OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

118-2352022-002

Agenda Item **No. 8(a)**
Meeting of December 6, 2022

INFORMATIONAL MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Thor Kaslofsky, Executive Director

SUBJECT: Status of the Transbay Block 4 Project

On June 21, 2022, the Commission took multiple actions, including approval of a Disposition and Development Agreement ("DDA") with F4 Transbay Partners LLC, an affiliate of Hines, Urban Pacific, and Goldman Sachs (the "Sponsor"), and Transbay Block 4 Housing Partnership, L.P, an affiliate of Mercy Housing California (the "Affordable Developer"). The DDA authorizes, subject to a Transbay Redevelopment Plan amendment ("Redevelopment Plan"), a mixed-use development on Transbay Block 4 generally comprised of 681 residential units, ground floor retail, public and private open space, the construction of an extension of Tehama Street, streetscape improvements, and underground vehicular and bicycle parking (the "Project").

Residential units in the Project are located in three different building types, a tower, townhomes, and a mid-rise building. There are 155 market rate units in the upper portion of a tower and a townhouse adjunct, 324 rental units in the lower portion of the tower (including 219 market rate units and 105 below market rate units affordable to moderate income households), and 202 affordable rental units in a mid-rise project serving very low to moderate income households ("the Mid-Rise Affordable Project").

Following the Commission hearing, the Planning Commission took action to recommend a Redevelopment Plan amendment for the Project and related actions to recommend General Plan and Zoning Map amendments. Similarly, legislation for Project approvals was introduced at the San Francisco Board of Supervisors ("Board of Supervisors" or "BOS") and scheduled for hearings.

One S. Van Ness Ave.
5th Floor
San Francisco, CA
94103

415 749 2400

www.sfocii.org

In August 2022, prior to the scheduled Board of Supervisors hearings, the Sponsor informed OCII staff that its affiliate entity would be unable to provide[1] OCII with an irrevocable letter of credit ("LOC") for approximately $46.7 million that was due when the DDA became effective (which was projected to occur in January 2023 under the original Project schedule) and that is required under a Development Agreement ("DA") with the City for a project at Parcel F. Parcel F is located in Zone Two of the Transbay Redevelopment Project Area. Under the Block 4 DDA, OCII had agreed to receive and commit the Parcel F DA funds to the Mid-Rise Affordable Project, a key element for the Sponsor securing overall project financing and meeting the schedule requirements set forth in the DDA.

Without the certainty of the LOC to fulfill DDA obligations, OCII and the Sponsor jointly requested that the Board of Supervisors table the associated legislation for Block 4.[2] Subsequently, the Sponsor put forth proposals to modify the Block 4 DDA to address the Sponsor's and Affordable Developer's concerns regarding unfavorable overall market conditions and competition for affordable housing funding sources.

The Sponsor and Affordable Developer seek substantive changes to the DDA relating to Project delivery obligations and responsibilities and funding for the Mid-Rise Affordable Project, including a request for OCII to be responsible for any gap in the financing of the Mid-Rise Affordable Project over a yet to be agreed upon fixed amount. The Sponsor and Affordable Developer assert that these changes will improve the viability of the Project. Key proposed terms include:

1. Since the Sponsor can no longer deliver the LOC within the Schedule of Performance as discussed above, utilize tax increment funds to advance the approximately $46.7 million Parcel F Fee as a loan to the Mid-Rise Affordable Project. The Parcel F DA would continue to require payment of the Parcel F Fee to OCII when and if that project moves forward, but the LOC requirement would be eliminated.
2. Establish a fixed amount that the Sponsor would contribute to the Mid-Rise Affordable Project rather than funding the full amount necessary to deliver the project, which will fluctuate based on costs and the availability of other funding sources. OCII would have to fund the balance of the gap.
3. Instead of simultaneous construction, bifurcate construction and delivery of the Tower/Podium and Mid-Rise Affordable Project. The Affordable Developer will be responsible for constructing the Mid-Rise Affordable Project and seeking financing commitments after the Sponsor commences construction of the Tower and Podium.
4. Have the Affordable Developer manage the Mid-Rise Affordable Project program as needed to improve competitiveness for funding sources (such changes may include deepening affordability and removing costs from tax credit basis). Per note above, OCII would be responsible for any increased gap resulting from these changes.

---

[1] According to the Parcel F DA , the Sponsor is required to provide an enforceable letter of credit to OCII in the amount of the Parcel F affordable housing fee within 30 days of the effective date of the Block 4 DDA.

[2] Due to a time-sensitive requirement for Board of Supervisors action on the General Plan amendment, the General Plan amendment legislation was recommended for disapproval by the Board of Supervisors and will need to be reinitiated with the Planning Commission should the Project proceed.

