[Consent to Provisions of a Variation Decision - On-Site Affordable Housing Requirement - 181 Fremont Street - Transbay Redevelopment Project Area]

Resolution of the Board of Supervisors, 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 181 Fremont Street in the Transbay Redevelopment Project Area.

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

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

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

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

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

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

WHEREAS, On June 5, 2014, OCII received a request from the developer of 181
Fremont Street ("Developer") for a variation from the On-Site Requirement; and

WHEREAS, The Developer proposed removing the affordability restrictions from the
approximately 11 affordable units on-site and converting them to market rate units (the
“Variation Request”); and
WHEREAS, The Variation Request proposes that the Successor Agency grant a variation on the condition that the Developer contribute $13,850,000 toward the development of affordable housing in the Project Area, which is significantly higher than the amount of the affordable housing fee that would be permitted under the City's Inclusionary Affordable Housing Program if this Project were located outside of the Project Area; and

WHEREAS, Payment of this fee would ensure that the conversion of the approximately 11 inclusionary units to market rate units does not adversely affect the Successor Agency's compliance with the Transbay Affordable Housing Obligation; and

WHEREAS, OCII estimates that the Affordable Housing Fee may subsidize approximately 69 affordable housing units on publicly owned parcels in the Project Area in contrast to the up to 11 units that would be produced under the On-Site Requirement and accordingly the Affordable Housing Fee will allow OCII to better fulfill the requirements of the Transbay Affordable Housing Obligation; and

WHEREAS, In addition, the 69 affordable housing units would provide deeper affordability levels (50% of AMI) compared to the levels (100% of AMI) that would be achieved through the application of the On-Site Requirement for up to 11 units; and

WHEREAS, On October 14, 2014, after holding a duly notice public hearing and consistent with its authority under Redevelopment Dissolution Law and Ordinance 215-12, the Successor Agency Commission conditionally approved, by Resolution No. 80-2014, a variation to the Transbay Redevelopment Plan’s On-Site Affordable Housing Requirement as it applies the mixed use project at 181 Fremont Street, subject to approval by the Board of Supervisors in its capacity as legislative body for the Successor Agency (the “Variation Approval”); OCII Resolution No. 80-2014 is on file with the Clerk of the Board of Supervisors in File No. 141022, and incorporated in this Resolution by reference; and
WHEREAS, The San Francisco Planning Commission and Board of Supervisors will consider approving a development agreement with the Developer that would be consistent with the Variation Approval and this Resolution, by providing relief from the on-site affordable housing requirement in Planning Code, Section 249.28, and would require the Developer to pay an affordable housing fee of $13,850,000 to the City for payment to the Successor Agency for its use in fulfilling the Transbay Affordable Housing Obligation; and

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

WHEREAS, Consent to the modification of the On-Site Requirement by the Board of Supervisors does not compel any direct or indirect physical changes in the Project that the Planning Commission previously approved; rather, this approval merely authorizes the Commission on Community Investment and Infrastructure, Planning Commission and Board of Supervisors to remove the On-Site Requirement from the Project and to accept affordable housing funding; thus, this approval does not constitute a project under the California Environmental Quality Act ("CEQA"), CEQA Guidelines Section 15378 (b)(4) because it merely creates a government funding mechanism that does not involve any commitment to a specific project; now, therefore, be it

RESOLVED, By this Board of Supervisors of the City and County of San Francisco, acting in its capacity as the legislative body of the Successor Agency, that the change to the On-Site Requirement in the Variation Approval is hereby approved.
Resolution of the Board of Supervisors, 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 181 Fremont Street in the Transbay Redevelopment Project Area.

October 28, 2014 Board of Supervisors - ADOPTED
Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 141022

I hereby certify that the foregoing Resolution was ADOPTED on 10/28/2014 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved