

1 [Certificates of Participation - Interim Financing for Phase 1 of the Transbay Transit Center
2 Project - Not to Exceed \$260,000,000]

3 **Resolution approving and authorizing the execution and delivery of Tax Exempt and/or**
4 **Taxable Lease Revenue Commercial Paper Certificates of Participation and Tax Exempt**
5 **and/or Taxable Direct Placement Revolving Certificates of Participation in a combined**
6 **aggregate principal of amount not to exceed \$260,000,000 to provide interim financing**
7 **for Phase 1 of the Transbay Transit Center Project; approving and authorizing**
8 **execution of one or more trust agreements, site leases, subleases, a leaseback, one or**
9 **more letters of credit and reimbursement agreements and/or lines of credit, and one or**
10 **more certificate purchase agreements and related documents; and Declaring the**
11 **Official Intent of the City to reimburse itself from proceeds of Tax-Exempt Obligations**
12 **in accordance with the Internal Revenue Code of 1986, as amended; and making**
13 **certain public benefit findings for the Transbay Transit Center Project under California**
14 **Government Code, Section 6586.5.**

15
16 WHEREAS, The City and County of San Francisco (the "City"), the Alameda-Contra
17 Costa Transit District and the Peninsula Corridor Joint Powers Board have heretofore
18 executed a Joint Powers Agreement, dated as of April 4, 2001 (the "Joint Powers
19 Agreement"), which Joint Powers Agreement creates and establishes the Transbay Joint
20 Powers Authority (the "TJPA"); and

21 WHEREAS, The Joint Powers Agreement and state law charge TJPA with financing,
22 design, development, construction, and operation of the Transbay Transit Center Program
23 (the "Transbay Center Project"), which includes: (1) the design and construction of a
24 temporary terminal and then the permanent Transbay Transit Center, including open space on
25 the roof of the Transit Center, a bus ramp and a bus storage facility, and the train box

1 component of the rail extension (“Phase 1”); (2) the extension of Caltrain tracks from their
2 current San Francisco terminus at Fourth and Townsend Streets to a new underground
3 terminus beneath the Transbay Transit Center to accommodate Caltrain and California High
4 Speed Rail (“Phase 2”); and (3) activities related to implementation of the Redevelopment
5 Plan for the Transbay Redevelopment Project Area, in coordination with the Office of
6 Community Investment and Infrastructure; and

7 WHEREAS, The Transbay Center Project will be located within the geographic
8 boundaries of the City; and

9 WHEREAS, This Board of Supervisors (the “Board”) has previously adopted Resolution
10 No. 350-14, establishing the Community Facilities District No. 2014-1 (“CFD”) for the purpose
11 of financing certain public capital facilities, and pursuant to state law the City and the TJPA
12 have executed a Joint Community Facilities Agreement, which permits the City to provide
13 project management oversight with respect to facilities funded by the CFD in connection with
14 the Transbay Center Project; and

15 WHEREAS, The TJPA requires additional funding in an amount not to exceed
16 \$260,000,000 in order to fund the Phase 1 budget, including the contingency recommended
17 by the Metropolitan Transportation Commission (the “MTC”) (herein, the “Interim Financing”);
18 and

19 WHEREAS, Pursuant to Section 9.113(e) of the Charter, the Board has the power to
20 borrow money through commercial paper and other short-term indebtedness; and

21 WHEREAS, In order to provide additional funds for Phase 1, the City has determined to
22 cause to be executed and delivered tax exempt and taxable lease revenue commercial paper
23 certificates of participation (the “Commercial Paper Certificates”) and tax exempt and taxable
24 direct placement revolving certificates of participation (the “Direct Placement Certificates” and,
25 together with the Commercial Paper Certificates, the “Short-Term Certificates”) under and

1 pursuant to the provisions of the Trust Agreement and the Delivery and Paying Agent
2 Agreement (as such terms are defined herein); and

