File No. 120625 Board Item No. 30

COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting **Date: June 12, 2012**

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Completed by: Derek Evans **Date: June 7, 2012**

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

OFFICE OF THE MAYOR
SAN FRANCISCO

EDWIN M. LEE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: for Mayor Edwin M. Lee
RE: Warriors Arena Sole Source Negotiations
DATE: June 5, 2012

Attached for introduction to the Board of Supervisors is the resolution 1) finding that the competitive bidding policy set forth in Administrative Code Section 2.6-1 does not apply to the potential real estate transaction involving Port property at Piers 30-32 and part of Seawall Lot 330 with GSW Arena LLC (GSW), an affiliate of the Golden State Warriors, for development of an arena and other facilities and endorsing sole source negotiations with GSW for that purpose; 2) endorsing the Port Commission's designation of the Office of Economic and Workforce Development (OEWD) as the lead negotiator of the proposed transaction, in coordination with Port staff and subject to the Port Commission's direction; 3) urging OEWD and the Port to engage in outreach to affected and interested neighbors, community members and other stakeholders to ensure that the proposed project is designed with maximum public input; 4) urging OEWD and the Port to work closely with State agencies having jurisdiction over any of the site, including the State Lands Commission and the Bay Conservation and Development Commission, to develop the project description; 5) urging the OEWD Director, the Port Director and other City officials to make evaluation of the proposed project among their highest priorities and take all appropriate steps to negotiate an exclusive negotiation agreement with GSW; and 6) acknowledging that the City may commence environmental review of the proposed project under CEQA if and when the Board of Supervisors makes the required findings of fiscal feasibility and responsibility under Administrative Code Chapter 29.

Please note this item is cosponsored by Supervisors Chiu, Kim, Farrell, Chu, Wiener, Olague, and Cohen.

Land Use

I request that this item be referred for adoption without committee reference at the June 12th meeting of the Board of Supervisors.

Should you have any questions, please contact Jason Elliott (415) 554-5105.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2012 JUN -5 PM 4:59

cc. Supervisor David Chiu
Supervisor Jane Kim
Supervisor Mark Farrell
Supervisor Carmen Chu
Supervisor Scott Wiener
Supervisor Christina Olague
Supervisor Malia Cohen

1 DR. CARLTON B. GOODLETT PLACE, ROOM 200
SAN FRANCISCO, CALIFORNIA 94102-4681
TELEPHONE: (415) 554-6141

1 [Warriors Arena Project - Sole Source Negotiations]
2
3 **Resolution 1) finding that the competitive bidding policy set forth in Administrative**
4 **Code Section 2.6-1 does not apply to the potential real estate transaction involving Port**
5 **property at Piers 30-32 and part of Seawall Lot 330 with GSW Arena LLC (GSW), an**
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15 **Bay Conservation and Development Commission, to develop the project description;**
16 **5) urging the OEWD Director, the Port Director and other City officials to make**
17 **evaluation of the proposed project among their highest priorities and take all**
18 **appropriate steps to negotiate an exclusive negotiation agreement with GSW; and**
19 **6) acknowledging that the City may commence environmental review of the proposed**
20 **project under CEQA if and when the Board of Supervisors makes the required findings**
21 **of fiscal feasibility and responsibility under Administrative Code Chapter 29.**
22 WHEREAS, The City and County of San Francisco (the "City"), acting through its Port
23 Commission (the "Port"), owns approximately 13 acres at Piers 30-32 located on the east side
24 of The Embarcadero at Bryant Street ("Piers 30-32"), which is currently used for short-term
25 parking accommodating up to about 1,000-1,500 automobiles, occasional cruise terminal

berthing when the Pier 27 and Pier 35 cruise terminal berths are occupied and occasional lay-berthing such as for Fleet Week Naval vessels, and approximately 2.3 acres of undeveloped land at Seawall Lot 330 located on the west side of The Embarcadero between Beale and Bryant Streets ("SWL 330"), which is currently used for short-term parking accommodating up to about 260 automobiles (together, Piers 30-32 and such portion of SWL 330 are referred to in this resolution as the "Site"); and

