



SAN FRANCISCO PLANNING DEPARTMENT

October 16, 2014

Ms. Angela Calvillo, Clerk
Honorable Supervisor Kim
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

**Re: Transmittal of Planning Department Case Number 2014.1399WX
181 Fremont Street
Development Agreement
Planning Commission Recommendation: Approval**

Dear Ms. Calvillo:

On October 16, 2014, the Planning Commission conducted a duly noticed public hearing to consider a proposed Development Agreement and amendment to a Downtown Project Authorization, in association with the previously-approved development located at 181 Fremont Street. In December 2012, the Commission approved entitlements for the project which would demolish an existing two and three-story buildings, and would construct a 52-story building reaching a roof height of approximately 700 feet, containing 404,000 square feet of office uses, 74 dwelling units, 2,000 square feet of retail space, and 68,000 square feet of subterranean area with off-street parking, loading, and mechanical space. The building also includes a bridge to the future elevated City Park situated on top of the Transit Center. The existing buildings on the site have since been demolished, and the project has begun construction.

The proposed Development Agreement would do the following:

- Exempt the Project from the requirements of the Transbay C-3 Special Use District (Planning Code Section 249.28) to provide affordable dwelling units on-site.
- Enable the payment of an in-lieu fee of \$13.85 million toward the development of affordable housing in the Transbay Redevelopment Project Area.
- Specify the terms for payment of the in-lieu fee.

At the October 16, 2014 Planning Commission hearing, the Commission voted to recommend approval of the proposed Development Agreement, and approved the amendment to the previously-approved Downtown Project Authorization.

Please find attached documents relating to the action of the Commission. It should be noted that the Board of Supervisors will not take action regarding the amended Downtown Project Authorization. However, this motion is referenced in the Development Agreement, as well as the

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission's recommendation to approve the Development Agreement. Therefore, this motion is included in this transmittal for reference.

Please also note that the Development Agreement, Development Agreement Ordinance, and associated exhibits will be transmitted to the Clerk by OCII staff under separate cover.

If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Starr", with a long horizontal flourish extending to the right.

Aaron Starr
Acting Manager of Legislative Affairs

cc:

Jon Givner, City Attorney
Susan Cleveland-Knowles, City Attorney
Marlena Byrne, City Attorney
Jason Elliot, Mayor's Director of Legislative & Government Affairs

Attachments (two hard copies of the following):

Planning Commission Resolution re: Development Agreement
Planning Commission Motion re: Amended Downtown Project Authorization
Development Agreement and Ordinance (to be transmitted by OCII staff under separate cover)
Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary DOWNTOWN PROJECT AUTHORIZATION AMENDMENT DEVELOPMENT AGREEMENT

HEARING DATE: OCTOBER 16, 2014

Date: October 2, 2014
Case No.: 2014.1399WX
Project Address: 181 Fremont Street
Project Site Zoning: C-3-O (SD) (Downtown, Office: Special Development)
700-S-2 Height and Bulk District
Transit Center C-3-O (SD) Commercial Special Use District
Transbay C-3 Special Use District
Block/Lot: 3719/010, 011 (181 Fremont Street)
Project Sponsor: Janette D'Elia
c/o Jay Paul Company, LLC
Four Embarcadero Center, Suite 3620
San Francisco, CA 94111
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org
Recommendation: **Approval with Conditions**

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PROJECT BACKGROUND:

At the hearing on December 6, 2012, the Planning Commission ("Commission") approved a Downtown Project Authorization and Requests for Exceptions pursuant to Planning Code Section ("Section") 309 (Motion No. 18765), an allocation of office space pursuant to Sections 320 through 325 (Annual Office Development Limitation Program (Motion No. 18764), and findings regarding shadow impacts to Union Square (Motion No. 18763), in connection with a proposal to demolish an existing three-story building and an existing two-story building, and to construct a 52-story building reaching a roof height of approximately 700 feet with a decorative screen reaching a maximum height of approximately 745 feet and a spire reaching a maximum height of approximately 800 feet, containing approximately 404,000 square feet of office uses, approximately 74 dwelling units, approximately 2,000 square feet of retail space, and approximately 68,000 square feet of subterranean area with off-street parking, loading, and mechanical space. The building also includes a bridge to the future elevated City Park situated on top of the Transit Center. At the same hearing on December 6, 2012, the Zoning Administrator indicated an intent to grant a requested Variance from Section 140 to allow dwelling units on the north, east, and south portions of the proposed building without the required dwelling unit exposure. On March 15, 2013, the Zoning Administrator issued a Variance Decision Letter formally granting the requested Variance (collectively, "Project", Case No. 2007.0456EBKXV).

The Project is situated within the Transbay C-3 Special Use District (“SUD”, Section 249.28), which generally applies to the privately-owned parcels within Transbay Redevelopment Plan Project Area and corresponds to the boundaries of “Zone 2” of the Project Area. The SUD sets forth regulations regarding active ground-floor uses, streetscape improvements, and procedures for payment of fees. In addition, the SUD specifies that all residential developments must provide a minimum of 15% of all the dwelling units as affordable to, and occupied by, qualifying persons and families as defined by the Transbay Redevelopment Plan. The SUD further requires that all inclusionary units must be built on-site, and that off-site construction or in-lieu fee payment are not permitted to satisfy these requirements. These requirements would result in 11 affordable dwelling units in the Project.

PROPOSED AMENDMENT:

The Project Sponsor proposes to amend the conditions of approval for the Downtown Project Authorization (Motion No. 18765) associated with the Project, to enable the payment of an in-lieu fee toward the development of affordable housing in the Transbay Redevelopment Project Area. In addition, the Project Sponsor proposes to enter into a Development Agreement with the City and County of San Francisco (pursuant to Chapter 56 of the San Francisco Administrative Code) to exempt the Project from the requirements of the Transbay C-3 SUD (Planning Code Section 249.28) to provide affordable dwelling units on-site. In addition, the Development Agreement would specify the terms for payment of the in-lieu fee.

