

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

Ordinance approving and authorizing the Director of Property to execute a Conditional Land Disposition and Acquisition Agreement with Goodwill SF Urban Development, LLC, a Delaware limited liability company (“Developer”) for the proposed City acquisition of a portion of the real property at 1500-1580 Mission Street, located at the corner of South Van Ness Avenue and Mission Street (Assessors Block 3506, Lots 2 and 3), for approximately \$30,296,640 plus approximately \$25,884,132 in predevelopment costs, together with a Construction Management Agreement for the completion of an approximately 466,400 463,300 gross square foot office building anticipated to cost \$270,510,181, for a total anticipated project cost of \$326,690,953; exempting the project from contracting requirements in Administrative Code Chapter 6 and Chapter 14B; and approving the Developer, architect and general contractor without competitive bidding, but requiring the payment of prevailing wages, implementation of a local business enterprise utilization program, and compliance with the City’s local hire policy and first source hiring ordinance.

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

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

Section 1. 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~~ 463,300  
4 square foot, 17 or 18 story administrative office building with a one-stop permitting center on  
5 the ground floor (the "Proposed Office Project"). Initial schematic plans for the Proposed  
6 Office Project are on file with the Clerk of the Board of Supervisors in File No. 141120.  
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. 141120 (the  
17 "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.

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~~ 463,300 gross square foot office  
6 building to the emerging Civic Center neighborhood. The City could terminate approximately  
7 60,000 square feet of City-as-tenant leases, and sell three City-owned buildings in the Civic  
8 Center that may be repositioned for other uses such as housing. The City could also  
9 consolidate its development services and building-related permitting functions, and create a  
10 one-stop permitting center. The development would also involve significant participation of  
11 local trades and businesses to bolster the local economy. Finally, the development would  
12 help transition the City from rented to owned space and thereby remove the City from long-  
13 term exposure to increases in the Civic Center rental market. Based upon the information  
14 provided by the Office of Public Finance and the Real Estate Director, the Board finds that the  
15 Proposed 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.

13  
14 APPROVED AS TO FORM:  
15 DENNIS J. HERRERA, City Attorney

16 By:

  
17 CHARLES SULLIVAN  
18 Deputy City Attorney

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## City and County of San Francisco

### Tails Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 141120

**Date Passed:** December 09, 2014

Ordinance approving and authorizing the Director of Property to execute a Conditional Land Disposition and Acquisition Agreement with Goodwill SF Urban Development, LLC, a Delaware limited liability company (Developer) for the proposed City acquisition of a portion of the real property at 1500-1580 Mission Street, located at the corner of South Van Ness Avenue and Mission Street (Assessors Block No. 3506, Lot Nos. 2 and 3), for approximately \$30,296,640 plus approximately \$25,884,132 in predevelopment costs, together with a Construction Management Agreement for the completion of an approximately 463,300 gross square foot office building anticipated to cost \$270,510,181 for a total anticipated project cost of \$326,690,953; exempting the project from contracting requirements in Administrative Code, Chapter 6, and Chapter 14B; and approving the Developer, architect, and general contractor without competitive bidding, but requiring the payment of prevailing wages, implementation of a local business enterprise utilization program, and compliance with the City's local hire policy and first source hiring Ordinance.

November 19, 2014 Budget and Finance Committee - AMENDED

November 19, 2014 Budget and Finance Committee - RECOMMENDED AS AMENDED

November 25, 2014 Board of Supervisors - PASSED ON FIRST READING

Ayes: 10 - Avalos, Breed, Campos, Chiu, Farrell, Kim, Mar, Tang, Wiener and Yee

Excused: 1 - Cohen

December 09, 2014 Board of Supervisors - FINALLY PASSED

Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

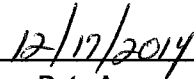
File No. 141120

I hereby certify that the foregoing  
Ordinance was FINALLY PASSED on  
12/9/2014 by the Board of Supervisors of  
the City and County of San Francisco.



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Angela Calvillo  
Clerk of the Board

  
Mayor

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Date Approved