WHEREAS, GSW Arena LLC ("GSW"), a wholly owned subsidiary of GSW Sports LLC and an affiliate of the entity that owns the Golden State Warriors basketball team (the "Warriors"), wishes to build a new privately financed, state-of-the art multi-purpose facility that would be used for the Warriors' home games and other purposes, including conventions, in San Francisco, together with related public infrastructure and access improvements and other improvements, in time for the beginning of the 2017 National Basketball Association ("NBA") season; and

WHEREAS, The team, which was established in 1945, played its home games in San Francisco from 1962 to 1971; and

WHEREAS, The Site offers a spectacular opportunity for the Warriors to return home to San Francisco and for GSW to develop a world-class recreation, entertainment, convention and event facility and ancillary uses that would be ideal for the Port, the City, the team, its fans and the public in the entire Bay Area region and would substantially improve public open space and expand public use and enjoyment of the waterfront on trust lands at this location; and

WHEREAS, The Site provides an incredibly beautiful, vibrant and easily accessible place for the public from all over the Bay Area and beyond the Bay Area to enjoy and offers a transit-rich location that emphasizes access and proximity to the unparalleled beauty of the San Francisco Bay; and

WHEREAS, GSW and City staff currently contemplate that the proposed project would be consistent with the San Francisco Bay Conservation and Development Commission's ("BCDC") Special Area Plan for the San Francisco Waterfront (the "Special Area Plan") and generally consist of developing a multi-purpose facility capable of being used as an event venue seating approximately 17,000-19,000 persons for the Warriors' home games and for other public assembly uses including conventions, public open space improvements and parking facilities, visitor-serving retail, maritime access, and other related uses on Piers 30-32, together with additional improvements on SWL 330 and transportation improvements, all subject to such changes as the parties may agree, including in connection with the environmental review, public review and State-agency review processes (the "Project"); and

WHEREAS, To take advantage of the superlative Site, GSW is committed to designing the Project to enhance public access to the waterfront at Piers 30-32 and to using the Bay as an asset in the design of the multi-purpose event facility; and

WHEREAS, GSW and City staff expect that Warriors basketball games would constitute no more than about a quarter of the total event days for the multi-purpose facility, and GSW is committed to developing a use program for the facility that would include solicitation and promotion of additional uses and events that further the purposes of the Burton Act and the public trust for commerce, navigation and fisheries (the "public trust"); and

WHEREAS, GSW is also committed to developing a Project that displays world class technological features and design standards, that is environmentally sustainable, consistent with LEED principles, and that upholds and promotes the City's Transit First Policy; and

WHEREAS, Any ground lease or other City contract relating to development of the proposed Project would be subject to the City's ordinance relating to labor representation procedures in hotel and restaurant developments in which the City has an ongoing proprietary

interest (Administrative Code Sections 23.50 through 23.56) and the City's first source hiring program (Administrative Code Chapter 83), as they may apply to the proposed Project; and

WHEREAS, GSW has stated its commitment to enter into an equal opportunity program in connection with the transaction documents for the Project that will include local a hiring program and prevailing wage requirements; and

WHEREAS, The Office of Economic and Workforce Development ("OEWD"), in cooperation with Port staff, and GSW have been engaged in preliminary discussions to establish a general description for the proposed Project, including the general parameters of a fair market value long-term ground lease of Piers 30-32 and ancillary facilities as may be reasonably required, and the related fair market value long-term ground lease or other transfer of SWL 330, for the proposed Project; and

WHEREAS, As set forth in Administrative Code Section 2.6-1, the Board of Supervisors' policy is to approve only such proposed leases involving City property or facilities that departments have awarded to the highest responsible bidder under competitive bidding procedures, except where competitive bidding is impractical or impossible; and

WHEREAS, The Warriors are a civic asset for the whole San Francisco Bay Area, and the Warriors Foundation has a demonstrated track record in, and is committed to continue, positively impacting its community and the greater Bay Area by providing financial assistance and opportunities to other non-profit civic and community organizations that benefit and enrich the lives of children, youth and those in need, and

WHEREAS, The proposed Project presents an extraordinary opportunity to provide special recreational, cultural, historic and other significant public benefits to the people of the City and the entire Bay Area region, including an opportunity for a new unique waterfront destination that will achieve public access objectives for the Site while adding an attractive mix of uses and destinations along the waterfront; and

