

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 06-2024

AUTHORIZING AN AMENDED AND RESTATED LOAN AGREEMENT WITH TRANSBAY 2 FAMILY, L.P., A CALIFORNIA LIMITED PARTNERSHIP, TO INCREASE THE CONTRACT AMOUNT BY \$53,961,845 FOR A TOTAL AGGREGATE LOAN AMOUNT OF \$61,961,845, AND A CHILDCARE/COMMUNITY COMMERCIAL LOAN AGREEMENT WITH TRANSBAY 2 FAMILY COMMERCIAL LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, IN AN AMOUNT OF \$8,676,682, FOR THE DEVELOPMENT OF 184 AFFORDABLE RENTAL HOUSING UNITS (INCLUDING TWO MANAGER'S UNITS), A CHILDCARE FACILITY SPACE, AND TWO COMMUNITY-SERVING COMMERCIAL SPACES AT TRANSBAY BLOCK 2 EAST; PROVIDING NOTICE THAT THIS ACTION IS WITHIN THE SCOPE OF THE TRANSBAY REDEVELOPMENT PROJECT APPROVED UNDER 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 ("DCDG") define and regulate land uses, and Zone Two, in which the Planning Code applies. Zone One is intended to be developed with predominantly residential uses. 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 fund new infrastructure improvements (such as parks and streetscapes) and to meet affordable housing obligations; 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, the DCDG, 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, In accordance with its obligations under the Redevelopment Plan and the Implementation Agreement, OCII intends to fund the development of two affordable housing developments on Block 2 as said block is depicted in the Redevelopment Plan (“Block 2”), by subdividing Block 2 into two vertical subdivisions (referred to herein as “Block 2 East” and “Block 2 West”), providing a subsidy for development and operation of affordable housing developments with ground floor community commercial on Block 2 East and Block 2 West, and entering into ground lease agreements with affordable housing developers to cause the construction and operation of the two developments. OCII 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, The DCDG (as adopted on January 25, 2005 by Resolution No. 15-2005 by the Former Agency Commission, and as amended by Commission on June 16, 2015 by Resolution No. 36-2015 and on June 21, 2016 by Resolution No. 28-2016) states that “[g]round floor commercial spaces are required along the Folsom Boulevard frontage.” DCDG at p. 24, section C.3. of Zone One-Transbay Downtown Residential. The Block 2 East Project includes frontage along Folsom Boulevard and therefore must include commercial space.

WHEREAS, By Resolution No. 09-2021 (April 6, 2021), the Successor Agency entered into an exclusive negotiations agreement with Transbay 2 Senior, L.P., a California limited partnership, an affiliate of Chinatown Community Development Center, Inc. (“CCDC”), and Transbay 2 Family, L.P., a California limited partnership, an affiliate of Mercy Housing California (“Mercy”), as “Co-Developers” to undertake predevelopment activities on Block 2, and construction, pursuant to long-term ground leases with the respective parties for vertical development of a 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 “Block 2 West Project”), and a separate mixed-use affordable rental housing project serving families and families experiencing homelessness on Block 2 East to be owned and operated by Mercy (the “Block 2 East Project”), plus a mid-block pedestrian mews and related streetscape improvements (collectively, the “Block 2 Project”); and,

WHEREAS, By Resolution No. 10-2021 (April 6, 2021), the Successor Agency approved a “Predevelopment Loan Agreement” for a loan to Transbay 2 Family, L.P. (the “Developer”), in an amount of \$3,500,000 to fund predevelopment activities for the Block 2 East Project (“Original Loan”); and,

WHEREAS, The Developer utilized proceeds from the Original Loan to fund professional services for design and engineering, and related costs, and advanced the Block 2 East Project through entitlement. By Resolution No. 43-2022 (November 1, 2022), the Commission approved the Schematic Design Document for the Block 2 East Project, along with related approval actions including adopting environmental review findings pursuant to CEQA.

WHEREAS, The approved Block 2 East Project will provide 184 rental housing units, including 182 units restricted for affordability to households with incomes ranging from 40% to 80% AMI, as defined by the San Francisco Mayor’s Office of Community Housing and Development (“MOHCD”), and two unrestricted manager’s units, with 40 units set aside to serve households experiencing homelessness subsidized by the Local Operating Subsidy Program, and amenities and open spaces (the “Residential Component”). In addition, the Block 2 East Project includes approximately 8,406 square feet of commercial space consisting of a childcare facility space and two (2) community-serving commercial units finished to a warm shell condition (in compliance with MOHCD Commercial Guidelines) (the “Commercial Component”); and,

