

RESOLUTION NO. -\_\_\_ N.C.

APPROVING AND AUTHORIZING THE EXECUTION OF A FIFTH AMENDED  
AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT FOR CERTAIN  
PROPERTY ON THE VALLEJO WATERFRONT BETWEEN THE  
CITY OF VALLEJO AND CALLAHAN PROPERTY COMPANY, INC.

WHEREAS, the former Redevelopment Agency of the City of Vallejo (the "RDA") and Callahan/DeSilva Vallejo, LLC ("CDV"), entered into a Disposition and Development Agreement for certain properties on the Vallejo Waterfront, on October 17, 2000 (the "Original DDA"); and

WHEREAS, the Original DDA was amended and restated in its entirety as of October 1, 2002 (the "First Restatement"), further amended by an Amendment entered into as of October 24, 2003, further amended by a Second Amendment entered into as of July 20, 2004, further amended and restated for a second time as of October 27, 2005 (the "Second Restatement"), as further amended and restated for a third time as of February 27, 2007 (the "Third Restatement"), as further amended and restated for a fourth time as of December 16, 2013 (the "Fourth Restatement") (collectively, the "Prior Agreement"); and

WHEREAS, on December 20, 2011, CDV's entire interest in the DDA was assigned to Callahan Property Company, Inc. (the "Developer"); and

WHEREAS, the Prior Agreement provides for the acquisition, disposition and redevelopment of certain real property referred to as the Vallejo Waterfront as a master planned mixed-use development, including residential, commercial, retail and open space and park uses (the "Project"); and

WHEREAS, the California State Legislature enacted the Redevelopment Dissolution Statutes in June 2011, eliminating the RDA and eliminating tax increment financing; and pursuant to the authority provided in Health and Safety Code Section 34173, as enacted by AB 1X 26, the City Council of the City of Vallejo ("City") elected and determined that the City would become the "successor agency" to the former Redevelopment Agency (subsequent legislation declared the "Successor Agency" a separate legal entity from the City), assuming the former Redevelopment Agency's rights, duties and obligations under the DDA; and

WHEREAS, in December 2012, the Developer, the Successor Agency to the RDA (the "Successor Agency"), and the City executed the Fourth Restated Agreement to: (1) permit the transfer of specified former RDA properties to the City that were integral parts of the Site; (2) remove substantial tax increment financing that was intended to pay for public improvements, site remediation, and other costs that were intended to be paid by the RDA; (3) eliminate the Successor Agency-owned Southern Waterfront from the Prior Agreement; (4) specifically limit and define the remaining obligations of the Successor Agency; (5) assign all other obligations from the Successor Agency to the City, and remove the Successor Agency as a party to subsequent agreements; and (6) toll the Developer's and City's performance obligations in order to allow the Parties time to revise the Scope of Development, Financing Plan, and Schedule of Performance included in the Prior Agreement to address the changes in financial and development responsibilities required by the dissolution of the Redevelopment Agency and the loss of tax increment financing; and

WHEREAS, the DOF approved the Fourth Restated Agreement on January 29, 2014; and

WHEREAS, all Successor Agency Obligations under the Prior Agreement have been either satisfied or assigned to the City and the Successor Agency is no longer a necessary party to the DDA; and

WHEREAS, as directed under the Fourth Restated Agreement, the Parties met regularly to negotiate and agree upon mutually acceptable further amendments to the Prior Agreement to revise the schedule of performance to reflect current circumstances, enhance the feasibility of the Project and move forward with development of the Site under current and foreseeable statutory, planning, financial, and real estate market conditions. The Parties have proposed a Fifth Amended and Restated DDA ("Fifth Restated Agreement" or "Agreement") that is intended to embody the entire agreement between the Parties, amending, restating, and superseding the Prior Agreement; and

WHEREAS, pursuant to the terms of this Agreement and consistent with the Prior Agreement, the City will convey to the Developer certain property located within the Site, and the Developer will develop on the Project on the conveyed real property. In addition, pursuant to this Agreement, the Developer will fund and construct specified public improvements and complete hazardous materials remediation that were previously intended to be funded by the RDA through tax increment funding to enable the development of the Project; and

WHEREAS, the City Council held a duly noticed public hearing on June 14, 2016, in the City Council Chambers, to consider and act on the Fifth Restated Agreement; and

