

1 [Development Agreement - Parcel F Owner, LLC - 542-550 Howard Street Transbay
2 Redevelopment Project Area]

3 **Ordinance approving a Development Agreement between the City and County of San**
4 **Francisco and Parcel F Owner, LLC, for certain real property, known as 542-550**
5 **Howard Street (Assessor's Parcel Block No. 3721, Lot Nos. 016, 135, 136, and 138, also**
6 **known as Transbay Parcel F), located in the Transbay Redevelopment Project Area,**
7 **consisting of four parcels located on the north side of Howard Street, between 1st and**
8 **2nd Streets; waiving certain provisions of Administrative Code, Chapter 56; adopting**
9 **findings under the California Environmental Quality Act; and making findings of**
10 **conformity with the General Plan, and the eight priority policies of Planning Code,**
11 **Section 101.1(b), and findings of public necessity, convenience, and general welfare**
12 **under Planning Code, Section 302.**

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

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

21 Section 1. Project Findings.

22 The Board of Supervisors makes the following findings:

23 (a) California Government Code Sections 65864 et seq. authorizes any city, county,
24 or city and county to enter into an agreement for the development of real property within its
25 respective jurisdiction.

(b) Administrative Code Chapter 56 ("Chapter 56") sets forth certain procedures for
the processing and approval of development agreements in the City and County of San

1 Francisco (the "City").

2 (c) Parcel F Owner, LLC, a Delaware limited liability company (the "Developer"), is
3 the owner of that certain real property located at 542-550 Howard Street (Assessor's Parcel
4 Block No. 3721, Lots 016, 135, 136, and 138, also known as Transbay Parcel F), which is an
5 irregularly shaped property formed by four parcels measuring a total of approximately 32,229
6 square feet, located on the north side of Howard Street, between 1st and 2nd Streets in the
7 Transbay Redevelopment Project Area (the "Project Site").

8 (d) On January 9, 2020, the Planning Commission approved Resolutions 20613 and
9 20614, and Motions 20615, 20616, 20617, 20618; and on June 5, 2020, the Zoning
10 Administrator issued a variance decision (collectively, the "Approvals"). The Approvals
11 approved a project on the Project Site that would construct a new 61-story mixed use building
12 reaching a height of approximately 750 feet (approximately 800 feet including rooftop
13 screen/mechanical equipment), and including 165 dwelling units, 189 hotel rooms, 275,674
14 gross square feet of office use floor area, approximately 9,000 square feet of retail space,
15 approximately 20,000 square feet of open space, 178 Class 1 and 34 Class 2 bicycle parking
16 spaces, and four below-grade levels to accommodate up to 183 vehicle parking spaces for the
17 residential, hotel, and office uses (the "Project"). The Project also includes a bridge to the
18 future elevated City Park situated on top of the Transbay Transit Center. The Approvals are
19 on file with the Planning Department, located at 49 South Van Ness, Suite 1400, San
20 Francisco, CA 94103.

21 (e) On December 17, 2020, the Developer filed a request with the Office of
22 Community Investment and Infrastructure ("OCII") for a Plan Variation pursuant to Section
23 3.5.5 of the Transbay Project Area Redevelopment Plan (the "Plan") for a variation from the
24 on-site affordable housing requirements of Section 4.9.3 of the Plan (the "Plan's Inclusionary
25 Housing Obligation") as well as a request to the City's Planning Department for a waiver of

1 Sections 249.28(b)(6)(B), 249.28(b)(6)(C), 402, 409, and 415 et seq. of the Planning Code
2 (the "Requested Variations from On-Site Affordable Housing").

3 (f) The Developer has submitted the Requested Variations from On-Site Affordable
4 Housing in exchange for a payment to OCII to be used to fund development of affordable
5 housing within the Project Area, all as further described in the proposed development
6 agreement (the "Development Agreement"), a copy of which is on file with the Clerk of the
7 Board of Supervisors in File No. 201386 and incorporated herein by reference.

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

12 (h) The City has determined that as a result of the development of the Project Site
13 in accordance with the Development Agreement, clear benefits to the public will accrue that
14 could not be obtained through application of existing City ordinances, regulations, and
15 policies, as more particularly described in the Development Agreement. Specifically, the
16 Development Agreement will provide a housing contribution that will significantly exceed the
17 amount required for similar projects in the City, and that will provide OCII with the ability to
18 subsidize permanently affordable housing units within the Transbay Redevelopment Project
19 Area.

20 (i) On January 19, 2021, at a duly noticed public hearing, the Commission on
21 Community Investment and Infrastructure ("CCII"), as the Commission to the OCII, in
22 Resolution No. 02-2021, conditionally approved the Developer's requested Plan Variation and
23 the change to the Plan's Inclusionary Housing Obligation because of the infeasibility of
24 maintaining affordable units in the Project and the payment to OCII for affordable housing.
25 Said Resolution is on file with the Clerk of the Board of Supervisors in File No. 201386 and is

1 incorporated herein by reference. Under Section 6(a) of Ordinance No. 215-12, the Board of
2 Supervisors delegated certain authority under the Redevelopment Dissolution Law, California
3 Health and Safety Code, Sections 34170 et seq., to the CCII, but required that it not materially
4 change its affordable housing obligations without obtaining the approval of the Board of
5 Supervisors. Given that the CCII's conditional approval of the Plan Variation potentially
6 removes the on-site affordable housing requirements of Section 4.9.3 of the Plan from the
7 Project, the Board of Supervisors, acting as the legislative body for OCII, must approve the
8 change to the Plan's Inclusionary Housing Obligation. A copy of Ordinance No. 215-12 is on
9 file with the Clerk of the Board of Supervisors in File No. 120898.

