

06/16/2006

**DELEGATION AGREEMENT
BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY
OF SAN FRANCISCO AND THE PLANNING COMMISSION OF THE CITY
AND COUNTY OF SAN FRANCISCO FOR THE BAYVIEW HUNTERS POINT
REDEVELOPMENT PROJECT AREA**

This DELEGATION AGREEMENT is entered into as of 9/19/06 by and between the REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic, established pursuant to the California Community Redevelopment Law ("Agency"), and the PLANNING COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO, established pursuant to the Charter and Ordinances of the City and County of San Francisco.

RECITALS

- A. Under the California Community Redevelopment Law, a redevelopment plan authorizes, among other things, the land uses and controls for development in a project area. Section 33333 of the Health & Safety Code.
- B. Pursuant to Sections 33128 and 33220 of the California Health & Safety Code, the Agency has access to the services of the Planning Commission and Planning Department (collectively referred to herein as "Planning") and the authority to obtain its assistance and cooperation in the planning, undertaking, and operation of development projects located within areas in which Planning is authorized to act.
- C. Under Section 4.105 of the Charter of the City and County of San Francisco and, except as otherwise provided in a redevelopment plan, the Planning Commission and the Planning Department have the authority, among other things, to approve permits for development in the City and County of San Francisco and to administer and enforce the City and County of San Francisco's Planning Code ("Planning Code").
- D. Pursuant to the California Environmental Quality Act ("CEQA"), the Agency and the Planning Commission certified a Final Environmental Impact Report ("FEIR") for the Redevelopment Plan for the Bayview Hunters Point Redevelopment Project Area ("Redevelopment Plan").
- E. The Board of Supervisors of the City and County of San Francisco ("Board") has approved the Redevelopment Plan.

- F. The Redevelopment Plan primarily relies on the Planning Code, as it exists or may be amended from time to time, to control land uses and development in Project Area B of the Bayview Hunters Point Redevelopment Area ("Project Area") (see Project Boundary Map attached as Exhibit 1), but only to the extent that the Planning Code or any amendments to it are not contrary to the Redevelopment Plan.
- G. To assist the Agency in implementing the Redevelopment Plan, Planning will approve permits and otherwise administer and enforce the Planning Code for any property or project that does not require Agency Action. Agency Action is defined as the Agency's funding, acquisition, disposition, or development of property through a Disposition and Development Agreement ("DDA"), Owner Participation Agreement ("OPA"), loan agreement, grant agreement, or other transactional and/or funding documents between a project sponsor and the Agency.
- H. Projects requiring Agency Action will involve both the Agency and Planning, but final approval of the project will remain with the Agency unless the Agency has delegated the project's review and approval pursuant to Section 2.
- I. Although the Redevelopment Plan requires the Agency's delegation of land use authority and the use of the Planning Code, it also requires project sponsors to comply with the Agency's employment and contracting opportunities policies (collectively, "Contracting Policies"), as described in Section 4.2.2 of the Redevelopment Plan, and the Affordable Housing Participation Policy, as described in Section 3.4.3 of the Redevelopment Plan. These policies meet or exceed comparable local law.
- J. Under the terms of the Redevelopment Plan, the Agency's Contracting Policies and Affordable Housing Participation Policy apply to "Significant Projects," which generally consist of commercial projects of 25,000 square feet or greater and residential projects consisting of ten or more dwelling units. The Agency policies described above will provide more detailed standards on the applicability of these policies to, and requirements for, particular projects.
- K. The Board, in adopting the Redevelopment Plan, requires the Agency and the Department to consider community input from the Bayview Hunters Point Project Area Committee ("PAC"), property owners, occupants, and residents neighboring the site of a proposed project, interested neighborhood groups, including those groups who represent affected areas adjoining the Project Area, and the general public, prior to the approval of significant land use proposals that could create impacts on adjacent neighborhoods.