- WHEREAS, To maximize the ability of the Block 2 East Project to obtain affordable housing financing, Mercy determined that the site work to prepare Block 2 for development of the Block 2 Project, primarily demolition, should be conducted separately and in advance of vertical construction. In addition, the Commercial Component should be constructed by Transbay 2 Family Commercial LLC, an affiliate of Mercy (the “Commercial Affiliate”), within a separate air rights parcel under a childcare and commercial ground lease and childcare/commercial loan agreement. Using this approach, Mercy succeeded in obtaining competitive State affordable housing bond and tax credit allocations on December 6, 2023; and,
- WHEREAS, On August 4, 2023, the Citywide Affordable Housing Loan Committee (the “Loan Committee”) recommended approval of OCII subsidy for the Block 2 East Project in an aggregate amount of up to \$72,972,179 (“Total OCII Subsidy”). The Total OCII Subsidy is comprised of gap loan funds (including predevelopment loan funds) for the Residential Component, commercial loan funds to construct the Commercial Component, and funding for Block 2 site preparation; and,
- WHEREAS, On August 15, 2023, the Successor Agency authorized (i) by Resolution No. 24-2023, a First Amendment to the Predevelopment Loan Agreement to increase the Original Loan by \$4,500,000, (ii) by Resolution No. 25-2023, a commitment for permanent residential gap loan funding for the Block 2 East Project Residential Component, and (iii) by Resolution No. 26-2023, a Horizontal Ground Lease to facilitate and fund work to prepare the site for the Block 2 Project; and,
- WHEREAS, The Residential Component and the Commercial Component are integrated components of the overall Block 2 East Project, with the Commercial Component providing community-focused uses that are beneficial to residents of the Residential Component and the surrounding neighborhood, and the Residential Component providing a stable base of customers for the goods and services provided in the Commercial Component; and,
- WHEREAS, Mercy, through its affiliates, has secured financing and now intends to construct the approved Block 2 East Project; and,
- WHEREAS, The Developer is now requesting to enter into an Amended and Restated Loan Agreement in an amount of \$61,961,845, (the “Residential Loan Agreement”) for the development and operation of the Residential Component on Block 2 East; and,
- WHEREAS, The Commercial Affiliate is now requesting to enter into a Childcare/Community Commercial Loan Agreement in an amount of approximately \$8,676,682 (the “Commercial Loan Agreement”) for the development and operation of the Commercial Component on Block 2 East; and,
- WHEREAS, The Residential Loan Agreement and Commercial Loan Agreement (“Agreements”) allow the MOHCD Director and OCII Executive Director to approve the Final Financial Plan (“FFP”) through a FFP Confirmation Letter (both as defined in the Agreements), which allows them to address changes to the financial conditions of the Agreements after Commission approval but before loan closing. These changes may include reducing the Total OCII Subsidy, adjusting the portion of the Total OCII Subsidy allocated to the Residential Component and

Commercial Component to reflect final project costs, and adjusting the interest rate of the loan between 0% and 3%; and,

WHEREAS, Concurrently with this request, Mercy is seeking Commission authorization (by Resolution No. 07-2024) of a residential ground lease and childcare and commercial ground lease for the development and operation of the Residential Component and the Commercial Component on Block 2 East; 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 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 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 issued between June 2, 2006 and November 1, 2022. The tenth addendum to the FEIS/EIR, issued under Commission Resolution No. 39-2022, specifically analyzed the environmental effects of the Block 2 Project; and,

WHEREAS, OCII staff has reviewed the Agreements, and has found them to be within the scope of the project analyzed in the FEIS/EIR and its subsequent addenda; and,

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

RESOLVED, That the Commission finds its authorization of the Agreements are within the scope of the project analyzed in the FEIS/EIR and require no additional environmental review pursuant to CEQA Guidelines Sections 15180, 15162, 15163, and 15164 for the following reasons:

(1) Implementation of the Agreements do 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 Agreements 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 measures 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 authorizes the Executive Director to: (i) enter into the Residential Loan Agreement with the Developer, substantially in the form of the document approved by legal counsel for OCII on file with the Commission Secretary and attached to the Commission Memorandum accompanying this Resolution, for the development of the Residential Component; (ii) enter into the Commercial Loan Agreement with the Commercial Affiliate, substantially in the form of the document approved by legal counsel for OCII on file with the Commission Secretary and attached to the Commission Memorandum accompanying this Resolution, for the development of the Commercial Component; and (iii) to enter into any and all ancillary documents or to take any additional actions necessary to consummate the transaction contemplated by this Resolution.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of March 19, 2024.

Commission Secretary