

1 [Resolution of Intention - Establishing the Transbay Transit Center Community Facilities
2 District]

3 **Resolution of intention to establish City and County of San Francisco Community**
4 **Facilities District No. 2014-1 (Transbay Transit Center); and determining other matters**
5 **in connection therewith.**

6
7 WHEREAS, Under the Mello-Roos Community Facilities Act of 1982, as amended,
8 constituting Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the
9 California Government Code (the "Mello-Roos Act"), this Board of Supervisors is authorized to
10 establish a community facilities district and to act as the legislative body for a community
11 facilities district; and

12 WHEREAS, This Board of Supervisors now desires to proceed with the establishment
13 of a community facilities district in order to finance costs of public infrastructure necessary or
14 incident to development within the proposed boundaries of the proposed community facilities
15 district; and

16 WHEREAS, Pursuant to Mello-Roos Act Section 53339.2 this Board of Supervisors
17 further desires to undertake proceedings to provide for future annexation of territory to the
18 proposed community facilities district; now, therefore, be it

19 RESOLVED, That this Board of Supervisors proposes to conduct proceedings to
20 establish a community facilities district pursuant to the Mello-Roos Act, and hereby
21 determines that public convenience and necessity require that a future annexation area be
22 established pursuant to the Mello-Roos Act; and, be it

23 FURTHER RESOLVED, That the name proposed for the community facilities district
24 shall be "City and County of San Francisco Community Facilities District No. 2014-1
25 (Transbay Transit Center)" (the "CFD"); and, be it

1 FURTHER RESOLVED, That the name proposed for the territory proposed to be
2 annexed into the CFD in the future shall be "City and County of San Francisco Community
3 Facilities District No. 2014-1 (Transbay Transit Center) (Future Annexation Area)" (the "Future
4 Annexation Area"); and, be it

5 FURTHER RESOLVED, That the proposed boundaries of the CFD and the Future
6 Annexation Area are as shown on the map on file with the Clerk of the Board of Supervisors in
7 File No. 140645, which boundaries are hereby preliminarily approved and to which map
8 reference is hereby made for further particulars. The Clerk of the Board of Supervisors is
9 hereby directed to record, or cause to be recorded, the map of the boundaries of the CFD and
10 the Future Annexation Area in the office of the Assessor-Recorder within fifteen (15) days of
11 the date of adoption of this Resolution, but in any event at least fifteen (15) days prior to the
12 public hearing specified below; and, be it

13 FURTHER RESOLVED, That parcels within the Future Annexation Area shall be
14 annexed to the CFD only with the unanimous approval (each, a "Unanimous Approval") of the
15 owner or owners of each parcel or parcels when that parcel or those parcels are annexed,
16 without any requirement for further public hearings or additional proceedings; and, be it

17 FURTHER RESOLVED, That the type of public facilities proposed to be financed by
18 the CFD and the Future Annexation Area and pursuant to the Mello-Roos Act shall consist of
19 those listed as facilities on Exhibit A, on file with the Clerk of the Board of Supervisors in File
20 No. 140645, hereto and hereby incorporated herein (the "Facilities"). The Board of
21 Supervisors hereby determines that the Facilities are necessary to meet increased demands
22 placed upon local agencies as the result of development occurring within the CFD and the
23 Future Annexation Area. The Board of Supervisors hereby finds and determines that the
24 public interest will not be served by allowing the property owners in the CFD to enter into a
25 contract in accordance with Mello-Roos Act Section 53329.5(a). Notwithstanding the

1 foregoing, the Board of Supervisors, on behalf of the CFD, hereby authorizes the Controller or
2 the Director of the Office of Public Finance (or designee of either), subject to the prior review
3 and approval of the City Attorney, to enter into one or more contracts directly with any of the
4 property owners with respect to the construction and/or acquisition of the any portion of the
5 Facilities; and, be it

