#### **BOARD of SUPERVISORS**



City Hall

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#### **MEMORANDUM**

Date:

February 14, 2023

To:

Thor Kaslofsky, Executive Director, Office of Community Investment and

Infrastructure

From:

Angela Calvillo, Clerk of the Board, Board of Supervisors

Subject:

Redevelopment Plan Amendment - Transbay Redevelopment Project

Area - Zone One, Block 2 (File No. 221216)

On January 24, 2023, the Board of Supervisors finally passed Ordinance No. 009-23 sponsored by Supervisor Matt Dorsey (File No. 221216, Redevelopment Plan Amendment - Transbay Redevelopment Project Area - Zone One, Block 2); and approved by Mayor London N. Breed on February 3, 2023.

Please find the attached courtesy copy of the Ordinance for your office's information and consideration.

If you have any questions or concerns, please contact the Office of the Clerk of the Board at (415) 554-5184.

c: Member of the Board of Supervisors; Supervisor Matt Dorsey
Tom Paulino, Mayor's Liaison to the Board of Supervisors
Andres Power, Mayor's Policy Director
Susanna Conine-Nakano, Mayor's Office
Lucinda Nguyen, Office of Community Investment and Infrastructure
Marie Munson, Office of Community Investment and Infrastructure

[Redevelopment Plan Amendment - Transbay Redevelopment Project Area - Zone One, Block 2]

Ordinance approving an amendment to the Redevelopment Plan for the Transbay Redevelopment Project Area to increase bulk limits on Block 2 of Zone One of the Transbay Redevelopment Project Area (Assessor's Parcel Block No. 3739, Lot No. 014, located on the north side of Folsom Street between Beale and Main Streets), by increasing certain maximum floor plate sizes; making findings under the California Community Redevelopment Law; making findings under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

NOTE: Unchanged Code text and uncodified text are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in strikethrough italics Times New Roman font.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in strikethrough Arial font.
Asterisks (\* \* \* \*) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. General Findings.

In accordance with California Community Redevelopment Law (California Health and Safety Code Sections 33000 et seq.), the Board of Supervisors of the City and County of San Francisco hereby makes the following findings, determinations, and declarations, based on the record before it, including but not limited to information contained in the Report to the Board of Supervisors on the Amendment to the Redevelopment Plan for the Transbay Redevelopment Project Area ("Report to the Board"), dated November 1, 2022, and on file with the Clerk of the Board in File No. 221216:

- (a) The Board of Supervisors established the Transbay Redevelopment Project Area ("Project Area") and approved a Redevelopment Plan for the Project Area by Ordinance No. 124-05 and by Ordinance No. 99-06, as amended by Ordinance No. 84-15 and Ordinance No. 62-16 ("Redevelopment Plan") to undertake a variety of projects and activities to alleviate blighting conditions. The Redevelopment Plan establishes the land use controls for the Project Area and divides the Project Area into two subareas, known as Zone 1 and Zone 2.
- (b) In 2003, the State of California adopted California Public Resources Code Section 5027.1, which requires that any redevelopment plan adopted to finance, in whole or in part, the demolition of the former transbay terminal building and the construction of a new terminal, including its associated vehicle ramps (the "Transbay Transit Center," or "TTC"), shall ensure that at least 25% of all dwelling units developed within the Project Area shall be available at affordable housing cost to, and occupied by, persons and families whose incomes do not exceed 60% of the area median income, and that at least an additional 10% of all dwelling units developed within the Project Area shall be available at affordable housing cost to, and occupied by, persons and families whose incomes do not exceed 120% of the area median income, for a total 35% affordable housing obligation ("Transbay Affordable Housing Obligation").
- (c) Also in 2003, the State of California, acting through its Department of Transportation ("State") entered into an agreement with the Transbay Joint Powers Authority ("TJPA") and the City ("Cooperative Agreement") whereby the State agreed to transfer approximately 10 acres of State-owned property ("State-Owned Parcels") in and around the former transbay terminal to the City and the TJPA, which would then sell the State-Owned Parcels and use the revenues from the sales to finance the TTC.

