OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

122-032016-002

Agenda Item No. **5(b)**
Meeting of April 19, 2016

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Tiffany Bohee, Executive Director

SUBJECT: Authorizing an Option Agreement with F4 Transbay Partners LLC, a Delaware Limited Liability Company, for the purchase of Block 4 located in the Transbay Redevelopment Project Area on the Northern one-third of the block bounded by Beale, Howard, Main, and Folsom Streets, Assessor's Parcel No. 3739, Portion of Lot 008; Transbay Redevelopment Project Area

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EXECUTIVE SUMMARY

The Board of Supervisors of the City and County of San Francisco ("Board of Supervisors") approved the Redevelopment Plan for the Transbay Redevelopment Project Area by Ordinances No. 124-05 (June 21, 2005) and No. 99-06 (May 9, 2006), as amended by Ordinance No. 84-15, (June 18, 2015) ("Redevelopment Plan"). The Redevelopment Plan establishes the land use controls for the Transbay Redevelopment Project Area ("Project Area"), and divides the Project Area into two sub-areas: Zone One, in which the Development Controls and Design Guidelines for the Transbay Redevelopment Project ("Development Controls") define the development standards, and Zone Two, in which the San Francisco Planning Code applies through a delegation agreement with the Planning Department. The Project Area was adopted with the purpose of redeveloping 10 acres of property owned by the State of California (the "State-owned parcels") in order to generate funding for the Transbay Joint Powers Authority ("TJPA") to construct the new Transbay Transit Center (the "Transit Center"). The Transbay Redevelopment Project Area Implementation Agreement (the "Implementation Agreement") is an enforceable obligation that requires the Office of Community Investment and Infrastructure ("OCII"), as the Successor Agency to the former San Francisco Redevelopment Agency, to prepare and sell certain State-owned parcels to third parties. Part of the Project Area approvals includes California Assembly Bill 812 ("AB 812"), which requires that 35% of all residential units in the

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Project Area be affordable to low- and moderate-income households (the "Transbay Affordable Housing Obligation").

Block 4 is one of the State-owned parcels located within Zone One, specifically on the northern portion of the block that currently houses the Transbay Temporary Bus Terminal. While an address has not yet been established for Block 4, it is generally located at 200 Main Street (a portion of Block 3739, Lot 008). Once the Temporary Bus Terminal is removed, following the completion of the Transit Center (estimated in late 2017), Block 4 would be bounded by Howard Street to the North, Main Street to the East, Beale Street to the West, and a newly created portion of Tehama Street facing on to the future public park on Block 3 to the South. (See Exhibit A, Transbay Redevelopment Plan Map).

Under the Redevelopment Plan and the Development Controls, Block 4 is planned for residential development in a 450' tower, two mid-rise podium buildings (at 85' and 65'), and low-rise townhouses (up to 50') situated around shared open space and on top of shared parking. Block 4 would include both market rate and affordable units, the latter to the extent needed to ensure that OCII meets the 35% Transbay Affordable Housing Obligation. Based on Zone One unit totals and projections of private residential development in Zone Two, staff estimates that Block 4 may need to include over 50% of its units as affordable in order to meet that Project Area goal.

Parcel F is another State-owned parcel, however it is located in Zone Two under Planning jurisdiction as delegated by OCII, and is currently owned by the TJPA. Parcel F is adjacent to the western end of the Transit Center site, between Howard and Natoma Streets. In 2015 the TJPA requested that OCII cancel its option on Parcel F in order to allow the TJPA to pursue an auction of the site to expedite its sale and generate maximum proceeds for the Transit Center. The TJPA ultimately did not proceed with the auction, and in late 2015 began direct negotiations with the development teams that were pre-qualified to bid on Parcel F.

