

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 08-2019

**AUTHORIZING THE EXECUTIVE DIRECTOR TO EXTEND THE TERM OF THE
EXCLUSIVE NEGOTIATIONS AGREEMENT AND PREDEVELOPMENT LOAN
AGREEMENT FOR THE AFFORDABLE RENTAL HOUSING MIXED-USE PROJECT
AT CANDLESTICK POINT SOUTH BLOCK 11A; AND ADOPTING
ENVIRONMENTAL FINDINGS PURSUANT TO CEQA; BAYVIEW HUNTERS POINT
REDEVELOPMENT AREA**

- WHEREAS, In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code, section 33000 et seq. the “CRL”), the Redevelopment Agency of the City and County of San Francisco (the “Former Agency”) undertook programs for the reconstruction and construction of blighted areas in the City and County of San Francisco; and,
- WHEREAS, In accordance with the CRL, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Bayview Hunters Point Redevelopment Project Area (the “BVHP Redevelopment Plan”) by Ordinance No. 113-06, adopted on May 16, 2006. The BVHP Redevelopment Plan creates two sub-areas within its boundaries: Zone 1, also known as the Candlestick Point Sub-Area (“Candlestick Point”), and Zone 2 covering the remainder of the area within the Plan boundaries. In cooperation with the City, the Former Agency was responsible for implementing the BVHP Redevelopment Plan; and,
- WHEREAS, On June 3, 2010, the Former Agency Commission approved the Candlestick Point and Hunters Point Shipyard Phase 2 Disposition and Development Agreement (the “Original DDA”) between CP Development Co., LP (the “Master Developer”) and the Former Agency, which provides for the development of approximately 700 acres that includes Candlestick Point (the “Phase 2 Project”); and,
- WHEREAS, Pursuant to California Health and Safety Code section 34170 et seq. (the “Dissolution Law”), the Former Agency was dissolved as of February 1, 2012; and,
- WHEREAS, The Successor Agency to the Redevelopment Agency of the City and County of San Francisco (commonly known as the Office of Community Investment and Infrastructure herein, “OCII”) is completing the enforceable obligations of the Former Agency with regard to the Phase 2 Project, under the authority of the CRL as amended by the Dissolution Law, and under San Francisco Ordinance No. 215-12 (October 4, 2012) (establishing the Successor Agency Commission (“Commission”) and delegating to it state authority under the Dissolution Law); and,
- WHEREAS, On December 14, 2012, the California Department of Finance determined “finally and conclusively” that the DDA and tax allocation pledge agreements, including the affordable housing programs are enforceable obligations under the Dissolution Law; and,

- WHEREAS, OCII is completing the enforceable obligations of the Former Agency in the Redevelopment Plan area, including administration of the Phase 2 Project; and,
- WHEREAS, In connection with the Phase 2 Project, on December 18, 2012, OCII approved a First Amendment to the Original DDA by Resolution No. 3-2012, and on December 1, 2014, OCII approved a Second Amendment to the DDA by Resolution No. 82-2014, and on April 17, 2018 the Commission Approved a Third Amendment to the DDA by Resolution No. 16-2018 (the Original DDA, as amended thereby, is referred to hereafter as the “DDA”). The DDA calls for approximately 10,500 residential units, approximately 32% of which will be below market rate, which includes Agency Affordable Units for which OCII is responsible for selecting a Qualified Housing Developer and providing financial assistance; and,
- WHEREAS, On January 7, 2014 the Commission approved the first Major Phase for Candlestick Point (“Major Phase 1 CP”) by Resolution No. 1-2014, and the Executive Director approved Sub-Phases CP-02-03-04 within Major Phase 1 CP effective the same date as the Commission’s approval of Major Phase 1 CP; and,
- WHEREAS, On February 7, 2017, by Resolution No. 03-2017, the Commission approved an Exclusive Negotiations Agreement (“ENA”) for the development and management of and affordable rental housing project on Candlestick Point South Block 11a (the “CPS 11a Project” or “Project”) and a predevelopment loan agreement providing up to \$3,500,000 (the “Loan Agreement”) for predevelopment work associated with the construction of the CPS 11a Project, each entered into with San Francisco Housing Development Corporation and Mercy Housing California (together, the “CPS 11a Developer”); and,
- WHEREAS, On March 20, 2018, the Commission conditionally approved the schematic design submittal for the CPS 11a Project by Resolution No. 9-2018. The Commission approved an updated development program with 176 total residential units (38 set aside for formerly homeless households, and 23 set aside for disabled persons), and approximately 11,342 square feet of Neighborhood Retail and Services space; and,
- WHEREAS, In June 2018, the Executive Director granted the CPS 11a Developer’s request for the contractually-allowed twelve-month extension to the term of the ENA. As a result, the ENA will expire in June 2019; and
- WHEREAS, In August 2018, the Master Developer informed OCII that the proposed anchor retail developer within Sub-Phase CP-02 was unlikely to continue its current agreement with the Master Developer, and as a result Master Developer would be seeking to work with OCII to revise the development program for Major Phase 1 CP. OCII informed the CPS 11a Developer that this updated development program would likely delay the overall schedule for infrastructure delivery within Candlestick Point, including to the CPS 11a Project; and,
- WHEREAS, In the meantime, the CPS 11a Developer continued to work diligently with OCII staff to fulfill the conditions and obligations of the ENA and Loan Agreement given the existing resources and expertise committed to the project; and,