3 WHEREAS, Pursuant to a Site Lease—City Property (the "Site Lease—City Property"),
4 the City, as lessor, will lease the property described therein, including the improvements
5 located thereon (collectively, the "City Property") to the trustee (the "Trustee") named therein,
6 as lessee; and pursuant to a Site Lease—TJPA Property (the "Site Lease---TJPA Property"),
7 the TJPA, as lessor, will lease the property described therein (the "TJPA Property" and
8 together with the City Property, the "Property") to the Trustee, as lessee; and, in return and in
9 consideration of the lease of the Property pursuant to the Site Leases, the Trustee will apply,
10 or caused to be applied, a portion of the proceeds of the Short-Term Certificates to the
11 acquisition, construction and equipping of Phase 1 of the Transbay Center Project; and

12 WHEREAS, Pursuant to a Sublease—City Property (the "Sublease—City Property"),
13 the Trustee will lease-back the City Property to the City, as sublessee, and pursuant to a
14 Sublease—TJPA Property (the "Sublease---TJPA Property" and together with the Sublease-
15 City Property, the "Subleases") the Trustee will lease the TJPA Property to the City, as
16 sublease, and the City, pursuant to the Subleases, will pay to the Trustee base rental lease
17 payments (the "Base Rental Payments") for the use and occupancy of the Property, which
18 Base Rental Payments will be used to (i) reimburse the Banks (as hereinafter defined) or
19 other credit support provider for payments made by the Banks under Credit Facilities (as
20 hereinafter defined) with respect to the Commercial Paper Certificates, if any, (ii) if necessary,
21 make payments on the Commercial Paper Certificates, if any, and (iii) make payments on the
22 Direct Placement Certificates, if any; and

23 WHEREAS, The payment of principal of and interest on the Commercial Paper
24 Certificates, if utilized, will be supported by irrevocable direct pay letters of credit (the "Credit
25 Facilities") issued by a financial institution or institutions selected by the Director of Public

1 Finance (each, a "Bank") pursuant to the terms of letter of credit and reimbursement
2 agreements (collectively, the "Reimbursement Agreements") between the City, and the Bank,
3 including, if appropriate, the terms of fee agreements (the "Fee Agreements") related thereto;
4 and

5 WHEREAS, The Commercial Paper Certificates, if utilized, will be placed initially by one
6 or more investment banking firms (each, a "Dealer") selected or to be selected pursuant to the
7 terms of a request for qualifications issued by the Director of Public Finance; and

8 WHEREAS, The financial institutions and the other entities, which entities may include
9 Wells Fargo Bank, National Association ("Wells") and MTC, purchasing the Direct Placement
10 Certificates will each enter into a certificate purchase agreement or similar agreement (each,
11 a "Purchase Agreement") with the City setting forth the terms and conditions pursuant to
12 which such entities will purchase the Direct Placement Certificates; and

13 WHEREAS, Section 6586.5 of the Government Code, which is part of the Marks-Roos
14 Local Bond Pooling Act of 1985 (the "Bond Act"), requires the City, as the local agency within
15 whose boundaries a public capital improvement is located is required to hold a public hearing
16 prior to approving a financing and to make a finding of significant public benefit in accordance
17 with the criteria specified in Section 6586 of the Bond Act after holding a public hearing;

18 WHEREAS, In order to satisfy the requirements set forth in Section 6586.5 of the Bond
19 Act, the TJPA has requested that the Board of Supervisors: (i) cause a public hearing to be
20 held, after giving the notice required by the Bond Act; (ii) make a finding of significant public
21 benefit in accordance with the criteria specified in Section 6586 of the Bond Act; and (iii)
22 approve the TJPA's request for Interim Financing under the terms of the certain site lease and
23 sublease agreements (as described above);

24 WHEREAS, The City caused a notice to be published on April 22, 2016, in a
25 newspaper of general circulation in the City and County of San Francisco for the public

1 hearing required under Section 6586.5 of the Bond Act with respect to the execution and
2 delivery of the certificates of participation contemplated by this Resolution, and such hearing
3 was held by the Budget and Finance Committee on April 27, 2016; and

4 WHEREAS, In connection with the Interim Financing and for the entire term that the
5 Commercial Paper Certificates are outstanding, representatives of the City, TJPA and MTC
6 will participate in a Cost Review Committee (the "Committee"), as provided in a separate
7 agreement entitled the Transbay Project Cost Oversight Agreement (the "Cost Oversight
8 Agreement") between the TJPA, the City and MTC, the form of which is on file with the Clerk
9 of the Board in File No. 160364; and

