

1 [Conditional Purchase Agreement - Goodwill SF Urban Development, LLC - 1500-1580
Mission Street - \$326,690,953 Anticipated Project Cost]

2
3 **Ordinance approving and authorizing the Director of Property to execute a Conditional**
4 **Land Disposition and Acquisition Agreement with Goodwill SF Urban Development,**
5 **LLC, a Delaware limited liability company (“Developer”) for the proposed City**
6 **acquisition of a portion of the real property at 1500-1580 Mission Street, located at the**
7 **corner of South Van Ness Avenue and Mission Street (Assessors Block No. 3506, Lot**
8 **Nos. 2 and 3), for approximately \$30,296,640 plus approximately \$25,884,132 in**
9 **predevelopment costs, together with a Construction Management Agreement for the**
10 **completion of an approximately 466,400 gross square foot office building anticipated to**
11 **cost \$270,510,181 for a total anticipated project cost of \$326,690,953; exempting the**
12 **project from contracting requirements in Administrative Code, Chapter 6, and Chapter**
13 **14B; and approving the Developer, architect, and general contractor without**
14 **competitive bidding, but requiring the payment of prevailing wages, implementation of**
15 **a local business enterprise utilization program, and compliance with the City’s local**
16 **hire policy and first source hiring Ordinance.**

17 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
18 **Additions to Codes** are in *single-underline italics Times New Roman font*.
19 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
20 **Board amendment additions** are in double-underlined Arial font.
21 **Board amendment deletions** are in ~~strikethrough Arial font~~.
22 **Asterisks (* * * *)** indicate the omission of unchanged Code
23 subsections or parts of tables.

24 Be it ordained by the People of the City and County of San Francisco:

25 Section 1. Findings.

A. Developer currently owns that certain improved real property at 1500-1580
Mission Street, located at South Van Ness Avenue and Mission Street (Assessors Block

1 3506, Lots 2 and 3; the “Goodwill Site”). Developer has designated an approximately 52,900
2 square foot portion of the Goodwill Site, located primarily along 11th Street and South Van
3 Ness Avenue (the “Office Parcel”) for the development of an approximately 466,400 square
4 foot, 17 or 18 story administrative office building with a one-stop permitting center on the
5 ground floor (the “Proposed Office Project”). Initial schematic plans for the Proposed Office
6 Project are on file with the Clerk of the Board of Supervisors in File No. _____.
7 Developer has designated the remainder of the Goodwill Site for a high density multifamily
8 residential complex of approximately 110 affordable units and 440 market rate units with retail
9 on the ground floor. The Goodwill Site will also contain child care facilities for City staff in
10 conformance with Administrative Code Section 29B.

11 B. On June 4, 2014, Developer and the City entered into an exclusive negotiations
12 agreement and letter of intent (collectively, the “ENA”) for the Developer’s completion of the
13 Proposed Office Project and the City’s potential acquisition of the same, which were approved
14 by the City’s Board of Supervisors by Resolution No. 312-14 on July 29, 2014. Under the
15 ENA, the parties negotiated a Conditional Land Disposition and Acquisition Agreement, a
16 copy of which is on file with the Clerk of the Board of Supervisors in File No.
17 _____ (the “Conditional Purchase Agreement”).

18 C. Under the ENA, the City made or will make the following payments to
19 Developer: (i) up to \$250,000 for work performed by Developer’s architects and engineers to
20 develop the initial schematic plans and feasibility analysis for environmental review, and
21 (ii) \$1,000,000 for Developer’s purchase of the Goodwill Site (collectively, the
22 “Non-Refundable Payments”). The City paid the \$1,000,000 on October 21, 2014 as required
23 by the ENA. The Non-Refundable Payments must be used by Developer to offset costs
24 incurred by Developer for design and entitlement costs for the Proposed Office Project, and
25

1 accordingly, will be credited against the purchase price on any City acquisition of the Office
2 Parcel.

