



MEMORANDUM

September 2, 2009

TO: David Alumbaugh, Kate McGee
Planning Department

FROM: Kathleen Diohep, Project Manager

SUBJECT: Port Mixed used development project combining Seawall Lot 351 at Washington and The Embarcadero with the adjacent privately owned Blocks 168, 171 and 201

On February 24, 2009, by Resolution 09-12, the Port Commission authorized Staff to negotiate and enter into an Exclusive Negotiating Agreement (ENA) with San Francisco Waterfront Partners II (SFWP II) for development rights for Seawall Lot 351 (SWL 351). The Port and SFWP executed the ENA on August 26, 2009. The ENA establishes the process for negotiation and refinement of the proposed project so that a specific proposal can be brought to policy makers for consideration.

The key terms of the ENA are:

Site	SWL 351, 27,926 sqft at The Embarcadero and Washington
Term	Nine months period with two six month extensions
	Execution Date: August 26, 2009
	Expiration of First Term: May 23, 2010
	Expiration of First Extended Term*: November 19, 2010
	Expiration of Second Extended Term*: May 18, 2011
	*Extension terms require meeting performance measures and extension fee payments.
Negotiating Fee	\$100,000 for first term, \$50,000 for each extension
Term Sheet Review	Port Commission and Board of Supervisors review and endorse a term sheet for the project prior negotiation of the transaction documents.
Cost Reimbursement	Developer to reimburse Port for staff time and other costs associated with the Project.
Performance Measures	Shown on below, these measures address the Northeast Embarcadero Study direction for this project.
Parking Agreement	Recognizes site is subject to a Parking Agreement with Ferry Building Investors, Inc and requires the project to satisfy obligations under it for the term of the Parking Agreement

ENA Performance Measures

PERFORMANCE BENCHMARKS

TIME FOR PERFORMANCE

1. TRANSACTION COSTS. Developer and the Port must reach agreement on the Transaction Cost Budget. By September 1, 2009.
2. SCHEDULE. Developer must submit a tentative schedule for the development of the Project including a timetable for Project design, Regulatory Approvals, community outreach, construction phasing and lease commencement date, assuming completion of the Northeast Embarcadero Study by November 1, 2009. 30 days after execution of this Agreement.
3. HOTEL FEASIBILITY ANALYSIS. By September 15, 2009.
4. TRUST CONSISTENCY PROPOSAL. Developer must submit its proposed Trust Consistency Proposal in accordance with Section 5.4 of this Agreement. 60 days after the Planning Department's presentation of the Northeast Embarcadero Study to the Port Commission.
5. REGULATORY APPROVAL STRATEGY. Developer must submit its proposed Regulatory Approval Strategy in accordance with Section 5.6 of this Agreement. 60 days after the Planning Department's presentation of the Northeast Embarcadero Study to the Port Commission.
6. PROPOSED DEVELOPMENT PLAN: Developer must submit a Development Plan in accordance with Section 3.2(a) of this Agreement. 90 days after the Planning Department presentation to the Port Commission of the Northeast Embarcadero Study recommendations for SWL 351 and 8 Washington.
7. PORT ENDORSEMENT RESOLUTION. The Port Commission must adopt a resolution endorsing the Term Sheet. By the First Extended Expiration Date.
8. BOARD ENDORSEMENT RESOLUTION. The Board must adopt a resolution endorsing the Term Sheet. By the Second Extended Expiration Date.
9. ENVIRONMENTAL REVIEW. Developer must complete CEQA review of the Project. By the Second Extended Expiration Date.
10. DUE DILIGENCE INVESTIGATION. Developer must complete its due diligence investigation of the Site. To be diligently pursued and substantially completed during the Exclusive Negotiation Period.
11. TRANSACTION DOCUMENTS. Developer and the Port must reach final agreement on the form of the LDDA, Lease, and all related Transaction Documents. To be established in the Port Term Sheet Resolution.