WHEREAS, OCII now anticipates that the Master Developer will seek Commission approval in late 2019 of Master Developer's revised development program and infrastructure schedule for Major Phase 1 CP. Thus, for reasons beyond the CPS 11a Developer's control, necessary infrastructure for the CPS 11a Project will not be available in time to meet the development timelines established in the ENA and Loan Agreement, at no fault of the CPS 11a Developer. Under the ENA and Loan Agreement (sections 5.5 and 19.3, respectively), such conditions can be considered a force majeure event, excusing the performance hindered by the force majeure event, until such time as the conditions leading to the force majeure event have been resolved. The Executive Director has acknowledged the CPS 11a Developer's request to determine that a force majeure event exists based on the foregoing, and would continue to exist until such time as the Executive Director determines, in her sole discretion, that Master Developer has made sufficient progress on installation of CP-02 infrastructure to allow recommencement of development activities on the CPS 11a Project; and,

WHEREAS, In the interim, and in accordance with the provisions of the ENA and Loan Agreement, the term of these agreements (which are set to expire in June 2019 and February 2020, respectively) and certain other time-sensitive provisions, would be tolled until the resolution of the force majeure event. Staff recommend that the Commission grant the Executive Director the discretionary authority to extend the term of the ENA and Loan Agreement once the force majeure conditions are resolved, for an additional period of no more than eighteen months, to allow the CPS 11a Developer to complete its required work under the respective documents. While tolled, the CPS 11a Developer may, with staff concurrence, take certain caretaking actions to maintain the CPS 11a Project's readiness to continue, which may result in some reimbursement under the Loan Agreement; and,

WHEREAS, On June 3, 2010, the Former Agency Commission, by Resolution No. 58-2010, and the San Francisco Planning Commission, by Motion No. 18096, certified the Final Environmental Impact Report for the Candlestick Point-Hunters Point Shipyard Phase 2 Project, and determined that document to be 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.) (the "CEQA Findings"). Subsequent to these actions, the Successor Agency Commission has adopted five addenda to the Final Environmental Impact Report, and made additional findings of consistency with CEQA, which together with the CEQA Findings, are incorporated herein by this reference and collectively referred to below as the "FEIR" and the "CEQA Findings"; now therefore be it

RESOLVED, That the Commission authorizes the Executive Director (or her designee) to approve extensions to the ENA and Loan Agreement for the CPS 11a Project for a period of up to eighteen months upon request by the CPS 11a Developer and upon the Executive Director's determination, in her sole discretion, that (a) the conditions justifying force majeure no longer exist and (b) the extensions are otherwise in the best interest of OCII's affordable housing goals and obligations under the BVHP Redevelopment Plan and the DDA; and, be it further

RESOLVED, The Commission finds that this approval is consistent with the project as analyzed in the FEIR) and requires no additional environmental review beyond the FEIR and CEQA findings, pursuant to CEQA Section 21166 and the CEQA Guidelines Sections 15180, 15162, 15163, and 15164, for the following reasons:

This approval does not require major revisions to the FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant impacts; and,

No new information of substantial importance to the project analysis in the FEIR has become available, which would indicate that (i) this approval will have significant effects not discussed in the FEIR; (ii) significant environmental effects will be substantially more severe; (iii) mitigation measures or alternatives found not feasible, which would reduce one or more significant effects, have become feasible; or (iv) mitigation measures or alternatives, which are considerably different from those in the FEIR, will substantially reduce one or more significant effects on the environment that would change the conclusions set forth in the FEIR; and, be it further

RESOLVED, That the Commission authorizes the Executive Director to take such other actions as may be necessary or appropriate, in consultation with OCII counsel, to effectuate the purpose of the intent of this Resolution.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of April 16, 2019.

Commission Secretary