WHEREAS, Piers 30-32, which has a limited remaining useful life, requires a substantial capital investment to repair the substructure and bring the piers up to modern seismic standards, and to preserve the piers, which costs have not been included in the Port's FY 2011-2020 Capital Plan due to limited Port resources and competing Port priorities; and

WHEREAS, The Port Waterfront Land Use Plan, including the Design and Access Element (collectively, the "Waterfront Plan"), is the Port's adopted land use document for property within Port jurisdiction, such as the Site, and provides the policy foundation for waterfront development and improvement projects; and

WHEREAS, After a multi-year cooperative process, the Port and BCDC adopted the Special Area Plan, which allows for the revitalization of certain piers for uses consistent with the public trust; and

WHEREAS, The Waterfront Plan and the Special Area Plan recognize that the development of Piers 30-32 and the surrounding area should further the trust purposes of supporting maritime activities and expanding public use and enjoyment of the waterfront on trust lands at this location; and

WHEREAS, The Waterfront Plan identifies Piers 30-32 as a major, mixed-use development opportunity site, and the City, through its Port, has undertaken numerous unsuccessful attempts to develop the site in accordance with the Waterfront Plan's objectives, including the recent effort related to the 34th America's Cup and a previous effort to develop a fully entitled mixed-use, two berth international cruise terminal, where in each of those two instances the private project sponsor abandoned its plans due to much higher than expected costs to repair the Piers 30-32 substructure; and

WHEREAS, The Waterfront Plan contemplated the potential for developing an arena in the South Beach/Rincon Point Subarea of Port property (at the current location of AT&T Ballpark), which is only within a few blocks of the Site; and

WHEREAS, GSW and the City are committed to designing the Project to ensure that it includes maximum feasible public access on Piers 30-32, including a significant extension of the Portwalk and major new Bay-oriented public open space on the piers that will comply with the public access and open space policies set forth in the Special Area Plan and take advantage of the Site's extraordinary proximity to the Brannan Street Wharf and the Brannan Street Wharf Open Water Basin between Piers 32 and 38; and

WHEREAS, As the proposed Project may be refined and improved through the public review process, including the BCDC Design Review Board (with respect to Piers 30-32) and the City's Waterfront Design Advisory Committee process, GSW and the City are committed to designing the portions of the proposed Project on Piers 30-32 in consultation with BCDC staff to meet the other design objectives of the Special Area Plan, including: to the extent feasible preserving the iconic views of the Bay Bridge from public view corridors; creating a design that respects the Embarcadero Historic District; using the Bay as an asset in the design of the proposed Project; enhancing Bay views and providing opportunities for public views of the Bay from unique elevations along the waterfront; creating ancillary parking facilities sized and located to minimize adverse impacts on public access; and providing plentiful and high quality bicycle parking for attendees of events at the multi-purpose facility; and

WHEREAS, The proposed Project is a publicly-oriented use that will draw visitors from the entire Bay Area to this unique site along San Francisco Bay over 200 days each year, and GSW and the City are committed to designing the proposed Project and its uses in consultation with the California State Lands Commission to provide a high-quality visitor experience before, during and after events that is appropriate to the Site and its Bay setting; and

WHEREAS, GSW and the City are also committed to designing the proposed Project to incorporate maritime use of the Piers 30-32 north and/or east berths, water-oriented transportation services and recreational boat access, visitor-serving retail and restaurants, major new open space, and event programming to benefit the Port, Bay maritime commerce, and other public trust purposes; and

WHEREAS, The proposed Project would generate substantial public benefits for the City, including its Port, such as: (1) the repair, improvement and productive reuse of Piers 30-32, (2) the construction of needed infrastructure improvements that benefit the Site and the surrounding public trust lands and other areas, (3) the generation of significant new jobs and economic development in a short period, including significant opportunities for local residents, (4) the attraction of many people from the City and all over the region to enjoy the waterfront and the Bay and to patronize businesses on the Site as well as other Port-owned land and privately owned property in the vicinity of the Site, and (5) the enhancement of the City's tourism industry, including providing an additional venue for trust related events, conventions, sporting events, concerts and other special events; and

WHEREAS, On May 29, 2012, the Port Commission adopted Resolution No. 12-48, designating OEWD as the lead negotiator for the proposed Project, among other designated projects, to act in coordination with Port staff and at the direction of the Port Commission (the "Port Negotiation Authority Resolution"); and

