BOARD of SUPERVISORS

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MEMORANDUM

Date: September 20, 2024

To: Planning Department / Commission

From: Brent Jalipa, Clerk of the Budget and Finance Committee

Subject: Board of Supervisors Legislation Referral - File No. 240797-2
Development Agreement Amendment - Laurel Heights Partners, LLC - 3333 California Street Project - California Street at Presidio Avenue

☒ California Environmental Quality Act (CEQA) Determination - FEIR ADDENDUM 2024
(California Public Resources Code, Sections 21000 et seq.)
- ☒ Ordinance / Resolution
- ☐ Ballot Measure

☐ Amendment to the Planning Code, including the following Findings:
(Planning Code, Section 302(b): 90 days for Planning Commission review)
☐ General Plan ☐ Planning Code, Section 101.1 ☐ Planning Code, Section 302

☐ Amendment to the Administrative Code, involving Land Use/Planning
(Board Rule 3.23: 30 days for possible Planning Department review)

☐ General Plan Referral for Non-Planning Code Amendments
(Charter, Section 4.105, and Administrative Code, Section 2A.53)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

☐ Historic Preservation Commission
- ☐ Landmark *(Planning Code, Section 1004.3)*
- ☐ Cultural Districts *(Charter, Section 4.135 & Board Rule 3.23)*
- ☐ Mills Act Contract *(Government Code, Section 50280)*
- ☐ Designation for Significant/Contributory Buildings *(Planning Code, Article 11)*

Please send the Planning Department/Commission recommendation/determination to Brent Jalipa at Brent.Jalipa@sfgov.org.

FILE NO. 240797 SUBSTITUTED 9/17/2024 ORDINANCE NO.

[Development Agreement Amendment - Laurel Heights Partners, LLC - 3333 California Street Project - California Street at Presidio Avenue]

Ordinance approving an amendment to a Development Agreement (originally approved by Ordinance No. 276-19) for the 3333 California Street project between the City and County of San Francisco and Laurel Heights Partners, LLC, to extend the term of the Development Agreement by eight years to September 11, 2043, modify the affordable housing requirements, allow the project to qualify for the Temporary Fee Reduction Program under Planning Code, Section 403, and include a finance plan with a framework to use incremental property tax revenue to fund the Project's public capital facilities and affordable housing; making findings under the California Environmental Quality Act; and making findings of conformity with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b), and findings of public convenience, necessity, and welfare under Planning Code, Section 302.

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. Background.

(a) Laurel Heights Partners, LLC, a Delaware limited liability company ("Developer"), owns approximately 10.25 acres in San Francisco, generally bounded by California Street, Laurel Street, Euclid Avenue, Masonic Avenue, and Presidio Avenue ("Developer Property").

(b) The Developer and the City and County of San Francisco ("City") executed a Development Agreement, dated as of September 11, 2020, relating to Developer's proposed development of a mixed-use project with residential, non-residential, open space, child care, and related uses ("Project") on the Developer Property ("Original Agreement"). The Original Agreement was approved by the Board of Supervisors and Mayor in Ordinance No. 276-19 ("2019 Ordinance"). Copies of the Original Agreement and the 2019 Ordinance are on file with the Clerk of the Board of Supervisors in File No. 190845.

(c) Section 11.1 of the Original Agreement authorizes the Director of Planning to enter into an amendment to the Original Agreement if it does not constitute a Material Change (as defined in the Original Agreement). Under such authority, the Original Agreement was amended by a Memorandum of Minor Modification of Development Agreement (Amendment No. 1) dated as of June 5, 2024 ("Minor Modification"), a copy of which is on file with the Clerk of the Board of Supervisors in File No. 240797.

(d) The Developer and City wish to further amend the Original Agreement, as modified by the Minor Modification ("Modified Development Agreement"), with an amendment ("Second Amendment") that would: (i) extend the term of the Modified Development Agreement, the deadline to commence construction, and the outside date to complete construction of the affordable units, (ii) reduce the required number of affordable units, extend the timing for escrow deposits to fund the development of the affordable units, and authorize the Director of the Mayor's Office of Housing and Community Development to make certain changes to the affordable unit requirements, (iii) allow the project to qualify for the Temporary Fee Reduction Program under Planning Code Section 403, and (iv) include a financing plan with the framework for using incremental property tax revenue to fund the Project's public capital facilities and affordable housing, providing significant benefits to Enhanced Infrastructure Financing District No. 3 (3333/3700 California Street) ("EIFD No. 3") or the

surrounding community, and make necessary revisions to the Modified Development Agreement for the establishment of EIFD No. 3 and use of that incremental property tax revenue.

