

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 10-40

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port jurisdiction; and
- WHEREAS, Improving the quality of life of the residents of Bayview Hunters Point ("BVHP") is one of the City and County of San Francisco's ("City") highest priorities. Expediting the revitalization of BVHP will provide long overdue improvements to the BVHP community that will also benefit the City as a whole. Both the Hunters Point Shipyard and Candlestick Point, as defined in the Bayview Hunters Point Redevelopment Plan (the "Candlestick Site," together with Phase 2 of the Hunters Point Shipyard, the "Project Site"), are part of BVHP and together they make up the largest area of under-used land in the City; and
- WHEREAS, For many years, the City and the Redevelopment Agency of the City and County of San Francisco (the "Agency") have been working together to bring about the revitalization of the Shipyard and the Candlestick Site, and in early 2007, the City's Board of Supervisors and the Agency Commission endorsed a Conceptual Framework for the integrated development of these two areas; and
- WHEREAS, Over the past several years, the City's Planning Department and the Agency have held more than 230 public meetings, workshops and presentations over the past three years on every aspect of the Project, including meetings before the Agency Commission, the Planning Commission, the Board of Supervisors and other City commissions and advisory and community groups; and
- WHEREAS, In 2009, the State legislature approved and Governor Arnold Schwarzenegger signed and filed with the Secretary of State Senate Bill Number 792 ("SB 792"), providing for the reconfiguration of the Candlestick Park State Recreation Area ("CP State Park Recreation Area") and improvement of the State's park lands, in connection with the development of the Project Site. SB 792 permits the exchange of certain public trust lands and the reconfiguration and improvement of CP State Recreation Area, in furtherance of state public trust, park and redevelopment purposes; and

WHEREAS, The City's Planning Department and the Agency have undertaken a planning and environmental review process for the Project and provided for appropriate public hearings. On June 3, 2010, the Planning Commission and the Agency certified the completion of a Final Environmental Impact Report for the Project as adequate, accurate, and objective and in compliance with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.)("CEQA") and the CEQA Guidelines (14 California Code of Regulations Sections 15000 et seq.); and

WHEREAS, The Planning Commission and the Agency Commission, respectively, reviewed and considered the Final Environmental Impact Report for the Project (the "EIR") in Planning Department File No. 20007.0946E, consisting of the Draft EIR and the Comments and Responses document, and the Planning Commission found that the contents of said report and the procedures through which the EIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code ("Chapter 31") and found further that the EIR reflects the independent judgment and analysis of the City and is adequate, accurate, and objective and that the Comments and Responses document contains no significant revisions to the Draft EIR and certified the completion of the EIR in compliance with CEQA, the CEQA Guidelines and Chapter 31, a copy of which is on file with the Planning Department; and

WHEREAS, The EIR files available from the Planning Department have been made available to the Port Commission and the public and this Port Commission has reviewed and considered the information in the EIR and the proposed CEQA Findings, including a statement of overriding considerations, and the proposed mitigation, monitoring and reporting program, referenced in this Resolution as Attachments A and B, on file with the Port Commission Secretary, respectively, in furtherance of the actions contemplated by this Resolution; and,

WHEREAS, The Planning Commission has determined that the Project, and the various actions being taken by the City and the Agency to approve and implement the Project, are consistent with the General Plan and with the Eight Priority Policies of City Planning Code Section 101.1 and made findings in connection with its determination; and

WHEREAS, Following certification of the EIR, the Agency Commission approved a Disposition and Development Agreement (the "DDA") with CP Development Co., a Delaware limited partnership ("Developer"), for the redevelopment of the Project Site (the "Project") and took other actions in furtherance of the Project. The Project, as further described in the DDA, includes up to 10,500 residential units, of which 32% will be offered at below market affordable rates, approximately 326 to 336 acres of new and improved public parks and open spaces, up to 885,000 square feet of regional and neighborhood-serving retail space, up to 255,000 square feet of new and renovated replacement space for the Shipyard artists, up to 2.5 million square feet of commercial light industrial, research and development and office space, and land and supporting infrastructure for a new football stadium for the San Francisco 49ers. If the 49ers do not choose to build a new stadium in the Project Site, the Project includes a non-stadium alternative, which expands both commercial and residential uses on some of the areas of the Shipyard currently reserved for stadium uses and reduces certain densities on Candlestick Point. The Project is consistent with the Conceptual Framework and Proposition G (June 2008); and

WHEREAS, In 1968, the Legislature enacted the Burton Act, which granted to the City the State's remaining interest in tidelands within the City, including the State's sovereign interests in the Candlestick Point area, which lands are held by the Port of San Francisco and subject to the public trust and to the terms and conditions of the Burton Act; and

WHEREAS, The lands within the Project Site held by the Port under the Burton Act consist primarily of approximately 10.8 acres of streets, former railroad right-of-way and submerged lands (the "Port Parcels"); and

WHEREAS, To implement the Project, the Agency, the City (including the Port), and Developer have negotiated, among other agreements, a title settlement, public trust exchange and boundary line agreement, a copy of which is on file with the Port Commission Secretary ("Public Trust Exchange Agreement") by and between the Agency, the California State Lands Commission ("State Lands"), the City acting by and through the Board of Supervisors and through the San Francisco Port Commission, and the California Department of Parks and Recreation ("State Parks"); and

