


**CITY AND COUNTY OF SAN FRANCISCO**

**BOARD OF SUPERVISORS**

**BUDGET AND LEGISLATIVE ANALYST**

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292  
FAX (415) 252-0461

July 7, 2023

**TO:** Government Audit and Oversight Committee  
**FROM:** Budget and Legislative Analyst   
**SUBJECT:** July 13, 2023 Government Audit and Oversight Committee Meeting

**TABLE OF CONTENTS**

<b>Item</b>	<b>File</b>	<b>Page</b>
1	23-1163 Development Agreement - 98 Franklin Street, LLC - 98 Franklin Street; Certain Administrative Code Waivers.....	1

<p><b>Item 1</b> <b>File 22-1163</b></p>	<p><b>Department:</b> Office of Economic and Workforce Development (OEWD)</p>
--	---

**EXECUTIVE SUMMARY**

**Legislative Objectives**

- The proposed ordinance approves a Development Agreement between the City and 98 Franklin Street, LLC. The proposed Agreement provides for dedication of land for development of affordable housing and waives all but \$1,000,000 in applicable affordable housing fees.

**Key Points**

- Under the proposed development agreement, the 98 Franklin Street developer would have the right to develop the property with the modified land use approvals for a period of five years. The agreement also requires the developer to do the following before issuance of the first construction document for the project: (a) dedicate to the City, at no cost, the property for construction of a 100 percent affordable housing project to meet the City’s Inclusionary Housing requirement; and (b) pay \$1,000,000 to the City for deposit into the Citywide Affordable Housing Fund.
- According to OEWD staff, modifications to the approvals for the project are being accomplished through a development agreement in order to: (a) allow the waiver of two affordable housing fees; and (b) to memorialize the City’s intent to dedicate the \$1 million in funds to development of Parcel K, which is located at the southeast intersection of Hayes Street and Octavia Boulevard.
- The Mayor’s Office of Housing and Development Executive Director submitted a letter on June 16, 2023, accepting 600 McAllister Street as a dedicated site for affordable housing development rather than 600 Van Ness. As noted in the legislation, the proposed ordinance does not constitute an approval of any new or revised project located at the affordable housing site.

**Fiscal Impact**

- The proposed development agreement would waive approximately \$5.0 million in affordable housing fees.

**Recommendation**

- Approve the proposed ordinance.

## MANDATE STATEMENT

Administrative Code Chapter 56 provides for the City to enter into development agreements with private developers for housing and mixed-use developments to reduce the risk of large developments for the developer while requiring public benefits as part of the development that exceed those required by existing ordinances and regulations. Section 56.14 provides for Board of Supervisors approval of such development agreements.

## BACKGROUND

98 Franklin Street LLC is the property owner and developer for the 98 Franklin Street project (the Project), which is located on the east side of Franklin Street between Oak and Market Streets.<sup>1</sup> In December 2017, the Developer submitted development applications to construct a new 36-story mixed use building on the project site. The proposed project would reach a height of 365 feet and would include 345 dwelling units, 84,815 gross square feet of school use floor area, 3,229 square feet of retail space, and 111 parking spaces located below ground.

In May 2020, the Planning Commission granted initial approvals to the project. In accordance with the City's Inclusionary Housing Program<sup>2</sup>, the approvals restricted 20 percent of the project's dwelling units as affordable, or 69 of the 345 dwelling units.

The financial feasibility of the project has been impacted by rising construction costs, falling rents, and reduced availability of financing for affordable housing. The developer is now requesting to amend the initial approvals and enter into a development agreement to:

- a) Increase the project's height to 400 feet from 365 feet, which would allow for 385 dwelling units, an increase of 40 units;
- b) Change the project's method for meeting the City's inclusionary Housing requirement from constructing on-site units to dedicating land to the City for the development of a 100 percent affordable housing project; and
- c) Waive all but \$1,000,000 of the Market and Octavia, and Van Ness and Market affordable housing fees.