3 D. The City has not yet completed environmental review under the California
4 Environmental Quality Act (“CEQA”) (California Public Resources Code Sections 21000 et
5 seq.), the CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.),
6 and Chapter 31 of the San Francisco Administrative Code (hereinafter referred to as
7 “Environmental Review”) for the Proposed Office Project. Under the Conditional Purchase
8 Agreement, the Developer shall complete Environmental Review documents and seek
9 numerous project entitlements for the Proposed Office Project, including: amendments to the
10 City’s General Plan, Planning Code and Zoning Map to adjust height and bulk regulations;
11 amendments to the City’s Planning Code to lift the current restriction limiting commercial
12 development to the lower four floors for non-public entity tenant occupancy (the “City
13 Exception”); Planning Code Section 309 project review approval; lot merger and subdivision
14 maps; and demolition and building permits (collectively, the “Proposed Entitlements”).
15 Nothing in the Conditional Purchase Agreement requires the City’s Planning Commission or
16 Board of Supervisors to grant any of the Proposed Entitlements or approve the Proposed
17 Office Project or the adjacent residential project, and the Proposed Entitlements shall not be
18 considered until the City has completed Environmental Review in accordance with applicable
19 law. Rather, the Conditional Purchase Agreement sets forth the terms of the real estate
20 transaction should the conditions imposed, including future City approvals following
21 Environmental Review, come to pass.

22 E. Section 15004(b)(2) of the CEQA Guidelines directs that “public agencies shall
23 not undertake actions concerning the proposed public project that would have a significant
24 adverse effect or limit the choice of alternatives or mitigation measures, before completion of
25 CEQA compliance. For example, agencies shall not: (A) Formally make a decision to proceed

1 with the use of a site for facilities which would require CEQA review, regardless of whether the
2 agency has made any final purchase of the site for these facilities, except that agencies may
3 designate a preferred site for CEQA review and may enter into land acquisition agreements
4 when the agency has conditioned the agency's future use of the site on CEQA compliance.”

5 F. The City has determined that the Conditional Purchase Agreement is a
6 conditional land acquisition agreement as described in CEQA Guidelines
7 Section 15004(b)(2)(A). By approving the Conditional Purchase Agreement, the City is
8 conditionally designating a preferred site for the Proposed Office Project and setting forth
9 terms for the City's potential acquisition of the same following the completion of Environmental
10 Review. The City's obligation to purchase the Office Parcel and proceed with construction of
11 the Proposed Office Project is conditioned upon the City's completion of Environmental
12 Review in compliance with state and local law.

13 G. Under the Conditional Purchase Agreement, the Developer has agreed to
14 design the Proposed Office Project, pay for the Environmental Review, and seek the Project
15 Entitlements in an amount costing up to \$8,072,300 (the “Design and Entitlement Costs”).
16 The parties currently estimate that the total project costs, including the land acquisition,
17 Design and Entitlement Costs, hard costs, financing costs, regulatory fees and permits, taxes,
18 insurance, and the fees payable to Developer, are approximately \$326,690,953. A copy of
19 the total project budget is attached to the Conditional Purchase Agreement as Exhibit D.

20 H. Upon the City's completion of all Environmental Review, the City's Director of
21 Property and the Developer will seek certification of the adequacy of the Environmental
22 Review documents and approval of the Proposed Entitlements from the City's Planning
23 Commission and then from the Board of Supervisors. At the same Board of Supervisors
24 meeting, the Board of Supervisors must also take an action, by resolution, to either (i) ratify
25 the Conditional Purchase Agreement and proceed with the City's acquisition of the Office

1 Parcel and Developer's completion of the Proposed Office Project for the City under the
2 construction management agreement, substantially in the form attached to the Conditional
3 Purchase Agreement as Exhibit P (the "Construction Management Agreement") or (ii) reject
4 the Conditional Purchase Agreement and not to proceed with the City's acquisition of the
5 Office Parcel solely on the basis of the environmental impacts of the Proposed Office Project
6 disclosed in the Environmental Review documents that have not been adequately avoided,
7 mitigated, or overridden under CEQA. At the same meeting, the Director of Property and
8 Director of Public Finance will also seek Board of Supervisors' authorization for the City's
9 issuance of certificates of participation ("COPs") in an amount needed to pay for the land
10 acquisition and complete the Proposed Office Project. The date of the Board of Supervisors
11 meeting at which all of these actions will be considered is called the "CEQA Date" or the "PSA
12 Ratification Date" in the Conditional Purchase Agreement.

