INFORMATIONAL MEMORANDUM

TO: Agency Commissioners

FROM: Fred Blackwell
Executive Director


On September 2, 2010, the Sierra Club and Golden Gate Audubon Society (collectively the “Petitioners”) filed a lawsuit against the City and County of San Francisco (“City”) and Redevelopment Agency (“Agency”) challenging the approval of the Candlestick Point-Hunters Point Shipyard Phase II Development Plan project (“Project”) on the grounds that the Project’s environmental impact report did not comply with the California Environmental Quality Act (“CEQA”). The Project’s developer, CP Development Co., LP (“Developer”), was named as a real party in interest to the lawsuit. (A Lennar Corporation affiliate is one of the members of Developer.)

After several months of negotiation, the Petitioners and Developer have reached a settlement agreement dated January 7, 2011 that dismisses the lawsuit. The attached agreement provides, among other things, that the Developer will design a bridge across the Yosemite Slough that is consistent with previous City and Agency Project approvals and that a) maximizes sunlight under the bridge, b) provides an architecturally significant entryway, and c) minimizes vehicle noise, bird strikes, impacts on the adjacent parkland, and nighttime glare from the bridge. Final approval of the bridge remains with state and local authorities pursuant to applicable law and previous agreements for the Project.

In addition, the Developer will provide $2.5 million for the design, construction, and maintenance of a back barrier lagoon on Parcel E of the Hunters Point Shipyard (“Lagoon”). The agreement describes the Lagoon as an area separate from the open water of the Bay that functions as “tidally choked (muted) lagoon with minimal tidal range and with predominantly seepage tides.” Agreement at page 4. The Lagoon will be designed and constructed as a “natural sustainable feature that will maintain its ecological functions with only minimal maintenance needs.” Id. Furthermore, the agreement provides that the Developer will incorporate stormwater seasonal wetlands into the design of the Grasslands Ecology Park in the Project, design and install “raptor perches/hunting posts or barn owl/American kestrel nest boxes” in the park, plant 10,000 net new trees throughout the Project and surrounding area, develop a shoreline area for water bird roosting, fund bird monitoring by an independent ornithologist, and propose a natural shoreline look for Parcels E and E-2. The attached agreement provides additional details and diagrams.
The City and Agency are third party beneficiaries to certain sections of the agreement that, among other things, dismiss the lawsuit and release any liability. Neither the City nor the Agency is a signatory to the agreement, but nonetheless have enforceable rights, as third party beneficiaries, to ensure that the claims in the lawsuit are dismissed.

(Originated by Jim Morales, General Counsel)

Fred Blackwell
Executive Director

Attachment: Settlement Agreement