One of those pre-qualified bidders was Urban Pacific Development, LLC, which then brought on Hines F4 Associates Limited Partnership, and Broad Street Principal Investments, L.L.C., an affiliate of Goldman Sachs, to create a development entity called F4 Transbay Partners, LLC (the "Developer"). The Developer submitted an offer to the TJPA to purchase both Parcel F and Block 4. On March 10, 2016 the TJPA Board of Directors approved a Purchase and Sale Agreement for Parcel F with the Developer for $160 million. The Developer has deposited $10 million in escrow as a good faith deposit towards its closing on Parcel F. The sale of Parcel F allows the TJPA to pay off its $171 million Bridge Loan with Goldman Sachs, and also allows the TJPA to immediately draw down on a $171 Million federal TIFIA loan this summer, which is critically important to the TJPA's and City's ability to finance the construction of the Transit Center.

A condition of the Parcel F sale is the approval of an Option Agreement with OCII for Block 4. The Option Agreement provides for a right to exclusive negotiations with the Developer for a Disposition and Development Agreement ("DDA"), and if a DDA is approved, the Developer would purchase Block 4 for (1) $45 million, or (2) a price determined by negotiation with OCII after the parties have agreed on all terms of the DDA except price, or (3) the fair market value of Block 4 subject to the terms of the DDA as determined by an appraisal process. The proceeds of the sale of Block 4 would be transmitted to the TJPA for the Transit Center construction. The Option Agreement also provides that the Developer would subsidize at least 45% of the units as affordable

units, without any OCII subsidy. OCII will have sole and absolute discretion to determine the total number and type of affordable units in the Block 4 project, as well as all other terms in the DDA, including various community benefits, except for sales price, which is determined by the Option Agreement.

OCII must sell Block 4 for fair market value, as required by Section 33433 of the California Community Redevelopment Law, and under the Redevelopment Plan the disposition must be approved by the Board of Supervisors. Given the high percentage of affordable housing likely to be included in Block 4, which has a significant negative impact on land value, staff believes a sales price of $45 million would meet or exceed fair market value. Should a lower price be agreed upon through negotiation or an appraisal process, another analysis and Board of Supervisors approval would be needed to ensure that fair market value was achieved.

Staff recommends approval of the Option Agreement for Block 4 with F4 Transbay Partners, LLC.

DISCUSSION

Parcel F and Block 4 are both State-owned parcels for which the Transbay Redevelopment Plan and related documents contemplate the sale of these parcels for the purpose of generating funding for the development of the Transbay Transit Center. Under the Implementation Agreement, OCII would typically facilitate the sale of these parcels through a Request For Proposal process to seek development proposals and bids for sales prices. Due to the critical funding needs of the TJPA, the TJPA requested that OCII cancel its option on Parcel F in 2015 to allow the TJPA to proceed directly to an auction process to sell the parcel without entitlements. The TJPA did not complete the auction process and ultimately the TJPA entered into an agreement with the Developer to purchase Parcel F, contingent on the approval of an Option Agreement on Block 4.

Option Agreement - Key Terms

The Option Agreement sets forth a few key terms related to price and a minimum amount of affordable housing subsidy by the Developer, but leaves all other terms related to the program and implementation of a project on Block 4 subject to future negotiation and approval by OCII. Below is a summary of the Option Agreement key terms:

Table 1: Block 4 Option Agreement Key Terms

Key Terms	Summary
Exclusive Right to Negotiate	The Developer will have a right to exclusive negotiations with OCII for a DDA for Block 4. OCII has no obligation to enter into a DDA with the Developer.
Term of Option	The outside date for a DDA to be approved is August 15, 2018, and the outside date for closing the land sale is October 31, 2018; if the Temporary Terminal has not been closed by August 15, 2018, then the above-mentioned dates may be extended on a day for day basis. However, note the Purchase Price Adjustment below should OCII not be ready to close by June 30, 2018.
Purchase Price	If OCII and the Developer reach agreement on a DDA, the Developer will purchase Block 4 for (1) $45 million cash, or (2) a price determined

	by negotiation with OCII after the parties have agreed on all terms of a DDA except price, or (3) the fair market value of Block 4 subject to the terms of the DDA as determined by an appraisal process. The proceeds of the sale of Block 4 would be transmitted to TJPA for use for the Transit Center.
Purchase Price Adjustment for OCII Delay	If all other conditions to closing have been met by June 30, 2018 but OCII is not prepared to transfer possession of Block 4 for any reason, the applicable purchase price shall be reduced by $3,000,000.
Developer Deposit for OCII Costs, Including Funding for Certificate of Preference Survey	The Developer will deposit $500,000 with OCII for OCII's costs to negotiate the DDA, to be increased by $100,000 if OCII's costs exceed the initial amount. OCII will refund to the Developer any funds remaining from the deposit at the time the DDA is executed or negotiations are terminated. The Resolution approving the Option Agreement specifies that a portion of the deposited funds may be set aside to fund a survey of current Certificate of Preference ("COP") holders to aid OCII in evaluating how best to meet COP holder needs.
Developer Subsidy of Affordable Housing	The Developer is required to provide *at least* 45% affordable units on Block 4 at no cost to OCII, the TJPA or the City. OCII would have no obligation to agree to subsidize any units above 45% and would retain sole discretion to determine the affordability requirements for Block 4 F4's financial obligations to fund those requirements.

OCII retains complete discretion to approve or disapprove a DDA for Block 4, and to negotiate all terms of the DDA other than the sale price and the outside closing date, including complete discretion to:

- determine the number of affordable housing units required for Block 4 to maintain overall compliance with the Transbay Affordable Housing Obligation at the district-wide Area Median Income levels required by state law and the Redevelopment Plan;
- determine the design of the Block 4 development project consistent with the Redevelopment Plan, the Transbay Development Controls, and the Transbay Affordable Housing Obligation;
- select a qualified non-profit housing developer to partner with the Developer;
- design a community benefits program to implement the objectives of the Redevelopment Plan, including the provision of housing for households displaced by the previous actions of the Redevelopment Agency, the adoption and implementation of programs that meet or exceed City policies regarding workforce development, contracting opportunities and equal opportunity, particularly for economically disadvantaged San Francisco residents and businesses, and the provision of community-serving space and commercial space that is available to local non-profit organizations and businesses at below-market rates;
- establish a schedule of performance and outside dates for completion; and
- establish conditions of closing, insurance and indemnification requirements, and the remedies of the parties.

Parcel F Purchase and Sale Agreement - Key Terms

While OCII is not a signatory to the Parcel F Purchase and Sale Agreement ("PSA"), the terms of the PSA are helpful in understanding how the overall transaction with Block 4 would proceed, as well as the impact of Parcel F on the overall Transbay Project Area and Transit Center funding.

Table 2: Parcel F PSA Key Terms

Key Terms	Summary
Compliance with Affordable Housing Requirements	The Developer must comply with all applicable laws in building a tower on Parcel F, including affordable housing requirements (current law requires provision of 15% affordable housing units on-site).
OCII Approval Rights on Residential Component	The PSA grants OCII the right to review and approve the residential component of the Parcel F tower, in its sole discretion, prior to any approval of the residential component of the Parcel F tower by the Planning Commission. This term of the PSA gives OCII full authority to control the number and type of affordable housing units on Parcel F to ensure that the residential component meets the 35% Transbay Affordable Housing Obligation. (*See Note below)
Limit on Affordable Housing Units to 200 Units to mitigate impact on 35% Transbay Affordable Housing Obligation	The Developer will limit the total number of residential units on Parcel F to no more than 200 units, unless OCII, in its sole discretion, approves the construction of more than 200 units. Should OCII approve the construction of more than 200 units, the Developer would need to include additional affordable units either on Parcel F or on Block 4 (subject to approval by the OCII Commission and the Board of Supervisors) to allow OCII to maintain overall compliance with the 35% Transbay Affordable Housing Obligation. OCII is designated as a third party beneficiary of this part of the PSA, with full enforcement rights.
Construction Completion Timing & In Lieu Payment of Taxes and Assessments if Completion Delayed	The Developer shall complete construction and obtain a certificate of occupancy for the Parcel F tower by December 31, 2023. If the Developer fails to perform, then the Developer must pay the net tax increment, Community Facilities District (Mello Roos) Special Tax, and Community Benefits Assessment that the Developer would have paid had it completed construction of Parcel F on time.
Card Check Policies	The PSA requires that the Developer comply with the TJPA's card check policies applied to the TJPA's services contract for hotels and restaurants in the Parcel F project.