- L. The purpose of this Delegation Agreement is to define the roles of the parties in the implementation of the Redevelopment Plan so as to achieve the following goals:
- (i) Ensure that all development in the Project Area is in accordance with the General Plan and the Planning Code, the Redevelopment Plan, CEQA, and other applicable law;
 - (ii) Minimize the risk that developers and owners of property in the Project Area will be subjected to repetitive, time consuming, conflicting or inconsistent actions by the parties hereto;
 - (iii) Ensure that official actions by the parties hereto are clearly consistent with applicable law so that developers and property owners are able to obtain insurable title and to secure financing; and
 - (iv) Ensure that the community and the general public receive timely and accurate information about projects and have the opportunity to provide meaningful input about projects prior to their final approval.

NOW THEREFORE, the Agency and Planning agree as follows:

1. **Interagency Working Group.** The Agency and the Department shall form an interagency working group composed of Planning staff assigned pursuant to Section 3.1 of this Delegation Agreement and of the Agency staff responsible for implementation of the Redevelopment Plan (“Working Group”). Members of the Working Group shall communicate on an ongoing basis to ensure the timely, collaborative, and competent review of all projects in the Project Area. Each member of the Working Group shall be knowledgeable of the Redevelopment Plan and related documents, the General Plan, provisions of the Planning Code applicable to the Project Area, and the FEIR. To the extent reasonably possible, the Working Group and, as necessary, other Department and Agency staff shall be involved in design review sessions or other meetings involving the implementation of the Redevelopment Plan and this Delegation Agreement.
2. **Scope of Delegation.** The Agency delegates to Planning, and Planning accepts the delegation of, the responsibility to administer the Planning Code, applicable Design Guidelines, and CEQA mitigation requirements within the Project Area except as to those developments requiring Agency Action; provided, however, that the Agency, with the agreement of the Department, may delegate to Planning the review and approval of use, building and demolition permits for particular projects requiring Agency Action.

3. **Department's Responsibilities.** Planning's responsibilities include, but are not limited to, the following:
- 3.1 **Staff Assignment.** Planning shall assign appropriate staff familiar with the Redevelopment Plan, including a permit planner, an environmental planner and others, to work on development and environmental review on a priority basis as necessary to process development permits in the Project Area.
 - 3.2 **Block Book Notations.** Planning shall enter a Block Book Notation indicating that each parcel in the Project Area is subject to the Redevelopment Plan. Planning shall also recommend to the Board of Supervisors amendments to the appropriate Zoning Maps to indicate the Redevelopment Plan project boundary. The Block Book Notation shall facilitate notification to the Agency and the PAC of permit activity in the Project Area as provided for in Section 3.7.
 - 3.3 **Planning Code Revisions.** Planning shall initiate revisions to the Planning Code as considered in the FEIR or as consistent with the General Plan.
 - 3.4 **Permit Review.** Except as provided in Section 6 of this Delegation Agreement, Planning shall review and approve use, building and demolition permits for development, and the Zoning Administrator shall be responsible for granting of variances for projects within the Project Area. Planning shall apply provisions of the City's General Plan, Planning Code, and other applicable law in a manner that is consistent with the Redevelopment Plan. If a project requires Agency Action, Planning shall follow the review and approval process described in Section 6 of this Delegation Agreement.
 - 3.5 **Mitigation Measures.** For projects that it reviews and approves, Planning shall require compliance with applicable mitigation measures identified in the FEIR and adopted by the Board of Supervisors for the Redevelopment Plan as well as any additional mitigation measures that Planning may adopt in the future based on site-specific CEQA documents approved by Planning.
 - 3.6 **Consultation with Agency.** Planning staff assigned to the Working Group shall advise Agency staff of public inquiries it receives during the pre-application process and of permit applications for Significant Projects and shall coordinate Planning's review of permits with Agency staff and the PAC after applications are received and deemed complete.
 - 3.7 **BVHP Community Notification and Review of Permits Applications.** Planning shall, on a regular and timely basis, notify the PAC of all permit

applications that it has received for new construction or substantial rehabilitation in the Project Area. Planning staff shall work with Agency staff and the PAC, or its successor, to consider community input and guidance prior to:

- (a) approval of a Significant Project in the Project Area;
- (b) approval of any Conditional Use permit in the Project Area;
- (c) approval of any new construction or substantial rehabilitation project on Third Street and other Neighborhood Commercial (“NC”) districts in the Project Area;
- (d) approval of other significant land use proposals such as zoning amendments; and
- (e) any Planning Commission hearing on other projects, if requested by the PAC or its successor.