(e) By Resolution No. _____, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 240816, the Board of Supervisors approved the Resolution of Intention to Establish San Francisco Enhanced Infrastructure Financing District No. 3 (3333/3700 California Street) to provide financial assistance for both Developer's public infrastructure obligations for the Project, and Developer's proposed mixed-use development project at an 4.84-acre site owned by Developer and located on California Street between Maple Street and Cherry Street.

(f) The Developer and City have worked over the last year to identify modifications to the terms of the Modified Development Agreement that will improve financial feasibility and expedite delivery of the Project. Factors such as increases in construction and labor costs, a worldwide pandemic, rising interest rates, and a slowing of the real estate market have delayed the initiation of the Project. However, advancing the Project is critical to meeting the City's housing production goals established under its Housing Element 2022 Update of the General Plan and the Mayor's Housing for All implementation strategy. The proposed modifications to the Modified Development Agreement, along with the formation of EIFD No. 3, will enable the advancement of the Project and provide much-needed new market rate and senior affordable housing in a high-resource district in San Francisco.

Section 2. Temporary Fee Reduction Program and Planning Code Conformity.

The Board of Supervisors approves allowing the Project to qualify as a Pipeline Project, as defined in Planning Code Section 415A.2, for the Temporary Fee Reduction Program under Planning Code Section 403 and as specified in the Second Amendment, and waives any inconsistent provision in Planning Code Section 403.

Section 3. Environmental and Land Use Findings.

(a) On September 5, 2019, by Motion No. 20512, the Planning Commission certified as adequate, accurate, and complete the Final Environmental Impact Report ("FEIR") for the Project pursuant to the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"). A copy of Planning Commission Motion No. 20512 is on file with the Clerk of the Board of Supervisors in File No. 240797.

(b) On _____, 2024, the Planning Department issued an addendum to the FEIR ("FEIR Addendum") finding the Second Amendment would not change the conclusions in the FEIR and the amendment would not result in any new or more severe environmental impacts than were previously identified in the FEIR. A copy of the FEIR Addendum is on file with the Clerk of the Board of Supervisors in File No. _____.

(c) The Board of Supervisors has reviewed and considered the FEIR and the FEIR Addendum, and finds the FEIR and the FEIR Addendum are adequate for their use for the actions taken by this ordinance and incorporates herein the FEIR and the CEQA findings contained in Ordinance No. 276-19 and the FEIR Addendum by this reference, and further finds that, pursuant to CEQA Guidelines Section 15162, no additional environmental review is required because there are no substantial changes to the Project analyzed in the FEIR and the FEIR Addendum, no change in circumstances under which the Project is being undertaken, and no new information that was not known and could not have been known shows that new significant impacts would occur, that the impacts identified in the FEIR and the FEIR Addendum as significant impacts would be substantially more severe, or that mitigation or alternatives previously found infeasible are now feasible.

(d) The Board of Supervisors found the Original Agreement conforms with the General Plan and the eight priority policies of Planning Code Section 101.1 by the findings set forth in Section 3 of the 2019 Ordinance. The Board of Supervisors incorporates herein the foregoing

findings and determines that said findings are adequate to establish that the actions taken by this ordinance to approve the Second Amendment conform with the General Plan and the eight priority policies of Planning Code Section 101.1.

(e) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience, and general welfare for the reasons set forth in Planning Commission Resolution No. _____, and the Board adopts such reasons as its own. A copy of that resolution is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference.

Section 4. Development Agreement Amendment.

(a) The Board of Supervisors approves all the terms and conditions of the Second Amendment in substantially the form on file with the Clerk of the Board of Supervisors in File No. 240797.

(b) The Board of Supervisors approves and authorizes the execution, delivery, and performance by the City of the Second Amendment as follows: (1) the Director of Planning (and other City officials listed thereon) are authorized to execute and deliver the Second Amendment, and (2) the Director of Planning and other applicable City officials are authorized to take all actions reasonably necessary or prudent to perform the City's obligations under the Modified Development Agreement in accordance with the terms of the Second Amendment.