WHEREAS, the Fifth Amendment does not alter a series of land use entitlements to guide the development of the Site previously approved by the City, collectively referred to as the "Approved Plans." The Parties acknowledge that the Project must be consistent with the Approved Plans, and the Fifth Restated Agreement is entered into in furtherance of and is intended to implement the goals and policies in the Approved Plans. The City and the Developer acknowledge that, in the future the Developer may request amendments to the Approved Plans to increase the feasibility of development, address market changes, or optimize the development of the Site. Any such requested amendments to the Approved Plans shall be subject to the procedures and community outreach required by the Vallejo Municipal Code, the Settlement Agreement with the Vallejo Waterfront Coalition, dated November 28, 2006, and California law; and

WHEREAS, the Project was analyzed under the California Environmental Quality Act and accompanying state and local implementation guidelines in the Vallejo Waterfront Project Environmental Impact Report certified by the City on November 5, 2005 and the associated Mitigation Monitoring and Reporting Program adopted November 5, 2005, together with the EIR Addendum approved on February 27, 2007. The amendments to the Prior Agreement contained in this Fifth Restated Agreement do not contain any changes in the underlying physical activities or the resulting environmental impacts from the Project previously described in the Prior Agreement and evaluated in the Prior Agreement CEQA Documentation, and no subsequent or supplemental Environmental Impact Report is required for the approval of this Agreement, in that no changes have been made in the Project; and there is no substantial evidence that any of the conditions listed in CEQA Guidelines Section 15162 exist that would require further environmental review, in that there are no changed circumstances since the EIR and EIR addendum was adopted that would involve new significant effects; and no new information

showing that the Project will have significant effects not discussed in the CEQA documentation;  
and

WHEREAS, in conjunction with the consideration of the Fifth Restated Agreement, the City and Developer have cooperated in preparing a Notice of Exemption.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Vallejo as follows:

Section 1. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. The City Council reaffirms its prior findings and determinations made with respect to the DDA. The City Council further finds and determines that approval and implementation of the Fifth Restated Agreement does not affect any changes in the underlying physical activities or the resulting environmental impacts as described in the Final Environmental Impact Report relating to the Vallejo Station Project and the Vallejo Waterfront Project, including the EIR Mitigation Monitoring and Reporting Program related thereto, certified by the former Redevelopment Agency by Resolution No. 05 - 22 and by the City Council by Resolution No. 05-354 N.C., both of which Resolutions were adopted on October 25, 2005 (SCH #2000052073), and an Addendum to the EIR, approved by the City Council by Resolution No. 07-26 N.C., which Resolution was adopted on February 13, 2007 (collectively, the "EIR"), and that the Waterfront Project incorporates all applicable mitigation measures identified in Redevelopment Agency Resolution No. 05-22 and Council Resolution No. 05-354 N.C. The City Council further finds that no additional environmental analysis is required for the Fifth Restated Agreement for the following reasons:

- a. The Fifth Restated Agreement is not a project under State CEQA Guidelines Section 15378(b)(4) because it comprises "government fiscal activities which do not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment" The Fifth Restated Agreement is also not a project under State CEQA Guidelines Section 15378(b)(5) as an "organizational or administrative activit[y] of government that will not result in direct or indirect physical changes in the environment." The Fifth Restated Agreement clarifies the Developer's and City's financial obligations and performance schedules but does not revise the Project or the Approved Plans, and will not result in any direct or indirect physical changes in the environment; and
- b. The Fifth Restated Agreement is exempt under State CEQA Guidelines Section 15061(b)(3) because "it can be seen with certainty that there is no possibility that the activities in question may have a significant effect on the environment" under the analysis in *Muzzy Ranch Co. v. Solano County Airport Land Use Comm'n* (2007) 41 Cal. 4th 372, in that the Fifth Restatement simply incorporates and is consistent with the City's General Plan and the adopted Planned Development Master Plan and Design Guidelines and does not contain any changes to the underlying physical activities and so is consistent with a community plan, general plan, and zoning ordinance for which an environmental impact report was prepared and involves no environmental effects that were not analyzed in the prior EIR.

Section 3. In fulfillment of the parties obligations contemplated under the Fourth Restated Agreement, the City Council hereby approves the amendments to the Prior Agreement as set forth in the Fifth Restated Agreement, in substantially the form as attached to the staff report on file with the City Clerk, which Fifth Restated Agreement is incorporated herein by reference. The City Council hereby directs the City Manager to execute and record a memorandum of the Fifth Restated Agreement on behalf of the City, subject to any minor clarifying, conforming and technical changes as may be approved by the City Attorney. Further, the City Council authorizes the City Manager to execute such documents as may be necessary to carry out the obligations of the City under the Prior Agreement as amended and restated in the Fifth Restatement, including without limitation the conveyance of those parcels to be sold to the Developer pursuant to the Fifth Restated Agreement.