10 (j) The Board of Supervisors, acting in its capacity as the legislative body for the
11 CCII, has reviewed the basis for CCII's conditional approval of the Plan Variation and has
12 determined that the changes to the Plan's Inclusionary Housing Obligation will comply with,
13 and facilitate the fulfillment of, OCII's affordable housing obligations by significantly increasing
14 the amount of affordable housing that would otherwise be available at the Project under the
15 Plan's Inclusionary Housing Obligation. Accordingly, on _____, 20__, at a duly
16 noticed public hearing, the Board of Supervisors, acting as the legislative body for the CCII,
17 approved, by Resolution No. _____, the change to the Plan's Inclusionary Housing
18 Obligation. Said Resolution is on file with the Clerk of the Board in File No. 201387 and is
19 incorporated herein by reference.

20 (k) On January 28, 2021, at a duly noticed public hearing, the Planning Commission
21 approved Resolution No. 20842 recommending to the Board of Supervisors that it approve
22 certain changes to the Zoning Map, Height Map, and Planning Code (the "Companion
23 Rezoning Legislation) that would accommodate the project design and allow the Developer to
24 make an in-lieu payment for affordable housing instead of constructing affordable housing on-
25 site. In addition, the Planning Commission, as part of Resolution No. 20842, adopted findings

1 that the Companion Rezoning Legislation is, on balance, consistent with the General Plan and
2 the eight priority policies of Planning Code Section 101.1 and adopted findings under Planning
3 Code Section 302 that the Companion Rezoning Legislation will serve the public necessity,
4 convenience, and general welfare. The Companion Rezoning Legislation is on file with the
5 Clerk of the Board in File No. 201385 and incorporated herein by reference.

6
7 Section 2. California Environmental Quality Act Findings.

8 The Planning Commission in Resolution No. 20842 also adopted environmental
9 findings under the California Environmental Quality Act ("CEQA"), that the Project satisfied all
10 the requirements of CEQA. In the Companion Rezoning Legislation, a copy of which is on file
11 with the Clerk of the Board of Supervisors in File No. 201385 and incorporated herein by
12 reference, the Board of Supervisors adopted the Planning Commission environmental findings
13 as its own. For purposes of this ordinance, the Board of Supervisors adopts those
14 environmental findings from the Companion Rezoning Legislation as if fully set forth herein.

15
16 Section 3. Public Necessity, General Plan, and Planning Code Section 101.1(b)
17 Findings.

18 (a) The Board of Supervisors finds that the Development Agreement, will serve the
19 public necessity, convenience, and general welfare in accordance with Planning Code Section
20 302 for the reasons set forth in Planning Commission Resolution No. 20842. In Resolution No.
21 20842, the Planning Commission also recommended that the Board of Supervisors adopt the
22 Development Agreement. Said Resolution is on file with the Clerk of the Board of Supervisors
23 in File No. 201385 and is incorporated herein by reference.

24 (b) The Board of Supervisors finds that the Development Agreement is, on balance,
25 in conformity with the General Plan and the eight priority policies of Planning Code, Section

1 101.1 for the reasons set forth in Planning Commission Resolution No. 201385. The Board
2 hereby adopts the findings set forth in Planning Commission Resolution No. 201385 as its
3 own.

4

5 Section 4. Approval of Development Agreement.

6 (a) The Board of Supervisors approves all of the terms and conditions of the
7 Development Agreement, in substantially the form on file with the Clerk of the Board of
8 Supervisors in File No. 201386.

9 (b) The Board of Supervisors approves and authorizes the execution, delivery, and
10 performance by the City of the Development Agreement, subject to the Developer's payment
11 of all City costs with respect to the Development Agreement. Upon receipt of the payment of
12 City's costs billed to the Developer, the Director of Planning is authorized to execute and
13 deliver the Development Agreement, and the Director of Planning and other applicable City
14 officials are authorized to take all actions reasonably necessary or prudent to perform the
15 City's obligations under the Development Agreement in accordance with the terms of the
16 Development Agreement and Chapter 56, as applicable. The Director of Planning, at the
17 Director's discretion and in consultation with the City Attorney, is authorized to enter into any
18 additions, amendments, or other modifications to the Development Agreement that the
19 Director of Planning determines are in the best interests of the City and that do not materially
20 increase the obligations or liabilities of the City or materially decrease the benefits to the City
21 under the Development Agreement, subject to the approval of any affected City agency as
22 more particularly described in the Development Agreement.

23 Section 5. Administrative Code Chapter 56 Waivers.

24 In connection with the Development Agreement, the Board of Supervisors finds that the
25 requirements of Administrative Code, Chapter 56 have been substantially complied with, and

1 hereby waives any procedural or other requirements of Chapter 56 if and to the extent that
2 they have not been complied with.

3

4 Section 6. Ratification of City Officials' Acts.

5 All actions taken by City officials in preparing and submitting the Development
6 Agreement to the Board of Supervisors for review and consideration are hereby ratified and
7 confirmed, and the Board of Supervisors hereby authorizes all subsequent action to be taken
8 by City officials consistent with this ordinance.

9

10 Section 7. Effective and Operative Dates.

11 This ordinance shall become effective 30 days after enactment. Enactment occurs
12 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
13 sign the ordinance within ten days of receiving it, or the Board of Supervisor's overrides the
14 Mayor's veto of the ordinance; provided, that this ordinance shall not become operative if the
15 Companion Rezoning Legislation is not approved.

16

17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

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20 By: /s/ HEIDI J. GEWERTZ
HEIDI J. GEWERTZ
Deputy City Attorney

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