*Note: While the PSA requires compliance with applicable on-site inclusionary affordable housing requirements on Parcel F, staff anticipates the Developer may offer a proposal to relocate some or all of the affordable housing units from Parcel F on to Block 4. The approval of such a variation would be subject to sole and absolute discretion of the Commission and the Board of Supervisors, and OCII is under no obligation to grant such approvals.

The Developer has deposited $10 million in escrow to ensure that the sale of Parcel F occurs. The TJPA believes that the $160 million purchase price for Parcel F, with the potential for a bonus payment of $15 million, is a high price for an unentitled site of only about 20,000 square feet of buildable area, and is substantially greater than the TJPA's estimates of the value for Parcel F. If the OCII Commission and Board of Supervisors approve the Block 4 Option Agreement, the sale of Parcel F will close in the summer of 2016, when the TJPA needs the money for Phase 1 of the Transbay Project. The F4 PSA differs from the offers the TJPA received from the remaining qualified bidders for Parcel F in that the closing is not contingent on the receipt of project entitlements. An entitlement contingency would mean that the proceeds of the sale would be received too late to be of use for Phase 1 of the Transbay Project.

The Mayor's Office and TJPA have informed OCII that closing on the sale of Parcel F to F4 is critically important to the TJPA for the following reasons:

It will allow the TJPA to pay off its $171 Million Bridge Loan and immediately draw down on a $171 Million TIFIA loan this summer, which is critically important to the ability of the TJPA and City to finance the completion of the Transit Center construction;

Unless the sale of Parcel F closes in the summer of 2016, the TJPA will be denied access to the TIFIA loan and will be required to either borrow additional money from the City or quickly find another source of funding, likely resulting in the TJPA incurring greater financing costs than if the TJPA had access to the TIFIA loan, which is subject to a favorable interest rate. The need to find alternate funding would likely delay construction of Phase 1 of the Transit Center;

In addition to paying off the outstanding balance of the Bridge Loan, the PSA provides that F4 will pay the TJPA an additional $6 million in cash at closing, which will be used for construction of the Transit Center.

CITIZENS ADVISORY COMMITTEE AND PUBLIC NOTICING

Staff will be presenting the terms of the Option Agreement to the Transbay Citizens Advisory Committee ("CAC") at its meeting on Thursday, April 14, 2016, which occurs after this memorandum has been transmitted to the Commission. Staff will report the outcome of the CAC meeting at the Commission meeting on April 19, 2016.

In addition to the CAC meeting, the Commission's consideration of the Option Agreement has been publicly noticed in the San Francisco Chronicle for two consecutive weeks, pursuant to California Health and Safety Code Section 33431. This notice is necessary since the Commission is considering the future sale of real property through the Option Agreement without a public bidding process.

NEXT STEPS

Should the Commission approve the Option Agreement, the next step would be for the Board of Supervisors to consider whether the Option Agreement disposes of Block 4 for fair market value, in compliance with California Health and Safety Code Section 33433. Staff anticipates the matter being heard by the Board of Supervisors in

May 2016. Based on that schedule, the sale of Parcel F would then be completed in June 2016. Discussions on the Developer's proposed program for Block 4 would then begin later this year, including selection of an affordable housing development partner. Staff would also work with the Developer on a detailed development timeline, and begin negotiations on DDA terms.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

