OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 12-2014


BASIS FOR RESOLUTION

WHEREAS, The Successor Agency became the successor to the Redevelopment Agency of the City and County of San Francisco (the “SFRA”), a public body, corporate and politic, exercising its functions and powers, and organized and existing under the Community Redevelopment Law of the State of California (the “Successor Agency”), when the SFRA was dissolved on February 1, 2012, pursuant to California Assembly Bill 26 (“AB 26”) and the California Supreme Court’s decision, California Redevelopment Association et al. v. Ana Matosantos (2011) 53 Cal.4th 231; and

WHEREAS, In June 2012, the California State Legislature passed Assembly Bill 1484 (“AB 1484”) further amending the Community Redevelopment Law (together with AB 26, and as amended from time to time, the “Redevelopment Dissolution Law”). Under AB 1484, the Successor Agency (now known as the Office of Community Investment and Infrastructure, or OCII) became a separate legal entity, separate from the City and County of San Francisco (the “City”). Under Redevelopment Dissolution Law, the Successor Agency assumed all of the SFRA’s enforceable obligations, including ownership of the SFRA’s real property. The Successor Agency is charged with winding-down the SFRA’s enforceable obligations and disposing of all real property, subject to the oversight of the State Department of Finance (“DOF”), the lead implementing agency under Redevelopment Dissolution Law; and

WHEREAS, Under Redevelopment Dissolution Law, the Successor Agency owns all of that certain real property identified as a portion of Lot 115, Assessor’s Block 3723 and
a portion of Lot 091, Assessor’s Block 3734, located at 747 Howard Street, as more specifically described in the 1988 Project Lease (defined below) (“Moscone North”); and

WHEREAS, Moscone North is located within the boundaries of the former Yerba Buena Center Approved Redevelopment Project Area D-1 (the “YBC Project Area D-1”) and was subject to the redevelopment plan for the YBC Project Area D-1, which was duly adopted in accordance with Community Redevelopment Law, and which expired by its own terms on January 1, 2011 (the “Redevelopment Plan”); and

WHEREAS, In 1988, the SFRA leased Moscone North to the City and issued lease revenue bonds to finance the construction and improvements associated with Moscone North (the “Bonds”). The Bonds were secured by a long-term ground lease dated March 1, 1988, as amended by (1) the First Amendment to the ground lease dated February 1, 1992 (the “First Amendment”), (2) the Second Amendment to the ground lease dated July 1, 2000 (the “Second Amendment”), and (3) the Third Amendment to the ground lease dated December 1, 2002 (the “Third Amendment,” and together with the ground lease, the First Amendment and the Second Amendment, the “1988 Project Lease”); and

WHEREAS, Under the 1988 Project Lease, the SFRA (and now the Successor Agency) is required to transfer Moscone North to the City after the City has paid the Bonds in full and has paid all required deferred lease payments to the Successor Agency. The City paid the Bonds in full in August 2014. The City will make a lump-sum payment to the Successor Agency of $3.48 million in November 2014, which represents all remaining required deferred lease payments due under the 1988 Project Lease. The City has until November 2018 to make these payments, but has chosen to pay the Successor Agency early in order to facilitate a major expansion of the Moscone Center later this year; and

WHEREAS, The $3.48 million payment to the Successor Agency is restricted money that can only be used for the operation, maintenance and security of Yerba Buena Gardens, as more fully explained below. The SFRA originally acquired the land associated with Moscone North with urban renewal funds provided through a federal Contract for Loan and Capital Grant dated December 2, 1966 (Contract No. Calif. R-59) and approved by the U.S. Department of Housing and Urban Renewal (“HUD”) (the “HUD Contract”). Under the HUD Contract, the SFRA was required to use the federal funds to carry out redevelopment activities in accordance with the Redevelopment Plan and the federal standards for urban renewal under Title I of the Housing Act of 1949; and

WHEREAS, Upon the demise of the federal urban renewal grant program, HUD required that the SFRA, and now the Successor Agency, treat all future proceeds from the sale or lease of the properties acquired with federal funds as program income under the federal Community Development Block Grant (“CDBG”) program. The City’s Mayor’s Office of Housing and Community Development (“MOHCD”)
administers the CDBG program for the City and is ultimately responsible for the timely and accurate tracking, reporting and administration of “CDBG Program Income,” as defined by Title 24 in the Code of Federal Regulations § 570.500; and

