

File No. 160357

Committee Item No. 5

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee                      Date April 27, 2016

Board of Supervisors Meeting                                              Date \_\_\_\_\_

**Cmte Board**

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Completed by: Linda Wong                      Date April 22, 2016  
Completed by: Linda Wong                      Date \_\_\_\_\_

[Appropriation - Proceeds from Short-Term Certificates of Participation - Transbay Transit Center Project - \$260,000,000 - FY2015-2016]

**Ordinance appropriating \$260,000,000 of proceeds from short-term certificates of participation to general City responsibility for interim financing related to the Transbay Transit Center Project in FY2015-2016.**

Note: **Unchanged Code text and uncodified text** are in plain Arial font.  
**Additions to Codes** are in *single-underline italics Times New Roman font*.  
**Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
**Board amendment additions** are in double underlined Arial font.  
**Board amendment deletions** are in ~~Arial font~~.  
**Asterisks (\* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The sources of funding outlined below are herein appropriated to reflect funding available for Fiscal Year 2015-2016.

**SOURCES Appropriation**

Fund	Index Code / Project Code	Subobject	Description	Amount
XX XXX XXX	XXXXXX	80141	Proceeds from Short-Term Certificates	\$260,000,000
<b>Total SOURCES Appropriation</b>				<b>\$260,000,000</b>

1 Section 2. The uses of funding outlined below are herein appropriated and reflect the projected  
 2 uses of funding for the Transbay Transit Center Project in Fiscal Year 2015-2016.

3  
 4 **USES Appropriation**

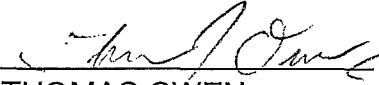
Fund	Index Code / Project Code	Subobject	Description	Amount
XX XXX XXX	XXXXXX	06700	Project Fund	\$247,500,000
		Buildings, Structures & Improvement		
XX XXX XXX	XXXXXX	07361	Cost of Issuance	\$800,000
		Cost of Issuance – Certificates of Participation		
XX XXX XXXX	XXXXXX	07361	Reserve for Market	\$1,842,451
		Capitalized Interest – Certificates of Participation	Uncertainty	
XX XXX XXXX	XXXXXX	07361	Capitalized Fees	\$9,857,549
		Capitalized Interest – Certificates of Participation	and Expenses	
<b>Total USES Appropriation</b>				<b><u>\$260,000,000</u></b>


1 Section 3. The uses of funding outlined above for \$260,000,000 are herein placed on  
2 Controller's Reserve pending the authorization and sale of the Short-Terms Certificates.

3  
4 Section 4. The Controller is authorized to record transfers between funds and adjust  
5 the accounting treatment of sources and uses appropriated in this ordinance as necessary to  
6 conform with Generally Accepted Accounting Principles.

7  
8  
9 APPROVED AS TO FORM:  
10 DENNIS J. HERRERA, City Attorney

FUNDS AVAILABLE  
BEN ROSENFELD, Controller

11  
12 By:   
13 THOMAS OWEN  
Deputy City Attorney

By:   
BEN ROSENFELD  
Controller

**CITY AND COUNTY OF SAN FRANCISCO**  
**BOARD OF SUPERVISORS**  
**BUDGET AND LEGISLATIVE ANALYST**

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292  
FAX (415) 252-0461

April 22, 2016

**TO:** Budget and Finance Committee

**FROM:** Budget and Legislative Analyst



**SUBJECT:** April 27, 2016 Budget and Finance Committee Meeting

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	16-0357	Appropriation – Proceeds from Short-Term Certificates of Participation – Transbay Transit Center Project - \$260,000,000 – FY 2015-2016 .....	1

