

1 [Option Agreement Amendment for the Purchase and Sale of Real Property - Transbay Joint
2 Powers Authority - Consent to Conditions of Transbay Joint Power Authority's Bridge Loan -
3 \$171,000,000]

4 **Resolution authorizing the Director of Property to execute the First Amendment to**
5 **Option Agreement for the Purchase and Sale of Real Property between the City,**
6 **Transbay Joint Powers Authority, and Successor Agency to the Redevelopment**
7 **Agency of City and County of San Francisco; execute a consent to the conditions of**
8 **the Transbay Joint Powers Authority's Bridge Loan with a value of \$171,000,000; and**
9 **acknowledge the Subordination of the Option Agreement for the Purchase and Sale of**
10 **Real Property for Transbay Parcels F, O, O', and O'.**

11
12 WHEREAS, Any redevelopment plan adopted to finance, in whole or in part, the
13 demolition of the Transbay Terminal building and the construction of a new terminal, including
14 its associated vehicle ramps, shall ensure that at least 25 percent of all dwelling units
15 developed within the project area shall be available at affordable housing cost to, and
16 occupied by, persons and families whose incomes do not exceed 60 percent of the area
17 median income, and that at least an additional 10 percent of all dwelling units developed
18 within the project area shall be available at affordable housing cost to, and occupied by,
19 persons and families whose incomes do not exceed 120 percent of the area median income
20 (the "Transbay Affordable Housing Obligation"); and

21 WHEREAS, The City approved, by Ordinance No. 124-05 on June 21, 2005, and
22 Ordinance No. 99-06 on May 9, 2006, copies of which are on file with the Clerk of the Board
23 of Supervisors in File Nos. 050184 and 060347, and incorporated herein by reference, the
24 Redevelopment Plan (the "Plan") for the Transbay Redevelopment Project (the "Project"),
25 which explicitly incorporates the Transbay Affordable Housing Obligation; and

1 WHEREAS, The Plan provides for the redevelopment of the area generally bounded by
2 Mission, Main, Second, and Folsom Streets in downtown San Francisco, containing
3 approximately forty (40) acres of land (the "Project Area"); and

4 WHEREAS, To implement the Transbay Affordable Housing Obligation and other
5 objectives for the Project Area, the Plan provides that all real property sold, leased or
6 conveyed by the Redevelopment Agency of City and County of San Francisco ("Former
7 Agency") is subject to the provisions of the Plan and contracts, agreements and declarations
8 of restrictions of the Former Agency may contain restrictions, covenants, covenants running
9 with the land, rights of reverter, conditions subsequent, equitable servitudes or any other
10 provision necessary to carry out the Plan; and

11 WHEREAS, The Former Agency recorded the Transbay Redevelopment Project Area
12 Declaration of Restrictions, which incorporates such matters, against all property in the
13 Project Area (the "Declaration of Restrictions"); and

14 WHEREAS, Approximately ten (10) acres of land in the Project Area were owned by
15 the State of California ("State"), including the former Transbay Terminal building and its bus
16 access ramps (the "State-Owned Parcels"); and

17 WHEREAS, The State, acting by and through its Department of Transportation
18 ("Caltrans"), the City, and the Transbay Joint Powers Authority ("TJPA") entered into a
19 Cooperative Agreement on July 11, 2003, (the "Cooperative Agreement"), approved by this
20 Board on July 8, 2003, under Resolution No. 441-03, a copy of which is on file with the Clerk
21 of the Board of Supervisors in File No. 030997, and incorporated herein by reference; and

22 WHEREAS, Under the Cooperative Agreement, the State has or will transfer the State-
23 Owned Parcels to the City and the TJPA subject to certain terms and conditions, including the
24 use of the State-Owned Parcels for the construction, or to fund the construction, of the
25 Project; and

1 WHEREAS, Pursuant to the Cooperative Agreement, the State has a Power of
2 Termination with respect to any State-Owned Parcel transferred to the TJPA or to the City
3 (the "Power of Termination") that permits the State to re-take title to such State-Owned Parcel
4 under certain terms and conditions specified in the Cooperative Agreement; and

5 WHEREAS, The Cooperative Agreement obligates the State to release such Power of
6 Termination over a State-Owned Parcel if it is sold to a third party and the Gross Sales
7 Proceeds (as defined in the Cooperative Agreement) from such sale are deposited into a
8 Trust Account (as defined in the Cooperative Agreement) and used to pay Capital Costs (as
9 defined in the Cooperative Agreement); and

10 WHEREAS, Consistent with and also in furtherance of the Cooperative Agreement, the
11 Plan, and the Project, the City, TJPA, and the Former Agency, entered into an Option
12 Agreement for the Purchase and Sale of Real Property ("Option Agreement") on January 31,
13 2008, approved by this Board on May 9, 2006, under Ordinance No. 99-06, a copy of which is
14 on file with the Clerk of the Board of Supervisors in File No.060347, and incorporated herein
15 by reference; and

