

1 [Resolution of Formation - Community Facilities District No. 2016-1 (Treasure Island)]

2

3 **Resolution of formation of City and County of San Francisco Community Facilities**  
4 **District No. 2016-1 (Treasure Island), Improvement Area No. 1 and a future annexation**  
5 **area; and determining other matters in connection therewith.**

6

7 WHEREAS, Naval Station Treasure Island (“NSTI”) is a former United States Navy  
8 base located in the City and County of San Francisco (“City”) that consists of two islands  
9 connected by a causeway: (1) Treasure Island, and (2) an approximately 90-acre portion of  
10 Yerba Buena Island; and

11 WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended  
12 California Health and Safety Code Section 33492.5 and added Section 2.1 to Chapter 1333 of  
13 the Statutes of 1968 (“Act”), the California Legislature: (i) designated the Treasure Island  
14 Development Authority (“TIDA”), as a redevelopment agency under California redevelopment  
15 law with authority over NSTI upon approval of the City’s Board of Supervisors, and (ii) with  
16 respect to those portions of NSTI which are subject to Tidelands Trust, vested in TIDA the  
17 authority to administer the public trust for commerce, navigation and fisheries as to such  
18 property; and

19 WHEREAS, The Board of Supervisors approved the designation of TIDA as the  
20 redevelopment agency for NSTI in 1997; and

21 WHEREAS, On January 24, 2012, the Board of Supervisors rescinded designation of  
22 TIDA as the redevelopment agency for Treasure Island under California Community  
23 Redevelopment Law in Resolution No. 11-12; but such rescission did not affect TIDA’s status  
24 as the Local Reuse Authority for NSTI or the Tidelands Trust trustee for the portions of NSTI  
25 subject to the Tidelands Trust, or any of the other powers or authority; and

1           WHEREAS, The United States of America, acting by and through the Department of  
2 the Navy (“Navy”), and TIDA entered into an Economic Conveyance Memorandum of  
3 Agreement (as amended and supplemented from time to time, the “Conveyance Agreement”)  
4 that governs the terms and conditions for the transfer of NSTI from the Navy to TIDA; and  
5 under the Conveyance Agreement, the Navy will convey NSTI to TIDA in phases after the  
6 Navy has completed environmental remediation and issued a Finding of Suitability to Transfer  
7 (as defined in the Conveyance Agreement) for specified parcels of NSTI or portions thereof;  
8 and

9           WHEREAS, Treasure Island Community Development, LLC (“Developer”) and TIDA  
10 previously entered into a Disposition and Development Agreement (Treasure Island/Yerba  
11 Buena Island), dated June 28, 2011 (“DDA”), including a Financing Plan (Treasure  
12 Island/Yerba Buena Island) (“Financing Plan”), which governs the disposition and  
13 development of a portion of NSTI (“Project Site”) after the Navy’s transfer of NSTI to TIDA in  
14 accordance with the Conveyance Agreement; and

15           WHEREAS, The DDA contemplates a project (“Project”) under which TIDA acquires  
16 the Project Site from the Navy and conveys portions of the Project Site to Developer (or an  
17 affiliate of Developer) for the purposes of: (i) alleviating blight in the Project Site through  
18 development of certain improvements, (ii) geotechnically stabilizing the Project Site, (iii)  
19 constructing public infrastructure to support the Project and other proposed uses on NSTI, (iv)  
20 constructing and improving certain public parks and open spaces, (v) abatement of certain  
21 existing hazardous substances, and (vi) selling and ground leasing lots to vertical developers  
22 who will construct residential units and commercial and public facilities; and

23           WHEREAS, On April 21, 2011, the Planning Commission by Motion No. 18325 and the  
24 Board of Directors of TIDA, by Resolution No. 11-14-04/21, as co-lead agencies, certified the  
25 completion of the Final Environmental Impact Report for the Project, and unanimously

1 approved a series of entitlement and transaction documents relating to the Project, including  
2 certain environmental findings under the California Environmental Quality Act (“CEQA”), a  
3 mitigation and monitoring and reporting program (“MMRP”), and the DDA and other  
4 transaction documents; and