SITE DESCRIPTION AND PRESENT USE

The Project Site is an irregularly shaped property formed by two parcels measuring a total of 15,313 square feet, located on the east side of Fremont Street, between Mission and Howard Streets. The Project Site is within the C-3-O (SD) District, the 700-S-2 Height and Bulk District, the Transit Center C-3-O (SD) Commercial Special Use District, and the Transbay C-3 Special Use District. The two buildings which previously occupied the Project Site have been demolished, and foundation and site-preparation activities are underway for the construction of the Project.

SURROUNDING PROPERTIES & NEIGHBORHOOD

The Project Site is located in an area characterized by dense urban development. There are many high-rise structures containing dwellings, offices and other commercial uses. The Project Site is surrounded by a number of high-rise buildings. The Millennium (301 Mission Street) is a residential development consisting of a 60-story residential building and an 11-story tower, located to the north. 50 Beale Street (a 23-story office building), 45 Fremont Street (a 34-story office building) and 50 Fremont Street (a 43-story office building) are situated further to the north. 199 Fremont street (a 27-story office building) is located immediately to the east. There are numerous smaller commercial buildings in the area as well. The future Transit Center and the Transbay Tower are currently under construction immediately to the north of the Project Site. The Transit Center is planned to accommodate local and inter-city bus service, as well as Caltrain and California High Speed Rail service. The roof of the Transit Center will also feature a 5.4-acre public park called “City Park.”

The Project Site is located within the “Zone 2” of the Transbay Redevelopment Plan Project Area, as well as the larger Transit Center District Plan (TCDP) area. The City adopted the TCDP and related implementing ordinances in August 2012. Initiated by a multi-year public and cooperative interagency planning process that began in 2007, the Plan is a comprehensive vision for shaping growth on the

southern side of Downtown. Broadly stated, the goals of the TCDP are to focus regional growth toward downtown San Francisco in a sustainable, transit-oriented manner, sculpt the downtown skyline, invest in substantial transportation infrastructure and improvements to streets and open spaces, and expand protection of historic resources.

Adoption of the Plan included height reclassification of numerous parcels in the area to increase height limits, including the site of the Transbay Tower with a height limit of 1,000 feet, and several other nearby sites with height limits ranging from 600 to 850 feet.

ENVIRONMENTAL REVIEW

On September 28, 2011, the Department published a draft Environmental Impact Report (EIR) for the TCDP for public review. The draft EIR was available for public comment until November 28, 2011. On November 3, 2011, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the draft EIR. On May 10, 2012 the Department published a Comments and Responses document, responding to comments made regarding the draft EIR prepared for the Project. On May 24, 2012, the Commission reviewed and certified the Final EIR. The Board of Supervisors affirmed this certification on July 24, 2012.

On November 9, 2012, the Planning Department, in a Community Plan Exemption certificate, determined that the original Project did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The original Project was consistent with the adopted zoning controls in the Transit Center District Plan and was encompassed within the analysis contained in the Transit Center District Plan Final EIR.

The actions contemplated in this Motion do not constitute a project under the California Environmental Quality Act ("CEQA"), CEQA Guidelines (California Code of Regulations Title 14) Sections 15378 (b)(4) and 15378(b)(5) because it merely creates a government funding mechanism that does not involve any commitment to a specific project and is an administrative activity of the government with no physical impact.

HEARING NOTIFICATION REQUIREMENTS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	September 26, 2016	September 26, 2016	20 days
Posted Notice	20 days	September 26, 2016	September 26, 2016	20 days
Mailed Notice	10 days	October 6, 2014	September 26, 2014	20 days

PUBLIC COMMENT

To date, the Department has received no comments regarding the proposed actions.

ISSUES AND OTHER CONSIDERATIONS

The Transbay Redevelopment Plan requires that, in accordance with State law (Public Resources Code Section 5027.1), at least 35% of all new housing within the Project Area be affordable to low- and

moderate-income households. It is anticipated that this goal will be achieved through a combination of constructing stand-alone affordable housing projects, increasing affordable housing requirements for development of the publicly-owned parcels in "Zone 1", and requiring on-site affordable units for developments on privately-owned parcels containing residential uses.

The Office of Community Investment and Infrastructure (OCII), in consultation with the Mayor's Office of Housing and Community Development (MOHCD), has analyzed the implications of applying the on-site requirement of the SUD to the Project. The units within the Project are relatively large, and are situated within the uppermost floors of the tower with abundant views. Given these characteristics, the 11 affordable units within the Project would need to be steeply discounted compared with the market-rate units. In addition, it is estimated that the homeowner's association ("HOA") fees for these units will likely exceed \$2,000 per month. These HOA fees would impose a substantial financial burden on residents whose income levels would allow them to qualify for an affordable unit within the Project. Therefore, OCII and MOHCD staff have concluded that the resources necessary to create affordable units within the Project could be better leveraged to create other affordable housing opportunities elsewhere in the Redevelopment Plan Area.

The Project Sponsor proposes to enter into a Development Agreement (pursuant to Chapter 56 of the San Francisco Administrative Code) to exempt the Project from the requirements of Section 249.28 to provide affordable dwelling units on-site. If the Development Agreement is approved by the Board of Supervisors, the Project Sponsor would contribute \$13.85 million toward the development of affordable housing in the Redevelopment Plan Area. OCII staff estimates that this fee would be capable of creating approximately 69 affordable housing units, a net gain of 58 affordable units compared to the 11 affordable units that would be provided within the Project. In order for this Development Agreement to proceed, the Commission must amend the conditions of approval for the previously-granted Downtown Project Authorization to eliminate the requirement for on-site affordable dwelling units. For comparative purposes, if the Project Sponsor were to pay the in-lieu affordable housing fee established in the Planning Code, the fee amount would be approximately \$5.5 million.

Because the City is entering into a Development Agreement with the Project Sponsor addressing, among other issues, the amount of the Project Sponsor's affordable housing contribution, this Project is consistent with Charter Section 16.110(h)(1)(B)(i) (adopted as part of the Housing Trust Fund, Proposition C, November 6, 2012).

