

**COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE**

**RESOLUTION NO. 79-2014  
Adopted September 12, 2014**

**AUTHORIZING, PURSUANT TO THE TRANSBAY IMPLEMENTATION AGREEMENT, THE EXECUTIVE DIRECTOR TO EXECUTE AN EXCLUSIVE NEGOTIATION AGREEMENT WITH MA WEST, A JOINT VENTURE LIMITED LIABILITY COMPANY BETWEEN GOLUB REAL ESTATE CORP., AN ILLINOIS CORPORATION, AND THE JOHN BUCK COMPANY, A LIMITED LIABILITY COMPANY, FOR A PROPOSED COMMERCIAL PROJECT ON BLOCK 5 (ASSESSOR'S BLOCK 3718, PORTION OF LOT 025 AND PORTION OF LOT 027), LOCATED ON HOWARD STREET BETWEEN BEALE AND MAIN STREETS; TRANSBAY REDEVELOPMENT PROJECT AREA**

WHEREAS, The California Legislature in 2003 enacted Assembly Bill 812 ("AB 812") authorizing the demolition of the historic Transbay Terminal building and the construction of the new Transbay Transit Center (the "TTC") (Stat. 2003, Chapter 99, codified at § 5027.1 of the Cal. Public Resources Code); and,

WHEREAS, In 2003, in an agreement with the Transbay Joint Powers Authority ("TJPA") and the City and County of San Francisco (the "City"), the State of California (the "State") agreed to transfer approximately 10 acres of State-owned property (the "State-owned Parcels") in and around the then-existing Transbay Terminal to the City and the TJPA, which would then sell the State-owned Parcels and use the revenues from the sales to finance the TTC (the "Cooperative Agreement"). The City agreed, among other things, to commit property tax revenue through its redevelopment agency to the TTC. Under the Cooperative Agreement, the State relied on tax increment financing under a redevelopment plan to improve and sell the State-owned Parcels; and,

WHEREAS, The City's Board of Supervisors approved a Redevelopment Plan for the Transbay Redevelopment Project Area (the "Project Area") by Ordinance No. 124-05, adopted on June 21, 2005 and by Ordinance No. 99-06, adopted on May 9, 2006 (the "Redevelopment Plan"). The Redevelopment Plan provided for the financing of the TTC and established a program for the Redevelopment Agency of the City and County of San Francisco (the "Former Agency") to redevelop and revitalize the blighted Project Area; and,

WHEREAS, In 2006, the TJPA and the Former Agency executed an agreement which required the Former Agency to take the lead role in facilitating the development of the State-owned parcels (the "Implementation Agreement"). Specifically, the Implementation Agreement required the Former Agency to: (1) prepare and sell the State-owned Parcels to third parties; (2) deposit the sale proceeds into a trust account to help the TJPA pay the cost of constructing the TTC; (3) implement the Redevelopment Plan to enhance the financial feasibility of the entire redevelopment project; and (4) fund the state-mandated affordable housing program; and,

WHEREAS, In 2008, the City, the Former Agency, and the TJPA entered into an agreement that granted options to the Former Agency to acquire the State-owned Parcels, arrange for development of the State-owned Parcels, and distribute the net tax increment to the TJPA to use for the construction of the TTC (the "Option Agreement"). The Option Agreement provided the means by which the Former Agency could fulfill its obligations under the Implementation Agreement to prepare and sell the State-owned Parcels. The Option Agreement granted to the Former Agency "the exclusive and irrevocable option to purchase" the former State-owned Parcels in the Project Area that are programmed for development, which are listed in the Option Agreement, including Blocks 2-12 and Parcel F (Section 2.1 of the Option Agreement at p. 4); and,

WHEREAS, On February 1, 2012, the Former Agency was dissolved pursuant to the provisions of California State Assembly Bill No. 1X 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) ("AB 26") and upheld by the California Supreme Court in California Redevelopment Assoc. v. Matosantos, No. S194861 (Dec. 29, 2011). On June 27, 2012, AB 26 was subsequently amended in part by California State Assembly Bill No. 1484 (Chapter 26, Statutes of 2011-12) ("AB 1484"). AB 26 and AB 1484 are codified in Part 1.8 (commencing with Section 34161) and in Part 1.85 (commencing with Section 34170) of the California Health and Safety Code, which sections, as amended from time to time, are referred to as the "Redevelopment Dissolution Law"; and,

WHEREAS, Pursuant to the Redevelopment Dissolution Law, all of the Former Agency's assets (other than housing assets) and obligations were transferred to the Office of Community Investment and Infrastructure, as successor agency to the Former Agency ("OCII" or the "Successor Agency"); and,

WHEREAS, Redevelopment Dissolution Law authorizes successor agencies to enter into new agreements if they are "in compliance with an enforceable obligation that existed prior to June 28, 2011." Cal. Health & Safety Code § 34177.5 (a). Under this limited authority, a successor agency may enter into contracts if a pre-existing enforceable obligation requires that action. See also Cal. Health & Safety Code § 34167 (f) (providing that the Redevelopment Dissolution Law does not interfere with an agency's authority under enforceable obligations to "enforce existing covenants and obligations, or . . . perform its obligation."). The Implementation Agreement and several other Transbay obligations are "enforceable obligations" requiring OCII to take the actions proposed by this Resolution. Cal. Health & Safety Code § 34171 (d) (1); and,

