

BOARD of SUPERVISORS



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MEMORANDUM

TO: Nadia Sesay, Executive Director, Office of Community Investment and Infrastructure

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: December 22, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Haney on December 15, 2020:

File No. 201387

Resolution acting in its capacity as the legislative body to the Successor Agency to the former Redevelopment Agency of the City and County of San Francisco, approving provisions of a variation decision by the Commission on Community Investment and Infrastructure, modifying the on-site affordable housing requirement for 542-550 Howard Street (Assessor's Parcel Block No. 3721, Lot Nos. 016, 135, 136, and 138, also known as Transbay Parcel F) in the Transbay Redevelopment Project Area; and adopting findings under the California Environmental Quality Act.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: erica.major@sfgov.org.

cc: Lucinda Nguyen, Office of Community Investment and Infrastructure

1 [Consent to Provisions of a Variation Decision - On-Site Affordable Housing Requirement -
2 542-550 Howard Street (Transbay Parcel F) - Transbay Redevelopment Project Area]

3 **Resolution acting in its capacity as the legislative body to the Successor Agency to the**
4 **former Redevelopment Agency of the City and County of San Francisco, approving**
5 **provisions of a variation decision by the Commission on Community Investment and**
6 **Infrastructure, modifying the on-site affordable housing requirement for 542-550**
7 **Howard Street (Assessor’s Parcel Block No. 3721, Lot Nos. 016, 135, 136, and 138, also**
8 **known as Transbay Parcel F) in the Transbay Redevelopment Project Area; and**
9 **adopting findings under the California Environmental Quality Act.**

10
11 WHEREAS, State law dissolved redevelopment agencies and designated successor
12 agencies, as separate entities from cities or counties, to assume the remaining obligations of
13 the former redevelopment agencies, California Health and Safety Code, Sections 34170 et
14 seq. (the “Redevelopment Dissolution Law”); and

15 WHEREAS, To implement the Redevelopment Dissolution Law, the Board of
16 Supervisors initially adopted Resolution No. 11-12 (January 26, 2012) and subsequently
17 adopted Ordinance No. 215-12 (October 4, 2012), which established a Successor Agency
18 Commission and delegated to the Successor Agency to the Redevelopment Agency of the
19 City and County of San Francisco (commonly known as the Office of Community Investment
20 and Infrastructure) (the “Successor Agency” or “OCII”) the authority, among others, to
21 implement, modify, enforce and complete the surviving redevelopment projects, including
22 certain Major Approved Development Projects, Retained Housing Obligations, and all other
23 enforceable obligations except for actions decreasing property tax revenue for affordable
24 housing and material changes to affordable housing obligations, which must be approved by
25 the Board of Supervisors; and

1 WHEREAS, California Public Resources Code, Section 5027.1 requires that 25% of
2 the residential units developed in the Transbay Redevelopment Project Area (“Project Area”)
3 shall be available to low income households and that an additional 10% shall be available to
4 moderate income households (the “Transbay Affordable Housing Obligation”), which
5 obligation has been incorporated into the Redevelopment Plan for the Transbay
6 Redevelopment Project, approved by Ordinance No. 124-05 (June 21, 2005) and by
7 Ordinance No. 99-06 (May 9, 2006), and in the Implementation Agreement, dated as of
8 January 20, 2005, between the former Redevelopment Agency of the City and County of San
9 Francisco and the Transbay Joint Powers Authority and has been finally and conclusively
10 determined by the California Department of Finance to be an enforceable obligation under
11 Redevelopment Dissolution Law; and

12 WHEREAS, To fulfill the Transbay Affordable Housing Obligation, both the
13 Redevelopment Plan and the Planning Code require that all housing developments within the
14 Project Area contain a minimum of 20% on-site affordable housing (the “On-Site
15 Requirement”); and

16 WHEREAS, Neither the Redevelopment Plan nor the Planning Code authorize off-site
17 affordable housing construction or an “in-lieu” fee payment as an alternative to the On-Site
18 Requirement in the Project Area; and

19 WHEREAS, The Redevelopment Plan provides a procedure and standards by which
20 certain of its requirements and the provisions of the Planning Code may be waived or
21 modified; and

22 WHEREAS, On _____, 2020, OCII received a request from the developer of
23 542-550 Howard Street (Assessor’s Parcel Block No. 3721, Lot Nos. 016, 135, 136, and 138,
24 also known as Transbay Parcel F) (“Developer”) for a variation from the On-Site Requirement;
25 and

1 WHEREAS, The Developer proposed removing the affordability restrictions from the
2 approximately 33 affordable units on-site and converting them to market rate units (the
3 “Variation Request”); and