<b>Items 4 and 5</b> <b>Files 16-0364 and 16-0357</b>	<b>Departments:</b> Controller's Office of Public Finance
<b>EXECUTIVE SUMMARY</b>	
<b>Legislative Objectives</b>	
<ul style="list-style-type: none"> <li>• <u>File 16-0364</u>: Resolution authorizing the City to issue tax exempt and/or taxable lease revenue commercial paper Certificates of Participation (COPs) and tax exempt and/or taxable direct placement revolving COPs in a combined aggregate principal amount not to exceed \$260,000,000 to fund a projected shortfall in Phase 1 of the Transbay Project.</li> <li>• <u>File 16-0357</u>: Ordinance appropriating \$260,000,000 of COPs to the Transbay Project.</li> </ul>	
<b>Key Points</b>	
<ul style="list-style-type: none"> <li>• Phase I of the Transbay Project is the initial development of a new six-story Transbay Transit Center consisting of retail, bus station, and below-grade infrastructure for Caltrain and high-speed rail service. The Phase 1 Transbay Project estimated costs have increased by \$1,070,400,000 or 90% from the initial estimate in 2008 of \$1,189,000,000 to the current estimate of \$2,259,400,000. Based on the current estimated cost of \$2,259,400,000, there is a projected shortfall of \$247,500,000.</li> </ul>	
<b>Fiscal Impact</b>	
<ul style="list-style-type: none"> <li>• In order to provide sufficient funding to complete Phase I, the City will issue up to \$260,000,000 of COPs, with an estimated \$247,500,000 to fund the Phase 1 shortfall and \$12,500,000 for financing costs. Of the total \$260 million, \$160 million is with Wells Fargo Bank up to three years and \$100 million is held by Metropolitan Transportation Commission up to ten years.</li> <li>• Debt service on the COPs will be paid by Community Facility District (CFD) special taxes and tax increment over the next ten years. There are likely sufficient projected CFD taxes through 2020 and net tax increment revenues through 2024. However, the City will have credit exposure for the initial six to ten years, depending on the pace of development within the Transbay area. If revenues are not sufficient, the City's General Fund will be liable to pay the debt service.</li> </ul>	
<b>Policy Consideration</b>	
<ul style="list-style-type: none"> <li>• The City is not obligated to provide financing to the Transbay Project because the Transbay Joint Powers Authority, which oversees the Transbay Project, is a separate legal entity. However, there could be significant negative impacts without this financing.</li> <li>• An Intergovernmental Agreement with the City's Department of Public Works will provide construction management and a recently approved Transbay Project Cost Oversight Agreement would create a new Cost Review Committee to provide financial oversight.</li> </ul>	
<b>Recommendations</b>	
<ul style="list-style-type: none"> <li>• Amend the proposed resolution (File 16-0364) to reference the addition of an Intergovernmental Agreement between the City and the TJPA for DPW to provide construction management and oversight services for the Transbay Project, subject to approval by the TJPA Board of Directors at the special meeting on April 22, 2016.</li> <li>• Approval of the proposed resolution, as amended, and the proposed ordinance are policy decisions for the Board of Supervisors.</li> </ul>	

## MANDATE STATEMENT

City Charter Section 9.113(e) provides that the Board of Supervisors has the power to borrow money through the use of commercial paper or other short-term indebtedness. Administrative Code Section 10.62 provides that the Board of Supervisors may authorize the issuance of Certificates of Participation (COPs) and other lease financing debt as funding sources for capital projects. Administrative Code Section 10.62(c)(1) also provides that the Director of Public Finance may issue tax-exempt and/or taxable commercial paper to provide interim funds to finance the acquisition, construction and rehabilitation of capital improvements and capital equipment, after prior approval of the project and financing plan by the Board of Supervisors and the Mayor.

City Charter Section 9.105 provides that amendments to the Annual Appropriations Ordinance, after the Controller certifies the availability of funds, are subject to Board of Supervisors approval by ordinance.

## BACKGROUND

### Transbay Development Project Overview

On June 21, 2005, the Board of Supervisors approved the Transbay Redevelopment Plan<sup>1</sup>, which provided for the redevelopment of a 40-acre area generally bounded by Mission, Main, Second and Folsom Streets, and included redevelopment of the previous Transbay Terminal at First and Mission Streets (File 05-0184). A separate joint powers agency, the Transbay Joint Powers Authority (TJPA)<sup>2</sup>, was created to finance, design, develop, construct and operate the Transbay Transit Center Project (Transbay Project). The Transbay Project includes

- (a) Phase 1: design and construction of a temporary terminal, demolition of the old Transbay Terminal and subsequent development of a permanent new six-story Transbay Transit Center with concourse retail and circulation level, above-grade bus level, rooftop park, and two below-grade levels to serve future Caltrain and California High Speed Rail services (Train Box), a new off-site bus storage facility and new dedicated bus ramps to connect the Transbay Transit Center, the bus storage facility and the San Francisco-Oakland Bay Bridge;

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<sup>1</sup> The Transbay Redevelopment Plan was initiated by the San Francisco Redevelopment Agency, which was dissolved by State mandate in 2012. A successor agency, the Office of Community Investment and Infrastructure (OCII) is now obligated to complete implementation of major redevelopment projects in San Francisco, including the Transbay Redevelopment Plan.

<sup>2</sup> The Transbay Joint Powers Authority created on April 4, 2001, is currently comprised of representatives from the San Francisco Municipal Transportation Agency (SFMTA), the Mayor's Office and the Board of Supervisors as well as from the Alameda-Contra Costa Transit District (AC Transit) and the Peninsula Corridor Joint Powers Board-Caltrain, which is composed of the City and County of San Francisco, San Mateo County Transit District (Samtrans) and Santa Clara Valley Transportation Authority.

- (b) Phase 2: extension of Caltrain rail tracks from their current San Francisco terminus at Fourth and Townsend Streets to a new underground terminus beneath the Transbay Transit Center, generally bounded by Mission, Howard, Beale and 2<sup>nd</sup> Streets, for Caltrain and California High Speed Rail; and
- (c) Transbay Redevelopment Plan: specified activities to implement the Transbay Redevelopment Plan, in coordination with the Office of Community Investment and Infrastructure (OCII).

