Resolution consenting to the use of outside increment deposited in the Redevelopment Property Tax Trust Fund for the exclusive purpose of funding affordable housing development that the Office of Community Investment and Infrastructure is required to build under its Enforceable Obligations.

WHEREAS, 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, ("Successor Agency" or "OCII"), is implementing enforceable obligations and surviving redevelopment projects of the Redevelopment Agency of the City and County of San Francisco ("Former Agency") in accordance with the Community Redevelopment Law, Cal. Health & Safety Code, Sections 33000 et seq. (the "Law"), as amended by the Redevelopment Dissolution Law, Cal. Health & Safety Code, Sections 34170 et seq. (the "Redevelopment Dissolution Law"), and with Ordinance No. 215-12 (Oct. 4, 2012); and

WHEREAS, The Board of Supervisors approved, by Resolution No. 314-16 (July 29, 2016), OCII's budget for the FY2016-2017 (the "Budget") and its issuance of bonds in the principal amount of not to exceed $185,000,000 for the purpose of financing a portion of the Budget, which includes funding for approximately 900 units of affordable housing, approximately 460 of which are to be located in the Candlestick Point-Hunters Point Shipyard Phase 2 Project Site; and

WHEREAS, The Law and Ordinance No. 314-16 authorize the Successor Agency Commission (also known as the Commission on Community Investment and Infrastructure "CCII") to issue, subject to approval by the Oversight Board and the California Department of
Finance, bonds to carry out enforceable obligations that satisfy the statutory criteria under Cal. Health and Safety Code, Section 34177.7; and

WHEREAS, OCII has enforceable obligations to fund and develop (1) affordable housing in Candlestick Point-Hunters Point Shipyard Phases 1 and 2 under the Hunters Point Shipyard Phase 1 Disposition and Development Agreement and the Candlestick Point-Hunters Point Shipyard Phase 2 Disposition and Development Agreement; (2) affordable housing in Mission Bay North and Mission Bay South under the Mission Bay North and South Owner Participation Agreements; and (3) affordable housing along with associated public open space and streetscape infrastructure in the Transbay Project Area under the Transbay Implementation Agreement (the "Enforceable Obligations"); and

WHEREAS, The California legislature enacted Section 9 of Senate Bill No. 107 (Stats. 2015, ch. 325) (codified at Cal. Health & Safety Code, Section 34177.7) ("SB 107") authorizing OCII to issue bonds to finance the construction of 3,361 units of affordable housing to be built under the Enforceable Obligations, which survived the dissolution of the Former Agency; and

WHEREAS, Since the passage of SB 107 OCII has continued to fulfill its Enforceable Obligations to fund affordable housing units using other available sources, leaving approximately 2,800 affordable housing units to be funded; and

WHEREAS, SB 107 authorizes OCII to secure new bonded indebtedness with property tax revenue available in the Redevelopment Property Tax Trust Fund from several project areas that generated tax increment for the Former Redevelopment Agency upon its dissolution (Stats. 2015, ch. 325, Section 29); and

WHEREAS, SB 107 declares that the state authorization of OCII to issue bonds is special legislation "because of the unique circumstances relating to affordable housing in the
City and County of San Francisco in conjunction with the affordable housing and infrastructure requirements of the enforceable obligations” (Stats. 2015, ch. 325, Section 29); and

WHEREAS, The Budget, as approved by the Board of Supervisors, explicitly relies on the financing authority granted under SB 107 to fund, among other things, affordable housing projects in the Candlestick Point-Hunters Point Shipyard area and to secure those bonds with property tax increment generated from various redevelopment project areas, Budget at p. 9 (attached as Exhibit A to Resolution No. 314-16); and

WHEREAS, The enforceable obligations associated with the Candlestick Point-Hunters Point Shipyard include a Tax Increment Allocation Pledge Agreement (“Tax Allocation Agreement”) that irrevocably pledges tax increment from the Project Site for certain development costs and that limits the use of tax increment from other redevelopment project areas (“Outside Increment”) to fund the costs of development at the Candlestick Point-Hunters Shipyard Project Site; and

WHEREAS, The limitation on the use of Outside Increment was consistent with the Law before it was amended to dissolve redevelopment agencies; and

WHEREAS, Prior to dissolution, the Law required that tax increment generated in a project area had to be spent for redevelopment purposes in that project area; and

WHEREAS, This limitation also had the effect of preserving funding for redevelopment projects planned in other project areas; and

WHEREAS, The Redevelopment Dissolution Law terminated all funding of redevelopment projects unless they were subject to an enforceable obligation that pre-dated redevelopment dissolution and satisfied other statutory criteria; and

WHEREAS, Furthermore, the Redevelopment Dissolution Law requires that property tax revenues previously characterized as project area tax increment shall be aggregated and deposited into the Redevelopment Property Tax Trust Fund of each successor agency for use
in funding enforceable obligations, subject to any pledge agreement that may have earmarked funding for certain projects; and

WHEREAS, The limitation on the use of Outside Increment in the Tax Allocation Agreement prevents OCII from issuing bonds for the funding of affordable housing under SB 107, precludes OCII from accelerating its funding and development of affordable housing development at the Candlestick Point-Hunters Point Shipyard Phase 2 Project Site, and is inconsistent with the Budget approved by the Board of Supervisors in Resolution No. 314-16 and the Redevelopment Dissolution Law; and

WHEREAS, OCII has requested that the Board of Supervisors acknowledge that the limitation of Outside Increment for affordable housing development is inconsistent with the Budget and Redevelopment Dissolution Law and no longer fulfills its original purposes; now, therefore, be it

RESOLVED, By the Board of Supervisors that it does hereby consent to the use of Outside Increment deposited in the Redevelopment Property Tax Trust Fund for the exclusive purpose of funding affordable housing development that OCII is required to build under its Enforceable Obligations.
Resolution consenting to the use of outside increment deposited in the Redevelopment Property Tax Trust Fund for the exclusive purpose of funding affordable housing development that the Office of Community Investment and Infrastructure is required to build under its Enforceable Obligations.

December 07, 2016 Budget and Finance Committee - AMENDED

December 07, 2016 Budget and Finance Committee - RECOMMENDED AS AMENDED

December 13, 2016 Board of Supervisors - ADOPTED

Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang and Yee
Vacant: 1 - District 8

File No. 161242

I hereby certify that the foregoing Resolution was ADOPTED on 12/13/2016 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved

12/22/16