RESOLUTION NO. 56-2004

Adopted May 18, 2004

AUTHORIZING A DISPOSITION AND DEVELOPMENT AGREEMENT WITH FILLMORE DEVELOPMENT ASSOCIATES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, WHICH INCLUDES MODIFICATIONS OF DENSITY REQUIREMENTS, FOR THE PROPOSED MIXED-USE PROJECT AT PARCEL 732-A, LOCATED AT THE NORTHEAST CORNER OF FILLMORE AND EDDY STREETS; AND MAKING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND PURSUANT TO CALIFORNIA HEALTH AND SAFETY CODE SECTION 33445; WESTERN ADDITION REDEVELOPMENT PROJECT AREA A-2

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 ("Site"), by issuing a Request for Proposals ("RFP") dated October 26, 2001, for the disposition and development of the Site as a destination entertainment mixed-use development that would serve as a catalyst for the Fillmore Jazz Preservation District ("District") in the Western Addition A-2 Redevelopment Project Area.

2. Based on Agency Commission authorization, the Agency entered into an Exclusive Negotiations Agreement ("ENA") with Fillmore Development Associates, LLC, a California limited liability company ("FDA" or the "Developer"), for the disposition and development of the Site. The ENA requires the Developer, among other things, to meet certain performance benchmarks during the negotiation period toward entering into a disposition and development agreement ("DAD") for the Site.

3. The Developer’s proposed project consists of a single building with approximately 44,402 gross square feet of entertainment-related retail/commercial uses, including a jazz club/restaurant and another restaurant; 80 for-sale condominium units - 34 one-bedroom units, 41 two-bedroom units and 5 three-bedroom units; and 202 parking spaces in two garages - one underground, and the other, above-ground, ("Project").

4. During the negotiations, the Agency Commission approved a term sheet signed by the Developer, which summarizes certain basic terms that include Agency
financing assistance for the Developer's proposal and the inclusion of adjacent Agency Parcel 725-C to provide additional development density for the Project. The Agency financing includes the funding of a proposed public garage for the benefit of the Project and the Project Area and, more specifically, the Fillmore Jazz Preservation District.

5. The Developer has attained all of its ENA performance benchmarks, and its proposed Project satisfies the Agency's development requirements for the destination entertainment venue envisioned in the RFP.

6. The Project Area Redevelopment Plan ("Plan") zoning for the Site is CC, Commercial, and Community Shopping. Under this zoning, permitted non-residential uses, except hotels, must not exceed 1.2 square feet of gross floor area for each square foot of lot area. Residential uses may be intermixed at a density governed by the provisions of the Use District RH. The RH District permits not less than 100 square feet of lot area for each Agency Room.

7. The Commission, concurrently with this Resolution, pursuant to Resolution No. 55-2004, is considering the adoption of a Preliminary Mitigated Negative Declaration issued by the Agency and the San Francisco Planning Department, as co-lead agencies, in connection with the proposed amendment to the Plan ("Plan Amendment") that, if approved, would provide residential and non-residential density bonuses to five publicly-owned sites in the Project Area, including Parcel 732-A. Adoption of the Mitigated Negative Declaration is one of the first steps in the Plan Amendment process.

8. The proposed Project of 38,510 net square feet of commercial space and 291 Agency Rooms represent the minimum programmatic requirements necessary for the functional and economic viability of the retail/commercial and residential spaces. Accordingly, FDA is requesting a density bonus that is 29% greater than the existing density standard under the Plan. The proposed building area of the Project fits within the existing height and bulk restrictions of the Plan.

9. Although the proposed Project's development program exceeds density standards under the Plan, it would meet the density standards under the proposed Plan Amendment. The proposed density bonus will permit an increase in the Project's residential density by reducing the Plan's 100 square foot of area requirement for each Agency room to not less than 78 square foot of lot area for each Agency room to permit a total number of Agency Rooms in an amount not to exceed 291 Agency rooms on the Site subject to the Plan's density limitation for non-residential uses of not less than one square feet of lot area for 1.2 square feet of non-residential gross floor area.

10. In light of the changes proposed in the Plan Amendment, staff recommends that the Commission conditionally approve the density bonus required for FDA's
development program. The density bonus is necessary to permit the Project to proceed in a manner that would result in substantial compliance with the intent and purpose of the Plan and the Plan's density standards and requirements in order to permit achievement of Plan purposes without compromising the fundamental purpose of the existing development controls, and in anticipation of the proposed Plan Amendment.

11. Based on the analysis contained in the Preliminary Mitigated Negative Declaration, staff requests that the Commission adopt a finding in accordance with CEQA that the Project will not have a significant effect on the environment, provided that mitigation measures specified in the Preliminary Mitigated Negative Declaration are implemented. Staff has excerpted those mitigation measures relating to Parcel 732-A and the Project from the Preliminary Mitigated Negative Declaration and incorporated them into a Mitigation Monitoring and Reporting Program that FDA must implement as a condition to the DDA.

12. Staff finds and recommends Commission adoption of such findings under California Health and Safety Code Section 33445 as well as a recommendation to submit such findings to the Board of Supervisor’s of the City and County of San Francisco, that: (1) the public garage for the Project that the Agency will finance is of benefit to the Project Area and, more specifically, the Fillmore Jazz Preservation District; (2) that no other reasonable means of financing the construction of the garage are available; (3) the use of Agency funds to construct the public garage will assist in the elimination of blighting conditions in the Project Area, specifically, the elimination of a surface parking lot and the lack of private investment in the Project Area; and, (4) that such actions are consistent with the Agency’s Implementation Plan for the Project Area.

13. The adjacent landowners have been notified of the requested density bonus and the public has been notified of the Preliminary Mitigated Negative Declaration and public hearings concerning these matters have been held in the time and manner required by law.

14. The Developer requests, and the Agency has agreed, to enter into a DDA for the Site, and conditional approval of a density bonus, subject to the conditions above and those condition included in the DDA, and based on the above CEQA findings and public benefit findings pursuant to California Health and Safety Code Section 33445.

**RESOLUTION**

**ACCORDINGLY, IT IS RESOLVED** by the Redevelopment Agency of the City and County of San Francisco that the Executive Director is authorized to execute a Disposition and Development Agreement with Fillmore Development Associates,
LLC, a California Limited Liability Company, which includes modifications of the density requirements for the proposed mixed-use project at Parcel 732-A, located at the northeast corner of Fillmore and Eddy Streets, in the Western Addition A-2 Redevelopment Project Area, subject to findings under the California Environmental Quality Act and pursuant to California Health and Safety Code Section 33445, substantially in the form lodged with the Agency General Counsel.

APPROVED AS TO FORM:

[Signature]

James B. Morales
Agency General Counsel