Construction of Phase 1 began in 2008, the previous Transbay Terminal was demolished in 2010 and completion of Phase 1 is anticipated in 2017. In 2008, Phase 1 of the Transbay Project was estimated to cost \$1,189,000,000. A picture of the new Transbay Center Project is shown below.





The Board of Supervisors has previously approved the following agreements pertaining to the Transbay Project:

- Cooperative Agreement

On July 8, 2003, the Board of Supervisors approved a Cooperative Agreement between the TJPA, the California Department of Transportation (Caltrans), and the City and County of San Francisco (File 03-0997) authorizing the transfer of certain State-owned parcels within the Transbay Redevelopment Project Area, at no cost, from Caltrans to the City and the TJPA for use in construction of the Transbay Project or to sell in order to fund the Transbay Project construction costs.

- Tax Increment Revenue

On May 9, 2006, the Board of Supervisors approved a Tax Increment Allocation and Sales Proceeds Pledge Agreement (File 06-0347), which pledged tax increment revenue from the State-owned parcels in the Transbay Redevelopment Project Area to the TJPA for 45 years. Tax increment financing is a project financing strategy, in which the public agency (1) issues debt (tax allocation bonds), subject to Board of Supervisors approval, and uses future incremental ad valorem tax revenues (tax increment), primarily property tax revenues, to repay such debt. As a result, the increases in property tax revenue within a redevelopment project area are used to finance the redevelopment project.

- Community Facilities District (CFD) Special Tax Proceeds

In 2014, the Board of Supervisors approved the formation of a Transbay Transit Center Community Facilities District (CFD) to provide funding for certain public infrastructure improvements related to the Transbay Project (Resolution No. 350-14). In 2015, the Board of Supervisors approved the levy and collection of special taxes from the CFD and issuance of up to \$1,400,000,000 of CFD special tax bonds (Resolution No. 2-15). However, there is a cap of \$380 million on CFD special tax proceeds that can be used for the Transbay Project, which includes \$328 million to finance the Caltrain extension and \$52 million to finance the rooftop park. As shown in Table 2 below, special tax revenues from this CFD are projected to provide \$146,615,000<sup>3</sup> of funding for Phase 1 of the Transbay Project, once the CFD bonds are issued in 2017, although the funding is dependent on the schedule of development within the CFD.

### **Cost of Transbay Project**

As noted above, in 2008, the Phase 1 Transbay Project was estimated to cost \$1,189,000,000. In 2010, the Train Box component was transferred from Phase 2 to Phase 1 and a \$400 million Federal ARRA grant was received to fund construction of the Train Box. Phase 1 of the Transbay Project has experienced significant cost increases, and based on a review conducted in September 2015 by the Metropolitan Transportation Commission (MTC), Phase 1 is currently

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<sup>3</sup> 2013 TJPA budget projections estimated that \$194.1 million in CFD special tax proceeds would be available to fund Phase 1 of the Transbay Project through 2017, such that current CFD projections of \$146.6 million are \$47.5 million less than previously projected.

estimated to cost \$2,259,400,000, an increase of \$1,070,400,000 or 90%, as summarized in Table 1 below.

**Table 1: Estimated Costs of Phase 1 of Transbay Project**

<b>Date</b>	<b>Estimated Cost</b>	<b>\$ Change from Prior Estimate</b>	<b>% Change from Prior Estimate</b>
January 2008	\$1,189,000,000	-	-
November 2010	1,589,000,000	\$400,000,000	33.6%
July 2013	1,899,400,000	310,400,000	19.5%
July 2015	2,146,318,000	246,918,000	11.5%
April 2016	2,259,400,000	<u>113,082,000</u>	<u>5.2%</u>
Total		\$1,070,400,000	90.0%

According to the MTC report, the main reasons for the Transbay Project cost increases were:

- Inaccurate engineering estimates due to low costs, inaccurate and missed items and scope;
- Complex design led to fewer qualified bidders;
- Optimistic production rates which did not match actual fabrication rates;
- Optimistic escalation cost factors which did not reflect today's actual market trends;
- Lack of competitive bidders due to the improved Bay Area economy;
- Higher bid margins due to greater number of competing projects for material and labor;
- Design changes required to incorporate risk and vulnerability assessment; and
- Different risk model which did not fully assess costs appropriately for this project.

#### Current Funding Sources for Transbay Project and Projected Shortfall

As shown in Table 2 below, the current committed funding sources for Phase 1 of the Transbay Project include a combination of federal, state and local sources, which total \$2,011,900,000. Based on the current projected Phase 1 project cost of \$2,259,400,000, there is a current projected shortfall of \$247,500,000 to complete Phase 1 of the Transbay Project.

