

1 [Air Rights Lease - T8 Housing Partners, L.P. - 250 Fremont Street - Transbay Block 8  
2 Affordable Housing - \$15,000 per Year]

3 **Resolution approving and authorizing the Successor Agency to the Redevelopment**  
4 **Agency of the City and County of San Francisco to execute a lease of an air rights**  
5 **parcel at 250 Fremont Street, with T8 Housing Partners, L.P., a California limited**  
6 **partnership, for \$15,000 per year for a term of 75 years for the purpose of developing**  
7 **housing for very low-income households at Transbay Block 8.**

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9 WHEREAS, The Successor Agency to the Redevelopment Agency of the City and  
10 County of San Francisco (the "Successor Agency"), also commonly known as the Office of  
11 Investment and Infrastructure ("OCII"), and the City desire to increase the City's supply of  
12 affordable housing and encourage affordable housing development through financial and  
13 other forms of assistance; and

14 WHEREAS, The Board of Supervisors of the City adopted the Transbay  
15 Redevelopment Project Area (the "Project Area") in order to undertake a variety of projects  
16 and activities to alleviate blighted conditions; and

17 WHEREAS, The air rights parcel located at 250 Fremont Street, San Francisco,  
18 California, in the Project Area ("Site" or "Property"), was part of an underutilized and  
19 unimproved lot; and

20 WHEREAS, The California Legislature in 2003 enacted Assembly Bill 812 ("AB 812")  
21 authorizing the demolition of the historic Transbay Terminal building and the construction of  
22 the new Transbay Transit Center ("TTC") (Stat. 2003, Chapter 99, codified at Section 5027.1  
23 of the Cal. Public Resources Code); and

24 WHEREAS, AB 812 also mandated that 25% of the residential units developed in the  
25 area around the Center "shall be available to" low income households, and an additional 10%

1 “shall be available to” moderate income households if the City and County of San Francisco  
2 (“City”) adopted a redevelopment plan providing for the financing of the Center; and

3 WHEREAS, In 2003, in an agreement with the Transbay Joint Powers Authority  
4 (“TJPA”) and the City, the State agreed to transfer approximately 10 acres of State-owned  
5 property (“State-owned parcels”) in and around the then-existing Transbay Terminal to the  
6 City and the TJPA, which would then sell the State-owned parcels and use the revenues from  
7 the sales to finance the Center (“Cooperative Agreement”); and

8 WHEREAS, The City agreed, among other things, to commit the property tax revenue  
9 from the State-owned parcels through its Redevelopment Agency to the Center; and

10 WHEREAS, Under the Cooperative Agreement, the State relied on tax increment  
11 financing under a redevelopment plan to improve and sell the parcels; and

12 WHEREAS, The Board of Supervisors of the City and County of San Francisco  
13 approved a Redevelopment Plan for the Project Area by Ordinance No. 124-05, adopted on  
14 June 21, 2005, and by Ordinance No. 99-06, adopted on May 9, 2006, (the “Redevelopment  
15 Plan”); and

16 WHEREAS, The Redevelopment Plan provided for the financing of the TTC and  
17 established a program for the Redevelopment Agency of the City and County of San  
18 Francisco (the “Former Agency”) to redevelop and revitalize the blighted Project Area; and

19 WHEREAS, In 2006, the TJPA and the Former Agency executed an agreement  
20 (“Implementation Agreement”), which required the Former Agency to take the lead role in  
21 facilitating the development of the State-owned parcels; and

22 WHEREAS, Specifically, the Implementation Agreement required the Former Agency  
23 to: (1) prepare and sell the State-owned parcels to third parties, (2) deposit the sale proceeds  
24 into a trust account to help the TJPA pay the cost of constructing the TTC, (3) implement the  
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1 Redevelopment Plan to enhance the financial feasibility of the Project, and (4) fund the state-  
2 mandated affordable housing program; and