On October 10, 2014, the OCII Commission will consider a variation to the Transbay Redevelopment Plan's on-site affordable housing requirement and acceptance of a future payment of \$13.85 million to fulfill affordable housing obligations in the Project Area. Staff will verbally present the outcome of the OCII Commission hearing to the Planning Commission at the hearing on October 16, 2014.

REQUIRED ACTIONS

In order for the project to proceed, the Commission must 1) Approve an amendment to the previously-granted Downtown Project Authorization (Motion No. 18756) to eliminate the requirement of Section 249.28 for on-site affordable dwelling units, and 2) Recommend that the Board of Supervisors approve a Development Agreement to exempt the Project from the requirements of Section 249.28 to provide

affordable dwelling units on-site, and to enable the payment of a fee toward the development of affordable housing in the Redevelopment Plan Area.

BASIS FOR RECOMMENDATION

- The proposed Development Agreement and amended Downtown Project Authorization would allow the payment of an in-lieu fee which will enable the creation of a greater affordable housing opportunities in the Transbay Redevelopment Plan Project Area than would be achieved through on-site affordable units within the Project.
- Residents of these future affordable units would be located within close proximity of the Project Site, and would be able to enjoy the walkability, abundant transit services, and vibrant urban character of the area.

RECOMMENDATION: Approval with Conditions
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Attachments:

- Draft Motion for amended Downtown Project Authorization
- Planning Commission Motion No. 18756 (dated December 6, 2012)
- Draft Development Agreement Resolution
- Draft Development Agreement Ordinance
- Draft Development Agreement
- Block Book Map
- Aerial Photograph
- Zoning District Map

Exhibit Checklist

- | | |
|---|--|
| <input checked="" type="checkbox"/> Executive Summary | <input type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input checked="" type="checkbox"/> Environmental Determination | <input type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input checked="" type="checkbox"/> Height & Bulk Map | <input type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | |
| <input checked="" type="checkbox"/> Sanborn Map | |
| <input checked="" type="checkbox"/> Aerial Photo | |
| <input type="checkbox"/> Context Photos | |
| <input type="checkbox"/> Site Photos | |

Exhibits above marked with an "X" are included in this packet

Planner's Initials



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Affordable Housing (Sec. 415) | <input checked="" type="checkbox"/> First Source Hiring (Admin. Code) |
| <input checked="" type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input checked="" type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input checked="" type="checkbox"/> Downtown Park Fee (Sec. 412) | <input checked="" type="checkbox"/> Other |

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

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415.558.6377

Planning Commission Motion 19262 Section 309

HEARING DATE: OCTOBER 16, 2014

Date: October 2, 2014
Case No.: 2014.1399W~~X~~
Project Address: 181 Fremont Street
Project Site Zoning: C-3-O (SD) (Downtown, Office: Special Development)
700-S-2 Height and Bulk District
Transit Center C-3-O (SD) Commercial Special Use District
Transbay C-3 Special Use District
Block/Lot: 3719/010, 011 (181 Fremont Street)
Project Sponsor: Janette D'Elia
c/o Jay Paul Company, LLC
Four Embarcadero Center, Suite 3620
San Francisco, CA 94111
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A DOWNTOWN PROJECT AUTHORIZATION UNDER PLANNING CODE SECTION 309 TO AMEND THE CONDITIONS OF APPROVAL FOR A PREVIOUSLY-APPROVED PROJECT TO DEMOLISH AN EXISTING THREE STORY BUILDING AND AN EXISTING TWO-STORY BUILDING AND CONSTRUCT A NEW 52-STORY BUILDING REACHING A MAXIMUM HEIGHT OF APPROXIMATELY 700 FEET, WITH A DECORATIVE SCREEN REACHING A MAXIMUM HEIGHT OF APPROXIMATELY 745 FEET AND A SPIRE REACHING A MAXIMUM HEIGHT OF APPROXIMATELY 800 FEET, CONTAINING APPROXIMATELY 404,000 SQUARE FEET OF OFFICE USES, APPROXIMATELY 74 DWELLING UNITS, APPROXIMATELY 2,000 SQUARE FEET OF RETAIL SPACE, AND APPROXIMATELY 68,000 SQUARE FEET OF SUBTERRANEAN AREA WITH OFF-STREET PARKING, LOADING, AND MECHANICAL SPACE. THE PROJECT SITE IS LOCATED WITHIN THE C-3-O(SD) (DOWNTOWN OFFICE, SPECIAL DEVELOPMENT) DISTRICT, THE ~~700-S-2~~ HEIGHT AND BULK DISTRICT, THE TRANSIT CENTER C-3-O(SD) COMMERCIAL SPECIAL USE DISTRICT, AND THE TRANSBAY C-3 SPECIAL USE DISTRICT.

PREAMBLE

On December 6, 2012, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting and approved a Downtown Project Authorization and Requests for Exceptions pursuant to Planning Code Section ("Section") 309 (Motion No. 18765), an allocation of office space pursuant to Sections 320 through 325 (Annual Office Development Limitation Program (Motion No. 18764), and findings regarding shadow impacts to Union Square (Motion No. 18763), in connection with a proposal to demolish an existing three-story building and an existing two-story building, and to construct a 52-story building reaching a roof height of approximately 700 feet with a decorative screen reaching a maximum height of approximately 745 feet and a spire reaching a maximum height of approximately 800 feet, containing approximately 404,000 square feet of office uses, approximately 74 dwelling units, approximately 2,000 square feet of retail space, and approximately 68,000 square feet of subterranean area with off-street parking, loading, and mechanical space, located at 181 Fremont Street, Lots 010 and 011 in Assessor's Block 3719 ("Project Site"), within the C-3-O (SD) (Downtown Office, Special Development) District, the 700-S-2 Height and Bulk District, the Transbay C-3 Special Use District, and the Transit Center C-3-O(SD) Commercial Special Use District. At the same hearing on December 6, 2012, the Zoning Administrator indicated an intent to grant a requested Variance from Section 140 to allow dwelling units on the north, east, and south portions of the proposed building without the required dwelling unit exposure. On March 15, 2013, the Zoning Administrator issued a Variance Decision Letter formally granting the requested Variance (collectively, "Project", Case No. 2007.0456EBKXV). A site permit has been issued for the Project, and the building is currently under construction.