13 I. If the Developer cannot obtain the Proposed Entitlements despite its
14 commercially reasonable efforts, then neither party shall be considered in default and the
15 Conditional Purchase Agreement shall terminate. Upon such termination, the City must
16 reimburse the Developer for one-half of the Design and Entitlement Costs. The City must also
17 pay for one-half of the Design and Entitlement Costs if the Conditional Purchase Agreement
18 terminates for any reason before closing and neither party is in default.

19 J. If the Board of Supervisors does not authorize the issuance of the COPs to
20 acquire the Office Parcel and complete the Proposed Office Project on the CEQA Date, or the
21 City's sale of the COPs subsequently does not occur, and the City and Developer do not
22 agree on alternative terms for the City's occupancy in light of the City's failure to authorize or
23 sell the COPs, then the City must reimburse Developer for seventy-five percent (75%) of the
24 Design and Entitlement Costs.

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1 K. If the Developer obtains the Proposed Entitlements on the CEQA Date but the
2 City does not grant the City Exception such that Developer cannot proceed without City or
3 other public agency occupancy, and the City does not proceed with the proposed acquisition
4 (by failing to ratify the Conditional Purchase Agreement on the PSA Ratification Date), then
5 the City must reimburse Developer for all of the Design and Entitlement Costs.

6 L. Consistent with the ENA, Developer has selected and the City has approved
7 SOM, a New York limited liability partnership (the "Architect"), as the architect and Swinerton
8 Builders Inc., a California corporation (the "General Contractor"), as the general contractor for
9 the Proposed Office Project. The Developer shall negotiate, with assistance from the Director
10 of Property consulting with the Director of Public Works, contracts with the Architect and the
11 General Contractor for the design and construction of the Proposed Office Project. Such
12 contracts, and all other contracts required for the completion of the Proposed Office Project
13 (the "Project Contracts"), will be entered into by the Developer as the City's construction
14 manager as set forth in the Construction Management Agreement. Developer shall enter into
15 a contract with the Architect to complete the Design and Entitlement work before the PSA
16 Ratification Date. Developer shall not enter into a contract with the General Contractor until
17 the closing date for the land acquisition, when the City obtains the funds to complete the
18 Proposed Office Project through the sale of the COPs.

19 M. Under the Construction Management Agreement, Developer shall enter into,
20 manage, monitor, and oversee all contracts required to complete the Proposed Office Project
21 for the City (the "Developer Services"). In consideration for the Developer Services, the City
22 shall pay to Developer a development services fee in the amount of \$26,500,000. Upon
23 completion of the Proposed Office Project, or upon any earlier termination of the Construction
24 Management Agreement, Developer shall assign to the City and the City shall assume all of
25 the Project Contracts entered into by the Developer, together with all intangible rights held by

1 Developer in the Proposed Office Project, including all warranties and guaranties from the
2 contractors.

3 N. Entering into the Conditional Purchase Agreement with the Developer is
4 appropriate and in City's best interests. If the Proposed Office Project is entitled and
5 developed, the City would add an approximately 466,400 gross square foot office building to
6 the emerging Civic Center neighborhood. The City could terminate approximately 60,000
7 square feet of City-as-tenant leases, and sell three City-owned buildings in the Civic Center
8 that may be repositioned for other uses such as housing. The City could also consolidate its
9 development services and building-related permitting functions, and create a one-stop
10 permitting center. The development would also involve significant participation of local trades
11 and businesses to bolster the local economy. Finally, the development would help transition
12 the City from rented to owned space and thereby remove the City from long-term exposure to
13 increases in the Civic Center rental market. Based upon the information provided by the
14 Office of Public Finance and the Real Estate Director, the Board finds that the Proposed
15 Office Project is financially feasible consistent with Administrative Code Chapter 29.