WHEREAS, In conjunction with this resolution and contingent on the Board of Supervisors' adoption of this resolution, the Port Commission is considering or will consider adopting a resolution approving sole source negotiations with GSW and authorizing staff to negotiate an Exclusive Negotiation Agreement ("ENA") with GSW for the proposed Project consistent with this resolution (the "Port Sole Source Resolution"); and

WHEREAS, Subject to the successful negotiation of an ENA with GSW, OEWD, working in concert with the Port and other City agencies, intends to return to the Board of Supervisors in several months with a proposed term sheet based on a fair market value transaction for the proposed Project for the Board to consider endorsing, in conjunction with the Board's consideration of a fiscal feasibility report and a resolution making fiscal feasibility findings consistent with Administrative Code Chapter 29; and

WHEREAS, The City is proud of the success of the privately financed waterfront ballpark, which is the home of the San Francisco Giants (the "Giants") and which has greatly enhanced public access to and enjoyment of the Bay, the City recognizes the efforts the Giants have made and continue to make to have neighborhood and community support for the ballpark, and the City wishes to ensure the continued success of the ballpark, and to address the parking and transportation needs of the Giants, including in the context of the proposed Mission Rock development and the proposed Project; now, therefore, be it

RESOLVED, That the Board of Supervisors finds that due to regional civic attributes of the Warriors, the unique opportunity presented by GSW's proposal to build a new multi-purpose facility that would be used for the Warriors' home games and other purposes, including conventions, and related improvements at the Site and the public benefits to the City and the region that the proposed Project would produce, all as further described above, the competitive bidding policy set forth in Administrative Code Section 2.6-1 does not apply to the possible transaction with GSW (including, for all purposes of this resolution, any affiliated development entity or entities that GSW may establish for the Project, as approved by the City) for development of the Site, and accordingly the Board of Supervisors endorses sole source negotiations by City and Port staff with GSW for the proposed Project at the Site consistent with the Port Sole Source Resolution and further finds that doing so is in the City's best interests; and, be it

FURTHER RESOLVED, That should the Port Commission and GSW agree upon mutually acceptable terms for such proposed transaction and development of the Project at the Site, the Board of Supervisors will not disapprove a proposed lease and other real estate transaction agreements on the basis that they do not satisfy the competitive bidding policy set forth in Administrative Code Section 2.6-1; and, be it

FURTHER RESOLVED, That the Board of Supervisors endorses the designation of OEWD as the lead negotiator for the proposed Project, in cooperation with Port staff and at the Port Commission's direction; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges OEWD, the Port and GSW to engage in outreach to affected and interested neighbors, community members and stakeholders to ensure that the proposed Project is designed with maximum public input, and to work closely with the San Francisco Giants to ensure the continued success of the ballpark project, to address parking and transportation needs and to coordinate with the proposed Mission Rock project; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges OEWD and the Port to work closely with state agencies having jurisdiction over waterfront development, including the State Lands Commission and BCDC, to develop the project description for the proposed Project; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges OEWD, in cooperation with the Port Director and with the assistance of Port staff, the City Attorney's Office and other City officials as appropriate, to make evaluation of the proposed Project among its highest priorities and take all actions needed to further the process of developing a description for the proposed Project, and negotiating an ENA and then a term sheet with GSW, consistent with this resolution; and be it.

FURTHER RESOLVED, That the Board of Supervisors acknowledges that the City may commence environmental review of the proposed Project under the California Environmental Quality Act ("CEQA") if and when the Board of Supervisors by a later resolution makes the required findings of fiscal feasibility and responsibility under Administrative Code Chapter 29, and nothing in this resolution implements any approvals or facilities for the proposed Project, grants any entitlements for the proposed Project or includes any determination as to whether the Port or any other unit of City government should approve the proposed Project, nor does adoption of this resolution foreclose the possibility of considering alternatives to the proposed Project, adopting mitigation measures or deciding not to approve the proposed Project after conducting appropriate environmental review under CEQA; and the Board of Supervisors further acknowledges that any development shall be conditioned on the project sponsor first receiving all required regulatory approvals, including, but not limited to, approvals from various City and State agencies with jurisdiction, following CEQA review.