6 FURTHER RESOLVED, That the Controller or the Director of the Office of Public
7 Finance (or designee of either), subject to the prior review and approval of the City Attorney,
8 is hereby authorized and directed to enter into joint community facilities agreements, on file
9 with the Clerk of the Board of Supervisors in File No. 140645, on behalf of the CFD with any
10 entity that will own or operate any of the Facilities, as may be necessary to comply with the
11 provisions of Mello-Roos Act Section 53316.2. The Board of Supervisors hereby declares that
12 such joint agreements will be beneficial to owners of property in the area of the CFD; and, be
13 it

14 FURTHER RESOLVED, That except to the extent that funds are otherwise available,
15 the City will levy a special tax (the "Special Tax") to pay directly for the Facilities and/or pay
16 the principal and interest on bonds of the City issued to finance the Facilities. The Special Tax
17 will be secured by recordation of a continuing lien against all non-exempt real property in the
18 CFD, will be levied annually within the CFD, and collected in the same manner as ordinary ad
19 valorem property taxes, or in such other manner as this Board of Supervisors or its designee
20 shall determine, including direct billing of the affected property owners. The proposed rate and
21 method of apportionment of the Special Tax among the parcels of real property within the
22 CFD in sufficient detail to allow each landowner within the proposed CFD to estimate the
23 maximum amount such owner will have to pay, are described in Exhibit B, on file with the
24 Clerk of the Board of Supervisors in File No. 140645 and hereby incorporated herein (the
25 "Rate and Method"); and, be it

1 FURTHER RESOLVED, That the Special Tax shall not be levied in the CFD after the
2 final tax year specified in the Rate and Method, except that a Special Tax that was lawfully
3 levied in or before the final tax year and that remains delinquent may be collected in
4 subsequent years. Under no circumstances shall the Special Tax levied against any parcel in
5 the CFD and used for private residential purposes be increased as a consequence of
6 delinquency or default by the owner of any other parcel or parcels within the CFD by more
7 than 10 percent; and, be it

8 FURTHER RESOLVED, That this Board of Supervisors hereby finds that the provisions
9 of Mello-Roos Act Sections 53313.6, 53313.7 and 53313.9 (relating to adjustments to ad
10 valorem property taxes and schools financed by a community facilities district) are
11 inapplicable to the proposed CFD; and, be it

12 FURTHER RESOLVED, That as required by Mello-Roos Act Section 53339.3(d), the
13 Board of Supervisors hereby determines that the special tax proposed to pay for one or more
14 Facilities to be supplied within the Future Annexation Area will be equal to the special taxes
15 levied to pay for the same Facilities in the original area of the CFD; and, be it

16 FURTHER RESOLVED, That except as may otherwise be provided by law or by the
17 rate and method of apportionment of the Special Tax for the CFD, all lands owned by any
18 public entity, including the United States, the State of California and/or the City, or any
19 departments or political subdivisions thereof, shall be omitted from the levy of the Special Tax
20 to be made to cover the costs and expenses of the Facilities and the CFD. In the event that a
21 portion of the property within the CFD shall become for any reason exempt, wholly or in part,
22 from the levy of the Special Tax, this Board of Supervisors will, on behalf of the CFD, increase
23 the levy to the extent necessary upon the remaining property within the CFD which is not
24 exempt in order to yield the required debt service payments and other annual expenses of the
25

1 CFD, if any, subject to the provisions of the rate and method of apportionment of the Special
2 Tax; and, be it

3 FURTHER RESOLVED, That the levy of the Special Tax shall be subject to the
4 approval of the qualified electors of the CFD at a special election. The proposed voting
5 procedure shall be by mailed or hand-delivered ballot among the landowners in the proposed
6 CFD, with each owner having one vote for each acre or portion of an acre such owner owns in
7 the CFD; and, be it

8 FURTHER RESOLVED, That a special tax shall be levied in the Future Annexation
9 Area only with the Unanimous Approval of the owner or owners of each parcel or parcels at
10 the time that parcel or those parcels are annexed, without any requirement for further public
11 hearings or additional proceedings; and, be it