16 WHEREAS, The Option Agreement granted the Former Agency the option ("Option") to
17 take title to certain currently or formerly State-Owned parcels (the "Agency Transfer Parcels")
18 on the satisfaction of certain conditions, and if the Former Agency transferred an Agency
19 Transfer Parcel to a third party, the Former Agency was to place all Gross Sales Proceeds
20 resulting from such transfer into the Trust Account; and

21 WHEREAS, The City, TJPA, and the Former Agency entered into the Transbay
22 Redevelopment Project Tax Increment Allocation and Sales Proceeds Pledge Agreement
23 (the "Pledge Agreement"), dated January 31, 2008, approved by this Board on May 9, 2006,
24 under Ordinance No. 99-06, a copy of which is on file with the Clerk of the Board of
25 Supervisors in File No.060347, and incorporated herein by reference, pursuant to which the

1 parties provided for the irrevocable pledge of Net Tax Increment, as defined in the Pledge
2 Agreement, to TJPA for construction and design of the Transbay Terminal Project; and

3 WHEREAS, In 2012, the Former Agency was dissolved pursuant to State legislative
4 and case law and the Successor Agency to the Redevelopment Agency of City and County of
5 San Francisco ("Agency") was designated to receive the non-affordable housing assets of the
6 Former Agency and succeeded, by operation of law, to all of the Former Agency's rights, title
7 and interest in the Option Agreement; and

8 WHEREAS, Under the Option Agreement, the Agency holds an Option to acquire
9 Agency Transfer Parcel F (Block No. 3721, Lot No. 015A), Agency Transfer Parcel O (portion
10 of Block No. 3739, Lot No. 008), Agency Transfer Parcel O' (portion of Block No. 3739, Lot
11 No. 008), and Agency Transfer Parcel O" (portion of Block No. 3739, Lot No. 008) on the
12 terms and conditions of the Option Agreement; and

13 WHEREAS, Under the Project, the Agency plans to aggregate and prepare Agency
14 Transfer Parcel F for disposition and development as primarily office use, and aggregate and
15 prepare the northern third portion of Agency Transfer Parcel O, O', and O" commonly known
16 as "Redevelopment Block 4" for disposition and residential development that meets the
17 Transbay Affordable Housing Obligation with an applicable number of affordable units, but
18 these planned uses are subject to change; and

19 WHEREAS, The Option Agreement prevents the Agency from exercising the Option for
20 any Agency Transfer Parcel while it is needed by TJPA for the construction of the Transbay
21 Terminal Project; and

22 WHEREAS, TJPA is currently using Agency Transfer Parcel F for the construction of
23 new bus ramps and a train box, and Agency Transfer Parcel Parcels O, O', and O" for the
24 temporary terminal facility, and TJPA and the Agency currently expect those uses will
25 continue until late 2016 and late 2017; and

1 WHEREAS, In January 2010, TJPA entered into a \$171,000,000 loan under the
2 Transportation Infrastructure Finance and Innovation Act (the "TIFIA Loan") to fund a portion
3 of the Transbay Terminal Project costs, which was approved by this Board on November 24,
4 2009, under Resolution No. 470-09, a copy of which is on file with the Clerk of the Board of
5 Supervisors in File No. 091333, and incorporated herein by reference; and

6 WHEREAS, TJPA does not except to satisfy all of the disbursement conditions and
7 draw on the TIFIA Loan until late 2015, although the schedule is subject to change; and

8 WHEREAS, To obtain interim cash flow funding necessary to certify construction
9 contracts and make construction disbursements for the Transbay Terminal Project, pending
10 TJPA's satisfaction of the remaining disbursement conditions under the TIFIA Loan, TJPA
11 intends to close a bridge loan (the "Bridge Loan") in the amount of the TIFIA loan
12 (\$171,000,000) pursuant to a Credit Agreement in substantially the form on file with the Clerk
13 of the Board of Supervisors in File No. 141155 and incorporated herein by reference; and

14 WHEREAS, As conditions to funding the Bridge Loan under the Credit Agreement, the
15 Bridge Loan lenders require, among other things, the following to occur in order to protect and
16 create certain security interests for the Bridge Loan (the "Security Conditions"): (1) Caltrans
17 shall relinquish its Power of Termination with respect to Agency Transfer Parcel F and
18 Redevelopment Block 4 and any interest Caltrans has in the Gross Sales Proceeds of such
19 parcels (including any requirement that such proceeds be deposited in the Trust Account) and
20 any Gross Sales Proceeds generated from any portion of such parcels, in exchange for a
21 portion of the Bridge Loan proceeds being deposited in the Trust Account at the closing of the
22 Bridge Loan (the "Caltrans Release"); (2) TJPA shall pledge the Net Tax Increment generated
23 by the Agency Transfer Parcels; (3) TJPA shall execute a deed of trust, assignment of leases
24 and rents and security agreement in substantially the form on file with the Clerk of the Board
25 of Supervisors in File No. 141155 and incorporated herein by reference, creating a first priority