**Table 2: Current Funding Sources and Projected Shortfall**

Private Bridge Loan	\$153,964,720
TIFIA Loan	171,000,000
San Francisco Proposition K Sales Taxes	139,344,000
San Mateo Sales Taxes	4,497,061
AC Transit Capital Contribution	39,552,002
Lease and Interest Income	8,243,599
Other Local Revenues	4,456,401
MTC Regional Measure 1*	54,400,000
MTC Regional Measure 2*	143,016,000
AB 1171 (Other Bridge Tolls)**	150,000,000
State Regional Transportation Improvement Program (RTIP)	10,153,000
Land Sales	515,590,925
FTA Section 1601	8,795,355
High Priority-Bus Funding	29,136,832
Federal Projects of National Regional Significance (PNRS)	24,459,605
American Recovery and Reinvestment Act (ARRA)	400,000,000
Federal Rail Relocation Funds	2,650,000
One Bay Area Transit Grant (OBAG)	6,000,000
Tax Increment	25,500
Community Facility District (CFD) Special Taxes	146,615,000
<b>Total Sources of Funding</b>	<b>\$2,011,900,000</b>
<b>Current Estimated Phase 1 Project Costs</b>	<b>(2,259,400,000)</b>
<b>Phase 1 Funding Shortfall</b>	<b>\$247,500,000</b>

\*Regional Measures 1 and 2 set tolls on Bay Area bridges to pay for transportation projects.

\*\*AB 1171 was adopted by the California legislature to fund the cost of seismic retrofit of Bay Area toll bridges.

The major funding issues are as follows:

- Land Sales, Including Parcel F Sale

As shown in Table 2 above, the largest funding source is proceeds from the sale of State-owned land parcels, which is projected to generate \$515,590,925 of revenue for the Transbay Project.

On March 10, 2016, the TJPA also approved the sale of Parcel F<sup>4</sup> for an additional \$160,000,000<sup>5</sup> in land sale proceeds. However, the sale of Parcel F for \$160,000,000 is subject to approval of an option agreement by the OCII Commission and the Board of Supervisors regarding the sale of Block 4<sup>6</sup>. This option agreement is anticipated to come

<sup>4</sup> Parcel F, which is located on Howard Street near Second Street, is currently zoned for office development.

<sup>5</sup> Of the \$160 million, approximately \$6 million was counted in the \$515.6 million in land sales, shown in Table 2 above, and \$153,964,720 will be used to pay off the private bridge loan shown in Table 2 above.

<sup>6</sup> Block 4, which is located at Howard and Main Streets, and currently occupies a portion of the temporary bus terminal, is currently designated for development of affordable housing. Block 4 will be available for sale and

before the Board of Supervisors in May 2016. Subject to approval of the option agreement by OCII and the Board of Supervisors, completion of the sale of Parcel F and receipt of the \$160,000,000 by the TJPA is anticipated to occur in June 2016, which will allow the TJPA to use the Parcel F proceeds to pay-off a private Bridge Loan (discussed below).

- TIFIA Loan

On November 24, 2009, the Board of Supervisors authorized the TJPA to enter into a not-to-exceed \$171,000,000 loan agreement under the Federal Highway Administration Transportation Infrastructure Finance and Innovation Act (TIFIA Loan) to fund a portion of the Transbay Project costs (File 09-1333). The disbursement requirements of the TIFIA Loan include: (1) TJPA receives gross land sales proceeds of at least \$429,000,000 from the State-owned parcels; (2) TJPA receives an investment-grade rating on the TIFIA Loan; and (3) evidence that Phase 1 of the Transbay Project is fully funded. The first two requirements have been fulfilled. However, the third requirement, that Phase 1 of the Transbay Project be fully funded, as evidenced by Table 2 above, has not yet been achieved. As a result, the TIFIA Loan cannot be disbursed, such that TJPA does not have access to this \$171,000,000 in loan proceeds.

Under the proposed resolution and ordinance, the City will provide interim financing for the TJPA for Phase 1 of the Transbay Project, such that, together with the sale of Parcel F for \$160,000,000, the TJPA will be able to demonstrate that the Project is fully funded and be able to access the \$171,000,000 TIFIA Loan. Once the TJPA receives the \$171,000,000 TIFIA Loan, the interest rate will be 4.57% annually and must be repaid by February 1, 2052, or within 35 years after completion of Phase 1. The TJPA anticipates being able to accept and begin to draw on this loan in FY 2016-17 to fund completion of the construction and begin repaying the TIFIA Loan by February 2020. The TJPA intends to repay this loan with: (a) net tax increment funds generated from the State-owned parcels in the Transbay Redevelopment Project Area, (b) future contributions from AC Transit related to the use of the new Transbay Center, and (c) interest income from (a) and (b).