Pursuant to the requirements of Section 249.28, a minimum of 15% of the dwelling units in the project would have been required to be affordable to, and occupied by, qualifying persons and families as defined by the Transbay Redevelopment Plan. On September 18, 2014, Janette D'Elia, acting on behalf of Jay Paul Company, LLC ("Project Sponsor") applied for a Downtown Project Authorization, pursuant to Section 309, in order to amend the conditions of approval for the previously-granted Downtown Project Authorization (Motion No. 18765) to enable the payment of an in-lieu fee toward the development of affordable housing in the Transbay Redevelopment Project Area. In addition the Project Sponsor proposes to enter into a Development Agreement (pursuant to Chapter 56 of the San Francisco Administrative Code) to exempt the Project from the requirements of Section 249.28 to provide affordable dwelling units on-site (collectively, "Proposed Amendment", Case No. 2014.1399WX).

On May 24, 2012, the Planning Commission held a duly advertised public hearing and recommended approval of the Transit Center District Plan ("TCDP" or "Plan") and related implementing Ordinances to the Board of Supervisors. The result of a multi-year public and cooperative interagency planning process that began in 2007, the Plan is a comprehensive vision for shaping growth on the southern side of Downtown to respond to and support the construction of the new Transbay Transit Center project, including the Downtown Rail Extension. Implementation of the Plan would result in generation of up to \$590 million for public infrastructure, including over \$400 million for the Downtown Rail Extension. Adoption of the Plan included height reclassification of numerous parcels in the area to increase height limits, including a landmark tower site in front of the Transit Center with a height limit of 1,000 feet and several other nearby sites with height limits ranging from 600 to 850 feet.

On July 24, 2012, the Board of Supervisors held a duly noticed public hearing, affirmed the Final EIR and approved the Plan, as well as the associated ordinances to implement the Plan on first reading.

On July 31, 2012, the Board of Supervisors held a duly noticed public hearing, and approved the Plan, as well as the associated ordinances to implement the Plan on final reading.

On August 8, 2012, Mayor Edwin Lee signed into law the ordinances approving and implementing the Plan, which subsequently became effective on September 7, 2012.

The environmental effects of the original Project were determined by the Department to have been fully reviewed under the Transit Center District Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on May 24, 2012, by Motion No. 18628, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., (hereinafter "CEQA"). The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The Transit Center District Plan EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required of a proposed project, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Transit Center District Plan, the Commission adopted CEQA Findings in its Motion No. 18629 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

On November 9, 2012, the Department determined that the application for the original Project did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project was consistent with the adopted zoning controls in the Transit Center District Plan and was encompassed within the analysis contained in the Transit Center District Plan Final EIR. Since the Transit Center District Plan Final EIR was finalized, there were no substantial changes to the Transit Center District Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project,

including the Transit Center District Plan Final EIR and the previously issued Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth mitigation measures that were identified in the Transit Center District Plan EIR that are applicable to the project. These mitigation measures are set forth in their entirety in the MMRP, attached to Motion No. 18675 as Exhibit C, and were made conditions of approval of the original Project.

The Planning Commission's actions to amend the conditions of approval under Planning Code Section 309 and the recommendation concerning the development agreement do not compel any changes to the project that the Planning Commission previously approved. Rather, these actions merely authorize the Commission on Community Investment and Infrastructure, Planning Commission and Board of Supervisors to remove the on-site affordable housing requirement from the project. Thus, these actions and authorization of the acceptance of \$13.85 million for affordable housing subsidy within Zone 1 of the Transbay Redevelopment Plan do not constitute a project under the California Environmental Quality Act ("CEQA"), CEQA Guidelines (California Code of Regulations Title 14) Section 15378 (b)(4) because it merely creates a government funding mechanism that does not involve any commitment to a specific project.

The Planning Commission has reviewed and considered reports, studies, plans and other documents pertaining to the Proposed Amendment.

The Planning Commission has heard and considered the testimony presented at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Project Sponsor, Department staff, and other interested parties.

On October 16, 2014, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2014.1399WX. The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, the Planning Department staff, and other interested parties.

MOVED, that the Commission hereby approves the Proposed Amendment, as requested in Application No. 2014.1399X, subject to conditions of approval contained in Exhibit A of Motion No. 18765 and to the Mitigation, Monitoring and Reporting Program contained in Exhibit C of Motion No. 18765 (incorporated by reference as though fully set forth herein), based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and also constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is an irregularly shaped property formed by two parcels measuring a total of 15,313 square feet, located on the east side of Fremont Street, between Mission and Howard Streets. The Project Site is within the C-3-O (SD)

District, the 700-S-2 Height and Bulk District, the Transit Center C-3-O (SD) Commercial Special Use District, and the Transbay C-3 Special Use District. The two buildings which previously occupied the Project Site have been demolished, and foundation and site-preparation activities are underway for the construction of the Project.

- 3. Surrounding Properties and Neighborhood.** The Project Site is located in an area characterized by dense urban development. There are many high-rise structures containing dwellings, offices and other commercial uses. The Project Site is surrounded by a number of high-rise buildings. The Millennium (301 Mission Street) is a residential development consisting of a 60-story residential building and an 11-story tower, located to the north. 50 Beale Street (a 23-story office building), 45 Fremont Street (a 34-story office building) and 50 Fremont Street (a 43-story office building) are situated further to the north. 199 Fremont street (a 27-story office building) is located immediately to the east. There are numerous smaller commercial buildings in the area as well. The future Transit Center and the Transbay Tower are currently under construction immediately to the north of the Project Site. The Transit Center is planned to accommodate local and inter-city bus service, as well as Caltrain and California High Speed Rail service. The roof of the Transit Center will also feature a 5.4-acre public park called "City Park."

