

## RESOLUTION NO. 69-2010

*Adopted June 3, 2010*

**AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN CP DEVELOPMENT CO., LP AND THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO (“AGENCY”), AND AN INTERAGENCY COOPERATION AGREEMENT AND A TAX ALLOCATION AGREEMENT BETWEEN THE AGENCY AND THE CITY AND COUNTY OF SAN FRANCISCO, AND A COOPERATION AGREEMENT BETWEEN THE AGENCY AND THE PLANNING DEPARTMENT OF THE CITY AND COUNTY OF SAN FRANCISCO FOR THE DEVELOPMENT OF CANDLESTICK POINT AND PHASE 2 OF THE HUNTERS POINT SHIPYARD; BAYVIEW HUNTERS POINT AND HUNTERS POINT SHIPYARD REDEVELOPMENT PROJECT AREAS**

### BASIS FOR RESOLUTION

1. In July 1997, the Board of Supervisors of the City and County of San Francisco (“Board of Supervisors”) adopted, by Ordinance No. 285-97, a Redevelopment Plan for the revitalization of the Hunters Point Shipyard Redevelopment Project Area (“Shipyard Redevelopment Plan”), and in June 2006 the Board of Supervisors, by Ordinance No. 113-06, adopted a Redevelopment Plan for the Bayview Hunters Point (“BVHP”) Redevelopment Project Area, including land in Candlestick Point (“BVHP Redevelopment Plan”). The Candlestick Point Activity Node of the BVHP Redevelopment Project Area (“Candlestick Point”) and the Hunters Point Shipyard Redevelopment Project Area (“Shipyard”) are in close proximity to one another and make up the largest area of under-utilized land in the City and County of San Francisco (“City”). Over many years, the City and the Redevelopment Agency of the City and County of San Francisco (“Agency”) have planned for the redevelopment of Candlestick Point and the Shipyard on parallel, but separate, paths.
2. In June 1997, San Francisco voters approved a plan for the redevelopment of Candlestick Point and the existing stadium (Propositions D and F). For several years following the adoption of Proposition F, the City worked with the San Francisco 49ers (“49ers”) and its developer partner, the Mills Corporation, to pursue a plan for developing the stadium and adjoining entertainment retail shopping center project, but that plan proved to be economically and practically infeasible.
3. On March 30, 1999, after an extensive Request for Qualifications process, the Agency selected Lennar-BVHP, LLC (“Lennar”) as the primary developer for the Shipyard.

4. On June 1, 1999, the Agency Commission approved, by Resolution No. 68-99, an Exclusive Negotiations Agreement with Lennar for the redevelopment of the Shipyard.
5. On December 2, 2003, the Agency Commission approved the first set of transaction documents, including the Disposition and Development Agreement Hunters Point Shipyard Phase 1 ("Phase 1 DDA") for a portion of the Shipyard identified as Parcel A-1 and Parcel B-1 (hereinafter collectively "Phase 1"). On that same day, the Agency Commission also approved the Amended and Restated Exclusive Negotiations Agreement (Phase 2, Hunters Point Shipyard) (herein referred to as the "HPS Phase 2 ENA"), which established the terms and conditions under which the Agency and Lennar would negotiate one or more agreements for the remainder of the Shipyard or portions thereof.
6. On March 31, 2004, the United States Department of the Navy ("Navy") and the Agency executed a conveyance agreement ("Conveyance Agreement"), which is the framework that sets forth the terms and conditions for the phased clean up and transfer of the Shipyard to the Agency. In accordance with the Conveyance Agreement, the Navy conveyed the first 75 acres of the Shipyard (Parcel A) to the Agency on December 3, 2004.
7. On April 5, 2005, the Agency transferred the non-public parcels within Parcel A to Lennar to construct the infrastructure improvements required under the Phase 1 DDA. On that same date, the Agency Commission approved the First Amendment to the Phase 1 DDA, which included technical corrections and changes that were necessary to clarify the intent of the Phase 1 DDA.
8. In the fall of 2005, the 49ers, after having conducted a competitive process for a new developer partner, selected Lennar Communities, Inc. to explore the feasibility of a new plan for development of a stadium in the context of a comprehensive mixed-use project at Candlestick Point.
9. Lennar Communities, Inc., working in cooperation with the 49ers and the City for over 18 months, created a preliminary plan for Candlestick Point that would provide for a world-class 49ers stadium and related mixed-use development, but the 49ers decided that the proposed plan did not fully meet its needs. On November 8, 2006, the 49ers announced that it would examine the feasibility of a new stadium in Santa Clara.
10. On December 5, 2006, the Agency Commission approved, by Resolution 159-2006, a First Amendment to the HPS Phase 2 ENA to: i) extend the term of the agreement for the period covering December 3, 2006 through December 31, 2007; and ii) modify existing and establish new terms and conditions under which the Agency and Lennar would continue to negotiate one or more disposition and development agreements for the balance of the Shipyard or portions thereof.
11. On February 13, 2007, the Board of Supervisors endorsed, by Resolution No. 59-07, the efforts of the City, the Agency, and Lennar to generate a conceptual

