

## **History of Agreement and Current Approvals**

**Developer Selection:** On August 13, 1996, the Redevelopment Agency of the City of Vallejo (RDA) authorized its Executive Director to seek proposals from qualified developers for the development of available parcels within the Marina Vista and Waterfront Redevelopment Project Areas. The RDA approved DeSilva as the Master Waterfront Developer on April 15, 1997, and directed DeSilva to formulate a community-based Waterfront Master Plan. In May 1997, the RDA approved an Exclusive Right to Negotiate Agreement (ERN) with DeSilva, which required DeSilva to develop the Waterfront Master Plan and then proceed to negotiate a Disposition and Development Agreement.

**Planning Approvals:** DeSilva prepared a Waterfront Master Plan, which was accepted by the RDA on April 20, 1999, subject to certain conditions, including without limitation negotiations of a final disposition and development agreement with the RDA and completion of the environmental review process. The primary goal of the Waterfront Master Plan was to incorporate mixed land uses that are pedestrian-friendly and that will allow the Waterfront and Downtown areas to evolve into the social, cultural and entertainment hub of the City. Following acceptance of the Waterfront Master Plan, the RDA retained an Urban Land Institute (ULI) Advisory Panel, which convened in Vallejo in June 1999, to review the Waterfront Master Plan. The RDA accepted the Panel's report at its meeting on August 24, 1999. On March 28, 2000, modifications to the Waterfront Master Plan were accepted by the RDA.

Through an extensive public participation process, Wallace Roberts & Todd, Inc. (WRT) prepared and the RDA approved the Vallejo Waterfront Downtown Master Plan for Public Spaces, by action of September 19, 2000 (the "Plan for Public Spaces").

**First DDA:** The former Redevelopment Agency of the City of Vallejo (RDA) and Callahan/DeSilva Vallejo, LLC (CDV), the Developer's predecessor in interest, initially executed a Development & Disposition Agreement (First DDA) as of October 17, 2000 to implement a program of public and private revitalization of the Vallejo Waterfront area. This established the Developer's right to the land.

**Environmental Review:** After circulating an initial draft environmental impact report on December 11, 2002, and receiving comments, the City and the RDA decided that a revised draft environmental impact report (the RDEIR) should be prepared and circulated. In connection with preparation of the RDEIR, and as detailed therein, the RDA, the Prior Developer, and the City made various revisions to the Prior Project scope and description. These revisions reconfigured and scaled-back the Prior Project from that originally envisioned when this Agreement was initially executed in October, 2000, and responded to public concerns and changed circumstances with respect to surrounding developments in the Downtown area and at Mare Island.

The City and the RDA circulated the RDEIR (State Clearing House No. 2000052073) on June 10, 2005. On October 3, 2005, the City and the RDA circulated a document containing responses to comments received on the RDEIR and other information.

Second Restatement: To reflect progress made and further planning and financial agreements reached from the time of the initial execution of the DDA in October 2000, the RDA and Developer comprehensively updated the DDA approved the Second Restatement on October 27, 2005. The changes from the First DDA to the Second Restatement include:

- Georgia Street Extension element of the Prior Project was satisfactorily completed, with the Prior Developer serving as the project manager for such completion.
- Developer Parcel K was removed from the Prior Site that was the subject of the originally executed Prior Agreement and was satisfactorily developed as an office facility for the State Farm Electronic Claims Center pursuant to a separate disposition and development agreement between the RDA and CPC, a member of the Prior Developer. As part of the separate development of Former Parcel K, CPC served as the RDA's project manager for completion of the segment of Capitol Street between Mare Island Way and Civic Center Drive.
- Some parcels were removed from the DDA, namely Parcels N, V and U (the boat launch).
- The circulation of the RDEIR including a Mitigation Monitoring and Reporting Program).

Land Use Approvals: In connection with preparation of the EIR and the Second Restatement of the Prior Agreement, the RDA, the Prior Developer, and the City prepared the following series of land use approvals and entitlements for the Prior Project, for consideration of approval by the City concurrently with consideration of approval of the Second Restatement, (together with the EIR, the following documents and approvals are collectively referred to as the "2005 Approvals"):

- An Amendment to the City's General Plan (#00-001, referred to as the "General Plan Amendment") to include revised and updated land use and urban design goals, policies and map designations for the Site and the Project;
- An Amendment to the City's Zoning Ordinance (#03-0003) to provide for zoning consistent with the General Plan Amendment;
- A Planned Development Master Plan for the Site (#00-0022, referred to as the "Planned Development Master Plan"), which includes as an attached and incorporated element the Waterfront Design Guidelines, prepared jointly by the RDA and Developer; and
- A development agreement (#05-0008, referred to as the "Initial Development Agreement") pursuant to Government Code Section 65864 *et seq.*, between the City and the Developer pertaining to all of the Developer Parcels identified in Section 104 of the Prior Agreement.

On October 25 and 27, and November 15, 2005, the City Council and RDA conducted public hearings on the Prior Project, the Second Restatements of the Prior Agreement, and the 2005

Approvals; certified the EIR and made the required CEQA findings; and approved the Second Restatement and the 2005 Approvals. As a result of these actions, the Second Restatement of the Prior Agreement became fully effective by its terms on December 15, 2005.

Vallejo Waterfront Coalition Lawsuit: On or about December 2, 2005, the Vallejo Waterfront Coalition, an unincorporated association (the "Coalition") filed a Petition for Writ of Mandate And Complaint for Injunctive Relief in the Solano County Superior Court, captioned *Vallejo Waterfront Coalition v. City of Vallejo, et al.*; Case No. FCS 027048 (the "Action"). On or about January 12, 2006, the Coalition filed a First Amended Petition, etc. in the Action. Beginning on or about January 20, 2006, the RDA, the City, the Prior Developer, and the Coalition engaged in settlement negotiations to resolve the Action and reached an agreement to do so on the terms and conditions stated in that certain Settlement and Release Agreement entered into as of November 28, 2006 (the "Settlement Agreement").

