

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 22-2020

AUTHORIZING AN AMENDMENT EXTENDING THE TERM OF AN EXISTING LEGAL SERVICES CONTRACT WITH SHUTE, MIHALY & WEINBERGER, LLP, A CALIFORNIA LIMITED LIABILITY PARTNERSHIP, BY PROVIDING FOR TERMINATION UPON EXPENDITURE OF THE TOTAL CONTRACT AMOUNT OF \$1,500,000, TO CONTINUE TO PROVIDE SPECIALIZED LEGAL SERVICES RELATED TO IMPLEMENTATION OF LAND TRANSFER AGREEMENTS GUIDING THE RECONFIGURATION OF REAL PROPERTY OWNERSHIP IN THE HUNTERS POINT SHIPYARD PHASE 1 AND CANDLESTICK POINT AND HUNTERS POINT SHIPYARD PHASE 2 DEVELOPMENT PROJECTS; HUNTERS POINT SHIPYARD AND BAYVIEW HUNTERS POINT REDEVELOPMENT PROJECT AREAS

WHEREAS, In August 2010, the San Francisco Board of Supervisors approved amendments to the Hunters Point Shipyard Redevelopment Plan and the Bayview Hunters Point Redevelopment Plan, together with related documents and agreements governing redevelopment within the Plan areas (the “Project Documents”); and,

WHEREAS, In June 2010, the former Redevelopment Agency Commission took a series of actions to approve the Candlestick Point/Hunters Point Shipyard Phase 2 development (the “Project”) including the approval of the Project’s Disposition and Development Agreement (“DDA”) with CP Development Co., LP (now CP Development Co., LLC, the “Developer”); and,

WHEREAS, As of February 1, 2012, the San Francisco Redevelopment Agency was dissolved in accordance with California Health and Safety Code §§ 34170 et seq. (the “Redevelopment Dissolution Law”), and 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) (the “Successor Agency” or “OCII”) is completing the enforceable obligations of the Former Agency in the Project Area, under the authority of the Redevelopment Dissolution Law and under San Francisco Ordinance No. 215-12 (Oct. 4, 2012) (establishing the Successor Agency Commission (“Commission”) and delegating to it state authority under the Redevelopment Dissolution Law); and,

WHEREAS, On December 14, 2012, the California State Department of Finance (“DOF”) issued a Final and Conclusive Determination under California Health and Safety Code § 34177.5 (i), that the DDA is an enforceable obligation that survived the dissolution of the former Redevelopment Agency; and,

WHEREAS, The DDA establishes rights and obligations of the Developer and OCII, respectively, concerning development of the Project, within the parameters of the Project Documents. In particular, the DDA provides for the consolidation and transfer of lands within the Project area from OCII to Developer for development of the Project; and,

- WHEREAS, Significant portions of both the Hunters Point Shipyard and Candlestick Point areas within the Project are either owned by the California Department of Parks and Recreation (“State Parks”) or are current or former tidelands subject to the public trust for commerce, navigation, fisheries (the “Public Trust”) and administered by the California State Lands Commission (“State Lands”), or are similarly restricted lands administered by the City and County of San Francisco (“City”); and,
- WHEREAS, State Parks owns most property in the Candlestick Point State Recreation Area. State law restricts the sale or lease of State Parks land and limits the types of agreements by which the State may grant OCII, the City or other parties the right to use and occupy State land; and,
- WHEREAS, The overall purpose of the Public Trust is to protect, maintain, and use Trust lands to advance the public’s interest in commerce, navigation, fisheries, and regional recreation/open space uses. State law generally prohibits Trust lands from being transferred or used except for purposes consistent with the Public Trust, however, in some instances, the State may remove certain lands from the Public Trust if the State Legislature determines that the lands are no longer useful for Trust purposes and other lands are placed under the Trust; and,
- WHEREAS, The DDA requires that its parties enter into two agreements with State Parks and State Lands, respectively, for the reconfiguration of Public Trust and State Parks land within the Project site to accommodate contemplated development, consistent with applicable State laws governing the particular lands being reconfigured (collectively, the “Land Transfer Agreements”); and,
- WHEREAS, OCII, the City, and the Developer anticipated the need for specialized outside counsel to assist OCII in negotiating and implementing the Land Transfer Agreements, and per the DDA, OCII’s costs associated with this work are reimbursed by the Developer; and,
- WHEREAS, Both the former Redevelopment Agency and OCII have entered into contracts with Shute, Mihaly & Weinberger LLP, on a sole-source basis, to provide advice in matters related to the Land Transfer Agreements, most recently as authorized by the Commission on September 19, 2017 (the “SMW Contract”); and,
- WHEREAS, Shute Mihaly has ably assisted OCII in negotiating and executing the Land Transfer Agreements and concluding two phases of Public Trust land exchanges and one phase of State Parks land exchanges contemplated thereunder; and,
- WHEREAS, The reconfiguration of the Public Trust and State Parks lands will continue in phases for the duration of the Project, as will development oversight activities bearing on Public Trust and State Parks lands; and,
- WHEREAS, The SMW Contract expires on the earlier of three years from the Effective Date or the expiration of the \$1,500,000 funds available under the Contract; and,

WHEREAS, OCII continue to require legal services from Shute Mihaly concerning the Land Transfer Agreements and other development oversight activities bearing on Public Trust and State Parks lands; and,

WHEREAS, To meet this requirement the Commission now desires to approve an extension of the SMW Contract, to provide that the SMW Contract terminates upon the expiration of the funds currently available thereunder, which as of the date of this Resolution, are approximately \$1,180,000; and,

WHEREAS, Authorization of an amendment to the SMW Contract to provide specialized legal services to assist OCII in the implementation of the DDA and Land Transfer Agreements is an administrative activity that will not result in direct or indirect physical changes in the environment, and is not a “Project” as defined in the California Environmental Quality Act (“CEQA”), pursuant to CEQA Guidelines Section 15378(b)(5); now therefore, be it

RESOLVED, That this Commission authorizes the Executive Director to amend the existing contract with Shute, Mihaly & Weinberger LLP, to extend the contract by providing for termination upon expenditure of the total contract amount of \$1,500,000.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of August 18, 2020.

Commission Secretary