10 WHEREAS, Membership of the Committee shall be the City's Controller, the Executive
11 Director of the MTC, and the Executive Director or Chief Financial Officer of the TJPA, and
12 the Committee will provide recommendations to help ensure that the Interim Financing is
13 timely repaid and to oversee the proper expenditure by the TJPA of the proceeds of the
14 Interim Financing, as further set forth in the Cost Oversight Agreement; and

15 WHEREAS, The City and/or the TJPA have paid, no earlier than 60 days prior to the
16 date hereof and will pay, on and after the date hereof, certain moneys (the "Expenditures") in
17 connection with the acquisition, construction and/or equipping of the Transbay Center Project,
18 including Phase 1 thereof; and

19 WHEREAS, The Board has determined that funds are required to pay Expenditures
20 related to Phase 1 on a short-term basis, and it will therefore be necessary to reimburse the
21 City and/or the TJPA for the Expenditures made either from the proceeds of the Short-Term
22 Certificates from the proceeds of one or more issuances of certificates of participation, tax-
23 exempt increment financing or tax-exempt special tax financing (the "Long-Term Obligations")
24 in the combined aggregate principal amount of not to exceed \$300,000,000;

25

1 WHEREAS, This Board has duly considered such transactions and wishes at this time
2 to approve said transactions in the public interests of the City; now, therefore, be it

3 RESOLVED, by the Board of Supervisors of the City and County of San Francisco, as
4 follows:

5 Section 1. Delivery of Short-Term Certificates: Approval of Trust Agreement; Approval
6 of Delivery and Paying Agent Agreement. The Board hereby authorizes the execution and
7 delivery of taxable and tax-exempt Short-Term Certificates, including both Commercial Paper
8 Certificates and Direct Placement Certificates, from time to time, in an aggregate total
9 principal amount not to exceed \$260,000,000 hereunder for the purpose of providing moneys
10 which will be sufficient, together with other funds (i) to pay costs of Phase 1; (ii) to fund
11 capitalized interest with respect to the Short-Term Certificates; (iii) to fund associated fees
12 and expenses; and (iv) to pay costs incurred in connection with the sale and delivery of the
13 Short-Term Certificates; provided, however, that the interest rate on any Short-Term
14 Certificate shall not exceed the maximum rate permitted by law, the Commercial Paper
15 Certificates shall mature not later than 270 days from the date of execution and delivery
16 although each certificate may be marketed for a subsequent period(s) also not to exceed 270
17 days from the date of execution and delivery and provided further the Direct Placement
18 Certificates shall not be outstanding for a period not to exceed 15 years from their date of
19 initial execution and delivery. The Short-Term Certificates shall be executed and delivered
20 pursuant to one or more Trust Agreement(s) (the "Trust Agreement") between the City and
21 the Trustee, and, if applicable, one or more Delivery and Paying Agent Agreement (s) (the
22 "Delivery and Paying Agent Agreement") between the City and the Trustee, acting as delivery
23 and paying agent. This Board hereby approves the Trust Agreement and the Delivery and
24 Paying Agent Agreement in the forms on file with the Clerk of the Board, together with such
25 additions thereto and changes therein as the Controller shall deem necessary, desirable or

1 appropriate upon consultation with the City Attorney, the execution of which by the City shall
2 be conclusive evidence of the approval of any such additions and changes. The Controller
3 and the Director of the Office of Public Finance (each, a "Designated Officers"), each acting
4 alone, are hereby authorized to execute the final form of the Trust Agreement and the final
5 form of the Delivery and Paying Agent Agreement for and in the name and on behalf of the
6 City. This Board hereby authorizes the performance by the City of its obligations under the
7 Trust Agreement and the Delivery and Paying Agent Agreement.

