

RESOLUTION NO. 154-2002
Adopted As Amended, September 10, 2002

AUTHORIZING EXCLUSIVE NEGOTIATIONS WITH FILLMORE DEVELOPMENT ASSOCIATES, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR THE DISPOSITION AND DEVELOPMENT OF PARCEL 732-A, LOCATED AT THE NORTHEAST CORNER OF FILLMORE AND EDDY STREETS; WESTERN ADDITION, AREA A-2 REDEVELOPMENT PROJECT AREA

BASIS FOR RESOLUTION

1. The Redevelopment Agency of the City and County of San Francisco ("Agency") offered Parcel 732-A, a 52,940 square feet parcel of land located at the northeast corner of Fillmore and Eddy Streets ("Parcel"), by issuing a Request for Proposals ("RFP") dated October 26, 2001, for development of the Parcel as a destination entertainment mixed-use development that might serve as a catalyst for the Fillmore Jazz Preservation District (the "District") in the Western Addition, Area A-2 Redevelopment Project Area ("Project Area").
2. The District was designated by the Agency Commission as an area in the Project Area on which to focus Agency resources to spur economic revitalization through the reestablishment of a vibrant commercial district that reflects the historical and cultural heritage of the area, generates job opportunities for neighborhood residents, and increases the market for existing District businesses and tax revenues to the City.
3. The Agency received two proposals in response to the RFP before the offering closed on March 25, 2002.
4. After analysis and evaluation of each proposal by staff and the Agency's consultant, Bay Area Economics, taking into consideration all aspects of each proposal and the qualifications of each proposed developer, the Commission selected Fillmore Development Associates, a California limited liability company, ("Developer") to enter into exclusive negotiations ("Exclusive Negotiations") with the Agency for the eventual development of the Parcel.
5. The Commission has authorized the Exclusive Negotiations subject to the terms and conditions as attached to this Resolution as Attachment 1.
6. It is appropriate that the Commission expressly authorize Exclusive Negotiations in an Agency Resolution. The eventual disposition of the Parcel will be subject to the approval of the Agency Commission after a public hearing, as required by law.



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 exclusive negotiations with Fillmore Development Associates, a California limited liability company, for the disposition and development of Parcel 732-A, located at the northeast corner of Fillmore and Eddy Streets in the Western Addition, Area A-2 Redevelopment Project Area, subject to the terms and conditions attached to this Resolution as Attachment 1.

APPROVED AS TO FORM:



Bertha A. Ontiveros
Agency General Counsel



TERMS AND CONDITIONS FOR EXCLUSIVE NEGOTIATIONS WITH FILLMORE DEVELOPMENT ASSOCIATES, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR THE DISPOSITION AND DEVELOPMENT OF PARCEL 732-A

THIS TERMS AND CONDITIONS FOR EXCLUSIVE NEGOTIATIONS AGREEMENT ("Agreement"), dated Sept. 19, 2002, for the proposed disposition and development of Parcel 732-A in the Western Addition, Area A-2 Redevelopment Project Area to Fillmore Development Associates, a California limited liability company ("Developer").

1. Acceptance. In order to initiate Exclusive Negotiations, Fillmore Development Associates, a California Limited Liability Company ("Developer"), must provide its written acceptance of this Agreement by countersigning the transmittal letter and initialing a copy of Resolution Number 154-2002 (the "Resolution"), and this Agreement, which is the attachment referenced in the Resolution, indicating the terms and conditions the Agency Commission set for the Exclusive Negotiations and returning the letter, Resolution and this Agreement to the Agency no later than fifteen (15) business days after the date the Commission adopts this Resolution ("Developer's Acceptance"). Developer's Acceptance shall constitute Developer's acknowledgement that its Offer to Negotiate Payment in the amount of \$20,000 will become non-refundable.

2. Benchmarks Defined. Developer acknowledges that its timely attainment of each of the following benchmarks (each, a "Benchmark") is a condition to continued Exclusive Negotiations leading to a Development and Disposition Agreement ("DDA"): (a) Commission approval of Basic Concept Design drawings ("BCDs"); (b) Commission approval of schematic drawings; and (c) Commission approval of a DDA. Developer further acknowledges that its failure to provide information or documents required for Commission approval of each Benchmark or to obtain Commission approval by the dates set forth below will cause termination of Exclusive Negotiations subject to Commission action.

3. First Benchmark – Basic Concept Design. Developer must obtain Commission approval of BCDs no later than January 11, 2003. As a condition precedent to the Commission's consideration of Developer's BCDs, Developer must submit to the Agency for review and approval a modified proposal no later than December 8, 2002. Any extension of time granted to Developer for a required submittal will be cause for continuing Commission consideration of the BCDs for a period consistent with the extension granted to Developer. The modified proposal must include the following:

- (a) a revised development program and basic concept design showing at $\frac{1}{8}$ inch scale: the floor areas, elevations and sections of its proposed building(s) clearly indicating proposed development density, all of which must meet the land use requirements under the Project Area Redevelopment Plan and be demonstrated to be financially feasible by a detailed, independent financial analysis, together with estimated development costs for each separate project element and estimated total project development cost, a proposed development schedule, a 10-year operating

pro forma for each element of the proposal listing the underlying assumptions for each pro forma including the form of site transfer/control, projected rental rates or sales prices for each element of the proposal, and sources and uses of funds that are identified, balanced and fully supported, incorporating current market conditions for a financially feasible development;

- (b) a parking feasibility study demonstrating that proposed parking is feasible, including estimated parking demand and projected revenues together with an analysis of foot traffic generated by commercial and residential uses on a 7-day, 24-hour basis; and
- (c) a plan to identify all consultants other than the design team that is consistent with the Agency's procurement and contracting policies.

