendment, which eliminate the Term Sheet requirement, incorporate related changes in the Schedule of Performance, and assign rights and obligations under the Phase 2 ENA do not constitute “projects,” as defined in CEQA Guidelines Section 15378(b)(5). These Agency administrative activities would 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 execute a Second Amendment to the Second Amended and Restated Exclusive Negotiations and Planning Agreement for Phase 2 of the Hunters Point Shipyard and Candlestick Point with HPS Development Co., LP and CP Development Co., LP, substantially in the form lodged with the Agency General Counsel, to: (1) eliminate the Term Sheet requirement, (2) update the Schedule of Performance, (3) amend the Pre-Development Budget, and (4) consent to the assignment of all of the HPS Developer's rights, title, interest and obligations under the Phase 2 ENA to the CP Developer, subject to the Executive Director's receipt of a fully executed Guaranty Amendment and Affirmation in the form attached to the Second Amendment as Schedule 3. The Executive Director is also authorized to take such additional actions as may be necessary or appropriate to implement the Second Amendment, including the execution of such additional documents and instruments as may be necessary or appropriate to assign the HPS Developer's rights, title, interest and obligations in the Phase 2 ENA to the CP Developer.

**APPROVED AS TO FORM:**

  
for James B. Morales  
Agency General Counsel