RESOLUTION 16-\_\_\_ N.C.

ACCEPTING RELEASE OF CERTAIN FEDERAL DEED RESERVATIONS  
IN THE NORTHERN WATERFRONT

WHEREAS, on December 1, 1960, the United States of America, acting through the General Services Administration (“GSA”), executed a quitclaim deed, granting its interest in a certain portion of the northern waterfront area of the City of Vallejo, to the City of Vallejo (“Quitclaim Deed”), which is attached as “Exhibit A” and incorporated herein; and

WHEREAS, the Quitclaim Deed was made subject to several reservations, one of which allowed the United States government to enter and use the Property during the existence of a national emergency declared by the President of the United States or Congress for a period of twenty (20) years from the execution of the Quitclaim Deed on December 1, 1960; and

WHEREAS, the Quitclaim Deed provided for the Federal Government to enter the property within 21 years from the date of execution, such rights shall terminate and be extinguished; and

WHEREAS, the City desires the GSA to release these reservations and clear them from title in order to facilitate the future development of the northern waterfront; and

WHEREAS, the GSA agrees to release said reservations, acknowledging that they were terminated by the terms of the Quitclaim Deed and are no longer necessary or useful to the United States government.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Vallejo as follows:

1. The City of Vallejo hereby accepts that interest in real property described in that certain Release of Deed Reservation, attached hereto as “Exhibit B,” from the United States of America, acting by and through the Administrator of General Services, to the City of Vallejo, a municipal corporation, for the purpose of rendering void the exceptions that were previously set forth in the Quitclaim Deed accepted pursuant to Resolution No. 60-697 of the Council of the City of Vallejo, adopted on December 12, 1960, and recorded on December 15, 1960, in Book 1057, at Page 277, of Official Records, in the Office of the County Recorder, County of Solano, State of California.
2. The City of Vallejo hereby consents to the recordation of such Release of Deed Reservations in the Official Records, in the Office of the County Recorder, County of Solano, State of California.

U. S. Naval Shipyard  
 Mare Island, California (Vallejo)  
 N-Calif-518-C  
 City of Vallejo

24594

BOOK 1057 PAGE 277

RECORDED AT REQUEST OF

City of Vallejo  
 234  
 1057 DEC 15 1960 277  
 Official Records of  
 Solano County, California

D. E. Buckingham

Recorder

QUITCLAIM DEED

THIS DEED made the 1st day of December, 1960, by and between the UNITED STATES OF AMERICA, acting by and through the ADMINISTRATOR OF GENERAL SERVICES, under and pursuant to the powers and authority contained in the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), the Surplus Property Act of 1944 (58 Stat. 765), as amended, more particularly by Public Law 616, 80th Congress, approved June 10, 1948, and the regulations and orders issued pursuant thereto, hereinafter referred to as GRANTOR, and the CITY OF VALLEJO, a municipal corporation under the laws of the State of California, hereinafter referred to as GRANTEE,

## WITNESSETH:

The said GRANTOR, for and in consideration of the continuous use and maintenance of the premises by the GRANTEE as and for a public park for public recreational purposes, and other good and valuable consideration, has remised, released and forever quitclaimed, and by these presents does remise, release and forever quitclaim, unto the GRANTEE, and to its successors and assigns, the following described property:

A parcel of land situate in the City of Vallejo, County of Solano, State of California, said parcel being a portion of Tide Land Lot No. 21 in T3N, R4W, MDB&M, and the boundaries of said parcel being described as follows:

BEGINNING at a point on the Westerly line of Tide Land Lot No. 21 distant thereon South 30° 45' East, 806.67 feet from the Northwesterly corner thereof, said point being in the Westerly line of that certain 32.94 acre tract of land acquired by the United States of America in Civil Action No. 1148 had in the District Court of the United States in and for the Northern District of California, Northern Division, from said POINT OF BEGINNING; thence crossing said 32.94 acre tract and crossing that certain "PARCEL NO. 1" described in the Declaration of Taking in Civil Action No. 7373, filed August 11, 1956 in the District Court of the United States in and for the Northern District of California, Northern Division, and in the Lis Pendens related to said Action No. 7373, which was recorded in the Office of the County Recorder of Solano County, California, April 17, 1956 in Book 824 of Official Records, at Page 298, as Instrument No. 7055, and running along a line approximately parallel to and between one and three feet Southerly of the link fence bounding South side of the paved approach to the causeway crossing from Vallejo to Mare Island as follows:

