

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 24-2023

*Adopted August 15, 2023*

**AUTHORIZING THE COMMITMENT OF PERMANENT GAP LOAN FUNDS IN AN AMOUNT OF APPROXIMATELY \$61,961,845 TO TRANSBAY 2 FAMILY, L.P., A CALIFORNIA LIMITED PARTNERSHIP, FOR THE DEVELOPMENT OF 184 AFFORDABLE RENTAL HOUSING UNITS (INCLUDING TWO MANAGER'S UNITS) AT TRANSBAY BLOCK 2 EAST; AND PROVIDING NOTICE THAT THIS ACTION IS WITHIN THE SCOPE OF THE TRANSBAY TERMINAL/CALTRAIN DOWNTOWN EXTENSION/REDEVELOPMENT PROJECT FINAL ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT, A PROGRAM EIR, AND IS ADEQUATELY DESCRIBED THEREIN FOR PURPOSES OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; TRANSBAY REDEVELOPMENT PROJECT AREA**

WHEREAS, In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code, section 33000 et seq. the "Community Redevelopment Law"), the Redevelopment Agency of the City and County of San Francisco ("Former Agency") undertook programs for the redevelopment of blighted areas in the City and County of San Francisco ("City"), including the Transbay Redevelopment Project Area ("Project Area"); and,

WHEREAS, 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 Ordinance No. 124-05 (June 21, 2005) and by Ordinance No. 99-06 (May 9, 2006), as amended by Ordinance No. 84-15 (June 16, 2015), Ordinance No. 62-16 (April 26, 2016) and Ordinance No. 009-23 (January 24, 2023) ("Redevelopment Plan"); and,

WHEREAS, The Redevelopment Plan establishes the land use controls for the Project Area and divides the Project Area into two subareas: Zone One, in which the Redevelopment Plan and the Development Controls and Design Guidelines for the Transbay Redevelopment Project ("Development Controls") define land uses, and Zone Two, in which the Planning Code applies. The Successor Agency to the Former Redevelopment Agency of the City and County of San Francisco ("Successor Agency"), commonly known as the Office of Community Investment and Infrastructure ("OCII"), solely administers and enforces land use entitlements for property and projects in Zone One; and,

WHEREAS, In 2003, the Transbay Joint Powers Authority ("TJPA"), the City and County of San Francisco ("City"), and the State of California ("State") entered into a Cooperative Agreement setting forth the process for the transfer of certain State-owned parcels in the Project Area to the City and TJPA. Also in 2003, the California Legislature enacted Assembly Bill No. 812 (Statute 2003, chapter 99), codified at Cal. Public Resources Code § 5027.1, which requires that thirty-five percent (35%) of new housing developed in the Project Area shall be affordable to low- and moderate-income households (the "Transbay Affordable Housing Obligation"). In 2005, the TJPA and Former Agency entered into the Transbay Redevelopment Project Implementation Agreement ("Implementation Agreement") which

incorporates the Transbay Affordable Housing Obligation and requires Successor Agency to prepare and sell certain formerly State-owned parcels and to construct and funds new infrastructure improvements (such as parks and streetscapes) and to meet the Transbay Affordable Housing Obligation; and,

WHEREAS, On February 1, 2012, the State of California dissolved all redevelopment agencies including the Former Agency, by operation of law pursuant to California Health and Safety Code Section 34170 et seq. (“Redevelopment Dissolution Law”). Under the authority of Redevelopment Dissolution Law and San Francisco Ordinance No. 215-12 (October 4, 2012) (establishing the Successor Agency Commission (“Commission”) and delegating to it state authority under Redevelopment Dissolution Law), the Successor Agency is administering the enforceable obligations of the Former Agency. The Redevelopment Plan, Development Controls, and other relevant Project Area documents remain in effect and the Successor Agency retains all affordable housing obligations in the Project Area; 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). On April 15, 2013, the California Department of Finance (“DOF”) finally and conclusively determined that the Implementation Agreement and its incorporation of the Transbay Affordable Housing Obligation are continuing enforceable obligations of the Successor Agency under Redevelopment Dissolution Law. DOF confirmed that “any sale, transfer, or conveyance of property related to [the Transbay Final and Conclusive Determination] is authorized.” Email from Justyn Howard, Assistant Program Budget Manager, DOF, to Tiffany Bohee, Executive Director, Successor Agency (September 10, 2013, 09:17am); and,