(c) The Board of Supervisors finds that this ordinance satisfies the requirements of both Article 11 of the Original Agreement and Article 56 of the Administrative Code as governing the amendment of the Modified Development Agreement.

Section 5. Direction to Clerk of the Board of Supervisors.

The Clerk of the Board of Supervisors is directed to place a copy of this ordinance in File No. 190845, the file for the 2019 Ordinance (Ordinance No. 276-19).

Section 6. Effective Date.

This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned, or the Mayor does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Carol Wong
CAROL WONG
Deputy City Attorney

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FILE NO. 240797

REVISED LEGISLATIVE DIGEST

(Substituted, 9/17/2024)

[Development Agreement Amendment - Laurel Heights Partners, LLC - 3333 California Street Project - California Street at Presidio Avenue]

Ordinance approving an amendment to a Development Agreement (originally approved by Ordinance No. 276-19) for the 3333 California Street project between the City and County of San Francisco and Laurel Heights Partners, LLC, to extend the term of the Development Agreement by eight years to September 11, 2043, modify the affordable housing requirements, allow the project to qualify for the Temporary Fee Reduction Program under Planning Code Section 403, and include a finance plan with a framework to use incremental property tax revenue to fund the Project's public capital facilities and affordable housing; making findings under the California Environmental Quality Act; and making findings of conformity with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b), and findings of public convenience, necessity, and welfare under Planning Code, Section 302.

Background Information

Laurel Heights Partners, LLC, a Delaware limited liability company ("Developer"), owns approximately 10.25 acres of developed land in San Francisco that is generally bounded by California Street to the north, Presidio Avenue to the east, Masonic Avenue to the southeast, Euclid Avenue to the south, and Laurel Street and Mayfair Drive to the west (the "Developer Property"). The Developer and the City and County of San Francisco ("City") executed a Development Agreement dated as of September 11, 2020 ("Original Agreement"), for Developer's proposed development of a mixed-use project with residential, non-residential, open space, child care, and related uses ("Project") on the Developer Property. The Original Agreement was approved by the Board of Supervisors and Mayor pursuant to Ordinance No. 276-019, and amended by a Memorandum of Minor Modification of Development Agreement (Amendment No. 1) dated as of June 5, 2024 (as amended, the "Modified Development Agreement").

Proposed Amendment

Project initiation has been delayed due to increases in construction and labor costs, a worldwide pandemic, rising interest rates, and a slowing of the real estate market. The Developer and City wish to modify the Modified Development Agreement to improve financial feasibility and expedite delivery of the Project, which is critical to meeting the City's housing production goals established under its Housing Element 2022 Update of the General Plan and the Mayor's Housing for All implementation strategy. The proposed modifications to the Modified Development Agreement ("Second Amendment"), along with the formation of Enhanced Infrastructure Financing District No. 3 (3333/3700 California Street), will enable the

advancement of the Project and provide much-needed new market rate and senior affordable housing in a high-resource district in San Francisco.

The proposed Second Amendment would (i) extend the term of the Modified Development Agreement, the deadline to commence construction, and the outside date to complete construction of the affordable units, (ii) reduce the required number of affordable units, extend the timing for escrow deposits to fund the development of the affordable units, and authorize the Director of the Mayor's Office of Housing and Community Development to make certain changes to the affordable unit requirements, (iii) allow the Project to qualify for the Temporary Fee Reduction Program under Planning Code Section 403, and (iv) include a financing plan with the framework for using incremental property tax revenue to fund the Project's public capital facilities and affordable housing, providing significant benefits to Enhanced Infrastructure Financing District No. 3 (3333/3700 California Street) ("EIFD No. 3") or the surrounding community, and make necessary revisions to the Modified Development Agreement for the establishment of EIFD No. 3 and use of that incremental property tax revenue.

The ordinance would also allow the Project to qualify as a Pipeline Project, as defined in Planning Code Section 415A.2, for the Temporary Fee Reduction Program under Planning Code Section 403 as specified in the Second Amendment, and waives any inconsistent provision in Planning Code Section 403.

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