COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 45-2018

FINDING, PURSUANT TO SECTION 9.07 OF THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH TRANSBAY 8 URBAN HOUSING, LLC, THAT THE DEVELOPER HAS MADE GOOD FAITH EFFORTS, BUT HAS BEEN UNSUCCESSFUL, IN LEASING AN APPROXIMATELY 12,400-SQUARE-FOOT GROCERY STORE AT TRANSBAY BLOCK 8 (450 FOLSOM STREET); AND APPROVING THE TERMINATION OF THE DEVELOPER'S OBLIGATION TO PROVIDE A GROCERY STORE; NORTH BLOCK OF FOLSOM STREET BETWEEN FIRST STREET AND FREMONT STREET; TRANSBAY REDEVELOPMENT PROJECT AREA

WHEREAS, The Successor Agency to the Redevelopment Agency of the City and County of San Francisco (commonly known as the Office of Community Investment and Infrastructure) (the "Successor Agency" or "OCII") is completing the enforceable obligations of the Redevelopment Agency of the City and County of San Francisco (the "Former Agency") in the Transbay Redevelopment Project Area ("Project Area") under the authority of the California Community Redevelopment Law, Cal. Health & Safety Code §§ 33000 et seq., as amended by the Redevelopment Dissolution Law, Cal. Health & Safety Code §§ 34170 et seq.; and,

WHEREAS, The City and County of San Francisco (the "City") approved, by Ordinance No. 124-05 and Ordinance No. 99-06, the Redevelopment Plan for the Project Area (the "**Redevelopment Plan**"). The Redevelopment Plan provides for the redevelopment, rehabilitation, and revitalization of the area generally bounded by Mission, Main, Second, and Folsom Streets in downtown San Francisco, and containing approximately forty (40) acres of land. The Redevelopment Plan also provides for the financing of the Transbay Terminal Project ("TTP") and thus triggered the Transbay Affordable Housing Obligation, which is explicitly incorporated into Section 4.9.2 of the Redevelopment Plan and into binding agreements; and,

WHEREAS, Approximately ten (10) acres of land in the Project Area were owned by the State of California ("State Owned Parcels"). The State of California ("State"), acting by and through its Department of Transportation ("Caltrans"), the City, and the Transbay Joint Powers Authority ("TJPA") entered into that certain Cooperative Agreement, dated as of July 11, 2003 (the "Cooperative Agreement"), pursuant to which the State has or will transfer the State-Owned Parcels to the City and the TJPA subject to certain terms and conditions; and,

WHEREAS, Among the State-Owned Parcels included in the Cooperative Agreement is Parcel C (portion of Block 3737, Lot 040), located north of Folsom Street between First Street and Fremont Street, generally depicted on Exhibit 4 to the Redevelopment Plan as "Block 8", in San Francisco, CA; and,

WHEREAS, Consistent with the Cooperative Agreement and the Redevelopment Plan, the City, TJPA, and the Former Agency entered into that certain Transbay Redevelopment Project Tax Increment Allocation and Sales Proceeds Pledge Agreement (the

"Pledge Agreement"), dated as of January 31, 2008, pursuant to which the parties provided for the irrevocable pledge of Net Tax Increment, as defined in the Pledge Agreement, to TJPA for design, construction, and operation of the TTP. Also in furtherance of the Cooperative Agreement and the Redevelopment Plan, the TJPA and the Former Agency entered into that certain Transbay Redevelopment Project Implementation Agreement, dated as of January 20, 2005 (the "Implementation Agreement"), which requires, among other things, the Former Agency to prepare and sell the State-owned Parcels to third parties and deposit the gross sales proceeds in the account dedicated to payments for the cost of construction of the TTP; and,

WHEREAS, On April 15, 2013, the California Department of Finance ("DOF") determined finally and conclusively that the Pledge Agreement, the Implementation Agreement, and the Transbay Affordable Housing Obligation are enforceable obligations under Redevelopment Dissolution Law. Letter, S. Szalay, DOF Local Government Consultant, to T. Bohee, Agency Executive Director (April 15, 2012[sic]) (the "Transbay Final and Conclusive Obligations"); and,

