

1 [Disposition and Development Agreement - Golub Real Estate and Mercy Housing - 280  
2 Beale Street (Transbay Block 6) - \$30,000,000]

3 **Resolution retroactively approving and authorizing the Office of Community**  
4 **Investment and Infrastructure, as Successor Agency to the San Francisco**  
5 **Redevelopment Agency, to enter into a Disposition and Development Agreement for**  
6 **the sale and development of land located at 280 Beale Street, Assessor's Parcel No.**  
7 **3738-004, commonly known as Transbay Block 6, with Golub Real Estate Corporation,**  
8 **an Illinois corporation, and Mercy Housing California, a California non-profit public**  
9 **benefit corporation beginning April 16, 2013.**

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11 WHEREAS, The California Legislature in 2003 enacted Assembly Bill 812 ("AB 812")  
12 authorizing the demolition of the historic Transbay Terminal building and the construction of  
13 the new Transbay Transit Center ("TTC") (Stat. 2003, Chapter 99, codified at § 5027.1 of the  
14 Cal. Public Resources Code). AB 812 also mandated that 25% of the residential units  
15 developed in the area around the Center "shall be available to" low income households, and  
16 an additional 10% "shall be available to" moderate income households if the City and County  
17 of San Francisco ("City") adopted a redevelopment plan providing for the financing of the  
18 Center; and

19 WHEREAS, In 2003, in an agreement with the Transbay Joint Powers Authority  
20 ("TJPA") and the City, the State agreed to transfer approximately 10 acres of State-owned  
21 property ("State-owned parcels") in and around the then-existing Transbay Terminal to the  
22 City and the TJPA, which would then sell the State-owned parcels and use the revenues from  
23 the sales to finance the Center ("Cooperative Agreement"). The City agreed, among other  
24 things, to commit the property tax revenue from the State-owned parcels through its  
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1 Redevelopment Agency to the Center. Under the Cooperative Agreement, the State relied on  
2 tax increment financing under a redevelopment plan to improve and sell the parcels; and

3 WHEREAS, The Board of Supervisors of the City and County of San Francisco  
4 approved a Redevelopment Plan for the Transbay Redevelopment Project Area (“Project  
5 Area”) by Ordinance No. 124-05, adopted on June 21, 2005 and by Ordinance No. 99-06,  
6 adopted on May 9, 2006 (“Redevelopment Plan”). The Redevelopment Plan provided for the  
7 financing of the TTC and established a program for the Redevelopment Agency of the City  
8 and County of San Francisco (“Former Agency”) to redevelop and revitalize the blighted  
9 Project Area; and

10 WHEREAS, In 2006, the TJPA and the Former Agency executed an agreement  
11 (“Implementation Agreement”), which required the Former Agency to take the lead role in  
12 facilitating the development of the State-owned parcels. Specifically, the Implementation  
13 Agreement required the Former Agency to: (1) prepare and sell the State-owned parcels to  
14 third parties, (2) deposit the sale proceeds into a trust account to help the TJPA pay the cost  
15 of constructing the TTC, (3) implement the Redevelopment Plan to enhance the financial  
16 feasibility of the Project, and (4) fund the state-mandated affordable housing program; and

17 WHEREAS, In 2008, the City, the Former Agency and the TJPA entered into an  
18 agreement that granted options to the Former Agency to acquire the State-owned parcels,  
19 arrange for development of the parcels, and distribute the net tax increment to the TJPA to  
20 use for the Center (“Option Agreement”). The Option Agreement provided the means by  
21 which the Former Agency could fulfill its obligations under the Implementation Agreement to  
22 prepare and sell the State-owned parcels. The Option Agreement granted to the Former  
23 Agency “the exclusive and irrevocable option to purchase” the former State-owned parcels in  
24 the Project Area that are programmed for development, which are listed in the Option  
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1 Agreement, including Blocks 2-12 and Parcel F (Section 2.1 of the Option Agreement at p. 4);  
2 and

3 WHEREAS, On July 6, 2011, pursuant to the Implementation Agreement, the Former  
4 Agency issued a Request for Proposals (“RFP”) from development teams to design and  
5 develop a high-density, mixed-income residential project on Blocks 6/7 in the Project Area.  
6 On December 6, 2011, after a competitive selection process, the Former Agency Commission  
7 authorized staff to enter into negotiations for the development of Blocks 6/7 with the  
8 development team lead by Golub Real Estate Corp. (“Golub”) and Mercy Housing California  
9 (“Mercy”); and