proposal for an integrated mixed-use development on Candlestick Point and the Shipyard, including a new 49ers stadium, and urged the Agency to amend its exclusive negotiations agreement with Lennar for the Shipyard to provide for an integrated redevelopment project on both Candlestick Point and the Shipyard. Combining and integrating the planning and redevelopment of Candlestick Point and the Shipyard presented the opportunity to create a more coherent overall plan, including, for example, a comprehensive public recreation and open space plan and an integrated transportation and transit plan. An integrated planning effort would also create efficiencies in the financing of infrastructure and development and expedite the revitalization of both areas.

12. On May 1, 2007, the Agency Commission endorsed, by Resolution No. 40-2007, a conceptual framework (“Conceptual Framework”) to guide the City, the Agency, Lennar, and Lennar Communities, Inc. in planning for the integrated development of a portion of the Shipyard (“Phase 2 of the Shipyard”) and the Candlestick Point Activity Node of the BVHP Redevelopment Project Area (together, the “Project Site”). The Conceptual Framework envisioned a major mixed-use project, including hundreds of acres of new and restored open space, thousands of new units of housing, including a robust affordable housing program, extensive job-generating retail and research and development space, permanent space for the artist colony that exists in the Shipyard, and a site for a new stadium for the 49ers on the Shipyard (the “Project”). On May 15, 2007, the Board of Supervisors approved Resolution No. 264-07, endorsing the Conceptual Framework.
13. Also, on May 1, 2007, the Agency and Lennar entered into a Second Amended and Restated Exclusive Negotiations and Planning Agreement, covering Phase 2 of the Shipyard and Candlestick Point (as amended, the “Phase 2 ENA”), which required, among other things, that Lennar bring on additional partners with expertise in retail, infrastructure and/or Research & Development/Biotech, as well as additional equity partners with the financial capacity to ensure that the development of the Project Site could expeditiously proceed through all predevelopment and development phases notwithstanding fluctuations in the marketplace (the “Partner Requirement”) and to form one or more new joint ventures with such new partners.
14. On June 3, 2008, the City’s voters passed Proposition G, the Jobs Parks and Housing Initiative, which: (i) adopted policies for the revitalization of the Project Site; (ii) authorized the conveyance of City land under Recreation and Park jurisdiction within Candlestick Point in furtherance of the Project, provided that the transferred property is replaced with other property of at least the same acreage that will be improved and dedicated as public parks or open space in the Project; (iii) repealed Proposition D and Proposition F (June 1997) relating to prior plans for the development of a new stadium and retail entertainment project on Candlestick Point; and (iv) urged the City, the Agency and all other governmental agencies with jurisdiction to proceed expeditiously with the Project.