8 Section 2. Approval of Leases. This Board hereby approves the form of the
9 Sublease—City Property, the form of Sublease—TJPA Property and the form of the Site
10 Lease---City Property, in each case in the form on file with the Clerk of the Board, together
11 with such additions thereto and changes therein as the Controller shall deem necessary,
12 desirable or appropriate upon consultation with the City Attorney, the execution of which by
13 the City shall be conclusive evidence of the approval of any such additions and changes. The
14 properties that may be leased under the Sublease—City Property and the Site Lease—City
15 Property include, but are not limited to, a portion of the campus of San Francisco General
16 Hospital and a portion of the campus of the Laguna Honda Hospital. The properties that may
17 be leased under the Sublease—TJPA Property include, but are not limited to, TJPA’s train
18 box (the “Train Box”). The Designated Officers, each acting alone, are hereby authorized to
19 execute the final form of the Sublease-City Property, the final form of Sublease—TJPA
20 Property and the final form of the Site Lease—City Property for and in the name of and on
21 behalf of the City. This Board hereby authorizes the performance by the City of its obligations
22 under the Sublease—City Property, the Sublease—TJPA Property and the Site Lease—City
23 Property.

24 Section 3. Approval of Reimbursement Agreements, Fee Agreements and Purchase
25 Agreements. This Board hereby approves the form of the Reimbursement Agreement, the

1 form of the Fee Agreement and the form of Purchase Agreement, in the forms on file with the
2 Clerk of the Board, together with such additions thereto and changes therein as the
3 Designated Officers shall deem necessary, desirable or appropriate upon consultation with
4 the City Attorney, the execution of which by the City shall be conclusive evidence of the
5 approval of any such additions and changes. The Designated Officers, each acting alone, are
6 hereby authorized to execute the Reimbursement Agreements, Fee Agreements and
7 Purchase Agreements with the Banks, for and in the name of and on behalf of the City. This
8 Board hereby authorizes the performance by the City of its obligations under the
9 Reimbursement Agreements, the Fee Agreements and the Purchase Agreements.
10 Notwithstanding anything herein to the contrary, the term of the Credit Facilities shall not be
11 less than one year, the interest on any unreimbursed draws on the Credit Facility shall not
12 exceed 12%, and the fees paid for any Credit Facilities shall not exceed the formula set forth
13 in the Fee Agreements for the respective Credit Facilities and the Reimbursement
14 Agreements.

15 Section 4. Dealer Agreement. This Board hereby authorizes and directs the Designated
16 Officers to negotiate dealer agreements (each, a “Dealer Agreement” with one or more
17 Dealers on such terms on such terms as the Designated Officers shall deem necessary,
18 advisable or appropriate upon consultation with the City Attorney.

19 Section 5. Extension of Credit Facilities. The Board hereby delegates the authority to
20 the Designated Officers, each acting alone, to execute and deliver one or more extensions to
21 the Credit Facilities or the commitment available under the Credit Facilities and the
22 Reimbursement Agreement for any duration of time that they deem necessary, advisable or
23 prudent, provided that no such extension shall, without approval of this Board, (i) increase the
24 principal amount of Short-Term Certificates authorized hereunder, or (ii) require an annual fee
25 in excess of the formula set forth in any related Fee Agreements for the respective

1 Reimbursement Agreement. In connection with obtaining such extension, the Designated
2 Officers shall be authorized to execute such amendments or modifications as are necessary
3 or advisable to obtain such extensions, provided that such amendments or modifications
4 reflect customary provisions in letter of credit and reimbursement agreements being executed
5 at the time the extension is obtained.

6 Section 6. Extension of Direct Placement Certificates. The Board hereby delegates the
7 authority to the Designated Officers, each acting alone, to execute and deliver one or more
8 extensions to the Purchase Agreements or the commitment available under the Purchase
9 Agreements for any duration of time that they deem necessary, advisable or prudent, provided
10 that no such extension shall, without approval of this Board, (i) increase the principal amount
11 of Short-Term Certificates authorized hereunder, or (ii) require an annual fee in excess of
12 formula set forth in the Fee Agreements for the respective under the Purchase Agreement . In
13 connection with obtaining such extension, the Designated Officers shall be authorized to
14 execute such amendments or modifications as are necessary or advisable to obtain such
15 extensions, provided that such amendments or modifications reflect customary provisions in
16 direct placement certificate of participation agreements being executed at the time the
17 extension is obtained.