WHEREAS, On January 11, 2021, in accordance with the Cooperative Agreement, the TIPA conveyed to Successor Agency certain parcels of land within the Project Area and thereafter, the Board of Supervisors, by Motion M21-098 adopted June 22, 2021, approved Final Transfer Map 10327, which consolidated and resubdivided said parcels for purposes of financing and conveyancing (as said map was recorded on July 1, 2021 in Book 2 of Final Maps at Pages 6 through 8 inclusive of the Official Records, the “Transfer Map”); and,

WHEREAS, In accordance with its obligations under the Redevelopment Plan and the Implementation Agreement, Successor Agency intends to fund the development of affordable housing on Transfer Map Lot 5, being all of Redevelopment Plan Block 2 (“Block 2”) by further subdividing Block 2 into two development parcels of roughly equal size (referred to herein as “Block 2 East” and “Block 2 West,” respectively), ground leasing these parcels to affordable housing developers, and providing a subsidy for development and operation of two affordable housing developments thereon. Successor Agency anticipates that its subsidy will facilitate additional public and private financing necessary to make the development and operation of Block 2 financially feasible; and,

WHEREAS, On April 6, 2021, pursuant to Resolution No. 09-2021, the Successor Agency entered into an exclusive negotiations agreement (“ENA”) with Transbay 2 Family, L.P. (the “Developer”), a California limited partnership, an affiliate of Mercy

Housing California (“Mercy”), and Transbay 2 Senior, L.P., a California limited partnership, an affiliate of Chinatown Community Development Center, Inc. (“CCDC”), as “Co-Developers” for the demolition of existing improvements and related predevelopment activities on Block 2 (the “Horizontal Project”), and construction, pursuant to a subsequent amended and restated ground lease or leases for vertical development of a mixed-use affordable rental housing project serving families and families experiencing homelessness on Block 2 East to be owned and operated by Mercy (the “Project”), and a separate mixed-use affordable rental housing project serving seniors and senior households experiencing homelessness on Block 2 West to be owned and operated by CCDC (the “Senior Project”), plus a mid-block pedestrian mews and related streetscape improvements (collectively, the “Block 2 Project”). Mercy’s role under the ENA also includes overall site coordination for development of Block 2; and,

WHEREAS, Also on April 6, 2021, pursuant to Resolution No. 10-2021, the Successor Agency entered into a predevelopment Loan Agreement with the Developer that provided funding in an amount of up to \$3,500,000 for predevelopment activities for the Project (“Original Loan”); and,

WHEREAS, On November 1, 2022, by Resolution No. 43-2022, the Commission approved the Schematic Design Document for the Project, along with related approval actions including adopting environmental review findings pursuant to CEQA. The approved Project will provide 184 rental housing units that will serve low-income households and formerly homeless households, resident-serving amenities, a childcare facility and retail space. At the time of this approval, the Project included one unrestricted manager’s unit. Based on a review of best practices in project management, the Developer subsequently increased the number of manager’s units from one to two; and,

WHEREAS, On January 25, 2023, by Resolution No. 02-2023, the Successor Agency Oversight Board approved an expenditure for funding in an amount of up to \$72,972,179 for affordable housing on Block 2 East, through Item No. 416 of the Recognized Obligation Payment Schedule (“ROPS”) for the period of July 1, 2023 through June 30, 2024. DOF provided final approval of the expenditure through its letter dated April 14, 2023; and,

WHEREAS, On August 4, 2023, the Citywide Affordable Housing Loan Committee recommended approval of OCII subsidy for the Project in a total aggregate amount of up to \$72,972,179, which includes permanent residential gap loan funds (including the amount of the Original Loan as well as additional predevelopment loan funds), commercial loan funds to construct the commercial spaces, and funding for the Horizontal Project; and,

WHEREAS, The Developer now requests, and OCII staff recommends, that the Commission authorize the commitment of permanent gap loan funds for the residential portion of the Project. The amount of the requested commitment is approximately \$61,961,845. This commitment amount may vary as the Developer updates costs and refines financial assumptions, however the total of the overall Project funding will total to an amount at or below the amount allocated for the Project in the FY 23-24 ROPS. The funding commitment is subject to the subsequent approval of an

amended and restated loan agreement substantially in the form standard to typical OCII permanent gap loans; and,

