

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

RESOLUTION NO. 09-26

- 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, The Port Commission adopted the Waterfront Land Use Plan, including the Design Access Element (the "Waterfront Land Use Plan"), in 1997 after a seven year planning process; and
- WHEREAS, The Port owns approximately 16 acres at Seawall Lot 337 (SWL 337) and Pier 48, bounded generally by China Basin, the San Francisco Bay, Mission Rock Street and Third Street, including China Basin Park and a portion of the existing Terry Francois, Jr. Blvd., which together provide short-term parking and ingress and egress serving visitors to the waterfront; and
- WHEREAS, The Port Commission and community have invested significant efforts to plan for the development of SWL 337, which included a community planning process in 2007 as prescribed by the Waterfront Land Use Plan, which was led by the SWL 337 Port Commission Committee composed of then-President Ann Lazarus and then-Vice President Kimberly Brandon and supported by an extraordinary interagency cooperative effort involving staff of the Mayor Gavin Newsom's Office, Redevelopment Agency, Planning Department, and Municipal Transportation Agency, to define development objectives for the site, prior to initiating the development solicitation process; and
- WHEREAS, During this planning effort, the Port and City also worked closely with the California State Lands Commission staff (State Lands) and Senator Carole Migden to sponsor Senate Bill 815 (SB 815), which was signed into law by Governor Arnold Schwarzenegger on October 13, 2007, and provides for a process that allows State Lands to lift public trust use restrictions from SWL 337 and specified other Port seawall lot sites to enable higher economic development and revenue generation, for the purpose of investing in preservation of National Register-listed Port historic resources and the creation of waterfront public open space recognized in San Francisco Bay Conservation and Development Commission (BCDC) plans; and
- WHEREAS, The Development Objectives and Criteria included an option to include Pier 48 in proposals, in recognition of its potential to provide a place for public events and activities adjacent to new waterfront open space, where any use program will still be required to comply with public trust restrictions; and

WHEREAS, The Port Commission recognized SWL 337 to be the Port's most valuable real estate asset and, consistent with SB 815, anticipated that development of this site would generate significant net new revenue to enable the Port to increase its capability to preserve and rehabilitate Port maritime historic resources that are listed on the National Register of Historic Places, and create waterfront public open space that is recognized in BCDC plans; and

WHEREAS, The extraordinary setting of SWL 337 and broader range of developable uses allowed under SB 815 yielded Development Objectives and Criteria that promote a vibrant and unique urban mixed use development that incorporates a public open space program with a substantial increase in shoreline open space; and

WHEREAS, At the direction of the Port Commission, Port staff established the SWL 337 Advisory Panel, made up of seven members with experience in real estate economics, land use planning, environmental issues, architecture/urban design and neighborhood and city-wide interests, to ensure input from community stakeholders in the review of development concepts and proposals for SWL 337 through a two-step Request for Qualifications (RFQ) and Request for Proposals (RFP) developer solicitation process that incorporated the Development Objectives and Criteria; and

WHEREAS, The Port Commission held public hearings on February 26, 2008 and April 22, 2008, to review development concepts of four interested developer teams that submitted timely, complete and responsive submittals in response to the RFQ and, by Resolution No. 08-26, authorized and directed Port staff to issue and invite two of the teams to respond to an RFP, which was issued on May 27, 2008; and

WHEREAS, Members of the two teams notified the Port of their decision to join into one team, called SWL 337 Associates, LLC (Developer), to prepare a response to the RFP. The team requested and was granted four extensions to the original August 2008 RFP submittal deadline and submitted a timely, complete and responsive proposal for the mixed-use development of SWL 337 and Pier 48 on the final RFP submittal deadline of January 15, 2009; and

WHEREAS, The Port Commission has received public presentations and comments on Developer's proposal at the Port Commission meeting of February 10, 2009, and public comments from the Port's Central Waterfront Advisory Group meeting on March 11, 2009, a SWL 337 public workshop on March 18, 2009, and input from citizens through letters and online comments on the Port's SWL 337 webpage; and

WHEREAS Port staff contracted with outside consultants CBRE Consulting/Conley Consulting Group, BMS Design Group, and Nelson/Nygaard, and with staff from the San Francisco Municipal Transportation Agency and the Department of the Environment to provide technical reviews of various elements of the RFP proposal, to supplement the review by Port staff and the SWL 337 Advisory Panel; and

WHEREAS, Port staff finds that SWL 337 Associates, LLC has the qualifications, experience and financial qualifications to undertake the project proposed; and

WHEREAS, The SWL 337 Advisory Panel, Port staff, its consultants, and City staff produced reports documenting their respective reviews, and found that the RFP submittal overall has many strengths that are worthy of consideration, that it responds to the objective of creating a vital urban environment fitting of its special waterfront location and setting, and includes a broad mix of uses to promote enjoyment and appreciation of the City and San Francisco Bay, and thus provides a clear urban framework for development; and

WHEREAS, While the financial proposal does not meet all of the Port's annual rent and other financial criteria established in the SWL 337 Development Objectives and Criteria, Port staff recommends entering into an ENA with Developer which will give the parties the opportunity to assess whether a project can be feasibly developed that meets the Port's financial objectives and provides fair value to both public and private sector participants, presents a financing strategy that would direct SWL 337 tax increment revenues to SWL 337 development instead of other Port capital projects as anticipated in SB 815 and the Port's adopted 10-Year Capital Plan; and

WHEREAS, The SWL 337 Advisory Panel, Port staff and consultants, and City staff recognize the need to anticipate change and to identify the underlying principles that should be used as guideposts to enable the Port and public to evaluate project changes as they evolve, as well as to identify specific tasks and milestones for Developer, which led to the development of "Financial and Negotiating Principles" for any negotiations with Developer, which are attached to this resolution as Exhibit A; and

WHEREAS, The Port Commission has reviewed and evaluated the summaries and analyses of Developer's proposal prepared by Port staff, the SWL 337 Advisory Panel, Port consultants, and City staff, has reviewed the Port staff recommendations set forth in the staff report accompanying this resolution, has considered the public testimony on this matter given to the Port Commission, and the Financial and Negotiating Principles; now therefore be it

RESOLVED, That the Port Commission hereby awards to Developer the opportunity to negotiate for the development of SWL 337 and Pier 48 as a mixed-use development project, and authorizes Port staff to proceed with exclusive negotiations with Developer for a complete master plan proposal for the site, with the understanding that the final terms and conditions of any Exclusive Negotiating Agreement (ENA) negotiated between the Port and Developer must include performance benchmarks consistent with the Financial and Negotiating Principles, and terms and conditions of the ENA as described in the staff report associated with this resolution, all of which will be subject to the further approval of the Port Commission; and be it further

RESOLVED, That the Port Commission reserves the right, if negotiations with Developer are unsuccessful and do not lead to approval of a development agreement, lease and related documents, to undertake other efforts such as issuing a new request for proposals, at the Port Commission's sole discretion; and be it further

RESOLVED, That the award of the opportunity to enter exclusive negotiations does not commit the Port Commission to approval of a final ENA, lease, lease disposition and development agreement, or related documents, and that the Port Commission will not take any discretionary actions committing it to the project until it has reviewed and considered environmental documentation prepared in compliance with the California Environmental Quality Act (CEQA); and be it further

RESOLVED, That the Port Commission expresses its thanks and appreciation to the SWL 337 Advisory Panel, Port consultants, and City staff for their participation in and support of the Port's evaluation of responses to the RFQ and RFP.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 12, 2009.



Secretary