18 Section 7. Reimbursement. The Board hereby declares the City's intent to reimburse
19 the City and/or the TJPA, in whole or in part, with the proceeds of tax-exempt contemplated
20 hereby for the Expenditures with respect to Phase 1 made on and after a date is no more than
21 60 days prior to the date hereof. The City reasonably expects on the date hereof that it will
22 reimburse the Expenditures, in whole or in part, with proceeds of tax exempt obligations, and
23 that each Expenditure was and will be either (a) of a type properly chargeable to a capital
24 account under general federal income tax principles (determined in each case as of the date
25 of the Expenditure), (b) a cost of issuance with respect to the Short-Term Certificates, (c) a

1 nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a
2 party that is not related to or an agent of the City and/or the TJPA, so long as such grant does
3 not impose any obligation or condition (directly or indirectly) to repay any amount to or for the
4 benefit of the City and/or the TJPA. The City or the TJPA, as applicable, will make a
5 reimbursement allocation, which is a written allocation by the City that evidences the City's
6 use of proceeds of the Short-Term Certificates or the Long-Term Obligations to reimburse an
7 Expenditure, no later than 18 months after the later of the date on which the Expenditure is
8 paid or Phase 1 is placed in service or abandoned, but in no event more than three years after
9 the date on which the Expenditure is paid. The City recognizes that exceptions are available
10 for certain "preliminary expenditures," costs of issuance, certain *de minimis* amounts, and
11 expenditures for construction projects of at least 5 years.

12 Section 8. Approval of Leaseback or other Form of Pledge Agreement. This Board
13 hereby approves the form of Train Box Leaseback, between the City, as sublessor, and the
14 TJPA, as sublessee (the "Train Box Leaseback"), in the form on file with the Clerk of the
15 Board, together with such additions thereto and changes therein as the Controller shall deem
16 necessary, desirable or appropriate upon consultation with the City Attorney, the execution of
17 which by the City shall be conclusive evidence of the approval of any such additions and
18 changes. The City shall be authorized to enter into the Train Box Leaseback in order to
19 sublease the Train Box to the TJPA, which will occupy and operate the Train Box. The
20 Designated Officers, each acting alone, are hereby authorized to execute the final form of the
21 Train Box Leaseback for and in the name of and on behalf of the City. This Board hereby
22 authorizes the performance by the City of its obligations under the Train Box Leaseback. In
23 the event that the Train Box is not subleased, the Designated Officers, each acting alone, are
24 hereby authorized to execute one or more agreements with the TJPA relating to the pledge,
25 on parity with TJPA's other lenders, of net tax increment generated by certain State-owned

1 parcels in the Transbay Redevelopment Project Area, future contributions from the Alameda-
2 Contra Costa Transit District, and interest income for the reimbursement to the City by the
3 TJPA for all of the City's costs, including the payment of principal and interest, with respect to
4 the Short-Term Certificates.

5 Section 9. Separate Documentation. In the event the Controller or the Director of
6 Public Finance deem it advisable or necessary, the purchase of Direct Placement Certificates
7 by Wells and the MTC may be accomplished pursuant to separate documentation, including
8 separate Trust Agreements, separate Site Leases, separate Subleases, and separate
9 Purchase Agreements, provided that all such agreements shall otherwise comply with the
10 provisions of this resolution.

11 Section 10. Delivery of Long-Term Certificates. The Board hereby authorizes the
12 execution and delivery of long term certificates of participation (the "Long-Term Certificates of
13 Participation"), including both Tax-Exempt Certificates of Participation and Taxable
14 Certificates of Participation, from time to time, in an aggregate total principal amount of not to
15 exceed \$300,000,000 hereunder for the purpose of refinancing the Short-Term Certificates;
16 provided, however, that the interest rate on any Long-Term Certificate of Participation shall
17 not exceed the maximum rate permitted by law, and the Long-Term Certificates of
18 Participation shall be outstanding for a period not to exceed 35 years from their date of initial
19 execution and delivery. Prior to the delivery of the Long-Term Certificates of Participation, all
20 approvals required for the issuance of said Long-Term Certificates of Participation shall have
21 been obtained, including any prior approval by this Board of Supervisors.