- Private Bridge Loan

Because the TJPA could not access the \$171 million of TIFIA Loan proceeds needed to fund ongoing construction of the Transbay Project, in January 2015, the TJPA entered into a \$171 million private Bridge Loan with Goldman Sachs and Wells Fargo for a term of four years, which can be repaid without penalty any time after January 22, 2016. The private Bridge Loan has a variable interest rate, based on the 3-month adjusted London Interbank Offered Rate (LIBOR), plus a 2.25 percent margin which increases 0.5 percent each year that the loan is outstanding. Total interest and expense for this loan is estimated at approximately \$32 million over the four year term of the loan. This private Bridge Loan is currently secured by tax increment, AC Transit contributions and interest

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development in 2018 after the opening of the new Transbay Transit Center and closure of the temporary bus terminal. Proceeds from Block 4 sale will also be used for the Transbay Project.

income as well as Parcel F, two parcels adjacent to Parcel F and Block 4 real estate. The proceeds from the sale of any of these parcels are required to be held by the banks as collateral for the Bridge Loan. However, the \$160 million proceeds from the sale of Parcel F are anticipated to pay off this private Bridge Loan, such that the deed of trust on parcel F and the other Transbay parcels will be released. As shown in Table 2 above, the \$171 million private Bridge Loan is estimated to result in \$153,964,720 of proceeds for the Transbay Project, plus an estimated \$17,035,280 of interest and expenses, which assumes this Bridge Loan, is fully repaid once Parcel F sales proceeds of \$160 million are received in FY 2016-17.

The proposed resolution and ordinance would provide short-term financing through the City to cover the current funding gap of \$247,500,000, shown in Table 2 above, to complete construction of the Phase 1 Transbay Project.

#### DETAILS OF PROPOSED LEGISLATION

File 16-0364: Resolution approving and authorizing the execution of tax exempt and taxable lease revenue commercial paper Certificates of Participation (COPs) and tax exempt and/or taxable direct placement revolving COPs in a combined aggregate principal amount not to exceed \$260,000,000 relating to Phase 1 of the Transbay Center Project; approving and authorizing execution of one or more trust agreements, site leases, subleases, a leaseback, one or more letter of credit and reimbursement agreements and/or lines of credit, and one or more certificate purchase agreements and related documents; and declaring the official intent of the City to reimburse itself from proceeds of tax-exempt obligations in accordance with 1986 Internal Revenue Code, as amended.

File 16-0357: Ordinance appropriating \$260,000,000 of proceeds from short-term Certificates of Participation to General City Responsibility for interim financing related to the Transbay Transit Center Project in FY 2015-16.

The proposed resolution would

- Approve and authorize the execution and delivery of tax exempt and/or taxable<sup>7</sup> lease revenue commercial paper Certificates of Participation (COPs) and tax exempt and/or taxable direct placement revolving COPs<sup>8</sup> in an aggregate principal amount not to exceed \$260,000,000 to provide funds for interim financing for Phase 1 of the Transbay Center Project. Interim financing includes (a) costs of Phase 1 Project; (b) capitalized interest for short-term certificates; (c) capitalized fees and expenses; and (d) costs incurred with sale and delivery of certificates.

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<sup>7</sup> While tax exempt debt has lower interest rates and associated costs, because the Transbay Project includes potential retail services, the issuance of debt may not qualify for tax-exempt status. The proposed resolution would allow the Office of Public Finance the flexibility to issue tax exempt and/or taxable debt, as necessary.

<sup>8</sup> This authorization allows the Office of Public Finance the flexibility to (a) issue commercial paper, which involves a bank and a third party, both which receive fees and must be renewed every 270 days and/or (b) direct placement of revolving credit, which is similar to a bank line of credit, and results in lower fees on the amount drawn.

- Approve one or more Trust Agreements and Delivery and Paying Agent Agreements between the City and County of San Francisco (City) and the Trustee, and authorize the City's obligations under these Agreements.
- Approve the form of a Sublease for City Property, Sublease for TJPA Property and Site Lease for City Property.
- Approve the form of Reimbursement Agreements, Fee Agreements and Purchase Agreements between the City and the designated banks.
- Authorize the Controller and the Director of the Office of Public Finance to negotiate dealer agreements.
- Authorize one or more extensions to Credit Facilities, Reimbursement Agreements and Purchase Agreements for duration of time necessary, provided such extensions do not increase the principal amount or require annual fees in excess of amounts authorized.
- Declares the City's intent to reimburse the City and/or TJPA with the subject proceeds contemplated for Phase 1 Transbay Project expenditures, such that the City or the TJPA will make a reimbursement allocation no later than three years after the expenditure is paid.
- Approve the form of a Train Box Leaseback between the City as sub-lessor and the TJPA as sub-lessee, which authorizes the City to sublease the Train Box to the TJPA, which will occupy and operate the Train Box.
- Grant general authority to the Controller and Director of Public Finance and other public officials to take necessary actions as necessary regarding these Direct Placement Certificates by Wells Fargo and the Metropolitan Transportation Commission (MTC), or any of the other Trust Agreements, Paying Agent Agreements, Site Leases, Subleases, Train Box Leaseback, Purchase Agreements, and approve required modifications to the documents, such that they comply with the provisions of this resolution.
- Authorize the execution and delivery of long term Certificates of Participation (COPs) in an aggregate total principal amount not to exceed \$300 million to refinance the short-term certificates, subject to future separate Board of Supervisors approval.