10 WHEREAS, On February 1, 2012, the Former Redevelopment Agency was dissolved  
11 pursuant to the provisions of California State Assembly Bill No. 1X 26 (Chapter 5, Statutes of  
12 2011-12, First Extraordinary Session) (“AB 26”), codified in relevant part in California’s Health  
13 and Safety Code Sections 34161 – 34168 and upheld by the California Supreme Court in  
14 California Redevelopment Assoc. v. Matosantos, No. S194861 (Dec. 29, 2011). On June 27,  
15 2012, AB 26 was subsequently amended in part by California State Assembly Bill No. 1484  
16 (Chapter 26, Statutes of 2011-12) (“AB 1484”). (Together, AB 26 and AB 1484 are referred to  
17 as the “Redevelopment Dissolution Law.”); and

18 WHEREAS, Pursuant to the Redevelopment Dissolution Law, all of the Former  
19 Redevelopment Agency’s assets (other than housing assets) and obligations were transferred  
20 to the Office of Community Investment and Infrastructure (“OCII”), as Successor Agency to  
21 the Former Agency. Some of the Former Agency’s housing assets were transferred to the  
22 City, acting by and through the Mayor’s Office of Housing (“MOH”); and

23 WHEREAS, Redevelopment Dissolution Law authorizes successor agencies to enter  
24 into new agreements if they are “in compliance with an enforceable obligation that existed  
25 prior to June 28, 2011.” Cal. Health & Safety Code § 34177.5 (a). Under this limited

1 authority, a successor agency may enter into contracts if a pre-existing enforceable obligation  
2 requires that action. See also Cal. Health & Safety Code § 34167 (f) (providing that the  
3 Redevelopment Dissolution Law does not interfere with an agency’s authority under  
4 enforceable obligations to “enforce existing covenants and obligations, or . . . perform its  
5 obligation.”). The Implementation Agreement and several other Transbay obligations are  
6 “enforceable obligations” requiring OCII to take the actions proposed by this Resolution. Cal.  
7 Health & Safety Code § 34171 (d) (1); and

8 WHEREAS, Under Redevelopment Dissolution Law, a successor agency may request  
9 that the Department of Finance (“DOF”) “provide written confirmation that its determination of  
10 [an] enforceable obligation as approved in a Recognized Obligation Payment Schedule  
11 [“ROPS”] is final and conclusive.” Cal. Health & Safety Code § 34177.5 (i). To be eligible for  
12 a final and conclusive determination, the enforceable obligation must provide for the  
13 “irrevocable commitment of property tax revenue and . . . the allocation of such revenues is  
14 expected to occur over time.” Id. If DOF issues a final and conclusive determination, DOF  
15 will not question the existence of the enforceable obligation in the future, but may still review  
16 whether specific payments under the enforceable obligation, as appearing on a ROPS, “are  
17 required,” Id; and

18 WHEREAS, On November 7, 2012, the Successor Agency submitted a request to  
19 DOF that it determine “finally and conclusively” that the Transbay Implementation Agreement,  
20 AB 812, and the Transbay Redevelopment Project Tax Increment Allocation and Sales  
21 Proceeds Pledge Agreement (“Pledge Agreement”) are enforceable obligations. The request  
22 explained that each of these obligations had previously appeared on a DOF-approved ROPS,  
23 that they met the statutory definition of an “enforceable obligation” and that they required the  
24 commitment of property tax revenue over time; and

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1           WHEREAS, On April 15, 2013, DOF determined “finally and conclusively” that the  
2 Implementation Agreement, AB 812, and the Pledge Agreement are enforceable obligations  
3 that will not require additional DOF review in the future. Significantly, the effect of this DOF  
4 determination is to allow OCII to take the actions proposed under this Resolution, without  
5 additional review, because they are “in compliance with an enforceable obligation,” Cal.  
6 Health & Safety Code § 34177.3; and

7           WHEREAS, The original proposal for Blocks 6/7 from Golub/Mercy included a  
8 purchase price of \$30,000,000 to be paid by Golub, construction of 545 residential units (409  
9 market-rate units, including 61 inclusionary units at 50 percent of area median income and  
10 136 stand-alone affordable family units at 50 percent of area median income), and a  
11 requested subsidy from the Former Agency for the stand-alone affordable units of  
12 approximately \$200,000 per unit. However, due to the dissolution of the Former Agency on  
13 February 1, 2012, and the challenges that created for funding the affordable component of the  
14 development, the original proposal from Golub/Mercy was revised; and