Companion legislation that would (a) amend the zoning map to allow the project to be built to 400 feet, and (b) make clerical updates to the option for dedication of land for development projects located in the Van Ness & Market Residential Special Use District to fulfill the inclusionary housing requirement is also pending approval by the Board of Supervisors (File 22-

---

<sup>1</sup> The French-American International school, a private school and the property owner, partnered with Related Companies to develop the project.

<sup>2</sup> The City's Inclusionary Housing Program (Planning Code Section 415) requires developers of residential developments with at least 10 units to construct on-site or off-site affordable units, pay an in-lieu fee, or donate land to the City for affordable housing development (the latter option only available for developments in certain neighborhoods or districts).

1164). The Planning Commission approved the proposed development agreement and the proposed changes to the Planning Code and zoning map on March 30, 2023.

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance approves a Development Agreement between the City and 98 Franklin Street, LLC for the 98 Franklin Street Project. The proposed Agreement provides for dedication of land for development of affordable housing and waives all but \$1,000,000 in applicable affordable housing fees. The proposed ordinance also (i) waives certain provisions of Administrative Code, Chapter 56;<sup>3</sup> (ii) adopts findings under the California Environmental Quality Act (CEQA), and (iii) makes findings of conformity with the General Plan, and with the eight priority policies of Planning Code, Section 101.1(b), and findings of public convenience, necessity, and welfare under Planning Code, Section 302.

**Development Agreement Summary**

Under the proposed development agreement, the developer would have the right to develop the property with the modified land use approvals for a period of five years. The agreement also requires the developer to do the following before issuance of the first construction document for the project: (a) dedicate to the City, at no cost, the property located at 600 Van Ness or a comparable site for construction of a 100 percent affordable housing project to meet the City’s Inclusionary Housing requirement; and (b) pay \$1,000,000 to the City for deposit into the Citywide Affordable Housing Fund.

According to OEWD staff, modifications to the approvals for the project are being accomplished through a development agreement in order to: (a) allow the waiver of two affordable housing fees; and (b) to memorialize the City’s intent to dedicate the \$1 million in funds to development of Parcel K, which is located at the southeast intersection of Hayes Street and Octavia Boulevard.

The Mayor’s Office of Housing and Community Development submitted a letter, dated June 16, 2023, stating that the “Mayor’s Office of Housing and Community Development (MOHCD) conditionally accepts the dedication of 600 McAllister Street (Site) for affordable housing development from Related California Residential, LLC (Residential Developer), as satisfaction of affordable housing obligations generated by the 98 Franklin Street principal development project”. The 600 McAllister Street site would replace the 600 Van Ness Avenue site referenced in the subject ordinance.

**Community Benefits**

The Planning Department has determined that the modifications to the 98 Franklin Street project granted by the proposed development agreement would result in benefits to the public that

---

<sup>3</sup> The proposed ordinance finds that Chapter 56 of the Administrative Code has been substantially complied with and waives procedural or other requirements that have not been complied with. According to OEWD staff, this is a standard clause for development agreements because Chapter 56 contains outdated clauses.

could not otherwise be obtained, as the development agreement will provide an affordable housing contribution that exceeds City requirements.

**Land Dedication for Affordable Housing Development**

According to the proposed ordinance, the land dedication for 100 percent affordable housing development would be for 600 Van Ness Avenue or other real property acceptable to the Mayor’s Office of Housing and Community Development (MOHCH). As noted above, the MOHCD Executive Director submitted a letter on June 16, 2023, accepting 600 McAllister Street as a dedicated site for affordable housing development. According to the June 16, 2023 letter, conditions of the land dedication include:

- Schedule of delivery of land;
- Fee title interest to the Site must be conveyed clear of all title exceptions except those that MOHCD in its sole discretion accepts;
- Demolition of existing structures on the site at the sponsor’s expense; and
- Findings by the Planning Department of consistency with the General Plan.

The 600 McAllister site is an 8,295 vacant lot with an assessed value of \$598,000. According to the Office of Economic and Workforce Development, the site could potentially be developed with 196 residential units, as shown in Exhibit 1 below.