### **Purchase Agreements**

The proposed resolution would authorize a not to exceed \$260,000,000 aggregate principal debt be issued for interim financing for the Transbay Project. Financing of \$260,000,000 comes from purchase agreements with Wells Fargo Bank and Metropolitan Transportation Commission.

Wells Fargo Bank: \$160,000,000

Ms. Nadia Sesay, Director of the Office of Public Finance, advises that Wells Fargo Bank has been selected, based on a prior competitive solicitation process, to provide up to \$160 million of commercial paper and/or revolving credit for the subject interim financing. The Purchase Agreement with Wells Fargo Bank is anticipated have annualized floating interest rate of 70% of LIBOR plus 0.32% if tax exempt (currently 0.621%) and LIBOR plus 0.56% if taxable (currently 0.995%) of the principal amount drawn, payable over three years. A 0.20% annual interest rate would be paid on the principal amount not yet drawn.

Metropolitan Transportation Commission: \$100,000,000

In addition to the up to \$160 million with Wells Fargo Bank, the Office of Public Finance anticipates entering into similar Purchase Agreements with the Metropolitan Transportation Commission (MTC) to provide the balance of up to \$100 million of interim financing. The Purchase Agreement with MTC would have annualized floating interest of LIBOR plus 0.61% (currently 1.045%) payable annually over five years. This funding would be renewable for up to an additional five years, or a total of ten years. Ms. Sesay notes that MTC is prohibited from funding the TIPA transaction directly, but MTC has sufficient reserve revenues to provide this \$100 million of funding. This transaction is consistent with MTC's investment policies, and given that the Transbay Project is a regional endeavor, it would be beneficial to have the MTC public regional partner directly involved in this transaction.

Ms. Sesay notes that the Purchase Agreements with Wells Fargo and MTC would terminate and the amounts owed will be immediately due and payable if the City's General Fund secured obligations credit ratings decline significantly. These Agreements may also be terminated at the City's option for any reason, with payment of up to one year termination fee of the floating rate.

**Trust Agreements**

Based on the interim financing agreements noted above, the City would enter into separate Trust Agreements with Wells Fargo Bank and MTC to address the required short-term obligations regarding payments, disbursements and remedies. In addition, under the proposed resolution, the City would enter into a third party Trust Agreement with U.S. Bank, which provides the terms for the short-term commercial paper, prepayment and default provisions, remedies, and other related administrative provisions. U.S. Bank would hold the proceeds on behalf and for the benefit of the certificate holders, and disburse payments for the Transbay Project costs as directed by the City.

**City Property Lease and Sublease**

Under the proposed City Property Lease, the City would lease City-owned properties that have a market value at or above the par value of the Certificates of Participation, to the third party trustee, US Bank. In accordance with the City Sublease, the City would then lease back the same City-owned properties, from the third party trustee, by making annual base rent or debt service

payments to repay the short-term certificates. When the Certificates of Participation are fully repaid, the City Property Lease and Sublease between the City and the trustee will terminate. Ms. Sesay advises that she is currently working with Mr. John Updike, Director of Real Estate to value and determine which specific City properties would be leased; the properties likely to be leased include a portion of San Francisco General Hospital and/or Laguna Honda Hospital.

### **TJPA Property Lease, Sublease and Leaseback**

Under the proposed TJPA Property Lease, the TJPA will lease the Train Box real property within the Transbay Project to the third party trustee, in this case the MTC. Under the proposed TJPA Sublease, the City will sublease the Train Box from the trustee. Under the Leaseback, the City will then leaseback the Train Box to the TJPA for their operation and management. Within these agreements, the TJPA grants the City a security interest and lien on the Train Box. When the short-term certificates are fully repaid, the TJPA Property Lease, Sublease and Leaseback agreements would all terminate.

### **FISCAL IMPACT**

The proposed resolution would authorize a not-to-exceed \$260 million of financing to fund the TJPA's estimated interim shortfall of \$247,500,000 in Phase 1 of the Transbay Project, as shown in Table 2 above. To achieve the most cost efficient borrowing, the Office of Public Finance is proposing that the City issue the not-to-exceed \$260 million of short-term debt at times and in amounts necessary to meet the Phase 1 Transbay Project construction requirements. Of the total not to exceed \$260 million, up to \$160 million certificates would be issued with Wells Fargo Bank for up to three years, and up to \$100 million certificates would be held by MTC for a maximum of ten years, based on the terms described above.