15. On August 19, 2008, the Agency Commission approved, by Resolution No. 86-2008, certain actions related to Lennar's satisfaction of the Partner Requirement under the Phase 2 ENA to bring on additional partners with experience and financial capabilities beneficial to the development of the Project Site and assigning and amending certain rights and obligations under the Phase 1 DDA and the Phase 2 ENA to add new partners. As a result, the Phase 2 ENA was amended to provide, among other things, the assignment of all rights and obligations of Lennar under the Phase 2 ENA to subsidiaries of a new joint venture, whose members include Scala Real Estate Partners, LP, Hillwood Development Company, LLC, Estein Management Corporation, and Lennar Corporation. Specifically, one newly formed Delaware limited partnership ("HPS Developer") acquired all rights and obligations of Lennar under the Phase 2 ENA related to the Shipyard and another newly formed Delaware limited partnership ("CP Developer") acquired all rights and obligations related to Candlestick Point.
16. On October 27, 2008, the Agency Commission endorsed, by Resolution No. 130-2008, the Project's Finance Plan, which included a summary of the sources and uses of funds, a cash flow proforma analysis, a description of the proposed transaction structure, a description of the Project, and the key financial terms for a new 49ers stadium. On November 25, 2008, the Board of Supervisors endorsed, by Resolution No. 494-08, the Finance Plan.
17. On April 6, 2010, the Agency Commission authorized, by Resolution No. 32-2010, a Second Amendment to the Phase 2 ENA with HPS Development Co., LP and CP Development Co., LP, to, among other things, 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 ("Developer").
18. Over the past three years, more than 230 public meetings, workshops and presentations have been held on every aspect of the Project. These public presentations have included meetings before the Agency Commission, the City's Planning Commission, the Board of Supervisors, other City commissions, the Mayor's Citizens Advisory Committee for the Hunters Point Shipyard Redevelopment Project Area ("CAC"), the BVHP Project Area Committee ("PAC"), and community groups.
19. The City's Planning Department and the Agency have undertaken a planning and environmental review process for the Project and provided for appropriate public hearings. The City's Planning Commission determined, by Resolution No. 18101, that the Project, and the various actions being taken by the City and the Agency to approve and implement the Project, are consistent with the General Plan and with the Eight Priority Policies of City Planning Code Section 101.1.
20. On June 3, 2010, the Planning Commission certified, by Motion No. 18096, and the Agency certified, by Resolution No. 58-2010, the Final Environmental Impact Report for the Candlestick Point-Hunters Point Shipyard Phase II Development Plan Project as adequate, accurate, and objective and in compliance with the California Environmental Quality Act (California Public Resources Code Sections

21000 et seq.)("CEQA") and the CEQA Guidelines (14 California Code of Regulations Sections 15000 et seq.).

21. Concurrently with this Resolution, the Agency is considering a number of actions in furtherance of the Project, including the approval of amendments to the Shipyard Redevelopment Plan and the BVHP Redevelopment Plan (together the "Redevelopment Plan Amendments"), and certain agreements for the transfer of real property. The BVHP Redevelopment Plan Amendment establishes Zone 1 and Zone 2 of the BVHP Redevelopment Project Area; Zone 1 is Candlestick Point.
22. The Agency has negotiated a Disposition and Development Agreement ("DDA") with the Developer for the redevelopment of the Project Site. The DDA has numerous exhibits and attachments, including, among others, the Schedule of Performance, Financing Plan, Below-Market-Rate Housing Plan, Phasing Plan, Design Review and Document Approval Procedure, Community Benefits Plan, Infrastructure Plan, Parks and Open Space Plan, and Transportation Plan.
23. As authorized in the DDA, the Project includes up to 10,500 residential units (of which 32% will be offered at below-market-rate ("BMR") and includes both Affordable Units (as defined in the DDA) meeting the standard of affordability under the California Community Redevelopment Law and Workforce Units (as defined in the DDA) having other eligibility standards), approximately 336 acres of new and improved public parks and open spaces, up to 885,000 square feet of regional and neighborhood-serving retail space, up to 255,000 square feet of new and renovated replacement space for the Shipyard artists and a new arts center, up to 2.65 million square feet of commercial light industrial, research and development and office space, and land and supporting infrastructure for a new football stadium for the 49ers. If the 49ers do not choose to build a new stadium in the Project Site, the Project includes a preferred non-stadium alternative, which would shift up to 1,625 housing units from Candlestick Point to the stadium site, provide for an additional 500,000 square feet of research and development space on the stadium site, and provide for approximately 326 acres of new and improved parks and open space. The Project is consistent with the Conceptual Framework, Proposition G, and the Phase 2 ENA.
24. The DDA gives the Developer the right to develop the Project in four (4) Major Phases (as defined in the DDA), and within each Major Phase, in a series of Sub-Phases (as defined in the DDA). More particularly, the DDA establishes the linkages between the Developer's build-out of Major Phases and Sub-Phases, and the Developer's obligations to complete the parks, transportation and other infrastructure required for that build-out, and to deliver affordable housing parcels and other public benefits corresponding to that build-out. The Major Phases and Sub-Phases are designed to ensure that the Developer satisfies its public benefit obligations regarding parks, affordable housing, and other community benefits proportionately along with the construction of market rate development.

