

RESOLUTION NO. 125-2009

Adopted November 3, 2009

AUTHORIZING A FIFTH AMENDMENT TO THE HUNTERS POINT SHIPYARD PHASE 1 DISPOSITION AND DEVELOPMENT AGREEMENT AND A FIRST AMENDMENT TO THE COMMUNITY BENEFITS AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO AND HPS DEVELOPMENT CO., L.P.; HUNTERS POINT SHIPYARD REDEVELOPMENT PROJECT AREA

BASIS FOR RESOLUTION

1. On December 2, 2003, the Agency Commission (“Commission”) approved the Hunters Point Shipyard Phase 1 Disposition and Development Agreement (as amended, “DDA”) between the Redevelopment Agency of the City and County of San Francisco (“Agency”) and Lennar-BVHP, LLC, now known as HPS Development Co., L.P. (“Lennar” or “Developer”).
2. The DDA obligates Lennar to construct the infrastructure necessary to support the vertical development of 1,498 residential units in the Phase 1 development and 26 acres of open space and parks at the former Hunters Point Naval Shipyard (“Shipyard”). At least 15 percent of Lennar’s 1,280 units will be affordable and the Agency will cause to be constructed 218 units at deeper levels of affordability. Lennar has also entered into a Community Benefits Agreement (“Community Benefits Agreement”) with the Agency to provide training, assistance, and contracting opportunities to community residents and organizations, and to offer 30 percent of the units to be constructed in the first phase of development of the Shipyard to developers and contractors based in the Bayview Hunters Point community (“Community Builders”).
3. The key features of the Phase 1 development include:
 - a) Construction of new horizontal infrastructure improvements (utilities, streets grid system and streetscape improvements) and the delivery of finished lots for vertical development;
 - b) The creation of entitlements for approximately 1,498 residential units (218 of which will be Agency-sponsored affordable housing units), including a robust affordable housing program which requires 15 percent of the total number of Developer units to be affordable;
 - c) Approximately 10,000 square feet of development, including job-generating retail;
 - d) Construction of 26 acres of open space and parks;

- e) Provision of six acres of land set aside for development of community facilities (1.2 acres in Phase 1 and 4.8 acres in the Phase 2 portion of the Shipyard's development), the mix of uses of which are presently being determined through a community-based planning process;
 - f) Implementation of a Community Benefits Agreement benefiting community residents, community-based organizations and businesses through job training, hiring, contracting and development opportunities;
 - g) Provision of facilities for current artist tenants;
 - h) Participation in the Agency's Equal Opportunity Program affording opportunities to minority and woman-owned business enterprises;
 - i) Provision of substantial financial guarantees by the Developer, including a letter of credit securing the entire amount of the Mello-Roos bonds used to partially fund public infrastructure; and
 - j) Reinvestment of the Agency's portion of land sales net revenue from the Shipyard into the Shipyard Legacy Fund to be managed by the Quasi-Public Entity ("QPE") for the benefit of the Bayview Hunters Point ("BVHP") community in accordance with the DDA's Attachment 23 and the Shipyard Legacy Fund Report.
4. In Spring 2005, Lennar commenced deconstruction and demolition activities on Parcel A as the first step in the construction of the horizontal improvements. Lennar completed mass grading of Parcel A in 2007, and to date, Lennar has completed nearly 75 percent of the Hilltop's infrastructure. Lennar has also recorded the final map for both the Hilltop and the Hillside, and recently completed the subdivision of Parcel A for the Phase 1 project. Lennar is actively marketing portions of the Shipyard to developers for vertical construction.
 5. Although the Shipyard's DDA has been amended since its approval in December 2003, the development program remains substantially the same. On January 18, 2005, by Resolution No. 3-2005, the Commission authorized a first amendment to the DDA ("First Amendment"). The First Amendment recognized the satisfied closing conditions required in the DDA, and authorized the Agency to transfer the non-public portions of Parcel A to Lennar and execute an Interagency Cooperation Agreement between the Agency and the City and County of San Francisco to ensure coordination and cooperation amongst all City departments and commissions with jurisdiction over the project.
 6. On October 17, 2006, by Resolution No. 141-2006, the Commission authorized a second amendment to the DDA ("Second Amendment"). The Second Amendment adjusted the project's for-sale and for-rent housing development ratio and schedule of performance to respond to the housing market conditions and the U.S. Department of the Navy's delayed Parcel B remediation schedule (thus removing Parcel B from the Phase 1 development).