3 WHEREAS, In 2008, the City, the Former Agency and the TJPA entered into an  
4 agreement that granted options to the Former Agency to acquire the State-owned parcels,  
5 arrange for development of the parcels, and distribute the net tax increment to the TJPA to  
6 use for the Center (“Option Agreement”); and

7 WHEREAS, The Option Agreement provided the means by which the Former Agency  
8 could fulfill its obligations under the Implementation Agreement to prepare and sell the State-  
9 owned parcels; and

10 WHEREAS, The Option Agreement granted to the Former Agency “the exclusive and  
11 irrevocable option to purchase” the former State-owned parcels in the Project Area that are  
12 programmed for development, which are listed in the Option Agreement, including Blocks 2-  
13 12 and Parcel F (Section 2.1 of the Option Agreement at p. 4); and

14 WHEREAS, On February 1, 2012, the Former Redevelopment Agency was dissolved  
15 pursuant to the provisions of California State Assembly Bill No. 1X 26 (Chapter 5, Statutes of  
16 2011-12, First Extraordinary Session) (“AB 26”), codified in relevant part in California’s Health  
17 and Safety Code, Sections 34161–34168 and upheld by the California Supreme Court in  
18 California Redevelopment Assoc. v. Matosantos, No. S194861 (Dec. 29, 2011); and

19 WHEREAS, On June 27, 2012, AB 26 was amended in part by California State  
20 Assembly Bill No. 1484 (Chapter 26, Statutes of 2011-12) (“AB 1484”); and

21 WHEREAS, (Together, AB 26 and AB 1484 are primarily codified in sections 34161 et  
22 seq. of the California Health and Safety Code, which sections, as amended from time to time,  
23 are referred to as the “Redevelopment Dissolution Law.”); and

1           WHEREAS, Redevelopment Dissolution Law authorizes successor agencies to enter  
2 into new agreements if they are “in compliance with an enforceable obligation that existed  
3 prior to June 28, 2011” Cal. Health & Safety Code, Section 34177.5 (a); and

4           WHEREAS, Under this limited authority, a successor agency may enter into contracts if  
5 a pre-existing enforceable obligation requires that action; and

6           WHEREAS, See also Cal. Health & Safety Code, Section 34167 (f) (providing that the  
7 Redevelopment Dissolution Law does not interfere with an agency’s authority under  
8 enforceable obligations to “enforce existing covenants and obligations, or perform its  
9 obligation.”); and

10          WHEREAS, The Implementation Agreement and several other Transbay obligations  
11 are “enforceable obligations” requiring OCII to take the actions proposed by this Resolution;  
12 and Cal. Health & Safety Code, Section 34171 (d) (1); and

13          WHEREAS, On April 15, 2013, the California Department of Finance (“DOF”)  
14 determined “finally and conclusively,” under Cal. Health & Safety Code, Section 34177.5 (i),  
15 that the Implementation Agreement, AB 812, and the Transbay Redevelopment Project Tax  
16 Increment Allocation and Sales Proceeds Pledge Agreement (“Pledge Agreement”) are  
17 enforceable obligations; and

18          WHEREAS, The Implementation Agreement and several other Transbay obligations  
19 require OCII to take the actions proposed by this Resolution; and

20          WHEREAS, On September 10, 2013, DOF stated that in light of its determination  
21 regarding the Transbay Final and Conclusive Enforceable Obligations, “any sale, transfer, or  
22 conveyance of property related to this project, and as outlined in the project documents, is  
23 authorized” and that “no objection to any sale, transfer and/or conveyance of property related  
24 to this project will be initiated” so long as the activities comply with the approved final and  
25 conclusive enforceable obligations; and

1           WHEREAS, Pursuant to the Redevelopment Dissolution Law, all of the Former  
2 Redevelopment Agency’s obligations, along with completed non-housing assets, were  
3 transferred to the OCII, as Successor Agency to the Former Agency; and

4           WHEREAS, The Former Agency’s completed housing assets were transferred to the  
5 City, acting by and through the Mayor’s Office of Housing and Community Development  
6 (“MOHCD”); and