WHEREAS, On April 15, 2013, the California Department of Finance ("DOF") determined "finally and conclusively" that the Implementation Agreement, along with other Transbay-related documents, is an enforceable obligation that will not require additional DOF review in the future, although expenditures under the Implementation Agreement are subject to continuing DOF review; and,

WHEREAS, On April 2, 2014, pursuant to the Implementation Agreement, OCII issued a Request for Proposals (“RFP”) for the sale of one of the State-owned Parcels, which allows for a 550-foot-tall office tower (also known as Block 5 (Assessor’s Block 3718, referred to in the Cooperative Agreement at Parcels N and N’)). The property for sale under the RFP includes a 26,300-square-foot portion of Lot 025 (the “Site,” also known as Parcel N1). The Site, which is currently owned by the TJPA but will be transferred to the Successor Agency under the Option Agreement, is shown on Exhibit A attached to this Resolution; and,

WHEREAS, The RFP also requires the developer to build open space on adjacent TJPA-owned property, located on a portion of Lot 025 (also known as Parcel N3) and a portion of Lot 027 (also known as Parcel M1), as shown on the attached Exhibit A. The TJPA will continue to own these two open space parcels. The selected developer will build and maintain the required open space on Parcels M1 and N3 under a separate agreement with the TJPA; and,

WHEREAS, Proposals from development teams to design and develop an approximately 700,000-square-foot commercial office building on the Site were due on June 25, 2014. Development teams were asked to submit qualifications, a basic development concept, and a financial proposal. Four proposals were received and evaluated by a selection panel, which scored each team based on the criteria outlined in the RFP. The selection panel gave the highest score to the development team led by Golub Real Estate Corporation and The John Buck Company (the “Golub Team”); and,

WHEREAS, The proposal from the Golub Team included a purchase price of \$172,500,000 payable at the transfer of title and approximately 665,000 rentable square feet of office space in a 550-foot-tall tower (the “Project”). The Project also includes (i) approximately 15,000 square feet of publicly accessible ground floor open space; (ii) an underground parking facility with 117 parking spaces in mechanical stackers; (iii) streetscape improvements including the extension of a portion of Natoma Street; (iv) ground-floor retail space of approximately 5,000 square feet; and, (v) a minimum LEED Gold level of certification for sustainability; and,

WHEREAS, While the Golub Team had the highest overall score, it did not receive the highest score on design. The selection panel found that the design of the ground floor, and the massing and the cladding of the building, needed to be coordinated and improved to make a positive contribution to the public realm. Based on this review, the Golub Team has already begun working with staff on design issues and will return to the Commission for a design workshop if the Commission approves this Resolution and after the redesign is completed; and,

WHEREAS, Based on the outcome of the selection process, staff recommends executing an Exclusive Negotiation Agreement (“ENA”) with the Golub Team. The ENA summarizes the terms set forth in the Golub Team’s submittal and establishes a timeline to design and develop the project. Assuming the Commission approves the ENA, staff will start negotiating a disposition and development agreement

("DDA") with the Golub Team, which will be brought before the Commission for its consideration, along with the finalized schematic design, at a later date; and,

WHEREAS, A copy of the ENA is on file with the Secretary of this Commission and is attached as Attachment 3 to the Commission Memorandum accompanying this Resolution; and,

WHEREAS, Authorizing the Executive Director to execute an ENA is statutorily exempt from the California Environmental Quality Act ("CEQA") as a feasibility and planning study, pursuant to CEQA Guidelines Section 15262. The ENA will facilitate completion of the design of the Project and will independently result in significant physical effects on the environment; now, therefore be it

RESOLVED, That the Commission on Community Investment and Infrastructure hereby authorizes the Executive Director to execute an Exclusive Negotiation Agreement with MA West, a joint venture limited liability company between Golub Real Estate Corp., an Illinois corporation, and The John Buck Company, a limited liability company, for a proposed commercial project on Block 5 (Assessor's Block 3718, portion of Lot 025 and portion of Lot 027), located on Howard Street between Beale and Main Streets in the Transbay Redevelopment Project Area, substantially in the form of the ENA on file with the Secretary of this Commission, together with such changes thereto as the Executive Director reasonably determines, are: (i) in OCII's best interest and (ii) do not materially increase OCII's obligations or liabilities; and, be it further

RESOLVED, That the Commission on Community Investment and Infrastructure authorizes the Executive Director, to take such other actions as may be necessary or appropriate, to effectuate the purpose of this Resolution.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of September 12, 2014.

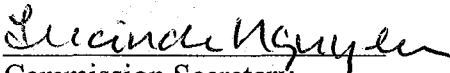
  
Commission Secretary

Exhibit A  
Block 5 Map