12 FURTHER RESOLVED, That it is the intention of this Board of Supervisors, acting as
13 the legislative body for the CFD, to cause bonds and other debt (as defined in the Mello-Roos
14 Act) of the City to be issued for the CFD pursuant to the Mello-Roos Act to finance in whole or
15 in part the construction and/or acquisition of the Facilities. The bonds and other debt shall be
16 in the aggregate principal amount of not to exceed \$1,400,000,000, shall be issued in such
17 series and bear interest payable semi-annually or in such other manner as this Board of
18 Supervisors shall determine, at a rate not to exceed the maximum rate of interest as may be
19 authorized by applicable law at the time of sale of such bonds and other debt, and shall
20 mature not to exceed forty (40) years from the date of the issuance thereof; and, be it

21 FURTHER RESOLVED, That the Board of Supervisors hereby reserves the right and
22 authority to allow any interested owner of property in the CFD, subject to the provisions of
23 Mello-Roos Act Section 53344.1 and such other conditions as the Board of Supervisors may
24 impose and any applicable prepayment penalties associated with bonds or other debt issued
25 or incurred by the CFD, to tender bonds in full payment or part payment of any installment of

1 special taxes or the interest or penalties thereon which may be due or delinquent, but for
2 which a bill has been received; and, be it

3 FURTHER RESOLVED, That the City's Director of the Office of Public Finance, as the
4 officer having charge and control of the Facilities in and for the CFD, or the designee of such
5 officers, is hereby directed to study said proposed Facilities and to make, or cause to be
6 made, and file with the Clerk of the Board of Supervisors a report in writing, (the "CFD
7 Report") presenting the following:

8 (a) A description of the Facilities by type which will be required to adequately meet
9 the needs of the CFD.

10 (b) An estimate of the fair and reasonable cost of the Facilities including the cost of
11 acquisition of lands, rights-of-way and easements, any physical facilities required in
12 conjunction therewith and incidental expenses in connection therewith, including the costs of
13 the proposed bond financing and all other related costs as provided in Mello-Roos Act Section
14 53345.3 ; and, be it

15 FURTHER RESOLVED, That the CFD Report shall be made a part of the record of the
16 public hearing specified below; and, be it

17 FURTHER RESOLVED, Tuesday, September 2, 2014, at 3:00 p.m. or as soon as
18 possible thereafter, in the Board of Supervisors Legislative Chamber, Room 250, 1 Dr. Carlton
19 B. Goodlett Place, San Francisco, California, be, and the same are hereby appointed and
20 fixed as the time and place when and where this Board of Supervisors will conduct a public
21 hearing on the establishment of the CFD and the Future Annexation Area and consider and
22 finally determine whether the public interest, convenience and necessity require the formation
23 of the CFD, the Future Annexation Area and the levy of the Special Tax; and, be it

24 FURTHER RESOLVED, That the Clerk of the Board of Supervisors is hereby directed
25 to cause notice of the public hearing to be given by publication one time in a newspaper

1 published in the area of the CFD and the Future Annexation Area. The publication shall be
2 completed at least seven days before the date of the public hearing specified above. The
3 Clerk of the Board of Supervisors may also cause notice of the hearing to be given to each
4 property owner within the CFD by first class mail, postage prepaid, to each such owner's
5 addresses as it appears on the most recent tax records of the City or as otherwise known to
6 the Clerk of the Board of Supervisors to be correct. Such mailing shall be completed not less
7 than 15 days before the date of the public hearing. The notice shall be substantially in the
8 form specified in Mello-Roos Act Section 53322, with the form summarizing the provisions
9 hereof hereby specifically approved; and, be it

10 FURTHER RESOLVED, That the Mayor, Controller, Director of the Office of Public
11 Finance, City Attorney, Clerk of the Board of Supervisors and all other officers and agents of
12 the City are hereby authorized and directed to take all actions necessary or advisable to give
13 effect to the transactions contemplated by this Resolution; and, be it

14 FURTHER RESOLVED, That this Resolution shall in no way obligate the Board of
15 Supervisors of the City to form the CFD. The formation of the CFD shall be subject to the
16 approval of this Board of Supervisors by resolution following the holding of the public hearing
17 referred to above; and, be it

18 FURTHER RESOLVED, That this Resolution shall take effect upon its adoption.

19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

21
22 By: _____
23 Mark D. Blake
24 Deputy City Attorney

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