25. The DDA provides for the horizontal land development of the Project to be built out over approximately 20 years, with vertical development occurring during that period and beyond. The DDA establishes outside dates for horizontal development in a Schedule of Performance, which is attached to the DDA. The Schedule of Performance may be extended due to events outside of the Developer's control like acts of war, natural disasters, litigation, and adverse economic conditions. In addition, the Developer has certain discretionary extension rights that cumulatively cannot exceed six (6) years.
26. As more particularly described in the DDA, the Developer will build significant public infrastructure, and then it will recover its private investment through an allocation of the property tax increment generated by the Project, special taxes imposed on the market development parcels, and proceeds from the sale of finished lots.
27. The first Major Phase of the Project includes the rebuilding of the Alice Griffith Housing Development (or the payment of a subsidy for such rebuilding), together with the development of approximately 1,800 residential units on 120 acres and improved land and subsidies to the Agency for BMR residential units, approximately 36 acres of parks and open space, and the renovation and construction of new replacement studios for the Shipyard artists.
28. The DDA reserves certain property at the Shipyard for the potential development of a new stadium for the 49ers, if the 49ers choose to locate a new stadium on this site in a timely manner. If certain conditions are met regarding agreements with the 49ers and the National Football League, the Developer must build significant infrastructure for the new 49ers stadium and contribute \$100,000,000 toward the cost of constructing the stadium. If these conditions are not met by specified dates, then the Developer may proceed with the non-stadium alternative as described in the DDA.
29. In addition to the DDA, the Agency has negotiated: (i) an Interagency Cooperation Agreement between the Agency and the City ("ICA"), (ii) a Tax Allocation Pledge Agreement between the Agency and the City ("Tax Allocation Agreement"), and (iii) a Planning Cooperation Agreement between the Agency and the City's Planning Department ("Planning Cooperation Agreement").
30. The purpose of the ICA is to establish procedures between the City and the Agency for interdepartmental coordination related to the implementation of the Project. The ICA provides for cooperation between the City and the Agency in administering the process for control and approval of subdivisions, and all other applicable land use, development, construction, improvement, infrastructure, occupancy and use requirements and in establishing the policies and procedures relating to such approvals and other actions. The ICA further commits City departments that consent to become a part of the ICA to perform and maintain certain services as set forth in specified mitigation measures, subject to appropriation. The Developer and its successors under the DDA are third party beneficiaries of the ICA.

31. The purpose of the Tax Allocation Agreement is to provide for the irrevocable pledge of all net available tax increment from the Project Site for the purposes of financing or refinancing the construction of public infrastructure and certain other public improvements on the Project Site. As set forth in the Financing Plan attached to the DDA, the Agency will incur specific obligations to finance certain costs of the Project, including the pledge of tax increment from the Project Site for public improvements and affordable housing purposes, subject to the approval of the Board of Supervisors. Tax increment from the Project Site or the proceeds of bonds secured by a pledge of tax increment will be used to make payments on indebtedness of the Agency to pay or otherwise reimburse directly the costs of public infrastructure or other public improvements. In a separate resolution, the Agency is making benefit findings for the infrastructure and other Agency expenditures under Sections 33445 and 33445.1 of the California Community Redevelopment Law.
32. As set forth in the Financing Plan, the Agency also intends to establish one or more community facilities districts (“CFDs”), which may include improvement areas and tax zones for the Project Site under the Mello-Roos Community Facilities Act of 1982, as amended. CFD bond proceeds will also be used to finance public improvements constructed as part of the Project.
33. The Financing Plan contemplates that all of the Housing Increment (as defined in the Financing Plan) produced by development on the Project Site will be used in the Project Site for the development of Affordable Housing on the Project Site, including one-for-one replacement of housing in the Alice Griffith Housing Development (“Alice Griffith Replacement Units”). The Financing Plan acknowledges that the Agency will use the Housing Increment produced by development outside of the Project Site to meet its obligations under the BMR Housing Plan with respect to the Alice Griffith Replacement Units (“Housing Advance”). If the Project Site generates any net available tax increment that exceeds the amount allocated to pay for public infrastructure and other public improvements, then such Excess Increment (as defined in the Financing Plan) will be used first to repay the Agency for the Housing Advance and then to the Developer to pay for or reimburse Developer for constructing public improvements.
34. Under the Financing Plan, the Agency will use only tax increment that is generated from the Project Site to finance the Project, except to the extent that the Agency uses Housing Increment from outside the Project Site to finance the Alice Griffith Replacement Units. In other words, the Agency will not use tax increment from Zone 2 of the BVHP Redevelopment Project Area and any other redevelopment project area for development in the Project Site except for the Alice Griffith Replacement Units.
35. The dedication of Housing Increment and Excess Increment as provided in the Financing Plan is essential to the financing of affordable housing on the Project Site, including the Alice Griffith Replacement Units, and complies with the

requirements of the California Community Redevelopment Law and the requirements of the Redevelopment Plan Amendments regarding the use of tax increment revenues for affordable housing.