The Project Site is located within the "Zone 2" of the Transbay Redevelopment Plan Project Area, as well as the larger Transit Center District Plan (TCDP) area. The City adopted the TCDP and related implementing ordinances in August 2012. Initiated by a multi-year public and cooperative interagency planning process that began in 2007, the Plan is a comprehensive vision for shaping growth on the southern side of Downtown. Broadly stated, the goals of the TCDP are to focus regional growth toward downtown San Francisco in a sustainable, transit-oriented manner, sculpt the downtown skyline, invest in substantial transportation infrastructure and improvements to streets and open spaces, and expand protection of historic resources.

Adoption of the Plan included height reclassification of numerous parcels in the area to increase height limits, including the site of the Transbay Tower with a height limit of 1,000 feet, and several other nearby sites with height limits ranging from 600 to 850 feet.

- 4. Project Background and Proposed Amendment.** As approved, the Project would demolish an existing three-story building and an existing two-story building, and to construct a 52-story building reaching a roof height of approximately 700 feet with a decorative screen reaching a maximum height of approximately 745 feet and a spire reaching a maximum height of approximately 800 feet, containing approximately 404,000 square feet of office uses, approximately 74 dwelling units, approximately 2,000 square feet of retail space, and approximately 68,000 square feet of subterranean area with off-street parking, loading, and mechanical space. The building also includes a bridge to the future elevated City Park situated on top of the Transit Center.

The Project Sponsor proposes to amend the conditions of approval for the Downtown Project Authorization (Motion No. 18765) associated with the Project, to enable the payment of an in-lieu fee toward the development of affordable housing in the Transbay Redevelopment

Project Area. In addition, the Project Sponsor proposes to enter into a Development Agreement with the City and County of San Francisco (pursuant to Chapter 56 of the San Francisco Administrative Code) to exempt the Project from the requirements of the Transbay C-3 Special Use District ("SUD", Section 249.28) to provide affordable dwelling units on-site (collectively, "Proposed Amendment"). In addition, the Development Agreement would specify the terms for payment of the in-lieu fee.

5. **Public Comment.** To date, the Department has received no comments regarding the Proposed Amendment.
6. **Planning Code Compliance.** The Commission finds that the Proposed Amendment is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Transbay C-3 SUD (Section 249.28).** The boundaries of the Transbay C-3 SUD generally apply to the privately-owned parcels within Transbay Redevelopment Plan Project Area, corresponding to the boundaries of "Zone 2" of the Project Area. The SUD sets forth regulations regarding active ground-floor uses, streetscape improvements, and procedures for payment of fees. In addition, the SUD specifies that all residential developments must provide a minimum of 15% of all the dwelling units as affordable to, and occupied by, qualifying persons and families as defined by the Transbay Redevelopment Plan. The SUD further requires that all inclusionary units must be built on-site, and that off-site construction or in-lieu fee payment are not permitted to satisfy these requirements.

The Transbay Redevelopment Plan requires that, in accordance with State law (Public Resources Code Section 5027.1), at least 35% of all new housing within the Project Area be affordable to low- and moderate-income households. It is anticipated that this goal will be achieved through a combination of constructing stand-alone affordable housing projects, increasing affordable housing requirements for development of the publicly-owned parcels in "Zone 1", and requiring on-site affordable units for developments on privately-owned parcels containing residential uses.

The Office of Community Investment and Infrastructure (OCII), in consultation with the Mayor's Office of Housing and Community Development (MOHCD), has analyzed the implications of applying the on-site requirement of the SUD to the Project. The units within the Project are relatively large, and are situated within the uppermost floors of the tower with abundant views. Given these characteristics, the 11 affordable units within the Project would need to be steeply discounted compared with the market-rate units. In addition, it is estimated that the homeowner's association ("HOA") fees for these units will likely exceed \$2,000 per month. These HOA fees would impose a substantial financial burden on residents whose income levels would allow them to qualify for an affordable unit within the Project. Therefore, OCII and MOHCD staff have concluded that the resources necessary to create affordable units within the Project could be better leveraged to create other affordable housing opportunities elsewhere in the Redevelopment Plan Area.

The Project Sponsor proposes to enter into a Development Agreement (pursuant to Chapter 56 of the San Francisco Administrative Code) to exempt the Project from the requirements of Section 249.28 to provide affordable dwelling units on-site. If approved by the Board of Supervisors, the Project Sponsor would contribute \$13.85 million toward the development of affordable housing in the Redevelopment Plan Area. OCII staff estimates that this fee would be capable of creating approximately 69 affordable housing units, a net gain of 58 affordable units compared to the 11 affordable units that would be provided within the Project.

- B. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. At the time of Project approval in 2012, Planning Code Section 415.3 applied these requirements to projects that consist of five or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Within the Transbay C-3 SUD, developments containing residential uses must satisfy these requirements by provided 15% of the proposed dwelling units on-site as affordable.

The conditions of approval for the Project in 2012 reflected the regulations of Sections 249.28 and 415 by requiring that 11 of the 74 dwelling units in the project be affordable. As discussed in Item #6A above, the Project Sponsor proposes to enter into a Development Agreement to exempt the Project from the on-site requirements of Section 249.28, and to enable an in-lieu contribution of \$13.85 million toward the development of affordable housing in the Redevelopment Plan Area. For comparative purposes, if the Project Sponsor were to pay the in-lieu affordable housing fee established in the Planning Code, the fee amount would be approximately \$5.5 million. In order for this Development Agreement to proceed, the Commission must amend the conditions of approval for the Project (Motion No. 18756) to eliminate the requirement for on-site affordable dwelling units.

7. **General Plan Conformity.** The Proposed Amendment would affirmatively promote the following objectives and policies of the General Plan:

HOUSING ELEMENT:

Objectives and Policies

OBJECTIVE 1

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

Policy 1.1:

Encourage higher residential density in areas adjacent to downtown, in underutilized commercial and industrial areas proposed for conversion to housing, and in neighborhood commercial districts where higher density will not have harmful effects, especially if the higher density provides a significant number of units that are affordable to lower income households.

