

CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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TO: Government Audit and Oversight Committee
FROM: Budget and Legislative Analyst 
SUBJECT: October 7, 2021 Government Audit and Oversight Committee Meeting

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<p>Item 5 File 21-0776</p>	<p>Department: Real Estate Division (RED)</p>
<p>EXECUTIVE SUMMARY</p>	
<p>Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would authorize the Director of Property to sell up to 1,200,000 gross square feet of transferable development rights (TDR) from City Hall at or above fair market value. <p>Key Points</p> <ul style="list-style-type: none"> • The Transfer of Development Rights program allows the sale of unused development potential from preservation properties to development properties, generating income for the maintenance and preservation of historic buildings while allowing new developments to build higher. Each TDR unit is equal to one square foot of gross floor area. • City Hall has a total of approximately 1,317,480 square feet of available TDR. The Real Estate Division is proposing to sell 1,200,000 square feet of TDR, keeping 117,840 units off market in the off chance that City Hall is expanded at some point. • The proposed resolution would set an initial price for TDR from City Hall at \$37.50 per square foot, with a schedule of future price increases if there is sufficient demand. The Director of Property would continue to monitor fair market value based on market conditions. Future Board of Supervisors approval would be required to sell TDR below \$37.50 per square foot. <p>Fiscal Impact</p> <ul style="list-style-type: none"> • At the minimum rate of \$37.50 per square foot, the City would receive \$45,000,000 if all 1,200,000 TDR units are sold. Revenues may exceed this amount if sales are successful and price increases take effect. RED estimate that it will take approximately four to five years to sell all 1,200,000 units. • The revenues would be restricted for restoration projects in City Hall. RED, working with the Department of Public Works and Capital Planning, has identified four projects totaling approximately \$46.1 million. These are new projects that do not currently have dedicated funding sources. <p>Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

City Charter Section 9.118 (c) states that any sale of real property owned by the City and County of San Francisco is subject to Board of Supervisors approval. In addition, Planning Code Section 128 specifies the definitions, requirements, and procedures for determining and cancelling Transfer of Development Rights as well as the preservation, rehabilitation, and maintenance requirements.

BACKGROUND

In the mid-1980s, the City established the Transfer of Development Rights program to allow the sale of unused development potential from historic preservation properties to development properties. The goal was to generate income for the maintenance and preservation of historic buildings, while allowing new developments to build higher. Under Planning Code Section 128, owners of historic buildings located in C-3 Zoning Districts¹ may ask the Planning Department to certify their unused potential, known as Transferable Development Rights (TDR).

Once certified, the TDR units may then be transferred via a sale to another property in any other C-3 district. As of 2007, TDRs may also be transferred from any lot zoned P (public), provided that the other conditions for transfer outlined in Section 128(a)(4) are met. The revenue generated from the TDR sale must be used to rehabilitate the historic building according to the U.S. Secretary of the Interior's Standards for Treatment of Historic Properties.

Each TDR unit is equal to one square foot of gross floor area. To calculate TDR available from a historic preservation property, the difference between the building's existing floor area ratio (FAR) and that allowed under zoning limits is determined. Development properties may obtain TDR to build beyond what is allowed under FAR limits and up to zoned height limits. They may not, however, use TDR to exceed or disregard height, bulk, and setback limits, sunlight access requirements, or other restrictions.

In January 2014, the Board of Supervisors approved the sale of up to 1,100,000 square feet of TDR from the War Memorial Complex, at a sale price of no less than \$25 per square foot (File 13-1193).² To date, the Real Estate Division (RED) has sold 1,074,927 square feet of TDR at rates of \$25-35 per square foot, raising \$32,051,443 to pay debt service for the rehabilitation and restoration of the War Memorial Complex.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Director of Property to sell up to 1,200,000 square feet of TDR from City Hall at fair market value. City Hall has a total of approximately 1,317,480

¹ C-3 Zoning Districts are identified as downtown commercial districts and include Support (S), General (G), Office (O), or Retail (R) uses. In accordance with Section 128 of the Planning Code, any C-3 District parcel may be the recipient parcels for a TDR transaction.