The Office of Public Finance anticipates that the TJPA will need the \$247,500,000 to pay for construction over the next two fiscal years, as shown in Table 3 below.

**Table 3: Projected Transbay Project Interim Funding Needed by Year**

FY 2016-17	\$149,000,000
FY 2017-18	98,500,000
Total	\$247,500,000

With respect to this short-term debt, the TJPA would pledge their Community Facility District (CFD) special taxes and tax increment revenues generated by the State-owned parcels in the Transbay Redevelopment Project Area to pay debt service and reimburse the City likely over the next ten years. However, if these revenue sources are not sufficient, the City's General Fund would be liable to pay the debt service on the short-term debt. Long term debt would be issued in the future by the TJPA or the City, subject to separate Board of Supervisors approval, to retire the short-term debt. This long-term debt would also be repaid from the TJPA's CFD



special taxes and tax increment as well as future contributions from the Alameda-Contra Costa Transit District (AC Transit) and interest income.

As shown in Table 4 below, the proposed resolution would authorize a not to exceed \$260 million to provide the \$247,500,000 interim financing for the Transbay Project and up to \$12.5 million to fund the cost of issuance, capitalized interest and expenses and provide sufficient flexibility for market uncertainty from the date of Board of Supervisors approval of the proposed resolution through the term of the short-term certificates.

**Table 4: Projected Sources and Uses for not to exceed \$260 Million**

<b>Sources</b>	
Certificate Par Amount – Wells Fargo Bank	\$158,157,549
Certificate Par Amount – MTC	<u>100,000,000</u>
Subtotal Sources	\$258,157,549
Reserve for Market Uncertainty	<u>1,842,451</u>
<b>Total Sources</b>	<b>\$260,000,000</b>
<b>Uses</b>	
Project Fund	\$247,500,000
Cost of Issuance	800,000
Capitalized Interest and Expenses	<u>9,857,549</u>
Subtotal Uses	\$258,157,549
Reserve for Market Uncertainty	<u>1,842,451</u>
<b>Total Uses</b>	<b>\$260,000,000</b>

Based on current floating interest rates, Ms. Sesay estimates the base rental or debt service payments would be \$2.5 million per year of interest only. The TJPA intends to make these debt service payments from net tax increment proceeds from the State-owned parcels of land. In addition, Ms. Sesay advises that CFD special tax bond proceeds could partially pay down the principal of the outstanding short-term debt beginning in 2017, which will reduce the principal amount that will ultimately have to be refinanced with longer-term debt.

However, given that these short-term certificate obligations would be paid back from tax increment proceeds, or increases in property taxes on the State-owned parcels in the Transbay Redevelopment Area, the timely completion of these planned developments and inclusion on the property tax rolls is critical to avoid the City’s General Fund being liable for repayment of these short-term obligations.

Projections for Pay Back of Short Term Debt

The Controller’s Office conducted due diligence on the status of the development on the State-owned parcels within the Transbay Redevelopment Project Area and the CFD Plan Area, and the projected tax increment revenues and CFD special taxes to be generated. Based on their analysis, the Controller’s Office advises that there is likely to be sufficient Transbay-related development to support the requested interim financing with projected CFD taxes through 2020 and net tax increment revenues through 2024. However, the City will have credit exposure for the initial six to ten years, depending on the pace of development within the

Transbay Redevelopment Project Area and the CFD Plan Area. In the event development is delayed, the City would have higher outstanding short-term certificates for a longer period of time, but for no more than ten years. This short-term financing is then anticipated to be replaced with long-term financing by the TJPA, when the tax increment increases over the next ten years.

#### Long-Term Debt

The proposed resolution primarily addresses the interim short-term needs for financing Phase 1 of the Transbay Project. However, once sufficient tax increment revenue is generated, which is projected to occur in 2024, or approximately eight years, the City or the TJPA will issue long-term financing, which would be used to pay off the short-term debt with Wells Fargo and MTC. Under the proposed resolution, the Board of Supervisors would be authorizing the execution and delivery of long term Certificates of Participation (COPs) in an aggregate total principal amount not to exceed \$300 million to refinance the short-term certificates, subject to future separate Board of Supervisors approval. However, Ms. Sesay advises that it is anticipated that the TJPA would be able to issue its own long-term debt at that time, without having to rely on the City's creditworthiness.

#### Transbay Operations

The cost to operate the Transbay Center will be the responsibility of the TJPA and are separate from these Transbay Project capital budget projections. The TJPA will use Regional Measure 2 operating grants and lease, advertising and retail revenues to pay for ongoing operations. In addition, AC Transit is obligated to cover shortfalls between operating revenues and expenses.

#### Appropriation Ordinance

If the proposed resolution is approved, the proposed supplemental appropriation ordinance would appropriate the proceeds from the issuance of short-term certificates as shown under the Uses in Table 4 above. In accordance with this ordinance, the appropriation of such proceeds would be placed on Controller's Reserve pending the authorization and sale of the short-term certificates.