16 Section 2. Approval of Agreement. In accordance with the recommendation of the
17 Director of Property and the Director of Public Finance, the Board of Supervisors hereby
18 approves the Conditional Purchase Agreement, including the attached Construction
19 Management Agreement, in substantially the form presented to the Board of Supervisors.
20 The Board of Supervisors authorizes the Director of Property to execute and deliver the
21 Conditional Purchase Agreement and any other such documents that are necessary or
22 advisable to effectuate the purpose and intent of this ordinance and, in consultation with the
23 Director of Public Works as needed, to perform the City's obligations under the Conditional
24 Purchase Agreement. The City's approval of the Conditional Purchase Agreement is not an
25 approval of the Proposed Office Project. Any such approval of the Proposed Office Project

1 shall be made, if at all, following completion of Environmental Review. The City's Planning
2 Department and Board of Supervisors, acting in a regulatory capacity, reserves all rights to
3 modify the Proposed Office Project and to reject the Proposed Office Project following the
4 completion of Environmental Review as set forth in the Conditional Purchase Agreement.

5 Section 3. Administrative Code Chapter 6 and Chapter 14B Exemption. The Board of
6 Supervisors recognizes that this development opportunity is only available through the
7 Developer, as the owner of the Goodwill Site. The Board of Supervisors finds that the design
8 and construction of the Proposed Office Project by Developer, as set forth in the Conditional
9 Purchase Agreement and the Construction Management Agreement, will not be subject to the
10 requirements of San Francisco Administrative Code Chapter 6 or Chapter 14B, provided the
11 payment of prevailing wages, implementation of a local business enterprise (LBE)
12 subcontractor utilization program, and compliance with the local hire policy and first source
13 hiring under Administrative Code Chapter 83 will apply as set forth in the Construction
14 Management Agreement. The Board of Supervisors approves the selection of Developer, the
15 Architect, and the General Contractor as set forth in the ENA and the Conditional Purchase
16 Agreement without competitive bidding. If the Proposed Office Project proceeds following
17 Environmental Review, competitive bidding for subcontracting opportunities shall be as set
18 forth in a construction contract between the Developer and the General Contractor, as
19 approved by the City, in accordance with the terms of the Construction Management
20 Agreement.

21 Section 4. Additions, Amendments, and Modifications. The Board of Supervisors
22 authorizes the Director of Property to enter into any additions, amendments, or other
23 modifications to the Conditional Purchase Agreement, including the attached Construction
24 Management Agreement, and any other documents or instruments in connection with the
25 Conditional Purchase Agreement, that the Director of Property and the City Administrator

1 determine, following consultation with the City Attorney, are in City's best interests, do not
2 materially decrease City's benefits or materially increase the City's obligations or liabilities,
3 and are appropriate and advisable to complete the proposed purchase transaction, such
4 determination to be conclusively evidenced by the execution and delivery by the Director of
5 Property and the City Administrator of any such additions, amendments, or other
6 modifications.

7 Section 5. Effective Date. This ordinance shall become effective 30 days after
8 enactment. Enactment occurs when (i) the Mayor and Board of Supervisors concurrently
9 approve an appropriation of \$8,072,300 to meet the City's maximum payment obligations
10 under the Conditional Purchase Agreement, and (ii) the Mayor signs the ordinance, the Mayor
11 returns the ordinance unsigned or does not sign the ordinance within 10 days of receiving it,
12 or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

16 By: _____
17 CHARLES SULLIVAN
18 Deputy City Attorney

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