5. Extend the Schedule of Performance to include additional time for 18 months of predevelopment to, according to the Sponsor, allow overall market conditions around costs and availability of financing for the Tower to improve.
6. Sponsor noted that land value may need to be revisited to account for changes to AMI levels or deal structure given that the appraisal used to determine the current price of $6 million relied upon provisions of the current DDA.

The Sponsor suggests a six-month period to work through these proposed modifications and incorporate them into a new DDA. Staff is evaluating proposed deal modifications related to the above terms. Should negotiations proceed, the Commission would consider, at a later date, an agreement, such as an exclusive negotiations agreement, to clarify the scope of negotiations and set forth a schedule and obligations for the negotiations period.

BACKGROUND

Transbay Redevelopment Project Area

The Board of Supervisors of the City and County of San Francisco ("City") established the Project Area and 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 Ordinances No. 84-15, (June 18, 2015) and No. 62-16 (April 28, 2016) ("Redevelopment Plan"). The Redevelopment Plan establishes the land use controls for the Project Area, and divides the Project Area into two sub-areas:

- <u>Zone One</u> in which the Redevelopment Plan and Development Controls define the development standards, and
- <u>Zone Two</u> in which the San Francisco Planning Code applies.

A major focus of the Project Area is to redevelop 10 acres of former highway access ramp properties previously owned by the State of California (the "State-Owned Parcels") to generate funding for the Transbay Joint Powers Authority ("TJPA") to construct what is now the Salesforce Transit Center (the "Transit Center"). OCII's role is to complete the enforceable obligations that the State Department of Finance has finally and conclusively approved under Redevelopment Dissolution Law. These enforceable obligations include the Implementation Agreement between TJPA and the Former Agency, which requires OCII to facilitate the sale and development of certain State-Owned Parcels to third parties, to implement the Redevelopment Plan, and to comply with California Assembly Bill 812, codified in Section 5027.1 of the California Public Resources Code, which requires that 35% of all new or rehabilitated residential units in the Project Area be affordable to low- and moderate-income households (the "Transbay Affordable Housing Obligation").

Block 4 is a formerly State-Owned Parcel located within Zone One of the Project Area. Block 4 is the northern portion of the former Transbay Temporary Terminal site (Assessor's Block 3739, Lot 010), generally located at 200 Main Street, bounded by Howard, Main and Beale Streets and extending approximately 165 feet southeast from Howard Street. Immediately adjacent to the southwest lies the approximately 40-foot-wide future Tehama Street right of way (Assessor's Block 3739, Lot 011) (the "Tehama Parcel"). Together, Block 4 and the Tehama Parcel comprise the "Site". OCII acquired the Site from the TJPA in January 2021.

Block 4 Relationship to Parcel F

Parcel F is another formerly State-Owned Parcel, located in Zone Two of the Redevelopment Plan (under Planning Department jurisdiction and subject to the Planning Code) adjacent to the southwestern end of the Transit Center. In early 2016 the TJPA entered into an agreement with an affiliate of the Sponsor ("Parcel F Developer") to purchase Parcel F, contingent on Commission approval of the Option Agreement for the purchase of Block 4. Under the Redevelopment Plan and City Code, all residential projects in the Project Area must provide on-site inclusionary units. The Parcel F Developer sought relief from this obligation for the Parcel F project by entering into an Option Agreement with OCII that would provide for the construction of affordable units on Block 4 instead of on Parcel F.

The Commission approved the Option Agreement in April 2016, and in June 2016, closed on the sale of Parcel F for a price of $160 million and began predevelopment. The Option Agreement provided for a right to exclusive negotiations with the Sponsor for a DDA requiring that the Sponsor purchase Block 4 for (1) $45 million, or (2) a price determined by negotiation with OCII after the parties 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 provided that the Sponsor would subsidize at least 45% of the units as affordable units, without any OCII subsidy. OCII retained the 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 was to be determined by the above-described methodology prescribed in the Option Agreement.

In 2020, the Parcel F Developer proposed paying an affordable housing fee to OCII that would satisfy the inclusionary housing obligation at Parcel F and that OCII would use at Block 4. In January 2021, the Commission approved, by Resolution No. 02-2021, a variation from the on-site inclusionary housing obligation for the Parcel F project on the condition that the Developer contribute to OCII an amount equal to one hundred fifty percent (150%) of the inclusionary housing fee that applied to other projects under the Planning Code.