- (d) In 2006, the TJPA and the former San Francisco Redevelopment Agency ("Former Agency") executed an agreement ("Implementation Agreement"), which required the Former Agency to take the lead role in facilitating the development of the State-Owned Parcels.
- (e) The Implementation Agreement required the Former Agency to: (1) prepare and sell the State-Owned Parcels to third parties; (2) deposit the sale proceeds into a trust account to help the TJPA pay the cost of constructing the TTC; (3) implement the Redevelopment Plan to enhance the financial feasibility of the TTC; and (4) fund the statement of the Transbay Affordable Housing Obligation.
- (f) In 2008, the City, the Former Agency, and the TJPA granted the Former Agency an option to acquire the State-Owned Parcels, arrange for development of the parcels, and distribute the net tax increment to the TJPA to use for the TTC ("2008 Option Agreement").
- (g) On February 1, 2012, the State of California dissolved all redevelopment agencies, including the Former Agency, and required the transfer of certain of the Former Agency's assets and obligations to the Successor Agency to the Redevelopment Agency of the City and County of San Francisco ("Successor Agency," commonly known as the Office of Community Investment and Infrastructure, or "OCII"). Cal. Health & Safety Code §§ 34170 et seq. ("Redevelopment Dissolution Law"). On June 27, 2012, the Redevelopment Dissolution Law was amended to clarify that successor agencies are separate public entities from the city or county that had originally established a redevelopment agency and they succeed to the organizational status of the former redevelopment agency to complete any work related to an approved enforceable obligation. Cal. Health & Safety Code § 34173(g).
- (h) The Board of Supervisors, acting as the legislative body of the Successor Agency, adopted Ordinance No. 215-12, which, among other matters: (a) acknowledged and confirmed that the Successor Agency is a separate legal entity from the City; and (b) established the Successor Agency Commission ("OCII Commission") and delegated to it the

authority to (i) implement, modify, enforce, and complete the Former Agency's enforceable obligations, (ii) approve all contracts and actions related to the assets transferred to or retained by the Successor Agency, including, without limitation, the authority to exercise land use, development, and design approval, consistent with the applicable enforceable obligations, and (iii) take any action that the Redevelopment Dissolution Law requires or authorizes on behalf of the Successor Agency and any other action that the OCII Commission deems appropriate, consistent with the Redevelopment Dissolution Law, to comply with such obligations.

- (i) Pursuant to the Redevelopment Dissolution Law, all of the Former Agency's assets (other than certain housing assets) and obligations were transferred to the Successor Agency.
- (j) Under Redevelopment Dissolution Law, the Successor Agency's role is to complete those enforceable obligations of the Former Agency that the California Department of Finance has finally and conclusively approved under Redevelopment Dissolution Law. On April 15, 2013, the Department of Finance determined "finally and conclusively," under Cal. Health & Safety Code, Section 34177.5(i), that the Implementation Agreement, Transbay Affordable Housing Obligation, and the Transbay Redevelopment Project Tax Increment Allocation and Sales Proceeds Pledge Agreement ("Pledge Agreement") are enforceable obligations; and
- (k) Transbay Redevelopment Plan Block 2 (Assessor's Block 3739, Lot 014) is a former State-Owned Parcel subject to the 2008 Option Agreement, constituting approximately 42,627 square feet and located within the Project Area at 200 Folsom Street, bounded by Folsom, Main, and Beale Streets and extending approximately 155 feet northwest from Folsom Street (the "Site").
- (I) On January 7, 2021, the Successor Agency exercised its rights to acquire Block 2 from the TJPA.

- (m) Through a competitive request for proposals process, the Successor Agency selected Mercy Housing California and Chinatown Community Development Center (the "Sponsors") to co-develop the Site. Pursuant to an Exclusive Negotiations Agreement between the Successor Agency and affiliates of the Sponsors (approved as OCII Commission Resolution No. 09-2021), the Sponsors have engaged in predevelopment activities for the Site and have proposed the development of two mixed-use residential buildings as well as related public and private open space and streetscape improvements. The building on the eastern side of the Site includes 184 rental housing units that will serve low-income households and formerly homeless households, resident-serving amenities, approximately 1,959 square feet of retail space, and an approximately 6,447 square foot childcare facility. The building on the western portion of the Site includes 151 rental housing units that will serve low-income senior households and formerly homeless seniors, resident-serving amenities, and approximately 2,945 square feet of retail space. The two buildings combined comprise the "Block 2 Project".
- (n) The Redevelopment Plan specifies the land use of Block 2 as "Transbay Downtown Residential" and specifies that the maximum residential floor plates for buildings between 85 feet and 250 feet in height shall not exceed 7,500 square feet.
- (o) The OCII Commission recommends approval of a proposed amendment to the Redevelopment Plan (the "Plan Amendment"), which would increase the maximum floor plate size on Block 2 to 11,100 square feet for that portion of buildings over 85 feet but no more than 144 feet in height, and increase the maximum floor plate size to 9,200 square feet for that portion of buildings over 144 feet but no more than 165 feet in height.
- (p) The Plan Amendment would make no other substantial change to the authorized land uses or physical controls under the Redevelopment Plan. The OCII Commission recommends the Plan Amendment to achieve the goals and objectives set for the Redevelopment Plan, including, among others, the creation of housing opportunities that

provide a mixture of housing types and sizes to attract a diverse residential population, including families and people of all income levels.