- (1) South 70° 12' East, 1643.36 feet to a point in the Easterly line of the aforesaid "PARCEL NO. 1"; thence
- (2) South 2° 26' East, (record per Civil No. 7373 South 2° 30' East), along the Easterly line of "PARCEL NO. 1", a distance of 32.12 feet to the Southeasterly corner of "PARCEL NO. 1"; thence

BOOK 1057 PAGE 278

U. S. Naval Station  
 Mare Island, California (Vallejo)  
 N-Calif-518-C  
 City of Vallejo

(3) North 89° 56' West, (record per Civil No. 7373, due WEST), along the Southerly line of "PARCEL NO. 1", a distance of 230.00 feet to the Southwesterly corner of "PARCEL NO. 1"; thence

(4) North 0° 04' East, (record per Civil No. 7373, due NORTH), along the Westerly line of "PARCEL NO. 1", a distance of 91.65 feet to the Northwesterly corner of "PARCEL NO. 1", said corner being in the Southerly line of the aforesaid 32.94 acre tract, which is a projection of North line of Tennessee Street; thence

(5) North 88° 49' 30" West, (record per Civil No. 1148, North 88° 53' West), along the Southerly line of said 32.94 acre tract, 1034.94 feet to the Southwesterly corner of said 32.94 acre tract; thence

(6) North 30° 45' West, along the Westerly line of said 32.94 acre tract, 553.42 feet to the Point of Beginning.

CONTAINING in said parcel, 6.304 acres, more or less.

SUBJECT TO rights of way, restrictions, reservations and easements existing or of record.

TO HAVE AND TO HOLD the said premises, with their appurtenances, unto the said GRANTEE, its successors and assigns, subject to the reservations, conditions and covenants herein contained.

SAID PROPERTY transferred hereby was duly determined to be surplus, and was assigned to the General Services Administration for disposal, pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and applicable rules, orders and regulations.

The said GRANTEE does by the acceptance of this deed covenant and agree for itself, and its successors and assigns, forever as follows:

1) For a period of twenty (20) years from the date of this conveyance, the premises above described shall be continuously used and maintained as and for a public park for recreational purposes, as set forth in Application for Priority and/or Transfer for Public Park, Public Recreational Area and/or Historical Monument, which Application is dated May 20, 1960, and was submitted to GRANTOR by the GRANTEE.

2) For a period of twenty (20) years from the date of this conveyance, the GRANTEE, its successors and assigns, shall file biennial reports with the Secretary of the Interior, setting forth the use of the property during the preceding two-year period, and other pertinent data establishing its continuous use of the premises for the purposes set forth above.

U. S. Naval Station  
 Mare Island, California (Vallejo)  
 H-Calif-518-C  
 City of Vallejo

BOOK 1057 PAGE 279

3) The GRANTEE will not sell, lease, or otherwise dispose of, any of the premises above described within twenty (20) years from the date of this conveyance, without first obtaining written authorization of the Secretary of the Interior to such sale, lease, or other disposal.

4) The GRANTOR shall have the right during the existence of any National emergency declared by the President of the United States of America, or the Congress thereof, to the full, unrestricted possession, control and use of the premises, or any part thereof, without charge; EXCEPT THAT the GRANTOR shall be responsible during the period of such use, if occurring within a period of twenty (20) years from the date of this conveyance, for the entire cost of maintaining the premises, or any portion thereof, so used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid; PROVIDED, HOWEVER, that if such use is required after the expiration of a period of twenty (20) years from the date of this conveyance, the GRANTOR shall pay a fair rental for the entire portion of the premises so used.

5) In the event of a breach of any condition or covenant herein imposed, the Secretary of the Interior may immediately enter and possess himself of title to the herein-conveyed premises for and on behalf of the United States of America.

6) In the event of a breach of any condition or covenant herein imposed, the GRANTEE will, upon demand by the Secretary of the Interior, take such action, including the prosecution of suit, or execute such instruments, as may be necessary or required to evidence transfer of title to the herein-conveyed premises to the United States of America.

