

RESOLUTION NO. 2019 - 7

RESOLUTION OF THE SOLANO CONSOLIDATED OVERSIGHT BOARD APPROVING THE SIXTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT FOR GREEN VALLEY CORPORATE PARK

Whereas, on December 15, 1999, the Fairfield Redevelopment Agency (the "Agency") and H.J. Shein, Inc., entered into a Disposition and Development Agreement (the "DDA") for the sale of approximately 109 acres of certain real property comprising Green Valley Corporate Park (the "Site") in order to effectuate the Redevelopment Plan for the Cordelia Redevelopment Project Area; and

Whereas, the DDA was subsequently assigned to Green Valley Land, LLC, a Delaware limited liability company; Green Valley Building 1, LLC, a Delaware limited liability company, and Green Valley Building 12, LLC, a Delaware limited liability company (collectively the "Developer"); and

Whereas, pursuant to ABx1 26 (enacted at the end of June 2011), as modified by the California Supreme Court's decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.* (53 Cal. 4th 231(2011)), the Fairfield Redevelopment Agency (the "Redevelopment Agency") was dissolved as of February 1, 2012 and the Successor Agency to the Fairfield Redevelopment Agency (the "Successor Agency") was constituted; and

Whereas, AB 1484 (which became effective at the end of June 2012) amended and supplemented ABx1 26 (ABx1 26 and AB 1484, together, being referred to below as the "RDA Dissolution Act"); and

Whereas, pursuant to the RDA Dissolution Act, all assets, properties, contracts, leases, books and records, buildings, and equipment of the former Redevelopment Agency, including the DDA as amended and portions of the Site, have been transferred to the control of the Successor Agency; and

Whereas, pursuant to Section 34191.5(b) of the Dissolution Act, the Successor Agency prepared a long-range property management plan (the "Plan") which addresses the disposition and use of the real properties of the former Redevelopment Agency; and

Whereas, the Plan was adopted by the Successor Agency Oversight Board (the "Oversight Board") on August 12, 2013, and approved by the Department of Finance (the "DOF") on February 27, 2014; and

Whereas, the DDA has been amended by the First Amendment, dated November 20, 2000, the Second Amendment, dated June 4, 2001, the Third Amendment, dated October 7, 2004, the Fourth Amendment, dated March 2, 2011, the Fifth Amendment, dated January 18, 2018; and

Whereas, Developer has acquired and developed over 70 acres of the Site and the Successor Agency still owns approximately 35.72 acres of the Site; and

Whereas, a sixth amendment to the DDA (the "Amendment") is needed to allow for development of any land uses authorized by the City of Fairfield's zoning code, including residential uses, without the obligation to construct commercial/retail space to expedite the sale and development of the Site; and

Whereas, authorizing residential development without the obligation to construct commercial/retail space (i) will expedite the sale of the remaining portions of the Site to Developer thereby providing revenues to taxing entities through the sales price and (ii) will expedite development of the property thereby providing revenues to taxing entities through increased property taxes; and

Whereas, on July 16, 2019, the Successor Agency adopted a resolution approving the Amendment; and

Whereas, the Amendment is effective upon approval by the Solano Consolidated Oversight Board and the DOF; and

Whereas, the Solano Consolidated Oversight Board desires to approve the Amendment and to direct Successor Agency staff to submit the Solano Consolidated Oversight Board action to the DOF for approval; and

Whereas, the proposed Amendment is not a project subject to the California Environmental Quality Act, Public Resources Code Sections 21000, *et seq.* ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000, *et seq.*). The Amendment is purely financial in nature and constitutes a "government fiscal activit[y] which do[es] not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment" pursuant to CEQA Guidelines Section 15378(b)(4). The Amendment provides financial terms for the future disposition of property in the event that a change in zoning and General Plan designation should occur. A change in zoning would require the Developer to submit an application for a General Plan Amendment, an ordinance amending the zoning, as well as other necessary entitlements to the City of Fairfield. Any proposed zone change, General Plan amendment, or development plan would be subject to review and analysis under CEQA by the City of Fairfield.

Resolved, the Solano Consolidated Oversight Board hereby finds the foregoing Recitals are true and correct and are incorporated herein.

Resolved, the Solano Consolidated Oversight Board hereby finds the Sixth Amendment to the DDA reduces liabilities to the State of California by eliminating certain construction obligations that limit the type of development that can occur on certain property subject to the DDA, which would expedite the disposition of Successor Agency property and eliminate the expenses associated with the payment of assessments, cost of maintenance, and diminished value from extended exposure to the real estate market.

Resolved, the Solano Consolidated Oversight Board hereby finds that the Sixth Amendment to the DDA increases net revenue to the State of California entities by expanding the allowable uses for property subject to the DDA and allowing parties to pursue a change in zoning, which would expedite the sale and development of the Site.

Resolved, the Solano Consolidated Oversight Board hereby finds that the Sixth Amendment to the DDA is in the best interest of the taxing entities because it eliminates certain use restrictions that limit the type of development that can occur on the Site making the property more marketable and expediting the disposition and development of the property.

Resolved, the Successor Agency shall not be responsible for any costs associated with the process of a change in zoning or appraisal, or appraisal update, associated with a change in zoning.

Resolved, the Solano Consolidated Oversight Board hereby approves the Sixth Amendment to the DDA, substantially in the form attached hereto as Attachment A, and directs the Executive Director of the Successor Agency to execute the Sixth Amendment to the DDA on behalf of the Successor Agency, with such immaterial changes as the Executive Director, in consultation with the Successor Agency's legal counsel, may deem necessary or advisable, and to take all such actions as may be required to implement the proposed Sixth Amendment to the DDA.