### **POLICY CONSIDERATION**

#### Potential Negative Impacts on Transbay Project

As noted above, the TJPA is responsible for the financing, design, development, construction and operation of the Transbay Project. Due to numerous errors, including inaccurate engineering estimates, the cost for Phase 1 of the Transbay Project has risen from \$1,189,000,000 in 2008 to \$2,259,400,000 in 2016, an increase of \$1,070,400,000 or 90%. Because of these significant cost increases, the TJPA is currently facing a shortfall of \$247,500,000 to complete construction of Phase 1 of the Transbay Project, which is scheduled to be completed by the end of 2017.

While San Francisco has representatives on the TJPA, and the Transbay Project is located in San Francisco, the TJPA is a regional separate joint powers agency, such that the City is not obligated or responsible for providing short-term or long-term direct funding for this project. However, if the City does not provide the requested up to \$260 million of interim funding for the TJPA, there are potential significant negative impacts for the Project as detailed below:

- Potential inability to complete or further delays in completion of the Transbay Project.
- Potential further cost increases, due to delays in completion of construction.
- Additional unknown problems related to construction and/or cost control factors.
- Problems with TJPA's ability to secure the TIFIA Loan of \$171 million and pay off the existing higher cost private bridge loan.
- Potential related problems with the sale and revenues to be realized from adjacent parcels for construction of housing, including affordable housing.

#### Construction Management and Financial Oversight

Given the construction and financial history of this Project, coupled with this unique request for the City to provide interim financing for the TJPA for Phase 1 of the Transbay Project, the Board of Supervisors must have assurances of direct construction management and financial oversight of this Project by the City. In that regard, the TJPA Board will consider on April 22, 2016 an Intergovernmental Agreement with the City and County of San Francisco for the Department of Public Works (DPW) to provide all construction management and project control oversight services for the Transbay Project. The proposed resolution should be amended to indicate that DPW will provide construction management and project control oversight services for the Transbay Project.

In addition, a Transbay Project Cost Oversight Agreement, between the City, the MTC and the TJPA, approved on April 14, 2016 by the TJPA Board, would create a new Cost Review Committee, comprised of the City Controller, Executive Director of the MTC and Executive Director Chief Financial Officer of the TJPA. This Committee would be authorized to make recommendations to the TJPA Board regarding financial and budgetary issues, any new or amended contract over \$250,000, internal controls and can conduct financial or performance audits as deemed necessary. This Cost Review Committee would terminate when the indebtedness under the proposed interim financing is fully repaid and the TJPA through its Board of Directors would still retain ultimate responsibility for the Transbay Project. The proposed resolution would approve this Cost Oversight Agreement.

#### Additional Approvals

On April 11, 2016, the City's Capital Planning Committee approved the proposed resolution and supplemental appropriation ordinance to provide up to \$260 million of short-term certificate proceeds for Phase 1 Transbay Transit Center Project.

On April 13, 2016, the Bay Area Toll Authority Oversight Committee of the MTC approved the direct investment of \$100,000,000 City short-term Certificates of Participation pending subsequent approval at the MTC meeting on April 27, 2016.

#### Phase 2 of Transbay Project

As discussed above, Phase 2 of the Transbay Project would extend Caltrain from the current terminus at Fourth and Townsend Streets to the Transbay Transit Center together with California High Speed Rail. Based on a cost review and project procurement alternatives analysis conducted by MTC in 2015, Phase 2 Transbay Project costs have also increased significantly, to approximately \$3.9 billion assuming a 2024 completion date, or in approximately eight years. To date, the TJPA has identified \$3.6 billion to \$4.3 billion of potential funding sources for Phase 2; however, most of these funds are subject to future federal, state and local approvals.

### **RECOMMENDATIONS**

1. Amend the proposed resolution (File 16-0364) to reference the addition of an Intergovernmental Agreement between the City and the TJPA for DPW to provide construction management and oversight services for the Transbay Project, subject to approval by the TJPA Board of Directors at the special meeting on April 22, 2016.
2. Approval of the proposed resolution, as amended, and the proposed ordinance are policy decisions for the Board of Supervisors.

OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: *Edwin M. Lee* Mayor Edwin M. Lee *NE*  
RE: Appropriation - Proceeds from Short-Term Certificates of \$260,000,000 for the Transbay Transit Center Project - FY 2015-2016  
DATE: April 12, 2016

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Attached for introduction to the Board of Supervisors is an ordinance appropriating \$260,000,000 of Proceeds from Short-Term Certificates to General City Responsibility for interim financing related to the Transbay Transit Center Project in Fiscal Year 2015-2016.

Please note that this legislation is co-sponsored by Supervisors Kim, Wiener and Campos.

I respectfully request a waiver of the 30-day hold and that this item be heard in Budget & Finance Committee on April 20, 2016.

Should you have any questions, please contact Nicole Elliott (415) 554-7940.

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