



# 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

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## 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](mailto: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](http://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](http://www.sf-planning.org)*