7           WHEREAS, On November 20, 2013, pursuant to the Implementation Agreement, the  
8 Former Agency issued a Request for Proposals (the “RFP”) from development teams to  
9 design and develop a high-density, mixed-income residential project on Block 8 in the Project  
10 Area; and

11           WHEREAS, On June 17, 2014, after a competitive selection process, the OCII  
12 Commission (the “Commission” ) authorized the Executive Director to execute an Exclusive  
13 Negotiations Agreement (“ENA”) for the development of Block 8 with the development team  
14 led by Related California Urban Housing, LLC (“Related”) and Tenderloin Neighborhood  
15 Development Corporation (“TNDC”), the Office of Metropolitan Architecture as the lead  
16 architect for the tower component of the development, and Fougeron Architects as the  
17 architect for the low-rise buildings (together referred to as the “Development Team”); and

18           WHEREAS, Based on the ENA, OCII staff negotiated the terms of a disposition and  
19 development agreement (the “DDA”) with Transbay 8 Urban Housing, LLC and TNDC for the  
20 sale and development of Block 8; and

21           WHEREAS, The DDA provides for a purchase price of \$71,000,000, and 554  
22 residential units (404 market-rate units and 70 inclusionary affordable units in a 550 foot  
23 tower, 20 affordable units in an OCII funded podium building adjacent to the tower, and 60  
24 affordable units in an OCII funded standalone podium building located east of the pedestrian  
25 paseo) (the “Initial Project”); and

1           WHEREAS, Based on the Department of Finance’s Final and Conclusive  
2 Determination (April 15, 2013) that the Implementation Agreement is an enforceable  
3 obligation, the Commission, on April 21, 2015, under Resolution No. 23-2015, authorized the  
4 Executive Director to: (1) exercise an option to purchase Block 8 (Assessor’s Parcel Block No.  
5 3737, Lot Nos. 005, 012, 027), located on Folsom Street at Fremont Street, from the City and  
6 County of San Francisco pursuant to the Option Agreement; and (2) execute a Disposition  
7 and Development Agreement with Transbay 8 Urban Housing LLC, a Delaware Limited  
8 Liability Company (an affiliate of Related) and TNDC, substantially in the form approved by  
9 the City Attorney acting as counsel to OCII and to enter into any and all ancillary document or  
10 take any additional actions necessary to consummate the transaction with respect to the  
11 development as described in the DDA; and

12           WHEREAS, Following the approval of the Transbay Block 8 design the Development  
13 Team revised the building programs to a final count of 546 units including: 116 market rate  
14 condominiums, 280 market rate rentals, 70 developer-subsidized below market rate rentals  
15 (“BMR units”), the 80-unit OCII funded affordable project (the “Affordable Project”) and  
16 approximately 17,000 square feet of neighborhood retail; and

17           WHEREAS, The Affordable Project includes 39 one-bedroom units, 16 two-bedroom  
18 units, 24 three-bedroom units and 1 one-bedroom manager’s unit for a total of 80 units; and

19           WHEREAS, The affordable podium buildings each contain amenities and community  
20 spaces from which residents will benefit; and

21           WHEREAS, Both the 85-foot and 65-foot podium buildings feature rooftop decks; and

22           WHEREAS, The taller building includes a 1,900 square foot community room, and both  
23 the podium buildings and townhouses have dedicated laundry facilities; and

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1           WHEREAS, T8 Housing Partners, L.P., a California limited partnership (the “Affordable  
2 Project Developer” or “Tenant”) intends to develop the Affordable Project within two air rights  
3 parcels commonly referred to as Lots 4 and 5 (“the Affordable Air Rights Parcels”); and