On November 28, 2006, the City Council and the RDA approved the Settlement Agreement in the form previously executed by the Prior Developer and the Coalition. The City and the RDA thereafter duly executed the Settlement Agreement.

Third Restatement & 2005 Approvals: On February 27, 2007, following conduct of duly noticed public hearings as required by law, the City Council and the RDA took the following actions:

1. The City Council and the RDA approved an addendum (the "EIR Addendum") to the EIR that evaluated the impacts of the Prior Project as modified by the Settlement-Related Amendments (as defined below), and a third amendment and restatement of the Prior Agreement, as further described in Section H below (the "Third Restatement");
2. The City Council and the RDA approved the Third Restatement; and
3. The City Council introduced and conducted the first reading of ordinances (collectively, the "Settlement-Related Ordinances") to approve certain amendments to the Planned Development Master Plan and the accompanying Waterfront Design Guidelines and certain amendments to the Initial Development Agreement, to implement specified terms of the Settlement Agreement (collectively, the "Settlement-Related Amendments").

In accordance with the Settlement Agreement, the Action was dismissed by the parties thereto on April 13, 2007. As of the Action Dismissal Date, the Third Restatement of the Prior Agreement and the Settlement Related-Amendments to the 2005 Approvals took effect.

The Third Restatement, the parties modified the Prior Agreement to:

1. Implement the terms of the Settlement Agreement by conforming the terms of the Prior Agreement to the relevant provisions of the Settlement Agreement, the Settlement-Related Ordinances, and the Settlement Related Amendments;
2. Set forth the financial arrangements between the parties with respect to their respective expenditures in connection with the satisfactory disposition of the Action through approval of the Settlement Agreement and related actions;

3. Update both the Schedule of Performance (Attachment No. 3) and performance dates contained throughout the main text of the Prior Agreement to reflect the tolling of obligations under the Prior Agreement during the pending Action, as well as Prior Project circumstances; and
4. Make other conforming and minor updating changes to reflect changed circumstances for performance of the Prior Project since the Prior Agreement had last been amended through the Second Amendment.

Fourth Restatement: Since the Third Restatement, there were several significant changes in circumstances outside the control of the parties that seriously affected the timing and sequence of development as envisioned in the Prior Agreement, such as:

- A significant downturn in the housing and commercial real estate market, as well as the unavailability of financing, particularly in California. As a result, the development of the Northern Waterfront Area, which was the area proposed to be developed first under the Prior Agreement, became temporarily economically unfeasible;
- Due to financing constraints, the Vallejo Station parking structure on Parcel L is being constructed by the City in two phases. Construction of the first phase ("Phase A") is now complete, but the timing for construction of the second phase (the "Phase B" is unknown at this time. This phasing of construction necessarily delayed the development of the other parcels on Parcel L by the Prior Developer and the RDA, as contemplated under the Prior Agreement. In addition, the construction of the Vallejo Station parking structure has affected the configuration and size of certain of the remaining Parcel L sub-parcels.
- The City and the San Francisco Bay Area Water Emergency Transportation Authority (WETA) signed an agreement on May 24, 2012 that transferred operation of the City's ferry service to WETA. As part of the agreement, the City is obligated to provide at least 1,200 parking spaces. The City constructed Phase A of the Vallejo Station parking structure to support the WETA Bay Links ferry service. The USPS facility is located on the portion of Parcel L that is slated for development of Phase B of the Vallejo Station parking structure to provide the required 1200 parking spaces. At the time of the Fourth Amendment, the USPS facility remained in operation on the land slated for development of Phase B of the garage. (The UPSP relocation should now be completed by the fall of 2016.)
- Recent and current economic and market circumstances constrained and continue to limit both public and private financing options for the RDA (now the City) and the Developer.
- The dissolution and wind down of the RDA added additional layers of uncertainty, complexity and delay in the development of the Project.

To address the above significant changes in circumstances, the City and the Developer entered into the Fourth Restatement on December 16, 2013. The Fourth Amendment effectively removed the Waterfront Project from the reach of the Successor Agency and the State Department of Finance (DOF). This will be fully enacted through the DOF's acceptance of the LRPMP, which is anticipated this fall.

The Fourth Restatement had the following outcomes:

1. Enabled the City and the Developer to proceed to implement the Waterfront Project at the local level free of and outside the further jurisdiction of the Redevelopment Dissolution Act.
2. Eliminated the Successor Agency obligation to fund approximately \$60 million of Waterfront Project public improvements and site improvements from future RPTTF.
3. Removed the parcels of the Southern Waterfront totaling 42.3 gross acres from the jurisdiction of the Fourth Amendment, thereby allowing the private development parcels in the Southern Waterfront to become eligible for disposition under the Successor Agency's Long Range Property Management Plan (LRPMP), instead of being limited to disposition under the Prior DDA.
4. Cause jurisdiction of the DDA to be transferred from the Successor Agency to the City.
5. State that any Successor Agency funding obligations transferred to the City as a result of the Amended DDA will be strictly limited to the grant funds the City has obtained or may obtain, the sale proceeds from the disposition of the development parcels to the Developer, and any other funding sources mutually agreed by the City and the Developer, so that no City general funds are committed as a result of the Amended DDA.

Further, the Fourth Amendment called for the City and the Developer to process further substantive amendments to modify the scope of development, schedule of performance, and method of financing for the Waterfront Project in a mutually acceptable manner to address current and foreseeable planning, financial and real estate market conditions.