Policy 1.3:

Identify opportunities for housing and mixed-use districts near downtown and former industrial portions of the City.

Policy 1.4:

Locate in-fill housing on appropriate sites in established residential neighborhoods.

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.5:

Ensure that new permanently affordable housing is located in all of the City's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL.

Policy 7.5:

Encourage the production of affordable housing through process and zoning accommodations, and prioritize affordable housing in the review and approval processes.

OBJECTIVE 8

BUILD PUBLIC AND PRIVATE SECTOR CAPACITY TO SUPPORT, FACILITATE, PROVIDE AND MAINTAIN AFFORDABLE HOUSING.

Policy 8.1:

Support the production and management of permanently affordable housing.

The Proposed Amendment would allow the payment of an in-lieu fee which will enable the creation of a greater affordable housing opportunities in the Transbay Redevelopment Plan Project Area than would be achieved through on-site affordable units within the Project. Affordable units created within the Project would be subject to HOA fees that would likely exceed \$2,000 per month. These HOA fees would impose a substantial financial burden on residents whose income levels would allow them to qualify for an affordable unit within the Project. The funds provided by the in-lieu fee will be utilized to create affordable units on other parcels in the Project Area. OCII staff estimates that the in-lieu fee would create a net gain of 58 affordable dwelling units over the 11 affordable units that would be provided in the Project under the

existing requirements. Residents of these future affordable units would be located within close proximity of the Project Site, and would be able to enjoy the walkability, abundant transit services, and vibrant urban character of the area.

8. **Priority Policy Findings.** Section 101.1(b) establishes eight priority planning policies and requires the review of permits for consistency with said policies. The Proposed Amendment complies with these policies, on balance, as follows:

- A. That existing neighborhood-serving retail/personal services uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The Project would include retail services at the ground-floor and at the fifth floor adjacent to City Park. These uses would provide goods and services to downtown workers, residents, and visitors, while creating ownership and employment opportunities for San Francisco residents. The addition of office and residential uses would bring new employees and residents to area, strengthening the customer base of other businesses in the vicinity. The Proposed Amendment would have no effect on the retail services in the Project.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.
- C. That the City's supply of affordable housing be preserved and enhanced.

No housing has been removed for the construction of the Project, and the Project would provide 74 dwelling units. The Proposed Amendment would enable the payment of an in-lieu fee that will be utilized to create affordable housing on other parcels in the Project Area. OCII staff estimates that the in-lieu fee would create a net gain of 58 affordable dwelling units over the 11 affordable units that would be required in the Project under the existing requirements.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The Project Site is situated in the downtown core and is well served by public transit. The Project Site is located immediately adjacent to the future Transit Center, which will provide direct access to a significant hub of local, regional, and Statewide transportation. The Project is also located two blocks from Market Street, a major transit corridor that provides access to various Muni and BART lines. The Project implements the vision of the Transit Center District Plan to direct regional growth to a location that is served by abundant transit options, in order to facilitate travel by means other than private automobile. The Proposed Amendment would have no negative effect on transit services and circulation in the area.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project includes retail spaces at the first and fifth floors, preserving service sector employment opportunities. The Proposed Amendment would have no effect on the retail services in the Project.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project will comply with all current structural and seismic requirements under the San Francisco Building Code. The Proposed Amendment would have no effect on the physical construction of the Project.

- G. That landmarks and historic buildings be preserved.

The existing buildings that were demolished on the Project Site were not considered to be historic resources. The Proposed Amendment would not affect any landmark or historic building.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

At the hearing for the Project on December 6, 2012, the Planning Commission adopted Motion No. 18763, finding that the shadows cast by the Project on Union Square would not be adverse to the use of the park. The Proposed Amendment would not affect the physical form of the Project, and therefore, would not change the shadow impacts to Union Square.

9. The Proposed Amendment is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
10. The Commission hereby finds that approval of the Proposed Amendment would promote the health, safety, and welfare of the City.

DECISION

Based upon the whole record, the submissions by the Project Sponsor, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, in accordance with the standards specified in the Code, the Commission hereby **APPROVES Application No. 2014.1399X**, pursuant to Section 309, subject to the following conditions attached hereto as "EXHIBIT A", and subject to the conditions of approval of Planning Commission Motion No. 18765, which are amended by this approval and are incorporated herein by reference as though fully set forth, on file in Case Docket No. 2007.0456X.

The actions contemplated in this Motion do not constitute a project under the California Environmental Quality Act ("CEQA"), CEQA Guidelines (California Code of Regulations Title 14) Sections 15378 (b)(4) and 15378(b)(5) because it merely creates a government funding mechanism that does not involve any commitment to a specific project and is an administrative activity of the government with no physical impact.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals in person at 1650 Mission Street, Room 304 or call (415) 575-6880.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting on October 16, 2014.



Jonas P. Ionin
Commission Secretary

AYES: Wu, Antonini, Fong, Hillis, Johnson, Richards,

NOES:

ABSENT: Moore

ADOPTED: October 16, 2014

EXHIBIT A

AUTHORIZATION

This authorization is modify the previous approval granted by Motion No. 18765 to eliminate the requirement of on-site affordable dwelling units and to enable the payment of an in-lieu contribution toward the development of affordable housing in the Transbay Redevelopment Plan Project Area, in association with a previously-approved project to demolish an existing three-story building and an existing two-story building, and to construct a 52-story building reaching a roof height of approximately 700 feet with a decorative screen reaching a maximum height of approximately 745 feet and a spire reaching a maximum height of approximately 800 feet, containing approximately 404,000 square feet of office uses, approximately 74 dwelling units, approximately 2,000 square feet of retail space, and approximately 68,000 square feet of subterranean area with off-street parking, loading, and mechanical space, as well as a bridge to the future elevated City Park situated on top of the Transit Center, at a Project Site located within the C-3-O(SD) (Downtown Office, Special Development) District, the 700-S-2 Height and Bulk District, the Transit Center C-3-O(SD) Commercial Special Use District, and the Transbay C-3 Special Use District, in general conformance with plans dated December 6, 2012 and stamped "EXHIBIT B" included in the docket for Case No. 2007.0456X, subject to the conditions of approval reviewed and approved by the Commission on December 6, 2012 under Motion No. 18765, as amended by the Planning Commission on October 16, 2014 under Motion No. 19262. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on December 6, 2012 under Motion No. 18765, as amended by the Planning Commission on October 16, 2014 under Motion No. 19262.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19262 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Planning Code Section 309 Downtown Project Authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys

no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Planning Code Section 309 Downtown Project Authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