4           WHEREAS, Block 8, was transferred to Transbay 8 Urban Housing LLC per the terms  
5 of the DDA; and

6           WHEREAS, Transbay 8 Urban Housing LLC is required pursuant to the terms of the  
7 DDA to transfer the air rights parcel (the “Air Rights Parcel”) that the affordable component of  
8 Block 8 will be built within to OCII allowing sufficient time for OCII to lease the Air Rights  
9 Parcel to T8 Housing Partners, L.P. through a long term air rights lease (“Air Rights Lease”)  
10 prior to start of construction of the Affordable Project; and

11           WHEREAS, OCII is providing the T8 Housing Partners, L.P., a California limited  
12 partnership (the “Developer”) with financial assistance from Transbay Developer Fees,  
13 Transbay Affordable Housing Fees, and Tax Increment to leverage equity from an allocation  
14 of low-income housing tax credits and other funding sources in order to construct the  
15 Affordable Project; and

16           WHEREAS, The OCII Commission has approved the Air Rights Lease between OCII  
17 and the Developer pursuant to the terms of the DDA, in which OCII will lease the Property for  
18 Fifteen Thousand Dollars (\$15,000.00) per year, in exchange for the Developer’s agreement,  
19 among other things, to operate the Affordable Project with rent levels affordable to Lower  
20 Income Households; and

21           WHEREAS, A copy of the OCII Commission Resolution No. 15-2016, approved by the  
22 OCII Commission on March 15, 2016, is on file with the Clerk of the Board of Supervisors in  
23 File No. \_\_\_\_\_, and incorporated by reference herein as though fully set forth; and

24           WHEREAS, OCII believes that the redevelopment of the Site, pursuant to the Air  
25 Rights Lease, and the fulfillment generally of the Air Rights Lease and the intentions set forth

1 herein, are in the vital and best interests of the City and the health, safety, morals and welfare  
2 of its residents, and in accord with the public purposes and provisions of the applicable State  
3 and Federal laws; and

4 WHEREAS, Upon completion of the Affordable Project, OCII intends to transfer the  
5 affordable housing loan obligation, asset, and Air Rights Lease to the Mayor's Office of  
6 Housing and Community Development ("MOHCD") as the designated Successor Housing  
7 Agency of the City and County of San Francisco under Board Resolution No. 11-12, as  
8 required by Dissolution Law; and

9 WHEREAS, Pursuant to the Redevelopment Plan, the Board of Supervisors shall  
10 approve the sale or lease of any property acquired by OCII pursuant to the Option Agreement  
11 in a manner consistent with the standards and procedures that govern the Agency's  
12 disposition of property acquired with tax increment moneys and that appear in Section 33433  
13 of the California Community Redevelopment Law; and

14 WHEREAS, Notice of the public hearing has been published as required by Health and  
15 Safety Code, Section 33433; and

16 WHEREAS, OCII prepared and submitted a report in accordance with the requirements  
17 of Section 33433 of the Health and Safety Code, including a copy of the proposed Air Rights  
18 Lease, and a summary of the transaction describing the cost of the Air Rights Lease to the  
19 Agency, the value of the property interest to be conveyed, the lease price and other  
20 information was made available for the public inspection; now, therefore, be it

21 RESOLVED, That the Board of Supervisors does hereby find and determine that the  
22 lease of the Property from OCII to the Developer (1) will provide housing for very low-income  
23 families; (2) is consistent with the Project Area Implementation Plan adopted pursuant to  
24 Community Redevelopment Law, Section 33490; (3) the less than fair market value rent of  
25 approximately Fifteen Thousand Dollars (\$15,000.00) per year for a term of seventy-five (75)



1 years is necessary to achieve affordability for Very Low Income Households; and (4) the  
2 consideration to be received by OCII is not less than the fair reuse value at the use and with  
3 the covenants and conditions and development costs authorized by the Air Rights Lease; and,  
4 be it

5 FURTHER RESOLVED, That the Board of Supervisors hereby approves and  
6 authorizes OCII to execute the Air Rights Lease with the Developer, substantially in the form  
7 on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_ and lodged with the OCII,  
8 and to take any such further actions needed to execute such documents as is necessary to  
9 carry out the Air Rights Lease.

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