Resolved, the Solano Consolidated Oversight Board, the Successor Agency and the Successor Agency staff are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable to effectuate this resolution and any such actions previously taken are hereby ratified.

Resolved, the Solano Consolidated Oversight Board hereby authorizes and directs the Secretary of the Successor Agency to electronically deliver a copy of this resolution to the Department of Finance in accordance with California Health and Safety Code Section 34180(j).

Resolved, this resolution shall become effective in accordance with Health and Safety Code Section 34179(h).

Passed and adopted by the Solano Consolidated Oversight Board at its regular meeting on August 8, 2019 by the following vote:

AYES:	BOARD MEMBERS	<u>Kott, Tedder, Thomson, Welch, Diamond</u>
NOES:	BOARD MEMBERS	<u>Wilkerson</u>
EXCUSED:	BOARD MEMBERS	<u>Shimboff</u>


Tommy Welch, Vice-Chairperson
Solano Consolidated Oversight Board

ATTEST:


Jeanette Neiger, Secretary

SIXTH AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT

THIS SIXTH AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT ("Sixth Amendment"), dated as of 4/4, 2019 ("Effective Date") is entered into by and among the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF FAIRFIELD, a public body, corporate and politic (the "Agency") and GREEN VALLEY LAND, LLC, a Delaware limited liability company ("Developer").

RECITALS

This Sixth Amendment is entered into with reference to the following facts:

A. The Agency and H.J. Shein, Inc., an Illinois corporation ("Shein") entered into a Disposition and Development Agreement as of December 15, 1999 (the "DDA"), which was assigned to Developer, as to Parcels 1, 2, 3, 6, 7, 8 and 9 of the Phase 1 Property, and assigned to Green Valley Building 1, LLC, a Delaware limited liability company ("GV Building 1"), as to Parcels 4 and 5 of the Phase 1 Property, per Assignment and Assumption Agreement, dated May 31, 2001, and subsequently assigned to GV Building 1 as to Option Property, per Assignment and Assumption Agreement, dated July 9, 2004. The portions of the DDA to be performed by GV Building 1 have been completed, and therefore Developer is the sole entity still obligated under the DDA.

B. The DDA was amended by a First Amendment dated as of November 20, 2000, a Second Amendment dated June 4, 2001, and a Third Amendment dated October 7, 2004, a Fourth Amendment dated March 2, 2011, and a Fifth Amendment dated January 18, 2018. (The DDA, as so amended, is hereinafter referred to as the "Agreement"). (All capitalized terms used herein without definition when first used shall have the definitions set forth in the Agreement.)

C. Agency and Developer now desire to amend the Agreement to revise the requirements for future development, as more particularly provided below.

AGREEMENT

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants contained herein, the parties agree as follows:

1. In § 307, entitled "Construction Schedule," the third paragraph shall be amended and restated in its entirety to read as follows:

"Notwithstanding any other provisions of this Agreement, Developer acknowledges, agrees, and accepts that approximately ±13.31 acres (APN's 0148-540-270 and 0148-540-300, hereinafter the "Rezoned Site"), or portions thereof, are, or will be, subject to a request by Developer for a change in zoning. Further, the intent of the change in zoning is to allow for development of a mixed-use project consisting of high or very high density residential and commercial/retail buildings or public facilities. In the event that a change in zoning occurs Rezoned Site, Developer agrees to exercise its Option to Purchase the Rezoned Site or portions thereof. When this DDA, as amended by the Sixth Amendment and all prior amendments, refers to a "change in zoning" or states that a "change in zoning occurs" it be deemed to refer to the

date that the change in zoning is approved by the governmental entity or body having jurisdiction and all periods for bringing a Challenge or Moratorium shall have expired without such a Challenge or Moratorium being commenced or, if commenced, the zoning shall be deemed to have changed or a change shall be deemed to have occurred when the change has been upheld without further right of Challenge or Moratorium and without substantial change or if there are substantial changes, then if the changes are reasonably acceptable to the Developer. As used herein a "Challenge" is any lawsuit, administrative appeal, judicial challenge, or filing of a petition for referendum by vote of the electorate of a Basic Approval and a "Moratorium" is a moratorium imposed or announced by any federal, state, or local governmental or quasi-governmental entity, utility provider, body, authority, district, department, or any other person or entity having jurisdiction over the Site the effect of which would be to preclude or materially hinder the change in zoning."

2. Execution in Counterparts. This Sixth Amendment may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.


3. Effect of Sixth Amendment. Except as modified by this Sixth Amendment, the Agreement and each term contained therein remains in full force and effect. In the event of a conflict between the Agreement and the terms of this Sixth Amendment, this Sixth Amendment shall control.

IN WITNESS WHEREOF, the parties hereto have entered into this Sixth Amendment as of the day and year first written above.

[Signatures appear on next page.]

DEVELOPER:

GREEN VALLEY LAND, LLC,
a Delaware limited liability company

By: 
Name: Harvey J. SHEIN
Its: Manager

AGENCY:

SUCCESSOR AGENCY TO THE
REDEVELOPMENT AGENCY OF THE
CITY OF FAIRFIELD,
a public body, politic and corporate

By: _____
Name: _____
Its: _____

ATTEST:

By: _____
Name: _____
Its: Secretary

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ **Notary Certificate Attached**

(seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

California All-Purpose Acknowledgement

State of California }
County of Sonoma } SS.

On July 5th, 2019 before me Liliana Ponce Perez, Notary Public

personally appeared Harvey Shein
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



Optional

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of the Attached Document:

Title of Type of Document: Sixth Amendment to Disposition and Development Agreement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____