7. On August 5, 2008, by Resolution No. 84-2008, the Commission authorized a third amendment to the DDA, which adjusted the project's schedule of performance to reflect the cumulative effects of project construction delays and better coordinate the completion of the horizontal construction with that of the vertical construction.
8. On August 19, 2008, by Resolution No. 86-2008, the Commission authorized a fourth amendment to the DDA, which enabled the Agency to approve new financial partners, assign and amend certain DDA rights and obligations to the new venture, and clarified the Agency and Lennar's rights and obligations in completing the Shipyard's infrastructure construction.
9. The downturn in the nation's economy, combined with the immediate pressures on the banking industry and availability of credit, are continuing to have an effect on development. In response, developer spending on new construction has dropped dramatically. According to the United States Census Bureau - Department of Commerce, the nation's total construction spending on new residential development has decreased 32 percent from June 2006 to June 2009. Construction cost increases have slowed as a result of the construction slowdown; however, development costs in San Francisco remain extremely high, and many new projects may not be financially feasible under current market conditions. With this imbalance, equity and construction financing entities have been taking an extremely cautious approach to committing financing to projects.
10. In light of the historically significant disruptions and declines in values and activity in the housing, financial and credit markets, and in order to maintain project momentum and facilitate vertical construction, the Agency and Lennar are now proposing several changes to the DDA through a fifth amendment to the DDA ("Fifth Amendment"). The goals of the Fifth Amendment discussions are to update the DDA so that the project can maintain momentum, facilitate vertical construction, and make common sense changes that clarify the DDA, while maintaining benefits to the BVHP community.
11. The Fifth Amendment will enable the Agency and Lennar to respond to the current market conditions, streamline the land delivery and sales process, and activate housing development, including opportunities for Community Builders. In addition, through this Fifth Amendment, Lennar will provide for a \$1 million advance (in two \$500,000 payments) to the Shipyard Legacy Fund or Community Benefits Fund, which will be managed by the QPE in accordance with the DDA's Attachment 23 and the Shipyard Legacy Fund Report.
12. The Agency and Lennar informed the Mayor's Hunters Point Shipyard Citizens Advisory Committee ("CAC") on the details and impacts of the Fifth Amendment (and the associated First Amendment to the Community Benefits Agreement) during its meetings in July, September, and October 2009. At these meetings, Agency staff conducted an in-depth review and discussion of the document. The CAC approved the Fifth Amendment at a final public hearing on October 19, 2009.

13. Commission authorization of the Fifth Amendment is not a project as defined by the California Environmental Quality Act Guidelines Section 15378(b)(5). The proposed changes under the Fifth Amendment are related to how the Agency administers the DDA. Such administrative activities of the Agency will not independently result in a physical change in the environment.

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that (i) it has reviewed and considered the Shipyard Final Environmental Impact Report, the First Addendum, and Second Addendum and hereby adopts the environmental findings set forth herein; and (ii) the Executive Director is authorized (a) to execute a Fifth Amendment to the Hunters Point Shipyard Phase 1 Disposition and Development Agreement, substantially in the form lodged with the Agency General Counsel; and (b) to execute all documents, amendments, agreements and instruments reasonably necessary or required to implement the Fifth Amendment to the DDA to further the goals of the Hunters Point Shipyard Redevelopment Plan and the Hunters Point Shipyard Phase 1 Disposition and Development Agreement, including the execution of a First Amendment to the Community Benefits Agreement, substantially in the form lodged with the Agency General Counsel.

APPROVED AS TO FORM:



James B. Morales
Agency General Counsel