5. Second Benchmark – Schematic Drawings. Developer must obtain Commission approval of its schematic drawings no later than April 26, 2003. As a condition precedent to the Commission's consideration of Developer's schematic drawings, Developer must submit the schematic drawings, together with the information and documents listed below, to the Agency for review no later than March 12, 2003. Any extension of time granted to Developer for a required submittal will be cause for continuing Commission consideration of the BCDs for a period consistent with the extension granted to Developer. The required submittals for approval are:

- (a) schematic drawings;
- (b) commitments or allocations from all public and private sources of construction and operating financing, including private lenders, investors, agencies providing bond or other forms of public;
- (c) letters of intent to execute leases by a date certain from identified prospective tenants; and
- (d) a proposal for a ground lease structure providing the Agency with a continued proprietary and ownership interest in the Parcel.

6. Third Benchmark – DDA. Developer must obtain Commission approval of a Development and Disposition Agreement ("DDA") incorporating Developer's agreement to comply with all Agency policies and procedures and any other conditions imposed by the Commission in the course of Exclusive Negotiations no later than June 14, 2003. As a condition precedent to the Commission's consideration of the DDA, Developer must deliver four (4) executed originals of the DDA to the Agency no later than May 23, 2003.

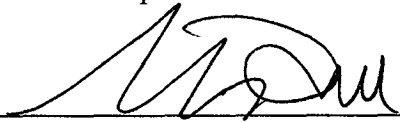
7. Termination. Developer's failure to meet any of the Benchmarks or to make the submittals required for each Benchmark on or before the dates set forth above, will cause the early termination of Exclusive Negotiations subject to further Commission action, unless the date is previously extended by the Executive Director in writing. In any event, Exclusive Negotiations shall terminate at 5:00 p.m. on June 14, 2003, subject to Commission approval by resolution.

8. Limited Effect of this Agreement and Associated Resolution. This Agreement and associated Resolution No. 154-2002 does not give Developer any claim or rights of any kind against the Agency or any right or interest whatsoever in or to the Parcel or any of the other properties of the Agency.

9. Submittal and Commission Approval Dates. Any Developer submissions due on a non-business day (i.e., weekend or holiday) shall be required to be submitted on the following business day. Any Commission approval dates which fall on a day that the Commission does not hold a meeting, shall be heard at the next Commission meeting.

ACCEPTED AND AGREED TO:

Fillmore Development Associates. LLC.

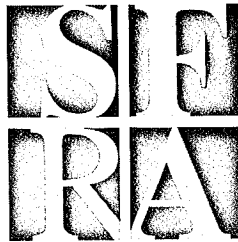


Its Principal: Michael E. Johnson

San Francisco
Redevelopment Agency

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Marcia Rosen, Executive Director

September 13, 2002

108-43102-014

Fax: 415-749-2525

Mr. Michael E. Johnson
Fillmore Development Associates, LLC
C/O Em Johnson Interest, Inc.
2121 Peralta Street, Suite 134
Oakland, California, 94607



Re: Exclusive Negotiations with Fillmore Development Associates for the Disposition and Development of Agency Parcel 732-A located on the northeast corner of Fillmore and Eddy Streets, Western Addition Redevelopment Project Area A-2.

Dear Mr. Johnson:

On behalf of the Redevelopment Agency of the City and County of San Francisco (the "Agency"), I am pleased to provide you with a copy of the Agency Commission Resolution Number 154-2002 ("Resolution") adopted on September 10, 2002, authorizing exclusive negotiations pursuant to the Resolution and its attachment, Terms and Conditions for Exclusive Negotiations with Fillmore Development Associates, a California limited liability company, for the Disposition and Development of Parcel 732-A ("ENA").

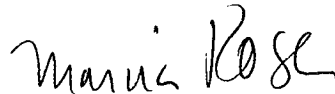
As you are aware, the Resolution authorizes Agency staff to enter into exclusive negotiations with Fillmore Development Associates as a result of the Agency's issuance of a Request for Proposal, dated October 26, 2001, for the development of Parcel 732-A as a destination entertainment and mixed-use development that will serve as a catalyst for the Fillmore Jazz Preservation District in the Western Addition, Area A-2 Redevelopment Project Area.

In order to commence the negotiations, please indicate your agreement to initiate negotiations by having a duly authorized representative of the Fillmore Development Associates, LLC countersign this letter and initial the enclosed Resolution and ENA (collectively, the "Acceptance Documents"). The Acceptance Documents should be returned to the Agency, to the attention of Ricky Tijani, Senior Development Specialist, by no later than 5:00 p.m., on October 1, 2002. Also to facilitate progress of the negotiations, following receipt of the Acceptance Documents, Agency staff will contact you to set a date for a kick-off meeting at the Agency to discuss how to reach general project parameters or programs and a framework for attaining the benchmarks set in the ENA.

A handwritten signature in the bottom right corner of the page.

We look forward to cooperative negotiations with your development team and appreciate your efforts to date. Please call Ricky Tijani at (415) 749-2451, if you have any questions or comments regarding this letter.

Sincerely,



Marcia Rosen
Executive Director

Accepted and Agreed to:
Fillmore Development Associates. LLC.



Its Principal: Michael E. Johnson

Attachments: Agency Resolution 154-2002
ENA for Parcel 732-A