5 WHEREAS, On June 7, 2011, in Motion No. M11-0092, the Board of Supervisors  
6 unanimously affirmed certification of the Final Environmental Impact Report, and on that same  
7 date, the Board of Supervisors, in Resolution No. 246-11, adopted CEQA findings and the  
8 MMRP, and made certain environmental findings under CEQA (collectively, “FEIR”), and also  
9 on that date, the Board of Supervisors, in Ordinance No. 95-11, approved the DDA and other  
10 transaction documents, including the Transportation Plan and Infrastructure Plan; and

11 WHEREAS, TIDA and the Developer have been working diligently since then to  
12 implement the Project consistent with the DDA, the MMRP and other documents; and

13 WHEREAS, No additional environmental review is required because there are no  
14 substantial changes to the project analyzed in the FEIR, no change in circumstances under  
15 which the project is being undertaken, and no new information of substantial importance  
16 indicating that new significant impacts would occur, that the impacts identified in the FEIR as  
17 significant impacts would be substantially more severe, or that mitigation or alternatives  
18 previously found infeasible are now feasible; and

19 WHEREAS, The City anticipates that future improvements will be necessary to ensure  
20 that the shoreline, public facilities, and public access improvements will be protected should  
21 sea level rise at the perimeter of the Project Site, and the Board of Supervisors desires to  
22 provide a mechanism to pay directly for such improvements and/or establish a capital reserve  
23 fund to finance such improvements; and

24 WHEREAS, Under the Mello-Roos Community Facilities Act of 1982, as amended,  
25 constituting Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with California

1 Government Code Section 53311 (“Mello-Roos Act”), this Board of Supervisors is authorized  
2 to establish a community facilities district and to act as the legislative body for a community  
3 facilities district; and

4 WHEREAS, Pursuant to Mello-Roos Act Section 53339.2, this Board of Supervisors  
5 further desires to undertake proceedings to provide for future annexation of territory to the  
6 proposed community facilities district; and

7 WHEREAS, On December 6, 2016, pursuant to the Mello-Roos Act, this Board of  
8 Supervisors adopted a resolution entitled “Resolution of intention to establish City and County  
9 of San Francisco Community Facilities District No. 2016-1 (Treasure Island), Improvement  
10 Area No. 1 and a Future Annexation Area, and determining other matters in connection  
11 therewith” (“Resolution of Intention”), on file with the Clerk of the Board of Supervisors in File  
12 No. 161038, stating its intention to form (i) “City and County of San Francisco Community  
13 Facilities District No. 2016-1 (Treasure Island)” (“CFD”), (ii) “Improvement Area No. 1 of the  
14 City and County of San Francisco Community Facilities District No. 2016-1 (Treasure Island)”  
15 (“Improvement Area No. 1”) and (iii) “City and County of San Francisco Community Facilities  
16 District No. 2016-1 (Treasure Island) (Future Annexation Area)” (“Future Annexation Area”);  
17 and

18 WHEREAS, The Resolution of Intention, incorporating a map of the proposed  
19 boundaries of the CFD, Improvement Area No. 1 and the Future Annexation Area and stating  
20 the facilities and the services to be provided (as set forth in the list attached hereto as Exhibit  
21 A), the cost of providing such facilities and the services, and the rate and method of  
22 apportionment of the special tax to be levied within the CFD and Improvement Area No. 1 to  
23 pay the principal and interest on bonds proposed to be issued with respect to the CFD and  
24 Improvement Area No. 1, the cost of the facilities and the cost of the services, is on file with

25

1 the Clerk of the Board of Supervisors and the provisions thereof are incorporated herein by  
2 this reference as if fully set forth herein; and

3 WHEREAS, On this date, this Board of Supervisors held a noticed public hearing as  
4 required by the Mello-Roos Act and the Resolution of Intention relative to the proposed  
5 formation of the CFD, Improvement Area No. 1 and the Future Annexation Area; and