WHEREAS, In 1983, the SFRA and the City executed, with HUD concurrence, the Yerba Buena Center Redevelopment Project Closeout Agreement (“YBC Closeout Agreement”) whereby the SFRA agreed to retain certain property (including Moscone North) for disposition, subject to applicable federal law and subject further to restrictions on the use of any proceeds received from the sale or lease of properties subject to the YBC Closeout Agreement. Under the YBC Closeout Agreement, HUD required the SFRA to use income generated from leases within the project area for “necessary and/or appropriate economic development activities,” which included the “operation, maintenance, and security” of all the publicly owned spaces on Yerba Buena Gardens, including Moscone North. Therefore, the Successor Agency is allowed to continue to use CDBG Program Income generated in Yerba Buena Gardens for the operation, maintenance and security of Yerba Buena Gardens, in compliance with the YBC Closeout Agreement; and

WHEREAS, Furthermore, in 2014, HUD conducted a monitoring review of certain Successor Agency-owned properties acquired with federal funds and determined that federal obligations continue to apply to these properties. Upon completing its review, the Director of HUD’s Community Planning and Development Division issued a letter to the Director of MOHCD, dated September 26, 2014, summarizing HUD’s conclusions (the “HUD Letter”). [A copy of the HUD Letter is attached to this Resolution as Appendix A] The HUD Letter confirms that income generated from Project Area properties, which includes the Moscone North property, is considered restricted CDBG Program Income. The HUD Letter also confirms that the “operation, maintenance, and security of open space, plazas, walkways, landscaping, parks gardens, fountains…” of Yerba Buena Gardens is an allowable use of restricted CDBG Program Income; and

WHEREAS, Given the foregoing, the $3.48 million payment to the Successor Agency is restricted revenue that is not available for redistribution to the taxing entities under Redevelopment Dissolution Law. The Successor Agency is required to use the $3.48 million for the operation, maintenance and security of Yerba Buena Gardens and will deposit this money into a restricted account dedicated for this purpose; and

WHEREAS, In November 2013, OCII submitted its Long-Range Property Management Plan (“PMP”) to DOF for approval, as required by Redevelopment Dissolution Law. The PMP indicates that a transfer of Moscone North to the City, pursuant to an enforceable obligation (i.e., the 1988 Project Lease), is likely in 2014. The action contemplated by this Resolution, if adopted, will therefore be consistent with the PMP; and
WHEREAS, The Successor Agency has met and exceeded the 10-day public notice requirement of California Health and Safety Code §34181(f) for the Oversight Board’s approval of the transfer of property by publishing notice of this Board’s hearing on this proposed transfer of Moscone North in the San Francisco Chronicle on October 31, 2014, mailing the notice to property owners within 300 feet of 747 Howard Street and publishing the notice on OCII’s website on October 29, 2014; and

WHEREAS, Authorization of the proposed transfer of Moscone North to the City is exempt from the California Environmental Quality Act (“CEQA”) on the following grounds: (1) it can be seen with certainty that there is no possibility that the transfer may have a significant effect on the environment (CEQA Guidelines § 15061(b)(3)), (2) the transfer will result in a continuation of existing facilities involving no expansion of use, and any future development for the real property will require separate environmental review (CEQA Guidelines § 15301), and (3) transfer of ownership is a ministerial act required under Redevelopment Dissolution Law (CEQA Guidelines § 15268); and

WHEREAS, Because the Moscone North site was purchased with federal CDBG grant funds, the proposed transfer must also comply with the National Environmental Policy Act (“NEPA”). The City, through the Mayor’s Office of Housing and Community Development, as a “Responsible Entity” under NEPA, has determined that the proposed transfer of Moscone North to the City is categorically excluded from further environmental review under NEPA because the land and buildings associated with Moscone North will be retained for the same use (Title 24 of the Code of Federal Regulations § 58.35(a)(5)). As such, the transfer, by its scope and nature, requires no mitigation or formal consultation in order to be in compliance with the related laws and regulations, and is therefore considered an exempt project under NEPA (Title 24 of the Code of Federal Regulations § 58.34(a)(12)); and

WHEREAS, The Successor Agency, given all of the foregoing, now seeks to transfer Moscone North to the City in compliance with the 1988 Project Lease, an enforceable obligation under Section 34171(d)(1)(E) of the California Health and Safety Code, and consistent with the PMP; now, therefore, be it

RESOLVED, That this Oversight Board authorizes the Successor Agency to transfer Moscone North to the City upon payment of the outstanding bonds and deferred rental payments as required by the 1988 Project Lease, and be it further

RESOLVED, That this Oversight Board authorizes the Executive Director to execute all related documents necessary for the transfer of Moscone North that are in substantially the forms of documents on file with the Interim Secretary of the Oversight Board; and be it further,
RESOLVED, That this Oversight Board authorizes the Successor Agency to take such actions as may be necessary or appropriate to effectuate the purpose and intent of this Resolution.

Appendix A: HUD Letter

I hereby certify that the forgoing resolution was adopted by the Oversight Board at its meeting of November 12, 2014.

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Interim Oversight Board Secretary