1. Additional Project Authorization. The Project Sponsor must obtain approval from the Board of Supervisors for a Development Agreement between the Project Sponsor and the City and County of San Francisco to exempt the Project from the requirements of Section 249.28 to provide affordable dwelling units on-site, and to enable the payment of an in-lieu fee from the Project Sponsor to OCII for the development of affordable housing in the Redevelopment Plan Area. Consequently, this approval is conditioned upon a final and effective Development Agreement under which the Project Sponsor has complied with all of its terms. Failure to satisfy this condition shall result in the Project Authorization reverting to the project authorization in Planning Commission Motion 18765 dated December 6, 2012.

For information about compliance, contact the Planning Department at 415-558-6378, www.sf-planning.org

PROVISIONS

2. Affordable Units. Condition #36 within Exhibit A of Motion No. 18765, requiring that the Project provide 15% of the dwelling units as affordable to qualifying households, shall no longer apply to the Project. The Project Sponsor shall contribute an in-lieu fee to the Office of Community Investment and Infrastructure ("OCII") for the creation of affordable housing opportunities within the Transbay Redevelopment Plan Project Area, in accordance with the terms of the proposed Development Agreement between the Project Sponsor and the City and County of San Francisco.

For information about compliance, contact the Planning Department at 415-558-6378, www.sf-planning.org



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

Affordable Housing (Sec. 415)

Jobs Housing Linkage Program (Sec. 413)

Downtown Park Fee (Sec. 412)

First Source Hiring (Admin. Code)

Child Care Requirement (Sec. 414)

Other

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Resolution 19261 Development Agreement

HEARING DATE: OCTOBER 16, 2014

Date: October 2, 2014
Case No.: 2014.1399WX
Project Address: 181 Fremont Street
Project Site Zoning: C-3-O (SD) (Downtown, Office: Special Development)
700-S-2 Height and Bulk District
Transit Center C-3-O (SD) Commercial Special Use District
Transbay C-3 Special Use District
Block/Lot: 3719/010, 011 (181 Fremont Street)
Project Sponsor: Janette D'Elia
c/o Jay Paul Company, LLC
Four Embarcadero Center, Suite 3620
San Francisco, CA 94111
Staff Contact: Kevin Guy – (415) 558-6163
kevin.guy@sfgov.org

RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE BOARD OF SUPERVISORS APPROVE THE DEVELOPMENT AGREEMENT BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND 181 FREMONT STREET LLC FOR CERTAIN REAL PROPERTY LOCATED AT 181 FREMONT STREET (LOTS 010 AND 011 IN ASSESSOR'S BLOCK 3719), ALTOGETHER CONSISTING OF APPROXIMATELY 15,313 SQUARE FEET, AND MAKING GENERAL PLAN PLANNING CODE SECTION 101.1(b) FINDINGS.

RECITALS

1. WHEREAS, California Government Code Section 65864 et seq. authorizes any city, county, or city and county to enter into an agreement for the development of real property within the jurisdiction of the city, county, or city and county.
2. WHEREAS, Chapter 56 of the San Francisco Administrative Code sets forth the procedure by which any request for a Development Agreement will be processed and approved in the City and County of San Francisco.

3. **WHEREAS**, 181 Fremont Street LLC ("Project Sponsor") owns the real property located in the City and County of San Francisco, California located at 181 Fremont Street (Lots 010 and 011 in Assessor's Block 3719) altogether consisting of approximately 15,313 square feet ("Project Site").
4. **WHEREAS**, On December 6, 2012, the Planning Commission ("Commission) conducted a duly noticed public hearing at a regularly scheduled meeting and approved a Downtown Project Authorization and Requests for Exceptions pursuant to Planning Code Section ("Section") 309 (Motion No. 18765), an allocation of office space pursuant to Sections 320 through 325 (Annual Office Development Limitation Program (Motion No. 18764), and findings regarding shadow impacts to Union Square (Motion No. 18763), in connection with a proposal to demolish an existing three-story building and an existing two-story building, and to construct a 52-story building reaching a roof height of approximately 700 feet with a decorative screen reaching a maximum height of approximately 745 feet and a spire reaching a maximum height of approximately 800 feet, containing approximately 404,000 square feet of office uses, approximately 74 dwelling units, approximately 2,000 square feet of retail space, and approximately 68,000 square feet of subterranean area with off-street parking, loading, and mechanical space, located at the Project Site, within the C-3-O (SD) (Downtown Office, Special Development) District, the 700-S-2 Height and Bulk District, the Transbay C-3 Special Use District, and the Transit Center C-3-O(SD) Commercial Special Use District. At the same hearing on December 6, 2012, the Zoning Administrator indicated an intent to grant a requested Variance from Section 140 to allow dwelling units on the north, east, and south portions of the proposed building without the required dwelling unit exposure. On March 15, 2013, the Zoning Administrator issued a Variance Decision Letter formally granting the requested Variance (collectively, "Project", Case No. 2007.0456EBKXV). A site permit has been issued for the Project, and the building is currently under construction.
5. **WHEREAS**, The environmental effects of the original Project were determined by the Department to have been fully reviewed under the Transit Center District Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on May 24, 2012, by Motion No. 18628, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., (hereinafter "CEQA"). The Commission has reviewed the Final EIR, which has been available for this Commissions review as well as public review.
6. **WHEREAS**, The Transit Center District Plan EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required of a proposed project, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Transit Center District Plan, the Commission adopted CEQA Findings in its Motion No. 18629 and hereby incorporates such Findings by reference.
7. **WHEREAS**, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section