- (q) The OCII Commission also recommends the proposed Plan Amendment because it implements the Transbay Affordable Housing Obligation. The Plan Amendment will facilitate development of approximately 31 additional housing units on Block 2 than would be possible under the existing bulk limitations, for a total of 335 units. With the exception of two unrestricted manager's units, all of the Block 2 residential units will be permanently restricted for affordability to extremely low- and low-income households (ranging between 15% and 70% of area median income).
- (r) The Transbay Citizens Advisory Committee ("CAC") has reviewed and been apprised of the proposal for development of Block 2. On September 8, 2022, the CAC voted and recommended approval of the Plan Amendment by the OCII Commission and the Board of Supervisors.
- (s) Sections 33450-33458 of the California Health & Safety Code establish a process to amend a redevelopment plan. As applicable, this process includes a publicly noticed hearing of the OCII Commission; environmental review, if required; adoption of the Plan Amendment by the OCII Commission after the public hearing; preparation of a Report to the Board of Supervisors; referral of the Plan Amendment to the Planning Commission for its report and recommendation; a publicly noticed hearing of the Board of Supervisors, and Board of Supervisors consideration after its hearing. Pursuant to Health & Safety Code Section 33457.1, a proposed amendment to a redevelopment plan requires the preparation and public availability of reports and information that would otherwise be required for a redevelopment plan adoption "to the extent warranted" by the proposed amendment.
- (t) The Successor Agency prepared the Report to the Board, and made the Report to the Board available to the public before the date of the notice of the OCII Commission public

hearing, held in accordance with Health & Safety Code Section 33454, on this ordinance approving the Plan Amendment.

- (u) On November 1, 2022, after holding a duly noticed public hearing in accordance with Health & Safety Code Section 33452, the OCII Commission, by Resolution Nos. 40-2022 and 41-2022, approved the Report to the Board and authorized its transmittal to the Board of Supervisors for its background information in considering the proposed Plan Amendment; referred the Plan Amendment to the Planning Commission for its report and recommendation on the Plan Amendment and its conformance to the General Plan; made findings under the California Environmental Quality Act ("CEQA"); approved the Plan Amendment; and recommended the Plan Amendment to the Board of Supervisors for its approval. Copies of the Plan Amendment and OCII Commission Resolution Nos. 40-2022, and 41-2022 are on file with the Clerk of the Board of Supervisors in File No. 221216, and are incorporated herein by reference.
- (v) On January 10, 2022, the Board of Supervisors held a public hearing on the adoption of the proposed Plan Amendment in the Board Legislative Chamber, 1 Dr. Carlton B. Goodlett Place, Room 250, San Francisco, CA. The hearing has been closed. Notice of such hearing was duly and regularly published in a newspaper of general circulation in the City and County of San Francisco, once per week for three successive weeks prior to the date of such hearing in accordance with Health and Safety Code Section 33452. The Board considered the Report on the Plan Amendment and recommendations of the OCII Commission, the Planning Commission report and recommendations, applicable environmental review documents; and all evidence and testimony for and against the proposed Plan Amendment. The Board hereby adopts findings to the extent required by the Health and Safety Code.