4 WHEREAS, The Variation Request proposes that the Successor Agency grant a
5 variation on the condition that the Developer contribute to the Successor Agency an amount
6 that is equal to one hundred fifty percent (150%) of the inclusionary housing fee that Section
7 415.5 of the Planning Code would otherwise require if the Project were not subject to the On-
8 Site Requirement (based on the published fee schedule applicable to calendar year 2021)
9 toward the development of affordable housing in the Project Area, which amount is
10 significantly higher than the amount of the affordable housing fee that would be permitted
11 under the City’s Inclusionary Affordable Housing Program if this Project were located outside
12 of the Project Area; and

13 WHEREAS, The Variation Request proposed that the above-described fee would be
14 paid to the Successor Agency on the earlier to occur of: (a) issuance of the temporary
15 certificate of occupancy associated with the residential portions of the Project or (b) on the
16 date that is two years after the effective date of this Agreement (but only if the “first
17 construction document,” as defined in Section 401 of the Planning Code and Section
18 107A.13.1 of the Building Code, has been issued for the Project); the fee collection procedure
19 set forth in Section 402 of the Planning Code and Section 107A.13 of the Building Code shall
20 not apply to the Project, nor shall any other provision of the San Francisco Municipal Code
21 that conflicts with the fee collection and timing described in this Section 2.1.1 in addition,
22 within thirty (30) days after the effective date of the Disposition and Development Agreement
23 between OCII and Developer or an entity affiliated with Developer for Transbay Block 4,
24 Developer shall submit to OCII an enforceable letter of credit on commercially reasonable
25 terms for the full amount of the Affordable Housing Fee; and

1 WHEREAS, Payment of this fee would ensure that the conversion of the approximately
2 33 inclusionary units to market rate units does not adversely affect the Successor Agency's
3 compliance with the Transbay Affordable Housing Obligation; and

4 WHEREAS, OCII estimates that the Affordable Housing Fee may subsidize
5 approximately 192 affordable housing units within the Project Area in contrast to the
6 approximately 33 units that would be produced under the On-Site Requirement and
7 accordingly the Affordable Housing Fee will allow OCII to better fulfill the requirements of the
8 Transbay Affordable Housing Obligation; and

9 WHEREAS, In addition, the 192 affordable housing units would provide deeper
10 affordability levels (45% of AMI) compared to the levels (100% of AMI) that would be achieved
11 through the application of the On-Site Requirement for up to 33 units; and

12 WHEREAS, On _____, 202_, after holding a duly noticed public hearing and
13 consistent with its authority under Redevelopment Dissolution Law and Ordinance No. 215-
14 12, the Successor Agency Commission conditionally approved, by Resolution No.
15 _____, a variation to the Transbay Redevelopment Plan's On-Site Affordable Housing
16 Requirement as it applies to the mixed use project at 542-550 Howard Street (Transbay
17 Parcel F), subject to approval by the Board of Supervisors in its capacity as legislative body
18 for the Successor Agency (the "Variation Approval"); OCII Resolution No. _____ is on
19 file with the Clerk of the Board of Supervisors in File No. _____, and incorporated in this
20 Resolution by reference; and

21 WHEREAS, The Planning Commission and Board of Supervisors will consider
22 approving a development agreement with the Developer that would be consistent with the
23 Variation Approval and this Resolution, by providing relief from the on-site affordable housing
24 requirements in Planning Code, Section 249.28 and Section 415 et seq., and would require
25 the Developer to pay an affordable housing fee of \$_____ to the Successor

1 Agency for its use in fulfilling the Transbay Affordable Housing Obligation; and

2 WHEREAS, The Variation Approval's change to the On-Site Requirement complies
3 with, and facilitates OCII's fulfillment of, the Transbay Affordable Housing Obligations by
4 significantly increasing the amount of affordable housing that would otherwise be available at
5 the Project under the On-Site Requirement; and

6 WHEREAS, On _____, 2021, in Resolution No. _____, the Planning
7 Commission adopted environmental findings related to this project in accordance with the
8 California Environmental Quality Act, Public Resources Code, Sections 21000 et seq.; and

9 WHEREAS, A copy of these environmental findings are on file with the Clerk of the
10 Board of Supervisors in File No. _____ and are incorporated herein by reference; and

11 WHEREAS, The Board of Supervisors adopts these findings as its own; now, therefore,
12 be it

13 RESOLVED, The Board of Supervisors, acting in its capacity as the legislative body of
14 the Successor Agency, hereby approves the change to the On-Site Requirement in the
15 Variation Approval.

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