In the event there is a breach of any of the conditions and covenants herein contained by the GRANTEE, its successors and assigns, whether caused by the legal inability of said GRANTEE, its successors and assigns, to perform said conditions and covenants, or otherwise, during said twenty-year (20-year) period, all right, title and interest in and to the said premises shall revert to and become the property of the United States at its option, and it shall have the immediate right of entry upon said premises, and the GRANTEE, its successors and assigns, shall forfeit all right, title and interest in said premises and in any and all of the tenements, hereditaments and appurtenances thereunto belonging;

PROVIDED, HOWEVER, that the failure of the Secretary of the Interior to require in any one or more instances complete performance of any of the conditions or covenants herein contained shall not be construed as a waiver or relinquishment of such future performance, but the obligation of the GRANTEE, its successors and assigns, with respect to such future performance shall continue in full force and effect;

BOOK 1057 PAGE 280

U. S. Naval Station  
Mare Island, California (Vallejo)  
N-Calif-518-C  
City of Vallejo

PROVIDED FURTHER, that in the event the Secretary of the Interior fails to exercise the option to re-enter the premises for any such breach within twenty-one (21) years from the date hereof, all of said conditions and covenants, together with all rights of the United States of America to re-enter thereon as hereinabove provided, shall as of that date terminate and be extinguished.

IN WITNESS WHEREOF, the UNITED STATES OF AMERICA has caused these presents to be executed as of the day and year first above written.

UNITED STATES OF AMERICA  
Acting by and through the  
ADMINISTRATOR OF GENERAL SERVICES

By Fred H. Johnston  
Fred H. Johnston  
Chief, Disposal Branch  
Acquisition and Disposal Division  
Public Buildings Service  
General Services Administration  
Region 9, San Francisco, California

STATE OF CALIFORNIA )  
( ss:  
City and County of San Francisco )

On this 2<sup>nd</sup> day of December, 1960, before me, Sigrid E. Anderson, a Notary Public in and for the City and County of San Francisco, State of California, personally appeared FRED H. JOHNSTON, known to me to be the Chief, Disposal Branch, Acquisition and Disposal Division, Public Buildings Service, General Services Administration, Region 9, San Francisco, California, and acknowledged that he executed the within instrument on behalf of the United States of America, acting by and through the Administrator of General Services.

WITNESS my hand and official seal.

SEAL

Sigrid E. Anderson  
Notary Public  
in and for the City and County of  
San Francisco, State of California

(S E A L)

My Commission Expires: March 4, 1960

RESOLUTION No. \_\_\_\_\_

EXHIBIT A

60-697

BOOK 1057 PAGE 281 N. C.

BE IT RESOLVED, by the Council of the City of Vallejo, as follows:

THAT the City Council of the City of Vallejo hereby accepts that certain Deed dated 1 December, 1960, by and between the UNITED STATES OF AMERICA, acting by and through the Administrator of General Services, and the City of Vallejo, covering a 6.304 acre parcel south of Mare Island Causeway; and the City Clerk is hereby authorized to record said Deed in the office of the Solano County Recorder, Fairfield, California

STATE OF CALIFORNIA )  
COUNTY OF SOLANO )

I, HELEN G. SEEBER, City Clerk of the City of Vallejo, County of Solano, State of California, and ex-officio Clerk of the City Council of said City, do hereby certify the within and foregoing to be a full, true and correct copy of the \_\_\_\_\_

RESOLUTION NO. 60-697 N. C., duly adopted by the \_\_\_\_\_  
City Council, in regular session, 12 December, 1960, \_\_\_\_\_

made in the therein entitled matter, as the same now remains of record and on file in the office of the City Clerk of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this \_\_\_\_\_  
13th day of \_\_\_\_\_ December 1960 A.D.

SEAL

*Helen G. Seeber* City Clerk

Adopted by the Council of the City of Vallejo at a \_\_\_\_\_ regular \_\_\_\_\_ meeting held \_\_\_\_\_ 12 December 1960 \_\_\_\_\_ by the following vote:  
Ayes, Councilmen Connolly, Curtala, Darr, Pierce, Tasca and Teixeira.  
\_\_\_\_\_  
\_\_\_\_\_  
Noes, Councilmen None.  
\_\_\_\_\_  
Absent, Absent Councilman Jensen.

G. W. HEWITT  
Mayor.

Attest: HELEN G. SEEBER  
City Clerk.

By: Florence Baker

EXHIBIT B: RELEASE OF DEED RESERVATION

The exception required by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), the Surplus Property Act of 1944 (58 Stat. 765), as amended, more particularly by Public Law 616, 80<sup>th</sup> Congress, approved June 10, 1948, as stated in the Quitclaim Deed from the United States of America, acting by and through the Administrator of General Services, recorded December 15, 1960, Instrument 24594, in Book 1057, page 277 through 281 official records of Solano County, State of California, are null and void. The United States of America, acting by and through the Administrator of General Services, hereby releases, without warranty, to the City of Vallejo, California, its rights under the above described reservations. Reference is hereby made to the Quitclaim Deed for a particular description of the property located in the City of Vallejo, County of Solano, State of California.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

GENERAL SERVICES ADMINISTRATION

By: \_\_\_\_\_