22 Section 11. Transbay Project Cost Oversight Agreement. This Board hereby approves
23 the form of the Cost Oversight Agreement, substantially in the form on file with the Clerk of the
24 Board, together with such additions thereto and changes therein as the Controller shall deem
25 necessary, desirable or appropriate upon consultation with the City Attorney, the execution of

1 which by the City shall be conclusive evidence of the approval of any such additions and
2 changes. The Designated Officers, each acting alone, are hereby authorized to execute the
3 Cost Oversight Agreement, for and in the name of and on behalf of the City.

4 Section 12. Significant Public Benefit Findings. In accordance with 6586.5 of the Bond
5 Act, this Board finds that the execution and delivery of the Certificates of Participation of will
6 result in significant public benefits to the City because it will, among other things, provide for a
7 lower cost of financing for Phase 1 of the Transbay Center Project and allow the TJPA to
8 undertake and continue construction of Phase 1 of the Transbay Center Project in a timely
9 fashion, resulting in the creation of significant construction jobs and employment benefits in
10 the City, and result in more efficient delivery of improved public transit services to the City's
11 residential and commercial development through the timely completion of Phase 1 of the
12 Transbay Center Project at First and Mission Streets;

13 Section 13. Official Actions. The Controller, the Director of the Office of Public Finance,
14 the Clerk of the Board and any and all other officers of the City are hereby authorized, for and
15 in the name of and on behalf of the City, to do any and all things and take any and all actions,
16 including execution and delivery of any and all documents, assignments, certificates,
17 requisitions, agreements, notices, consents, instruments of conveyance, warrants and
18 documents, which they, or any of them, may deem necessary or advisable in order to
19 consummate the lawful execution, delivery and sale of the Short-Term Certificates and the
20 consummation of the transactions as described herein, including without limitation, such
21 documents, assignments, certificates and agreements as may be required by the Trust
22 Agreement(s), the Delivery and Paying Agent Agreement(s), Subleases, Site Leases, Train
23 Box Leaseback, the Dealer Agreements, the Reimbursement Agreements, the Fee
24 Agreements, the Purchase Agreements or Cost Oversight Agreement. Any authority
25

1 delegated under this resolution to a specified official may also be exercised by either the
2 Controller or by the specified official's authorized designee.

3 Section 14. General Authority. The Controller, the Director of the Office of Public
4 Finance, the Clerk of the Board and any and all other officers of the City are hereby
5 authorized, for and in the name of and on behalf of the City, to do any and all things and take
6 any and all actions, including execution and delivery of any and all documents, assignments,
7 certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants
8 and documents, which they, or any of them, may deem necessary or advisable in order to
9 consummate the lawful issuance and sale of the Commercial Paper Certificates and the
10 consummation of the transactions as described herein, including without limitation, such
11 documents, assignments, certificates and agreements as may be required by the Trust
12 Agreement(s), the Delivery and Paying Agent Agreement(s), Subleases, Site Leases, Train
13 Box Leaseback, the Dealer Agreements, the Reimbursement Agreements, the Fee
14 Agreements, the Purchase Agreements or Cost Oversight Agreement. Any authority
15 delegated under this resolution to a specified official may also be exercised by either the
16 Controller or by the specified official's authorized designee. Any such actions are solely
17 intended to further the purposes of this Resolution, and are subject in all respects to the terms
18 of the Resolution. No such actions shall increase the risk to the City or require the City to
19 spend any resources not otherwise granted herein. Final versions of any such documents
20 shall be provided to the Clerk of the Board for inclusion in the official file within 30 days of
21 execution (or as soon thereafter as final documents are available) by all parties.

22 Section 15. Ratification. All actions authorized and directed by this Resolution,
23 consistent with any documents presented herein, and heretofore taken are hereby ratified,
24 approved and confirmed by this Board.

1 Section 16. File. All documents referenced herein as being on file with the Clerk of
2 the Board are located in File No. _____, which is hereby declared to be a part of this
3 Resolution as if set forth fully herein.
4

5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney
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8 By: _____
9 MARK D. BLAKE
10 Deputy City Attorney
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