WHEREAS, To implement the Transbay Final and Conclusive Obligations, the City, TJPA, and the Former Agency entered into the Option Agreement for the Purchase and Sale of Real Property ("2008 Option Agreement") dated as of January 31, 2008. The 2008 Option Agreement granted the Former Agency the option to take title to certain formerly State-owned parcels, subject to certain limitations, including Block 8; and,

WHEREAS, On April 21, 2015, the Commission approved, by Resolution No. 22-2015, that certain Disposition and Development Agreement ("Agreement") with Transbay 8 Urban Housing, LLC, a Delaware Limited Liability Co. (consisting of Related California, and Tenderloin Neighborhood Development Corporation (the "Developer") which requires the Block 8 development to be built in accordance with Attachment 6 to the Agreement, the "Scope of Development", and designates the specific uses in Block 8, including retail. The Scope of Development includes 79 below-market rate inclusionary affordable housing units and 398 market-rate housing units in a 55-story tower, 80 affordable housing units in two mid-rise podium buildings subsidized by OCII funding, and a total of approximately 17,600 square feet of retail space. In December, 2015, the Developer purchased the Block 8 land, began construction in November, 2016, and anticipates completing construction by mid-2019; and,

WHEREAS, Section 9.07 of the Agreement requires that the Developer use good faith efforts to obtain a grocery tenant for approximately 12,400 square feet in the ground floor and basement levels of the Transbay Block 8 tower. Good faith efforts include hiring a leasing agent to market the grocery space, providing adequate staffing for the marketing efforts, and reporting quarterly to OCII on its progress. The Agreement also reads that should the Developer be unable to enter into a lease with a grocery tenant within 12 months of the completion of the grocery space, the Developer may seek approval from the Commission to terminate its obligation to secure a grocery and that Commission approval will not be unreasonably withheld, conditioned or delayed; and, WHEREAS, As required in the DDA, the Developer has used good faith efforts to obtain a grocery tenant at Block 8 including hiring Colliers International as the broker to lease the grocery space, providing adequate staffing to support the efforts to secure a grocery lease, and providing OCII with quarterly updates of progress including market surveys, descriptions of the outreach efforts to potential tenants, and descriptions of the barriers to the Developer's outreach efforts to market the grocery store space; and,

WHEREAS, The Developer has been unable to secure a grocery tenant at Block 8 and anticipates that the Block 8 retail space will be complete in June, 2019. On February 15, 2018, Developer submitted a letter to OCII requesting to seek approval from the Commission to terminate its obligation to secure a grocery because of the proximity of Block 8 to the recently completed Woodlands Market, insufficient parking, and the multi-level layout of the space being unsuitable for grocery use; and,

WHEREAS, OCII then hired Strategic Economics, a retail consultant, to analyze the grocery market in the Transbay area and to review the validity of the Developer's determinations that a grocery store is not feasible at Block 8. In a study dated June 25, 2018, Strategic Economics also determined that a grocery store is not feasible at Block 8 due to its close proximity to Woodlands Market, the potential for Transbay area grocery supply to exceed demand, uncertainty of future demand due to the increasing popularity of grocery delivery services, and the Block 8 spaces not being properly sized for multi-level grocery use; and,

WHEREAS, The Lead Developer has used good faith efforts to obtain a grocery store tenant but has been unable to enter into a lease on commercially reasonably terms acceptable to the Lead Developer. In light of these efforts, the Lead Developer is now seeking the Commission's approval of the termination of the obligation to obtain a grocery store tenant, which approval shall not be unreasonably withheld, conditioned, or delayed under the terms of Section 9.07 of the DDA; and,

WHEREAS, Approving the termination of the Developer's obligation to enter into a lease for a grocery store on Block 8 is not subject to the California Environmental Quality Act ("CEQA") since there is no possibility such approval may have a significant effect on the environment pursuant to CEQA Guidelines Section 15061(b)(3); and, now, therefore, be it

RESOLVED, by the Commission on Community Investment and Infrastructure that it finds Transbay 8 Urban Housing, LLC has made good faith efforts to obtain a grocery tenant in Transbay Block 8 and, as provided in Section 9.07 of the Disposition and Development Agreement, approves the termination of the Developer's obligation to enter into a lease with a grocery tenant.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of December 18, 2018.

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Commission Secretary