# Section 2. Environmental and Planning Code Findings.

- (a) On April 22, 2004, after a duly noticed joint public hearing with the Peninsula Corridor Joint Powers Board (the "JPB"), in Motion No. 16773, the Planning Commission certified as adequate and complete the final Environmental Impact Statement/Environmental Impact Report ("Final EIS/EIR") for the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project (Planning Department Case No. 2000.048E) in accordance with CEQA, the CEQA Guidelines (Cal. Code of Regulations Title 14, sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code. Said Motion is on file with the Clerk of the Board of Supervisors in File No. 041079 and is incorporated herein by reference.
- (b) On April 20, 2004, in Resolution No. 45-2004, the Former Agency, at a duly noticed public hearing, also certified the Final EIS/EIR and made findings similar to those of the Commission and JPB in regard to CEQA and the CEQA Guidelines.
- (c) In 2004, the Board of Supervisors, in Motion No. 04-67, affirmed the certification of the FEIS/EIR. In Resolution No. 612-04, effective October 7, 2004, the Board of Supervisors adopted findings that various actions related to the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project complied with CEQA. Also, in 2005 and 2006, the Board of Supervisors adopted, in Ordinance Nos. 124-05 and 99-06, additional CEQA findings. Said Motion, Resolution, and the CEQA Findings are on file with the Clerk of the Board of Supervisors in File Nos. 041079 and 221216 and are incorporated herein by reference. Subsequent to the adoption of the Final EIS/EIR, the Former Agency, the Successor Agency or other responsible agencies under CEQA/NEPA have approved and incorporated nine addenda into the analysis of the Final EIS/EIR (as incorporated, the "FEIS/EIR") and made requisite findings under CEQA (findings referenced in recital (a) and (b) collectively referred to as the "CEQA Findings"), which documents are on file with the Clerk of the Board of Supervisors in File No. 221216 and is incorporated herein by reference.

- (d) The Successor Agency, as lead agency under CEQA and in consultation with the Planning Department, prepared Addendum No. 10 to the EIS/EIR, dated October 26, 2022 ("Addendum"). The Addendum evaluates the environmental effects of the Block 2 Project.
- (e) On November 1, 2022, after a duly noticed public hearing, the OCII Commission determined, by Resolution No. 39-2022, that: the Block 2 Project would not cause new significant impacts that were not identified in the EIS/EIR; the Block 2 Project would not cause significant impacts that were previously identified in the EIS/EIR to become substantially more severe; no new mitigation measures would be necessary to reduce significant impacts; no changes have occurred with respect to circumstances surrounding the Block 2 Project that would cause significant environmental impacts to which the Project would contribute considerably; and no new information has become available that shows that the Block 2 Project would cause significant environmental impacts. For these reasons, no supplemental environmental review is required. This determination is on file with the Clerk of the Board of Supervisors in File No. 221216 and is incorporated herein by reference.
- (f) The Board of Supervisors, acting in its capacity as a responsible agency under CEQA, has reviewed and considered the EIS/EIR and the Addendum, and hereby adopts the CEQA findings set forth in OCII Commission Resolution No. 39-2022 and Planning Commission Motion No. 21213 and hereby incorporates such findings by reference as though fully set forth in this ordinance.
- (g) On December 1, 2022, the Planning Commission, in Motion No. 21213, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 221216, and is incorporated herein by reference.

Section 3. Purpose and Intent. The purpose and intent of the Board of Supervisors with respect to the Plan Amendment is to increase the maximum floor plate sizes for buildings on Block 2, as described above, for the purpose of allowing the Successor Agency to consider approval of the Block 2 Project, and to increase the amount of affordable housing on Block 2, which will contribute to and complement the overall goals and objectives of the Redevelopment Plan, facilitate the Successor Agency's actions to complete the Affordable Housing Obligation, and expeditiously wind down the activities of the dissolved redevelopment agency as required under Redevelopment Dissolution Law.

Section 4. Plan Incorporation by Reference. The Redevelopment Plan as amended by this ordinance is incorporated in and made a part of this ordinance by this reference with the same force and effect as though set forth fully in this ordinance.

Section 5. Redevelopment Plan Amendment. Subsection 3.5.2 of the Redevelopment Plan is hereby amended to read as follows:

# 3.5.2 Height and Size of Buildings

The Zone One Plan Map and the table and text below illustrate the heights and floor plate sizes permitted for residential buildings in Zone One.

# Maximum Floor Plates for Residential Buildings

Building Height (feet)	Maximum Floor Plate Size (square feet)
85 – 250	7,500*
251 – 300	10,000
301 – 350	10,500
351 - 400	11,000
401 – 450	11,500
451 – 500	12,000
501 – 550	13,000

\* On Transbay Block 2, a Maximum Floor Plate Size of 11,100 square feet is permitted for the portion of the building between 85 feet and 144 feet in height and a Maximum Floor Plate Size of 9,200 square feet is permitted for the portion of the building between 144 feet and 165 feet in height.

For residential towers above 500 feet in total height, the average floor plate size of the portion of the tower above 350 feet must not exceed 12,000 square feet. Below 85 feet, no bulk controls will apply.

