MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Tiffany Bohee
Executive Director

SUBJECT: 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

EXECUTIVE SUMMARY

The Transbay Redevelopment Project Area (the “Project Area”) was adopted in 2005 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 “TTC”). The Office of Community Investment and Infrastructure, as the successor agency to the Redevelopment Agency of the City and County of San Francisco (“OCII” or the “Successor Agency”), is required to “prepare and sell [certain State-owned Parcels that OCII is authorized to acquire] to third parties,” pursuant to Section 2.1 (a) of the Transbay Redevelopment Project Implementation Agreement between OCII and the TJPA (the “Implementation Agreement”).

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 is slated for a 550-foot-tall office tower (also known as Block 5 (Assessor’s Block 3718)). 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 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). The TJPA will continue to own these two open space parcels. See Attachment 1 for a map of the Site and the two adjacent open space parcels.

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. On August 5, 2014, an Informational Memorandum, included as Attachment 2 to this Memorandum, was sent to the Commission detailing the results of the initial phase of the selection process.

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1 The TJPA currently owns the Site, but will transfer the Site to OCII, pursuant to Transbay enforceable obligations.
which evaluated the proposals submitted in response to the RFP. Four proposals were received and evaluated by a selection panel comprised of OCII staff, a Transbay Citizens Advisory Committee ("CAC") member, a representative from the TJPA, and a representative from the San Francisco Planning Department ("SF Planning"), (collectively referred to as the "Selection Panel"). Input was also received from OCII contract compliance staff, an architect at SF Planning, and a professional real estate consulting firm, Keyser Marston Associates ("KMA"), under contract with OCII. The Selection Panel reviewed the proposals, interviewed the development teams, and scored each team based on the criteria outlined in the RFP. The Selection Panel scored the development team comprised of Golub Real Estate Corporation ("Golub") with The John Buck Company ("John Buck"), Goettsch Partners ("Goettsch") with Solomon Cordwell Buenz Architects ("SCB"), and Butler Enterprise Group ("Butler") (together, the "Golub Team") the highest as discussed in detail in the August 5, 2014 Informational Memorandum.

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:

- approximately 15,000 square feet of publicly accessible ground floor open space;
- an underground parking facility with 117 parking spaces in mechanical stackers;
- streetscape improvements including the extension of a portion of Natoma Street;
- ground-floor retail space of approximately 5,000 square feet; and,
- a minimum LEED Gold level of certification for sustainability.

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 item and after the redesign is completed.

Based on the outcome of the selection process, and subsequent design improvements, staff recommends executing an Exclusive Negotiation Agreement ("ENA") with the Golub Team. The ENA, attached as Attachment 3, 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, in early 2015.

Staff recommends authorizing the ENA with the Golub Team.

DISCUSSION

The proposed ENA sets forth the basic terms for negotiating the DDA with the Golub Team. A complete copy of the ENA is included with this memorandum as Attachment 3. The following briefly outlines the key terms of the proposed ENA:
• **Term.** The term of the ENA is seven months from the date of execution, with the potential for three two-month extensions to be approved by the Executive Director.

• **Payment of purchase price.** The Golub Team must pay the full $172,500,000 purchase price for the Site at or prior to September 1, 2015. The funds will be deposited into a trust account established by the TJPA, and will be used to construct the TTC.

• **Payment of an ENA deposit.** The Golub Team also must pay an additional $500,000 which will be used by OCII to cover OCII’s staff and legal costs. The ENA deposit is non-refundable.

• **Special assessments.** The Golub Team must agree to participate in and support the formation and operation of a community facilities district (to finance the construction of the public infrastructure in the Project Area) and a community benefit district (to finance the maintenance of new parks in the Project Area).

• **OCII policies.** The Golub Team must comply with all applicable OCII policies including, the Small Business Enterprise Program, Nondiscrimination in Contracts and Benefits, the Minimum Compensation Policy, the Healthcare Accountability Policy, the Construction Workforce Agreement, the First Source Hiring Agreement for Permanent Workforce, and the Prevailing Wage Policy.