WHEREAS, The requested commitment is necessary to demonstrate that the Developer has secured local funds for purposes of its September 2023 application for Federal Low Income Housing Tax Credits and a tax-exempt bond allocation, a critical financing source for the Project. The Developer will seek future Commission authorization of an amended and restated loan agreement for the residential Project and a ground lease for the residential portion of the Project, along with a separate commercial loan agreement and commercial ground lease; and,

WHEREAS, Concurrently with this request, the Developer is seeking Commission authorization (by Resolution No. 25-2023) of a First Amendment to the Loan Agreement to increase the Original Loan by an amount of \$4,500,000 to fund further predevelopment activities to advance development of the Project; and,

WHEREAS, Additionally, concurrently with this request, an affiliate of Mercy, Transbay 2 Family LLC, acting in its capacity as the lead party among the Co-Developers to coordinate performance of site preparation work, is seeking Commission authorization (by Resolution No. 26-2023) of a Horizontal Ground Lease with funding in an amount of up to \$2,333,653 to reimburse costs for the Horizontal Project to facilitate the timely development of the Project and Senior Project; and,

WHEREAS, On April 20, 2004, the Commission of the Former Redevelopment Agency of the City and County of San Francisco ("Former Agency Commission") adopted Resolution No. 45-2004, certifying the Final Environmental Impact Statement/Environmental Impact Report (the "FEIS/EIR") for the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project, which included the Redevelopment Plan. On January 25, 2005, the Former Agency Commission adopted Resolution No. 11-2005, adopting findings under CEQA, a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program in connection with the adoption of the Redevelopment Plan. The Board of Supervisors and the City Planning Commission adopted similar findings; and,

WHEREAS, The FEIS/EIR includes by reference a number of addenda. A total of ten addenda to the FEIS/EIR were adopted by the Commission between June 2, 2006 and November 1, 2022. The tenth addendum to the FEIS/EIR, adopted by the Commission by Resolution No. 39-2022 specifically analyzed the environmental effects of the Block 2 Project; and,

WHEREAS, OCII staff has reviewed the requested commitment for permanent gap funding for the residential portion of the Project and has found it to be within the scope of the project that was analyzed in the FEIS/EIR and its subsequent addenda; and,

WHEREAS, Copies of the FEIS/EIR and supporting documentation is on file with the Commission Secretary and is incorporated into this Resolution by reference; now therefore be it

RESOLVED, That the Commission finds the commitment for permanent gap funding is within the scope of the project analyzed in the FEIS/EIR and requires no additional

environmental review pursuant to CEQA Guidelines sections 15180, 15168, 15162, 15163, and 15164 for the following reasons:

- (1) Implementation of the commitment for permanent gap funding does not require major revisions to the FEIS/EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant impacts; and,
- (2) No substantial changes have occurred with respect to the circumstances under which the project analyzed in the FEIS/EIR will be undertaken that would require major revisions to the FEIS/EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of effects identified in the FEIS/EIR; and,
- (3) No new information of substantial importance to the project analyzed in the FEIS/EIR has become available which would indicate that (i) implementation of the commitment for permanent gap funding will have significant effects not discussed in the FEIS/EIR; (ii) significant environmental effects will be substantially more severe; (iii) mitigation measures or alternatives found not feasible, which would reduce one or more significant effects, have become feasible; or (iv) mitigation measure or alternatives, which are considerably different from those in the FEIS/EIR will substantially reduce one or more significant effects on the environment that would change the conclusions set forth in the FEIS/EIR; and be it further

RESOLVED, The Commission commits permanent gap funding in an amount of approximately \$61,961,845 to Transbay 2 Family L.P., a California limited partnership, for the development of 184 affordable rental housing units (including two manager's units) at Transbay Block 2 East and authorizes the Executive Director to: (i) affirm this commitment in a letter, form, or other format as deemed necessary for purposes of applications for financing; (ii) adjust the amount of the commitment so long as the aggregate funding for the Project is at or below the amount allocated for the Project in the FY 23-24 ROPs; and (iii) to take any additional actions necessary to consummate the commitment contemplated by this Resolution.

I hereby certify that the foregoing resolution was adopted by the Successor Agency Commission at its meeting of August 15, 2023.

  
Commission Secretary