15           WHEREAS, The revised proposal for Blocks 6/7 from Golub/Mercy includes a  
16 purchase price of \$30,000,000 to be paid by Golub (same as the original proposal),  
17 construction of 556 residential units (409 market-rate units and 147 stand-alone affordable  
18 family units at 50 percent of area median income), and payment of a \$24.3 million affordable  
19 housing fee by Golub to fund all of the affordable housing units on Block 6 and a portion of the  
20 affordable housing units on Block 7. Based on this revised proposal, OCII staff negotiated the  
21 terms of a disposition and development agreement (“DDA”) with Golub/Mercy for the sale and  
22 development of Block 6 with 409 market-rate units, 70 affordable units, shared open space,  
23 and a shared underground parking garage. The DDA, however, does not cover the  
24 development of Block 7, which includes 77 affordable units, a child care facility and shared  
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1 open space, because it will be constructed at a future date by Mercy, when additional  
2 affordable housing funding becomes available; and

3 WHEREAS, On April 16, 2013, the Commission on Community Investment and  
4 Infrastructure approved the DDA and the exercise of OCII's option to acquire Blocks 6/7 from  
5 the TJPA pursuant to the Option Agreement. OCII will deliver written notice to the TJPA and  
6 acquire Blocks 6/7 prior to close of escrow with Golub under the DDA. Golub will acquire all  
7 of Blocks 6/7 from OCII then subdivide the larger parcel into separate parcels, including Block  
8 6 and Block 7. Once the properties are subdivided, Block 7 and the Affordable Airspace  
9 Parcels on Block 6 will be reconveyed to OCII for development at a later date, subject to a  
10 separate agreement between OCII and Mercy. Provided, however, that the DDA also  
11 provides that if a subdivision map is finalized and recorded prior to OCII's transfer to Golub,  
12 then only the Block 6 land parcel. Furthermore, the DDA provides that, prior to its  
13 development, OCII will permit Golub and Mercy to use Block 7 for staging related to the  
14 construction of Block 6, pursuant to a license agreement that will be executed at a future date;  
15 and

16 WHEREAS, Block 6, a TJPA-owned parcel, which will be transferred to OCII, located at  
17 280 Beale Street, the northeast corner of Folsom and First Streets, Assessor's Block No.  
18 3738, Lot No. 004, San Francisco, California, in the Project Area, is an underutilized lot  
19 currently improved by a surface parking lot ("Property"); and

20 WHEREAS, Pursuant to the Redevelopment Plan, the Board of Supervisors shall  
21 approve the sale or lease of any property acquired by OCII pursuant to the Option Agreement  
22 in a manner consistent with the standards and procedures that govern the Agency's  
23 disposition of property acquired with tax increment moneys and that appear in Section 33433  
24 of the California Community Redevelopment Law; and

1           WHEREAS, Notice of the public hearing has been published consistent with Health and  
2 Safety Code Section 33433; and

3           WHEREAS, OCII prepared and submitted a report consistent with the requirements of  
4 Section 33433 of the Health and Safety Code, including a copy of the proposed DDA, and a  
5 summary of the transaction describing the cost of the DDA to OCII, the value of the property  
6 interest to be conveyed, the purchase price and other information, which was made available  
7 for public inspection; and

8           WHEREAS, Ground leases with Mercy for the affordable housing parcels on both Block  
9 6 and Block 7 will be presented to the Board of Supervisors at future dates for consideration  
10 as separate actions from the approval of the DDA; now, therefore, be it

11           RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
12 does hereby find and determine that the sale of the Property from OCII to Golub Real Estate  
13 Corporation, an Illinois corporation: 1) includes consideration to be received by OCII that is  
14 not less than the fair reuse value at the use and with the covenants and conditions and  
15 developments costs authorized by the DDA; 2) includes a purchase price of \$30,000,000,  
16 which was the highest price achieved through a competitive request for proposals process  
17 based on the development permitted on the site and the affordable housing requirements of  
18 the Redevelopment Plan, and which will be deposited into a Trust Account maintained by the  
19 TJPA for use to help pay the cost of constructing the new Transbay Transit Center; 3) will  
20 provide 70 units affordable family housing for households with incomes at or below 50 percent  
21 of area median income; 4) will provide \$24.3 million in funding for affordable housing, of which  
22 approximately \$14 million will be used to subsidize the 70 affordable family units to be  
23 developed on the Property and \$10.3 million will be used to help subsidize the 77 affordable  
24 family units proposed for development on Block 7; and 5) will assist in the elimination of blight

1 by converting a underutilized parking lot into a high-density, mixed-use, mixed-income  
2 residential development; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors hereby approves and  
4 authorizes OCII to execute the DDA for the sale of the Property from the Office of Community  
5 Investment and Infrastructure to Golub Real Estate Corporation, an Illinois corporation,  
6 substantially in the form of the DDA lodged with the City Attorney, and to take such further  
7 actions and execute such documents as are necessary to carry out the DDA on behalf of  
8 OCII.

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