15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

8. **WHEREAS**, On November 9, 2012, the Department determined that the application for the original Project did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project was consistent with the adopted zoning controls in the Transit Center District Plan and was encompassed within the analysis contained in the Transit Center District Plan Final EIR. Since the Transit Center District Plan Final EIR was finalized, there were no substantial changes to the Transit Center District Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this Project, including the Transit Center District Plan Final EIR and the previously issued Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.
9. **WHEREAS**, Pursuant to the requirements of the Transbay C-3 Special Use District ("SUD") contained in Section 249.28, a minimum of 15% of the dwelling units in the Project would have been required to be affordable to, and occupied by, qualifying persons and families as defined by the Transbay Redevelopment Plan.
10. **WHEREAS**, The Transbay Redevelopment Plan requires that, in accordance with State law (Public Resources Code Section 5027.1), at least 35% of all new housing within the Project Area be affordable to low- and moderate-income households. It is anticipated that this goal will be achieved through a combination of constructing stand-alone affordable housing projects, increasing affordable housing requirements for development of the publicly-owned parcels in "Zone 1", and requiring on-site affordable units for developments on privately-owned parcels containing residential uses.
11. **WHEREAS**, The Office of Community Investment and Infrastructure (OCII), in consultation with the Mayor's Office of Housing and Community Development (MOHCD), has analyzed the implications of applying the on-site requirement of the SUD to the Project. The units within the Project are relatively large, and are situated within the uppermost floors of the tower with abundant views. Given these characteristics, the 11 affordable units within the Project would need to be steeply discounted compared with the market-rate units. In addition, it is estimated that the homeowner's association ("HOA") fees for these units will likely exceed \$2,000 per month. These HOA fees would impose a substantial financial burden on residents whose income levels would allow them to qualify for an affordable unit within the Project. Therefore, OCII and MOHCD staff have concluded that the

resources necessary to create affordable units within the Project could be better leveraged to create other affordable housing opportunities elsewhere in the Redevelopment Plan Area.

12. **WHEREAS**, On September 18, 2014, Janette D'Elia, acting on behalf of the Project Sponsor applied for a Downtown Project Authorization, pursuant to Section 309, in order to amend the conditions of approval for the previously-granted Downtown Project Authorization (Motion No. 18765) to enable the payment of an in-lieu fee toward the development of affordable housing in the Transbay Redevelopment Project Area. In addition the Project Sponsor proposes to enter into a Development Agreement (pursuant to Chapter 56 of the San Francisco Administrative Code) to exempt the Project from the requirements of Section 249.28 to provide affordable dwelling units on-site (collectively, Case No. 2014.1399WX).
13. **WHEREAS**, The proposed Development Agreement would exempt the Project from the requirements of Section 249.28 to provide affordable dwelling units on-site. If the Development Agreement is approved by the Board of Supervisors, the Project Sponsor would contribute \$13.85 million toward the development of affordable housing in the Redevelopment Plan Area. OCII staff estimates that this fee would be capable of creating approximately 69 affordable housing units, a net gain of 58 affordable units compared to the 11 affordable units that would be provided within the Project. For comparative purposes, if the Project Sponsor were to pay the in-lieu affordable housing fee established in the Planning Code, the fee amount would be approximately \$5.5 million.
14. **WHEREAS**, Because the City is entering into a Development Agreement with the Project Sponsor addressing, among other issues, the amount of the Project Sponsor's affordable housing contribution, this Project is consistent with Charter Section 16.110(h)(1)(B)(i) (adopted as part of the Housing Trust Fund, Proposition C, November 6, 2012).
15. **WHEREAS**, The Planning Commission hereby finds, for the reasons set forth in Motion No. 19262 (Case No. 2014.1399X, Downtown Project Authorization), that the Development Agreement and related approval actions are, on balance, consistent with the General Plan including any area plans, and are consistent with the Planning Code Priority Policies of Planning Code Section 101.1(b)
16. **WHEREAS**, The Department is accounting for all costs of reviewing the Development Agreement and preparing all necessary materials for the associated public hearing. The Director recommends that the Developer be required to pay to the City all of the City's costs in preparing and negotiating the Development Agreement, including all staff time for the Planning Department and the City Attorneys' Office.
17. **WHEREAS**, The Director has scheduled and the Commission has held a public hearing on October 16, 2014, as required by Administrative Code Section 56.4(c). The Planning Department gave notice as required by Planning Code Section 306.3 and mailed such notice on September 26, 2014, which is at least 10 days before the hearing to local public agencies as required by Administrative Code Section 56.8(b).
18. **WHEREAS**, The Commission has had available to it for its review and consideration studies, case reports, letters, plans, and other materials pertaining to the Project contained in the Department's case

files, and has reviewed and heard testimony and received materials from interested parties during the public hearings on the Project.

NOW, THEREFORE BE IT RESOLVED THAT, the Commission finds, based upon the entire Record, the submissions by the Applicant, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, that the public necessity, convenience and general welfare require that the Development Agreement to exempt the Project from the requirements of Section 249.28 to provide affordable dwelling units on-site, and to enable the payment of a fee toward the creation of other affordable housing opportunities elsewhere in the Redevelopment Plan Area, as proposed in Application No. 2014.1399W; and,

The actions contemplated in this Resolution do not constitute a project under the California Environmental Quality Act ("CEQA"), CEQA Guidelines (California Code of Regulations Title 14) Sections 15378 (b)(4) and 15378(b)(5) because it merely creates a government funding mechanism that does not involve any commitment to a specific project and is an administrative activity of the government with no physical impact.

BE IT FURTHER RESOLVED THAT, the Planning Commission recommends the Board of Supervisors approve the proposed Development Agreement.

I hereby certify that the foregoing Resolution was ADOPTED by the Planning Commission at its regular meeting on October 16, 2014.



Jonas P. Ionin
Commission Secretary

AYES: Wu, Antonini, Fong, Hillis, Johnson, Richards,

NOES:

ABSENT: Moore

ADOPTED: October 16, 2014