- WHEREAS, The purpose of this Public Trust Exchange Agreement is to settle certain boundary and title disputes related to the common law public trust for commerce, navigation, and fisheries ("Public Trust"), and to establish and reconfigure the location of lands subject to the Public Trust and lands free of the Public Trust, through the conveyances, boundary line agreements, and disclaimers provided for in the Public Trust Exchange Agreement, in furtherance of the Project and the purposes of the Public Trust; and
- WHEREAS, The Public Trust Exchange Agreement provides a mechanism for implementing the Public Trust exchange permitted under SB 792, and contemplates that the public trust exchange as described in the Public Trust Exchange Agreement ("Public Trust Exchange") will occur in phases upon the satisfaction of certain conditions and subject to the approval of the State Lands Commission. The lands to be included in the Public Trust Exchange lie within the Project Site, and the parties to the Public Trust Exchange Agreement will effectuate the Public Trust Exchange through a series of conveyances of the lands within those areas, as provided in the Public Trust Exchange Agreement; and
- WHEREAS, Following the Public Trust Exchange, the entire waterfront within the Project Site, as well as certain interior lands that have high Public Trust values, will be subject to the Public Trust. The Agency (or, for certain streets, the City) will hold all of the Public Trust lands outside of the CP State Recreation Area as trustee, in accordance with the statutory grant in SB 792. The lands that will be removed from the Public Trust under the Public Trust Exchange Agreement have been cut off from navigable waters, are no longer needed or required for the promotion of the Public Trust, and constitute a relatively small portion of the granted public trust lands within the City. The lands removed from the Public Trust, outside of the CP State Recreation Area, will be conveyed to the Agency; and
- WHEREAS, Consistent with the requirements of SB 792, the Public Trust Exchange Agreement contains provisions to ensure that public access is provided to Public Trust lands and that views of the Bay from certain Public Trust lands are protected; and
- WHEREAS, The Board of Supervisors is considering a series of actions and approvals in furtherance of and to implement the Project, including the adoption of amendments to the Hunters Point Shipyard Redevelopment Plan and the Bayview Hunters Point Redevelopment Plan (collectively, the "Redevelopment Plans"); and

WHEREAS, The City intends to undertake and complete proceedings and actions necessary to be carried out by the City under the Redevelopment Plans and, specifically, the City wishes to enter into an Interagency Cooperation Agreement with the Agency, in the form on file with the Port Commission Secretary (the "ICA"), to provide for cooperation between the City and the Agency in administering the process for control and approval of land use approvals for the Project. By consenting to the ICA, the Port would delegate authority to the Agency, Department of Public Works ("DPW") and the Department of Building Inspection ("DBI") to conduct design review and grant applicable construction permits for construction related to the Port Parcels subject to SB 792. These approvals are conditioned in each case on appropriate consultation with the Port's Chief Harbor Engineer; and

WHEREAS, This Port Commission has reviewed and considered the information contained in the EIR. For purposes of compliance with CEQA, the Public Trust Exchange Agreement and the Interagency Cooperation Agreement are part of the implementation of the Project examined by the EIR, and this Port Commission makes the findings referenced herein as Attachment A (the "CEQA Findings"), including a statement of overriding considerations and a mitigation monitoring and reporting program for the Project attached as Attachment B, which CEQA Findings are incorporated by this reference, and are on file with the Port Commission Secretary; now, therefore, be it

RESOLVED, That the San Francisco Port Commission has reviewed and considered the EIR and the actions associated with the Candlestick Point – Hunters Point Shipyard Phase 2 Project and hereby adopts the CEQA Project Findings referenced herein as Attachment A including a statement of overriding considerations, and including Attachment B, the Mitigation Monitoring and Reporting Program, both attachments of which are incorporated into this Resolution by this reference, and on file with the Port Commission Secretary, and be it further

RESOLVED, That in furtherance of the City policies adopted under Proposition G (June 2008) and the proposed adoption and implementation of the Redevelopment Plans, the Port Commission urges the Board of Supervisors to approve the Public Trust Exchange Agreement and ICA, and authorizes the Executive Director of the Port to execute on behalf of the Port the Public Trust Exchange Agreement and the Port's Consent to the ICA on terms consistent with the staff report accompanying this Resolution, including any additions or

modifications thereto (including the attachment of exhibits) that Mayor Gavin Newsom, the Director of Public Works, the City Administrator, and the Executive Director of the Port, in consultation with the City Attorney, determine are in the best interests of the City and are necessary or advisable to complete the transactions contemplated in the Public Trust Exchange Agreement and ICA, and do not materially increase the obligations or liabilities of the City, will not have any material adverse fiscal impact on the City or materially diminish the rights of or benefits to the City, and are necessary or advisable to complete the transactions contemplated by the Public Trust Exchange Agreement and ICA and effectuate the purposes and intent of this Resolution, such determination to be conclusively evidenced by execution and delivery by Mayor Gavin Newsom, the Director of Public Works and the Executive Director of the Port of the Public Trust Exchange Agreement and ICA and any amendments thereto; and be it further

RESOLVED,

That upon Board of Supervisors approval, the Port Commission hereby authorizes and urges Mayor Gavin Newsom, the Director of Public Works and the Executive Director of the Port, and to the extent necessary, the Clerk of the Board of Supervisors, the Secretary of the Port Commission or and other City officer, to take any and all actions, including executing on behalf of the City any memoranda approving the form of exhibits to the Public Trust Exchange Agreement and ICA, including exhibits thereto, any amendments to the Exchange Agreement and ICA, or any escrow instructions, closing or similar documents and any contracts, agreements, memoranda or similar documents with State, regional and local entities, that are necessary or proper to consummate the Public Trust Exchange Agreement and ICA in accordance with this Resolution, or to otherwise effectuate the purposes and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by such person or persons of any such documents; and be it further

RESOLVED,

That the Port Commission's approval of the Public Trust Exchange Agreement and the ICA under this Resolution shall take effect upon the effective date of the Board of Supervisors' legislation approving the Public Trust Exchange Agreement and ICA.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 8, 2010.



Secretary