3.8 Neighborhood Notice. Upon request or as required by law, Planning and the Agency shall provide notice to interested property owners, occupants, residents, and neighborhood groups in the Project Area and adjoining affected neighborhoods of significant land use approvals under review in the Project Area prior to any Planning Commission hearing on the projects.

3.9 Report of Agency and PAC Recommendations. When Planning staff reviews and considers approval of a project in the Project Area, it shall describe the comments and recommendations of the Agency staff and those of the PAC in its report to the Planning Commission prior to its approval of the project; provided, however, that the Agency and PAC may present their views to the Planning Commission in a separate report and at a public hearing held by the Planning Commission as part of its consideration of the project.

3.10 Application of Agency’s Employment and Contracting Policies. Planning shall not approve a Significant Project unless the project sponsor has entered into Employment and Contracting Agreement(s) with the Agency. Ongoing compliance with such agreement(s) shall become a condition of the permit.

3.11 Application of Agency’s Housing Policies. Planning shall not approve a Significant Project involving residential development unless the project sponsor has entered into an Affordable Housing Participation Agreement with the Agency. Ongoing compliance with such an agreement shall become a condition of the permit.

4. **Administrative Costs and Development Fees.** Planning agrees to carry out its responsibilities to administer the Planning Code at no cost or charge to the

Agency. Planning may impose administrative fees and costs upon development projects and their project sponsors as permitted by the Planning Code and other City law for projects subject to this Delegation Agreement. The parties acknowledge, however, that the Planning Department's responsibilities, as defined in this Delegation Agreement, may result in Planning Department costs that are not covered by the development fees described in this Section 4. Accordingly, the parties agree to work cooperatively to seek additional funding to cover these costs. The Agency shall have the right to impose and receive fees for projects subject to Agency Action.

5. **Appeals of Department Approvals.** Appeals of permits approved or rejected by Planning shall be to the Board of Appeals or the Board of Supervisors as provided in the San Francisco Charter and San Francisco codes.
6. **Development Projects Requiring Agency Action.** Projects requiring Agency Action will involve both the Agency and Planning, including review by the Working Group described in Section 1, but final approval of the project will remain with the Agency, which shall obtain community input on any such project through consultation with the PAC.
 - 6.1 Agency Review. In reviewing projects requiring Agency Action, the Agency shall apply, subject to Department review as described in this Section 6, the standards of the Redevelopment Plan, the Planning Code, the General Plan and other applicable law.
 - 6.2 Consultation with Department. Agency staff shall consult and attempt to reach agreement with Planning staff on those aspects of project approval that are directly related to conformity with the General Plan and the Planning Code.
 - 6.3 BVHP Community Notification and Review. The Agency shall, on a regular and timely basis, notify the PAC of all Agency Actions in the Project Area. Agency staff shall consider community input and guidance through the PAC prior to Agency Commission approval.
 - 6.4 Neighborhood Notice. Upon request or as required by law, the Agency shall provide notice to interested property owners, occupants, residents, and neighborhood groups in the Project Area and adjoining affected neighborhoods of Agency Actions under review in the Project Area prior to Agency Commission approval.
 - 6.5 Planning Commission Review. After Agency staff issues and files with Planning the final Agency staff recommendation regarding a project, and before final Agency action on a project, Planning shall have an opportunity to seek review of the project by the Planning Commission

regarding a project's conformity with the General Plan and Planning Code.