1 pledge of, security interest in and lien on all of TJPA's right, title and interest in and to Agency
2 Transfer Parcel F, as well as, among other things, the cash proceeds from the sale, lease or
3 other disposition of Parcel F (the "Deed of Trust"); (4) TJPA shall execute a recordable
4 negative covenant on Parcels O, O', and O" in substantially the form on file with the Clerk of
5 the Board of Supervisors in File No. 141155 and incorporated herein by reference, prohibiting
6 TJPA from selling or encumbering them before the Bridge Loan is repaid in full, unless TJPA
7 deposits a specified amount into a lockbox account created under the Credit Agreement (the
8 "Lockbox Account") as collateral for the Bridge Loan (the "Negative Pledge"); and (5) TJPA
9 and the Agency shall subordinate the Option Agreement and the Agency's interest in the
10 Option relative to Parcel F to the Deed of Trust, and the Option Agreement and the Agency's
11 interest in the Option relative to Parcels O, O', and O" to the Negative Pledge pursuant to the
12 Subordination of Option Agreement for the Purchase and Sale of Property in substantially the
13 forms on file with the Clerk of the Board of Supervisors in File No. 141155 and incorporated
14 herein by reference (the "Subordinations"); and

15 WHEREAS, The Security Conditions require an amendment to the Option Agreement
16 with respect to the Subordinations by and among City, TJPA, and the Agency in substantially
17 the form on file with the Clerk of the Board of Supervisors in File No. 141155 and incorporated
18 herein by reference (the "Option Agreement Amendment"), but City will not be a party to the
19 Credit Agreement, the Deed of Trust, the Negative Pledge, or the Subordinations, provided
20 that City is being asked to acknowledge the Subordinations and the Security Conditions; and

21 WHEREAS, If Agency wants to exercise its Option to Agency Transfer Parcel F or
22 Redevelopment Block 4 before the Bridge Loan is repaid in full, the Subordinations require
23 that the Agency sell such properties for no less than a minimum price (the "Lien Release
24 Price") established under the Credit Agreement and transfer the resulting Gross Sales
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1 Proceeds into the Lockbox Account, and the Deed of Trust or the Negative Pledge, as
2 applicable, will then be released; and

3 WHEREAS, TJPA and the Agency have determined that the Lien Release Price is
4 reasonably achievable and that nothing in the Credit Agreement, the Deed of Trust, the
5 Negative Pledge, and the Subordinations prevents the Agency from fulfilling the Transbay
6 Affordable Housing Obligation with respect to Agency Transfer Parcel F, Redevelopment
7 Block 4, or any other portion of Agency Transfer Parcels O, O', and O"; and

8 WHEREAS, Pursuant to the Credit Agreement and the Subordinations, the Deed of
9 Trust and the Negative Pledge will each be released when TJPA repays the Bridge Loan in
10 full, with any remaining funds in the Lockbox Account deposited in the Trust Account,
11 although if Redevelopment Block 4 becomes a separate legal parcel during the term of the
12 Bridge Loan, the Negative Pledge will be released as to Agency Transfer Parcels O, O', and
13 O" and replaced with a deed of trust on Redevelopment Block 4 in substantially the form of
14 the Deed of Trust; and

15 WHEREAS, The Bridge Loan has a four year term and may be prepaid by TJPA
16 without penalty or premium after the first anniversary of the closing of the Bridge Loan; and

17 WHEREAS, TJPA expects to satisfy the conditions precedent under the TIFIA Loan,
18 draw on the TIFIA Loan, and prepay in full the Bridge Loan in late 2015, although the
19 schedule is subject to change; and

20 WHEREAS, TJPA expects that the Agency's Subordinations would be released in late
21 2015, one to two years before the Agency would otherwise be eligible to exercise its Option to
22 acquire Agency Transfer Parcel F or Redevelopment Block 4, although the schedule is
23 subject to change; and

24 WHEREAS, In the event of a foreclosure sale or a sale pursuant to any power of sale
25 contained in or under the Deed of Trust on Agency Transfer Parcel F or any future deed of