Based on the Commission's variation and the approved Parcel F DA, the Parcel F project will pay an approximately $46.7 million in-lieu fee to OCII. OCII will provide a loan in the same amount to subsidize the Mid-Rise Affordable Project at Block 4 (this was addressed in the DDA approved by the Commission in June 2022). According to the Parcel F DA, the Parcel F developer will pay the affordable housing fee in full to OCII at least 45 days prior to the close of construction financing on the Mid-Rise Affordable Project at Block 4 or earlier, based on other stated construction/permitting milestones. To allow OCII to provide commitments for the OCII loan for Block 4, the Parcel F DA obligates the developer to provide an enforceable letter of credit in the amount of the affordable housing fee to OCII within 30 days of the Effective Date of the DDA.

Block 4 Actions

OCII has been negotiating a deal for Block 4 with the Sponsor since the Commission's approval of the Option Agreement in 2016. Negotiations culminated in an approval of the Project through several actions in June 2022. The table below summarizes key Block 4 related actions to date.

Date	Action	Description
2016	Parcel F Purchase Agreement *TJPA Approval*	• Required that OCII enter into an Option Agreement Block 4 so that the Sponsor could fulfill the affordable housing obligations of Parcel F through the development of the Site.
2016	Option Agreement *Commission Approval*	• Granted Sponsor a right to exclusive negotiations for DDA with OCII • Established purchase price of either 1) $45 million, or 2) a price determined through negotiation with OCII, or 3) the fair market value as determined through an appraisal process • At least 45% of residential units restricted for affordability with no subsidy from OCII
2018	First Amendment to the Option Agreement *Commission Approval*	• Mercy selected as Affordable Developer; • Extended negotiations period; • Established a Term Sheet outlining the program: o Tower height increase (from 450' to 501'), consolidation of two podium buildings to a single mid-rise with an increased height (from 65'/85' to 150'); o 49% affordability (to meet the Transbay Affordable Housing Obligation based on the then-current Project Area development pipeline); o Location, size, and affordability levels of affordable units; o Funding for SBE capacity study and local worker training; o Detailed strategy for Certificate of Preference ("COP") holder outreach; o Transfer fee on resales of all market rate homeownership units to fund future maintenance of Transbay Park; and o Community-serving ground floor commercial space.
2020	Second Amendment to the Option Agreement *Commission Approval*	• Extended the negotiation period
2021	Third Amendment to the Option Agreement *Commission Approval*	• Short-term extension to evaluate a proposed reduction to the percentage of affordable units
2021	Fourth Amendment to the Option Agreement *Commission Approval*	• Replaced the 2018 Term Sheet with the Program for Appraisal (established Project affordability at 45%) • Extended the term to finalize negotiations and complete the appraisal process
June 21, 2022	• Environmental review findings • Redevelopment Plan amendment	• Approval of the Block 4 Project. Key DDA terms: o 681 residential units, 45% affordable for households with incomes ranging from 40% to 120% of area median income

	• Conditional Development Controls amendment • Disposition and Development Agreement • Conditional Schematic Design *Commission Approval*	○ Payment of the fair reuse value of Block 4, which is $6,000,000 (as determined by the Option Agreement two-party appraisal process); ○ Development and completion of improvements in accordance with a Schedule of Performance ○ Enhanced outreach to COP holders; ○ OCII loan of approximately $46.7 million to fund the Mid-Rise Affordable Project (to be funded with proceeds from the Parcel F affordable housing fee); ○ Financing for the SBE Mentoring and Capacity Building Program; ○ Community-serving retail requirements; and ○ Creation of a transfer fee on condominium sales and resales to fund maintenance of the planned public park on Transbay Block 3.
July 28, 2022	• General Plan amendment • Zoning Map amendment • Redevelopment Plan amendment *Planning Commission Approval*	• Approvals related to increased height and bulk limits in regulatory documents needed to facilitate the Block 4 Project
November 1, 2022	General Plan amendment *Board of Supervisors Denial*	• Legislation was introduced to approve the Redevelopment Plan amendment, DDA and Air Rights Lease, and Zoning Map amendment, but was not acted upon and is now held at the BOS Land Use and Transportation Committee to the call of the Chair • The BOS was required to act upon this the General Plan amendment legislation within 90 days of the Planning Commission approval. Because the DDA terms were in question, the General Plan amendment ordinance was recommended for disapproval with the intent that it would be reintroduced if/when the Project proceeds.

NEXT STEPS

OCII staff will evaluate the Sponsor proposals and return to the Commission, as soon as January 2023 but no later than March 2023, with a recommendation to either 1) enter into a new agreement for a negotiations period, or 2) terminate negotiations and commence work on a request for proposals for the Site.

(Originated by Kim Obstfeld, Senior Development Specialist)

DocuSigned by:
Thor Kaslofsky
B10961FA8449406...

Thor Kaslofsky
Executive Director