36. The purpose of the Planning Cooperation Agreement is to define the roles of the Agency staff and the City's Planning Department staff in the implementation of the Project under the DDA to ensure that all development in the Project Site is in accordance with the Shipyard Redevelopment Plan and the BVHP Redevelopment Plan and related documents. Design controls governing the Project are set forth in the respective Design for Development for the Candlestick Site and the Shipyard Site attached to the DDA. Under the Redevelopment Plan Amendments and the Designs for Development, the Agency has final land use authority for development with the Project Site.
37. The Agency and the Planning Department previously entered into a delegation agreement dated as of September 19, 2006 to define the roles of the respective parties in the implementation of the BVHP Redevelopment Plan ("BVHP Delegation Agreement"). As the Planning Cooperation Agreement will govern the roles of the Agency and the Planning Department for the entire Project Site, the BVHP Delegation Agreement is being revised to delete Candlestick Point from the BVHP Delegation Agreement. Nothing in the Planning Cooperation Agreement changes the roles of the Agency staff or the Planning Department staff within Zone 2 of the BVHP Redevelopment Plan (i.e., the area not covered by the DDA). Development in Zone 2 will continue to be governed by the San Francisco Planning Code under the BVHP Redevelopment Plan Amendment and the existing terms of the BVHP Delegation Agreement.
38. The CAC , at its meeting of May 24, 2010, and the PAC, at its meeting of May 27, 2010, have reviewed and endorsed the DDA.
39. The Agency Commission hereby finds that the DDA, ICA, Tax Allocation Agreement, and Planning Cooperation Agreement are part of the Candlestick Point - Hunters Point Shipyard Phase II Development Plan Project for purposes of compliance with CEQA.
40. In Resolution No. 59-2010, adopted on June 3, 2010, the Agency Commission adopted findings that various actions related to the Candlestick Point - Hunters Point Shipyard Phase II Development Plan Project were in compliance with CEQA. These findings are on file with the Secretary of the Agency and are incorporated herein by reference. Said findings are in furtherance of the actions contemplated in this Resolution and are made part of this Resolution by reference herein.

**RESOLUTION**

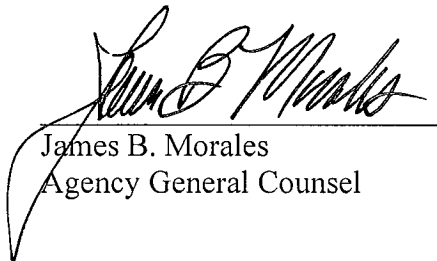
**ACCORDINGLY, IT IS RESOLVED** that Resolution No. 59-2010, adopted by the Agency Commission on June 3, 2010, sets forth the Agency's CEQA Findings for this action; and

**IT IS FURTHER RESOLVED** that the Redevelopment Agency of the City and County of San Francisco approves the DDA, the ICA, the Tax Allocation Agreement, and the Planning Cooperation Agreement ("Agreements"), substantially in the form lodged with the Agency General Counsel; and

**IT IS FURTHER RESOLVED** that the Redevelopment Agency of the City and County of San Francisco authorizes its Executive Director, prior to execution, to make changes and take any and all steps, including but not limited to the attachment of exhibits and the making of corrections, as necessary or appropriate to consummate the Agreements; provided, however, that such changes and steps do not materially increase the burdens and responsibilities of the Agency or materially decrease the benefits to the Agency; and

**IT IS FURTHER RESOLVED** that the Redevelopment Agency of the City and County of San Francisco authorizes its Executive Director to take all actions as needed, to the extent permitted under applicable law and under these Agreements, to effectuate the Agency's performance under the Agreements, including amending the existing BVHP Delegation Agreement to remove Candlestick Point.

**APPROVED AS TO FORM:**

  
James B. Morales  
Agency General Counsel