OCII authorization of the Block 4 Option Agreement is statutorily exempt from the California Environmental Quality Act ("CEQA") as a feasibility and planning study, pursuant to CEQA Guidelines Section 15262. The Option Agreement will authorize OCII and the Developer to enter into exclusive negotiations for the design of a project that will be subsequently reviewed and considered for approval in the sole and absolute discretion of OCII. The Block 4 Option Agreement will not independently result in significant physical effects on the environment

STAFF RECOMMENDATION

The approval of an Option Agreement for Block 4 allows the TJPA to complete the sale of Parcel F, which in turn allows for the payoff of the TJPA's Bridge Loan and the drawdown of the federal TIFIA Loan. The transactions are critical to the TJPA's and the City's ability to finance the construction of the Transit Center. Since OCII will retain sole and absolute discretion to determine the program of the future Block 4 project, and commits the Developer to subsidizing *at least* 45 % of the units as affordable (the highest amount of affordable units in any Transbay project that is not a stand-alone OCII subsidized project), staff recommends approval of the Option Agreement.

(Originated by Sally Oerth, Deputy Director)

Tiffany Bohee
Executive Director

Exhibit A: Transbay Redevelopment Plan Area Map

TRANSBAY REDEVELOPMENT PROJECT AREA



Under-Ramp Park
Acres: 2.5
Construction Start: 2018



Block 9
500 Folsom Street

Developer(s): Essex/ BRIDGE
Market-Rate Units: 436
Affordable Units: 109
AMI: 50% and below
Total Units: 545
Construction Start: 2016
Completion: 2019



Block 11A
25 Essex Street
Rene Cazenave Apartments
Developer(s): BRIDGE/CHP
Affordable Units: 120
AMI: 50% and below
Total Units: 120
Construction Start: 2011
Completion: 2013



Block 8
400 Folsom Street
250 Fremont Street
(OCII Sponsored Affordable project)
Developer(s): Related/TNDC
Market-Rate Units: 396
Affordable Units: 150
AMI: 70 inclusionary units @90%/
80 OCII units @ 50%
Total Units: 546
Construction Start: 2016
Completion: 2019



Parcel T
101 First Street
Salesforce Tower

Developer(s): Boston Properties/Hines
Office Sq. Ft.: 1.4 Million
Construction Start: 2014
Completion: 2017



Block 5
250 Howard Street
Park Tower

Developer(s): Golub/ John Buck
Office Sq. Ft.: 767,000
Construction Start: 2015
Completion: 2018



Block 6
299 Fremont Street/
280 Beale Street
(OCII Sponsored Affordable project)
Developer: Golub/Mercy
Market-Rate Units: 409
Affordable Units: 70
AMI: 50% and below
Total Units: 391
Construction Start: 2016
Completion: 2019

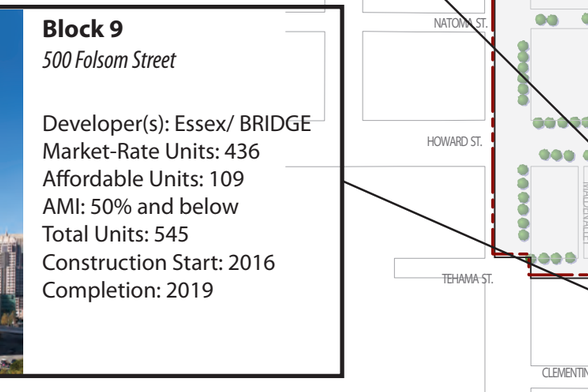


Block 1 (w/ 400' height)
160 Folsom Street

Developer: Tishman Speyer
Market-Rate Units: 235
Affordable Units: 156
AMI: 80-120%
Total Units: 391
Construction Start: 2016
Completion: 2019



Block 7
255 Fremont Street/
222 Beale Street
Developer: Mercy
Affordable Units: 120
AMI: 50% and below
Construction Start : 2016
Completion: 2018



4/5/2016

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