**Exhibit 1: Proposed Change in Market Rate and Affordable Units: 98 Franklin and 600 McAllister**

	<b>Initial Approvals</b>	<b>Proposed Change</b>	<b>Change in Units</b>	<b>Percent Change</b>
Market Rate Units	276	385	109	40%
Affordable Units	69	196	127	180%
<b>Total Units</b>	<b>345</b>	<b>581</b>	<b>236</b>	<b>68%</b>

Source: Office of Economic and Workforce Development

*Compliance with Inclusionary Housing Requirement*

The proposed land dedication complies with Planning Code Section 415, related to inclusionary units, and Section 249.33, which allows for development projects in the Van Ness & Market Residential Special Use District to fulfill the City’s Inclusionary Housing requirement by dedicating land for affordable housing provided that: (a) the dedicated land can accommodate at least 35 percent of the number of units in the principal development project; and (b) the dedicated land is located within one mile of the boundaries of either the Market and Octavia Plan Area or the Upper Market NCT District.

The proposed affordable housing site at 600 McAllister Street is approximately one-half mile from the Market and Octavia Plan Area. 600 McAllister Street is currently a parking lot. Planning Commission approval documents for 600 McAllister Street development were not available, but information provided by the Office of Economic and Workforce Development identified 196

residential units on the site, exceeding the requirement that the site develop at least 35 percent of the number of units of the principal project.

### **Affordable Housing Fees Waived**

The Development Agreement waives certain affordable housing fees required by the Planning Code. The Developer is required to pay the Van Ness & Market Affordable Housing fee under Planning Code Section 424 with an estimated value of \$3.2 million and the Market and Octavia Affordable Housing fee under Planning Code Section 416 with an estimated value of approximately \$2.8 million. The proposed agreement would fully waive the Van Ness & Market Affordable Housing fee and would waive all but \$1 million of the Market and Octavia Affordable Housing fee, for a total of \$5.0 million waived out of \$6.0 million in affordable housing fees.<sup>4</sup> The proposed ordinance states that the City intends to dedicate the \$1 million in funds to development of Parcel K.<sup>5</sup> No impact fees would be waived until the City accepts title to the land to be used to develop affordable housing.

Exhibit 2 below shows the impact fees assessed and waived under the proposed development agreement. Impact fees assessed on the project total \$29.4 million and impact fees waived total \$5.0 million.

### **Exhibit 2: Impact Fees Assessed and Waived**

<b>Impact Fee</b>	<b>Planning Code Section</b>	<b>Fees Assessed</b>	<b>Fees Waived</b>
Transportation Sustainability Fee	411A	\$7,390,097	
Residential Child Care Impact Fee	414A	1,098,995	
Market and Octavia Community Improvements Fee	421	7,439,340	
Market and Octavia Affordable Housing Fee	416	1,000,000	1,759,976
Van Ness & Market Affordable Housing Fee	424		3,200,000
Van Ness & Market Neighborhood Infrastructure Fee	424	9,874,482	
Van Ness & Market Community Facilities Fee	425	561,986	
Public Art	429	2,000,000	
<b>Total</b>		<b>\$29,364,900</b>	<b>\$4,959,976</b>

Sources: Planning Department Estimated Fee Report, OEWD

<sup>4</sup> Planning Code Section 249.33 states that development projects that dedicate land to fulfill the Inclusionary Housing requirement may be eligible for a waiver against all or a portion of affordable housing fees under Sections 416 and 424 if the Planning Director determines that the land acquisition costs exceed the development project's fee obligations. According to OEWD staff, such determination is not needed under the proposed development agreement.

<sup>5</sup> According to MOHCD staff, MOHCD expects to issue a Request for Qualifications to identify a developer for Parcel K by the end of 2023.

**FISCAL IMPACT**

The proposed development agreement would waive approximately \$5.0 million in affordable housing fees as shown in Exhibit 1 above and provide for the dedication of 600 McAllister Street to the City for construction of a 100 percent affordable housing project.

**RECOMMENDATION**

Approve the proposed ordinance.