

File No. 220729

Committee Item No. 11

Board Item No. 1

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight

Date: November 17, 2022

Board of Supervisors Meeting:

Date: November 29, 2022

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OTHER

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Prepared by: Stephanie Cabrera

Date: November 10, 2022

Prepared by: Stephanie Cabrera

Date: November 18, 2022

Prepared by: _____

Date: _____

1 [Settlement of Lawsuit - Phi Associates (Drisco Hotel to Make Payments Totaling \$2,500,000
2 to Benefit the Swords to Plowshares Veterans Academy]

3 **Ordinance authorizing settlement of the lawsuit filed by Phi Associates L.P., against**
4 **the City and County of San Francisco payments by Phi Associates of \$2,500,000 to**
5 **provide construction loan repayment, and fund capital improvements and operating**
6 **reserves, and thereby support affordable housing for veterans at the Veterans**
7 **Academy located at 1030 Girard Road, San Francisco, and operated by Swords To**
8 **Plowshares (“Veterans Academy”) in exchange for the release of 16 Residential Hotel**
9 **rooms from the Hotel Conversion Ordinance; the lawsuit was filed on March 17, 2021 in**
10 **San Francisco Superior Court, Case No. CPF-21-517409, entitled Phi Assoc., L.P. v. City**
11 **and County of San Francisco; the lawsuit involves petitioner’s challenge to the City’s**
12 **enforcement of the Hotel Conversion Ordinance to the Hotel Drisco, located at 2901**
13 **Pacific Avenue, San Francisco.**

14
15 Be it ordained by the People of the City and County of San Francisco:

16
17 Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby
18 authorizes the City Attorney to settle the action entitled, Phi Assoc., L.P. v. City and County of
19 San Francisco, San Francisco Superior Court, Case No. CPF-21-517409 by the payment of
20 \$2,000,000 by Phi Associates. L.P. to the Bank of San Francisco (the “First Settlement
21 Payment”) for the benefit of the City, and a payment of \$500,000 to be applied towards capital
22 improvements and operating reserves for the benefit of the tenants of the Veterans Academy
23 (the “Second Settlement Payment” and, together with the First Settlement Payment, the
24 “Settlement Payments”). The Hotel Owner will instruct the Bank of San Francisco to apply the
25 First Settlement Payment to repayment of a loan obtained by Swords to Plowshares for

1 mobility improvements to the Veterans Academy, its affordable housing facility for very low-
2 income veterans located at 1030 Girard Road, San Francisco, and operated by Swords To
3 Plowshares (“Veterans Academy”). Veterans Academy is located approximately 1 mile from
4 the Drisco Hotel. The Settlement Agreement also requires Swords to Plowshares to negotiate
5 with its current landlord, the Presidio Trust, to extend the term of its existing lease for the
6 Veterans Academy and execute an affordable housing agreement with the City related to
7 Swords to Plowshares’ use of the Settlement Payments to benefit the Veterans Academy and
8 a Promissory Note governing the First Settlement Payment. Petitioner’s payment of the
9 \$2,500,000 is contingent upon the approval by the Planning Commission and the Board of
10 Supervisors of legislation releasing the Drisco Hotel from the restrictions of the Hotel
11 Conversion Ordinance.

12 Section 2. The above-named action was filed in San Francisco Superior Court on
13 March 17, 2021, and the following parties were named in the Lawsuit: Phi Associates, L.P.;
14 City and County of San Francisco.

15 Section 3. The Board of Supervisors authorizes the City Attorney’s Office to take all
16 actions reasonably necessary to perform the City’s obligations under the Settlement
17 Agreement.

18

19 APPROVED AS TO FORM AND
20 RECOMMENDED:

21 DAVID CHIU
22 City Attorney

RECOMMENDED:

23 /s/
24 Patrick O’Riordan
25 Director of Department of Building Inspection

26 /S/ AUSTIN M. YANG
27 AUSTIN M. YANG
28 Chief Land Use Deputy

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