- (a) The Planning Director shall have fourteen days (14) days from the Agency's issuance and filing with Planning of its final staff recommendation to seek review and recommendation by the Planning Commission of the final Agency staff recommendation. Upon action by the Planning Commission, the Planning Commission shall make and file, with the Agency, its recommendations regarding the project's conformity with the General Plan and Planning Code.
- (b) If the Planning Commission does not report on its recommendations within fourteen (14) days after the Agency's issuance and filing with Planning of its final staff recommendation, the Planning Commission shall be deemed to have waived its recommendation regarding the project, and the Agency Commission may thereafter approve the project without considering the Planning Commission's recommendation. Nonetheless, if either the Planning Commission or the Planning Department provides a recommendation to the Agency prior to Agency Commission action on the project, the Agency in its Memorandum describing the project or otherwise shall report to the Agency Commission on the recommendation of Planning.
- (c) If the Planning Commission makes a timely report of its recommendation to the Agency, the Agency Commission shall consider the recommendation and, if it disagrees with the recommendation, shall provide a written explanation of the reasons for its disagreement.

6.6 Report on Department Comments. When the Agency considers approving a project requiring Agency Action, Agency staff will report Planning's comments and recommendation in the Agency Commission Memorandum describing the project, unless Planning notifies the Agency staff in writing that Planning will separately present its views in a written or oral report to the Agency Commission. In the event that the PAC has made a recommendation on the approval of a Project requiring Agency Action, Agency staff will report the PAC's recommendation in the Agency Commission Memorandum.

6.7 Appeals of Agency Action. For projects requiring Agency Action, the applicable procedures, including any appeals of such actions, shall be in accordance with Section 3.3 of the Redevelopment Plan.

7. **Cooperation.** Both parties agree to act expeditiously and competently on any approvals and in a manner consistent with the Redevelopment Plan and this Delegation Agreement. To achieve this objective, the parties agree:
- (a) to schedule Department and Agency hearings or meetings in a manner so as to facilitate the approval process and to avoid placing any project in a position in which it could receive conflicting approvals and direction;
 - (b) to inform and educate the staff of both Planning and the Agency of the requirements of this Delegation Agreement, the Redevelopment Plan, the Planning Code, and other policies and procedures related to the implementation of the Redevelopment Plan;
 - (c) to develop written guidance for staff and the public regarding the review of applications for development in the Project Area and the roles of the Agency and Planning in that review; and
 - (d) to ensure adequate opportunity for public input by providing information about permit applications, projects requiring Agency Approval, and other proposed development activity in the Project Area to the PAC and other interested persons as promptly as is reasonably feasible prior to a PAC or other community meetings.
8. **Consultation on Scope of Authority.** The Executive Director of the Agency and the Director of Planning shall consult with each other on matters arising out of this Delegation Agreement from time to time, and specifically with respect to questions regarding the scope of authority delegated hereunder.
9. **Amendments.** The Agency and Planning hereby reserve the right to amend or supplement this Delegation Agreement at any time by mutual consent for any purpose consistent with the Redevelopment Plan. No material alteration or variation from the terms of this Delegation Agreement shall be valid unless made in writing and signed on behalf of the parties hereto, following approval by the Agency Commission and the Planning Commission. Any amendments to this Delegation Agreement shall be consistent with the Redevelopment Plan.
10. **Headings.** The headings and section descriptions contained herein are inserted solely for convenience and are not intended to modify or restrict the provisions or sections following such headings and section descriptions.

11. **Term.** This Delegation Agreement shall remain in effect for the term of the Redevelopment Plan and cannot be terminated earlier without the mutual consent of the parties and approval by the Board of Supervisors.