1 trust on Redevelopment Block 4 required under the Credit Agreement, the purchaser or
2 purchasers and their successors and assigns, and the property, shall continue to be subject to
3 the Transbay Affordable Housing Obligation and all of the conditions, restrictions and
4 covenants provided in the Declaration of Restrictions, and the Agency retains the obligation
5 and authority to determine the infrastructure, affordable housing, and open space
6 requirements that apply to any development on all or any portion of Agency Transfer Parcel F
7 or Redevelopment Block 4; and

8 WHEREAS, Pursuant to the Credit Agreement and the Subordinations, the Bridge
9 Loan lenders expressly acknowledge that the terms and conditions of the Transbay Affordable
10 Housing Obligation apply to and pass with Agency Transfer Parcel F and Redevelopment
11 Block 4, and apply to and bind the successors in interest of any owner of all or any portion of
12 Agency Transfer Parcel F and Redevelopment Block 4; and that Agency Transfer Parcel F
13 and Redevelopment Block 4 shall be held, transferred, sold and conveyed, subject to the
14 Transbay Affordable Housing Obligation and the conditions, restrictions, reservations and
15 covenants set forth in the Declaration of Restrictions; and

16 WHEREAS, In order to permit TJPA to offer the Deed of Trust for Agency Transfer
17 Parcel F and the Negative Pledge for Agency Transfer Parcels O, O', and O", and a potential
18 deed of trust for Redevelopment Block 4, as security for the Bridge Loan, and authorize TJPA
19 and the Agency to subordinate to the Deed of Trust and the Negative Pledge, the Option
20 Agreement and the Agency's rights and privileges under the Option relative to Agency
21 Transfer Parcels F, O, O', and O", the City, TJPA, and the Agency desire to enter into the
22 Option Agreement Amendment, have City sign an acknowledgment and consent letter to the
23 terms and conditions of the Bridge Loan in substantially the form on file with the Clerk of the
24 Board of Supervisors in File No. 141155 and incorporated herein by reference (the "City
25 Consent Letter"), and acknowledge the Subordinations; and

1 WHEREAS, The Director of Property believes the Option Agreement Amendment and
2 the Bridge Loan is in the best interests of the taxing entities, including the City and TJPA, to
3 (1) facilitate timely completion of construction of Phase 1 of the Project, which is a public
4 benefit, will help to revitalize the Project Area and stimulate private investment, and is a
5 central part of the Project; (2) facilitate the Agency's timely implementation of the disposition
6 and development of Redevelopment Block 4 and Agency Transfer Parcel F under the Plan;
7 (3) facilitate the Agency's fulfillment of the Transbay Affordable Housing Obligation; and (4)
8 generate timely receipt of property tax revenues by the taxing entities; now, therefore, be it

9 RESOLVED, In accordance with the recommendations of the Director of Property, the
10 Board of Supervisors hereby approves, and authorizes the Director of Property to execute, the
11 Option Agreement Amendment and the City Consent Letter, and authorizes the Director of
12 Property to acknowledge the two Subordinations; and, be it

13 FURTHER RESOLVED, This Resolution does not bind the City to make any
14 expenditure, incur any indebtedness, or in any way obligate itself under TJPA's Bridge Loan
15 and related documents; and, be it

16 FURTHER RESOLVED, This approval by the City of the Bridge Loan is neither an
17 approval of the underlying credit issues of the Transbay Program nor an approval of the
18 financing structure of the Bridge Loan; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
20 Property to execute any additions, amendments or other modifications to the Option
21 Agreement Amendment, the City Consent Letter, and the Subordinations that the Director of
22 Property, in consultation with the Office of the City Attorney, determines are in the best
23 interests of the City, do not materially increase the obligations or liabilities of the City or

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1 materially decrease the benefits to the City, and are in compliance with all applicable laws,
2 including the City's Charter.

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4 RECOMMENDED:

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Director of Property

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City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 141155

Date Passed: December 09, 2014

Resolution authorizing the Director of Property to execute the First Amendment to Option Agreement for the Purchase and Sale of Real Property between the City, Transbay Joint Powers Authority, and Successor Agency to the Redevelopment Agency of City and County of San Francisco; execute a consent to the conditions of the Transbay Joint Powers Authority's Bridge Loan with a value of \$171,000,000; and acknowledge the Subordination of the Option Agreement for the Purchase and Sale of Real Property for Transbay Parcels F, O, O', and O".

November 19, 2014 Budget and Finance Committee - RECOMMENDED

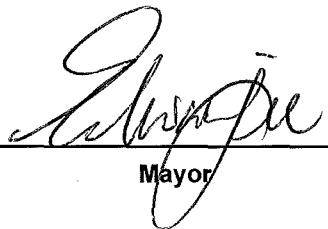
December 09, 2014 Board of Supervisors - ADOPTED

Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 141155

I hereby certify that the foregoing Resolution was ADOPTED on 12/9/2014 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board



Mayor

Date Approved