

RESOLUTION NO. 42-2010

Adopted April 20, 2010

**AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT WITH
TENANT'S AND OWNER'S DEVELOPMENT CORPORATION, INC.,
A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION,
FOR THE SALE OF THE PROPERTY KNOWN AS ALICE STREET GARDENS
(BLOCK 3751, LOT 173) FOR THE PURPOSE OF PRESERVING IT AS A
COMMUNITY GARDEN OR OTHER COMMUNITY OPEN SPACE;
YERBA BUENA CENTER REDEVELOPMENT PROJECT AREA**

BASIS FOR RESOLUTION

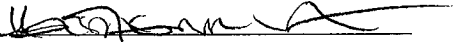
1. Block 3751, Lot 173 is about a half-acre parcel located on Lapu Lapu Street at its intersection with Bonefacio Street (the "Property") in the Yerba Buena Center Redevelopment Project Area (the "Project Area"). It was purchased by the Redevelopment Agency of the City and County of San Francisco (the "Agency") in 1977 with funds from the U.S. Department of Housing and Urban Development's Community Development Block Grant Program ("CDBG") and subsequently cleared for surface parking.
2. Shortly thereafter, during the early 1980s, the Project Area began quickly transforming from an area of dilapidated hotels, commercial and industrial buildings, and open parking lots to a dynamic mixed-use neighborhood with major hotel, office, housing, retail, recreational, entertainment, and cultural uses. This transformation would ultimately include the creation of over 2,500 new housing units in the Project Area. Of these units, more than 1,200 are for low- to moderate-income senior and/or disabled residents.
3. In 1983, in reaction to the rapid pace of urbanization, the Agency leased the Property to Tenant's and Owner's Development Corporation, Inc., a California nonprofit public benefit corporation ("TODCO"), to develop a community garden in order to (i) provide open space for the growing population of Project Area residents and (ii) provide a replacement for Clementina Gardens, which was demolished for construction of the Ceatrice Polite Apartments. TODCO later constructed improvements, funded by the City and County of San Francisco (the "City"), which included raised planting beds, irrigation, and fencing. The gardens, commonly known as Alice Street Gardens, opened in early 1984.
4. In 1988, upon completion of its adjacent Mendelsohn House project, TODCO expanded and made additional improvements to the gardens. At that time, the Agency entered into a new 10-year lease with TODCO for the purpose of installing and maintaining the gardens, with an annual rent of \$600.00. Upon expiration of the lease in 1998, the lease terms were carried over on a month-to-month basis and are currently still in effect.

5. Given the expiration of the Project Area on January 1, 2011, staff and TODCO have agreed to terms for the sale of the Property to TODCO as a long-term strategy for preservation of the gardens as much-needed community open space. The key terms are as follows: i) the Property will be restricted in perpetuity to use as a community garden or other community open space for use by Project Area residents and visitors; (ii) a purchase price of \$12, based on the June 12, 2009 interim use appraisal of the Property, which takes into account the restricted use of the Property as a community garden/open space; and (iii) in the event TODCO (a) sells, encumbers, or transfers any portion of the Property without the prior approval of the Agency or (b) causes or permits the Property to be devoted to a use other than a community garden or other form of community space, the Agency will have an exclusive right to repurchase the Property at the sale price of \$12, without adjustment for inflation and other factors.
6. Pursuant to Section 33430 of the Health and Safety Code, the Agency may sell real property for the purposes of redevelopment. Pursuant to Section 33431, the Agency must hold a duly-noticed public hearing prior to final approval of any sale of real property that is made without a public offering. As part of this action, the Agency Commission is holding a public hearing on April 20, 2010 for the sale of the Property, which was appraised on June 12, 2009, for an interim use value of \$12. The proposed sale of the Property to the developer is a sole source sale. The sale – which ensures the preservation of community open space for Project Area residents – is consistent with the Yerba Buena Center Redevelopment Plan and California Community Redevelopment Law.
7. Approval of the Disposition and Development Agreement and the subsequent sale of the Property to TODCO will allow for the continuation of activities that will not create a significant adverse change in the environment and are exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3).
8. The proposed sale of the Property is also subject to the National Environmental Protection Act (“NEPA”) because the Property was purchased with Community Development Block Grant Program funds. The Mayor’s Office of Housing, as the Certifying Officer for the U.S. Department of Housing and Urban Development, has determined that the proposed sale is categorically excluded from NEPA pursuant to the Code of Federal Regulations (“CFR”) 24 CFR Section 58.35(a).

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that the Executive Director is authorized to enter into a Disposition and Development Agreement with Tenant's and Owner's Development Corporation, Inc., a California nonprofit public benefit corporation, for the sale of the property commonly known as Alice Street Gardens for the purpose of preserving it as a community garden or other community open space in the Yerba Buena Center Redevelopment Project Area, substantially in the form lodged with the Agency General Counsel, and to enter into any and all ancillary documents or take any additional actions necessary to consummate the transaction.

APPROVED AS TO FORM:


James B. Morales
Agency General Counsel