PLANNING COMMISSION

By: Dean Macris
Dean Macris
Director

Pursuant to Planning Commission
Motion No. 17272, adopted 6/22, 2006

REDEVELOPMENT AGENCY

By: Marcia Rosen
Marcia Rosen
Executive Director

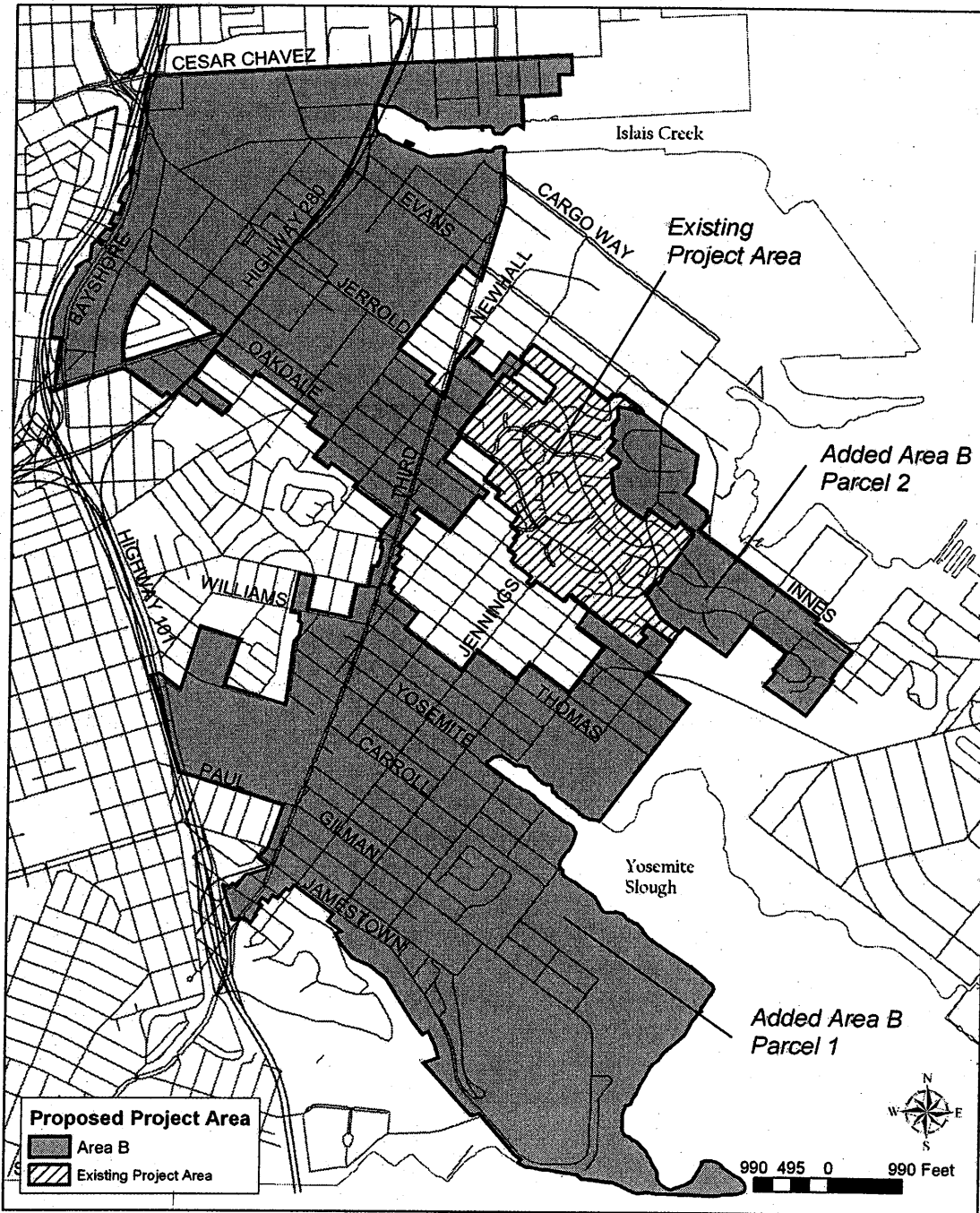
Pursuant to Agency Commission
Resolution No. 2006-20, adopted 6/20, 2006

APPROVED AS TO FORM AND CONTENT:

Elaine Warren
Elaine Warren
Deputy City Attorney

James B. Morales
James B. Morales
Agency General Counsel

Exhibit 1: Project Boundary Map



Added Area Boundary Map
Area B

Bayview Hunters Point Redevelopment Plan Amendment
 San Francisco Redevelopment Agency