² The resolution required the Director of Real Estate to submit enabling legislation to the Board of Supervisors to reauthorize TDR sales immediately upon reaching sales of 550,000 square feet. This reauthorization legislation was approved in September 2019 (File 19-0850).

square feet of available TDR. According to Director of Property Andrico Penick, RED is proposing to keep 117,840 units off market in the off chance that City Hall is expanded at some point.

Fair Market Value

An appraisal by Runde and Partners determined \$32.50 per square foot to be fair market value of the TDR. However, RED was able to sell TDR from the War Memorial Complex for \$35 per square foot in May 2020, with a scheduled increase of \$37.50 per square foot going into effect in July 2020. Therefore, Director Penick believes that \$37.50 per square foot is a fair starting price for City Hall TDR, with future price increases if there is sufficient market demand.

The proposed resolution provides that the TDR would be sold at no less than \$32.50 per square foot, although according to the proposed resolution, Board of Supervisors approval would be required to sell the TDR below \$37.50 per square foot. Exhibit A to the proposed resolution sets a base TDR price of \$37.50 per square foot, which would be in effect from September 2021 through December 2022.

The Resolution in File 19-0850 set a TDR price schedule for the War Memorial Complex with an initial rate of \$30 per square foot and semiannual increases of \$2.50 per square foot. Under that price schedule, the current rate for the period of July-December 2021 would be \$42.50 per square foot. According to Director Penick, RED decided to set a new pricing schedule because the old one no longer reflected market conditions under COVID-19. Director Penick asserts that the proposed starting price of \$37.50 per square foot is more attuned to current market conditions and can react to both “hot” and “cold” market conditions.

Future Adjustments to TDR Price

If fewer than 50,000 TDR units are sold during the initial period or any future calendar year, the base price would not increase. If 50,000-199,999 TDR units are sold during the initial period or any future calendar year, the base price would increase by \$2.50 per unit starting at the beginning of the next calendar year. If 200,000 or more TDR units are sold during the initial period or any future calendar year, the price would immediately increase by 15 percent. If the 15 percent increase is enacted, the scheduled \$2.50 increase would be delayed by one year.

According to Director Penick, the Director of Property would continue to monitor fair market value based on market conditions. If RED is unable to sell TDR within one year, the Director would analyze if the reason were due to lack of development, short term economic conditions, or other TDR sales at lower prices. If there were a robust market of TDR sales at a lower price, the Director may seek Board of Supervisors approval for a price reduction. Otherwise, the Director would wait for the market to catch up to the price outlined in the pricing schedule.

Transfer of TDR

According to Director Penick, RED has had discussions with potential buyers, but no sale commitments have been made at this time. TDR buyers are found either through brokers that connect buyers and sellers, or through the Planning Department’s Zoning Administrator, who tracks TDR sales. The Zoning Administrator must approve all transfers of development rights to ensure they are consistent with the Planning Code.

FISCAL IMPACT

The proposed resolution authorizes the Director of Property to sell up to 1,200,000 square feet of TDR at fair market value. At the minimum rate of \$37.50 per square foot, the City would receive \$45,000,000 if the full 1,200,000 TDR units are sold. Revenues may exceed this amount if sales are successful and price increases take effect. The proposed resolution provides for annual reporting to the Board of Supervisors Budget and Finance Committee on the results of TDR sales. Director Penick estimates that it will take approximately four to five years to sell all 1,200,000 units of TDR.

Under the proposed resolution, the TDR sale proceeds would be restricted for restoration projects in City Hall. According to Director Penick, four projects are currently anticipated, with an estimated total cost of approximately \$46.1 million, as shown in Exhibit 1 below.

Exhibit 1: Anticipated City Hall Improvement Projects

Project	Estimated Cost
Roof and Accessible Dome Leak Repairs- Phase II	\$3,000,000
Dome Revitalization of Coating, Drum Stone, and Windows	20,000,000
Exterior Perimeter Stone and Grout Refurbishments	7,000,000
Qualifying Interior Historic Preservation Projects	16,100,000
Total	\$46,100,000

According to Director Penick, these projects are new and do not currently have dedicated funding. Costs were estimated by RED staff, working with the Department of Public Works and Capital Planning. Additional funding sources for these projects would be required if costs exceed TDR sale revenues.

RECOMMENDATION

Approve the proposed resolution.