In addition, during the term of the ENA, the Golub Team will be responsible for the following:

• Obtaining financial commitments from lenders and/or equity participants;

• Completing its “due diligence” review of the physical conditions of the Site, preparing financial projections, and completing preliminary development plans;

• Revising the proposed project concept and schematic design as a result of the design review process;

• Securing an allocation of office space square footage under “Proposition M” under the Office Development Annual Limit, S.F. Planning Code, §§ 321 et seq;

• Seeking and obtaining approval of an amendment to the Transbay Redevelopment Plan to provide bulk controls that are appropriate for a commercial office building and consistent with the San Francisco Planning Code;

• Seeking and obtaining approval of an amendment to the Transbay Development Controls and Design Guidelines to remain consistent with the Transbay Redevelopment Plan as amended;

• Meeting design and development milestones attached to the ENA; and
Procuring professional consultants and construction contractors in compliance with OCII’s equal opportunity program.

The ENA period will conclude with a draft of the DDA with the Golub Team. The DDA, along with a revised and finalized schematic design, will be presented to the Commission for consideration in early 2015.

Community Input

The Transbay CAC approved the selection of the Golub Team at its meeting of August 14, 2014, and recommended entering into the ENA with the Golub Team. During the CAC meeting some members expressed concern with the proposed design, consistent with the design comments from Staff. Specifically, members reiterated that the ground floor plane needed to better contribute to the public realm and work to activate the area surrounding the building. These comments are being addressed by the Golub Team in their revised concept designs which will be presented to the CAC.

Compliance with Redevelopment Dissolution Law

California State Assembly Bills 26 and 1484, also known as “Redevelopment Dissolution Law,” authorize 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 proposed action (i.e., enter into an ENA for a State-owned Parcel).

On April 15, 2013, the California Department of Finance (“DOF”) determined “finally and conclusively” that the Implementation Agreement, along with other Transbay-related documents, are enforceable obligations that will not require additional DOF review in the future, although expenditures under the Implementation Agreement are subject to continuing DOF review. The Implementation Agreement requires OCII to take the lead role in facilitating the development of the State-owned Parcels. Specifically, the Implementation Agreement requires OCII to: (1) prepare and sell the State-owned Parcels to third parties, (2) deposit the sales proceeds into a trust account to help the TJPA pay the cost of constructing the TTC, (3) implement the Transbay Redevelopment Plan to enhance the financial feasibility of the entire redevelopment project, and (4) fund the state-mandated affordable housing program. The proposed ENA with the Golub Team, which discusses the sale and development of Block 5, a State-owned Parcel, is consistent with OCII’s responsibilities under the Implementation Agreement, an enforceable obligation entered into before June 28, 2011, and is therefore compliant with Redevelopment Dissolution Law.
CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA")

Authorizing the Executive Director to execute an ENA is an administrative activity that is not a “project” as defined by CEQA Guidelines Section 15378(b)(5). This action allows for negotiations between OCII and the Golub Team and will not independently result in a physical change in the environment and is not subject to environmental review under CEQA. In addition, the development program contemplated under the ENA was included in the Environmental Impact Statement/Environmental Impact Report for the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project, which was certified in 2004.

STAFF RECOMMENDATION AND NEXT STEPS

Based on the outcome of the selection process, and subsequent design improvements, staff recommends executing the ENA with the Golub Team. Assuming Commission approval, the Golub Team will present the revised conceptual design during a workshop to the Commission as soon as possible. Staff expects to bring the DDA, along with the finalized schematic design, before the Commission for its consideration at the conclusion of the exclusive negotiation period (early 2015). In addition, staff expects to bring the required amendments to the Transbay Redevelopment Plan and the Transbay Development Controls and Design Guidelines to the Commission for its consideration in mid-2015. Staff expects to close escrow on the Site on or before September 1, 2015. Construction is expected to begin in early 2016, and the Project is expected to take 2.5 years to complete.

(Originated by Courtney Pash, Acting Project Manager)

Tiffany Bohoe
Executive Director

Attachment 1: Block 5 Map
Attachment 2: Block 5 Informational Memorandum
Attachment 3: Proposed ENA