Section 6. Further Findings and Determinations Under Community Redevelopment Law. To the extent required by the Community Redevelopment Law, the Board of Supervisors hereby further finds, determines, and declares, based on the record before it, including but not limited to information contained in the Report on the Plan Amendment, that:

- (a) The purpose of the Plan Amendment is to increase, on Block 2 in Zone One of the Project Area, the number of residential units in a larger, mid-rise building, which would be consistent with the Redevelopment Plan goals and objectives, provide a significant amount of affordable housing, and comply with the Redevelopment Dissolution Law's requirements for expeditious completion of enforceable obligations.
- (b) The adoption and carrying out of the Plan Amendment are economically sound and feasible. The Plan Amendment does not propose any new capital expenditures by the Successor Agency, involve any new indebtedness or financial obligation of the Successor Agency, or change the Successor Agency's overall method of financing the redevelopment of the Project Area. By facilitating increased density on Block 2, the Plan Amendment provides for greater efficiencies in the Successor Agency's efforts to comply with the Transbay Affordable Housing Obligation. The Successor Agency has taken and will take steps to fund the Block 2 Project in compliance with existing enforceable obligations.

- (c) Although significant improvements have occurred in the Project Area since adoption of the Redevelopment Plan, Block 2 remains an undeveloped and blighted area previously used as the temporary Transbay Bus Terminal, and is currently vacant. The Plan Amendment will alleviate the adverse physical and economic conditions on Block 2 by maximizing developable square feet and increasing dwelling unit count.
- (d) For the reasons set forth in Sections 1 and 2 of this ordinance, the Plan

  Amendment is consistent with the General Plan and is consistent with the priority policies in

  Planning Code Section 101.1, based on the findings set forth in Planning Commission Motion

  No. 21213, which findings this Board has incorporated as its own.
- (e) The Plan Amendment will not adversely affect the physical or social quality of the neighborhood, nor will it cause the destruction or removal of housing units from the low- and moderate-income housing market or displacement of low- or moderate-income housing. Rather, the Plan Amendment, by facilitating a greater density of development at a site designated for residential use, will increase the supply of affordable housing in the Project Area.
- (f) The carrying out of the Plan Amendment will promote the public peace, health, safety, and welfare of the community and would effectuate the purposes and policy of the Community Redevelopment Law, as amended by the Redevelopment Dissolution Law.

Section 7. Official Plan. As required by Health and Safety Code Sections 33457.1 and 33367, the Board of Supervisors hereby approves and adopts the Redevelopment Plan, as amended by the Plan Amendment, as the official redevelopment plan for the Project Area.

Section 8. Continued Effect of Previous Ordinances as Amended. Ordinance Nos. 124-05, 99-06, 84-15, and 62-16 remain in full force and effect as amended by this Ordinance.

Section 9. Transmittal of Plan as Amended. The Clerk of the Board of Supervisors shall without delay: (a) transmit a copy of this ordinance to the Successor Agency, whereupon the Successor Agency shall be vested with the responsibility for carrying out the Redevelopment Plan as amended; and (b) record or ensure that the Successor Agency records a notice of the approval and adoption of the Plan Amendment pursuant to this ordinance, containing a statement that the proceedings for the redevelopment of the Project Area pursuant to the Plan Amendment have been instituted as required under Community Redevelopment Law.

Section 10. Effective Date. In accordance with Sections 33378(b)(2) and 33450 of the Community Redevelopment Law, this ordinance shall become effective 90 days from the date of enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 11. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Redevelopment Plan that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.

# APPROVED AS TO FORM: DAVID CHIU, City Attorney

/s/ Peter R. Miljanich PETER R. MILJANICH By: **Deputy City Attorney** 

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# City and County of San Francisco Tails

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

#### Ordinance

File Number: 221216

Date Passed: January 24, 2023

Ordinance approving an amendment to the Redevelopment Plan for the Transbay Redevelopment Project Area to increase bulk limits on Block 2 of Zone One of the Transbay Redevelopment Project Area (Assessor's Parcel Block No. 3739, Lot No. 014, located on the north side of Folsom Street between Beale and Main Streets), by increasing certain maximum floor plate sizes; making findings under the California Community Redevelopment Law; making findings under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

January 10, 2023 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

January 24, 2023 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 221216

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 1/24/2023 by the Board of Supervisors of the City and County of San Francisco.

London N. Breed Mayor /3/23

Date Approved

Angela Calvillo Clerk of the Board