6 WHEREAS, At the hearing all interested persons desiring to be heard on all matters  
7 pertaining to the formation of the CFD, Improvement Area No. 1 and the Future Annexation  
8 Area, the facilities to be provided therein, the services to be provided therein and the levy of  
9 said special tax were heard and a full and fair hearing was held; and

10 WHEREAS, At the hearing evidence was presented to this Board of Supervisors on  
11 said matters before it, including a report caused to be prepared by the Director of the Office of  
12 Public Finance ("Report") as to the facilities and the services to be provided through the CFD,  
13 Improvement Area No. 1 and the Future Annexation Area and the costs thereof, a copy of  
14 which is on file with the Clerk of the Board of Supervisors in File No. 161122, and this Board  
15 of Supervisors at the conclusion of said hearing is fully advised in the premises; and

16 WHEREAS, Written protests with respect to the formation of the CFD and Improvement  
17 Area No. 1, the furnishing of specified types of facilities and services and the rate and method  
18 of apportionment of the special taxes for Improvement Area No. 1 have not been filed with the  
19 Clerk of the Board of Supervisors by fifty percent (50%) or more of the registered voters  
20 residing within the territory of the CFD and Improvement Area No. 1 or property owners of  
21 one-half (1/2) or more of the area of land within the CFD and Improvement Area No. 1 and not  
22 exempt from the proposed special tax; and

23 WHEREAS, The special tax proposed to be levied in Improvement Area No. 1 to pay  
24 for the proposed facilities and services to be provided therein, as set forth in Exhibit B hereto,  
25 has not been eliminated by protest by fifty percent (50%) or more of the registered voters

1 residing within the territory of Improvement Area No. 1 or the owners of one-half (1/2) or more  
2 of the area of land within Improvement Area No. 1 and not exempt from the special tax; and

3 WHEREAS, Prior to the time fixed for the hearing, written protests had not been filed  
4 with the Clerk of the Board of Supervisors against the proposed annexation of the Future  
5 Annexation Area to the CFD by (i) 50% of more of the registered voters, or six registered  
6 voters, whichever is more, residing in the proposed boundaries of the CFD, or (ii) 50% or  
7 more of the registered voters, or six registered voters, whichever is more, residing in the  
8 Future Annexation Area, (iii) owners of one-half or more of the area of land in the proposed  
9 CFD or (iv) owners of one-half or more of the area of land in the Future Annexation Area;  
10 now, therefore, be it

11 RESOLVED, That the foregoing recitals are true and correct; and, be it

12 FURTHER RESOLVED, That the proposed special tax to be levied within Improvement  
13 Area No. 1 has not been precluded by majority protest pursuant to section 53324 of the Mello-  
14 Roos Act; and, be it

15 FURTHER RESOLVED, That all prior proceedings taken by this Board of Supervisors  
16 in connection with the establishment of the CFD, Improvement Area No. 1 and the Future  
17 Annexation Area and the levy of the special tax have been duly considered and are hereby  
18 found and determined to be valid and in conformity with the Mello-Roos Act; and, be it

19 FURTHER RESOLVED, That the community facilities district designated “City and  
20 County of San Francisco Community Facilities District No. 2016-1 (Treasure Island)” is hereby  
21 established pursuant to the Mello-Roos Act; and, be it

22 FURTHER RESOLVED, That the improvement area designated “Improvement Area  
23 No. 1 of the City and County of San Francisco Community Facilities District No. 2016-1  
24 (Treasure Island)” is hereby established pursuant to the Mello-Roos Act; and, be it  
25

1 FURTHER RESOLVED, That the future annexation area designated “City and County  
2 of San Francisco Community Facilities District No. 2016-1 (Treasure Island) (Future  
3 Annexation Area)” is hereby established pursuant to the Mello-Roos Act; and, be it

4 FURTHER RESOLVED, That the boundaries of the CFD, Improvement Area No. 1 and  
5 the Future Annexation Area, as set forth in the map of the CFD heretofore recorded in the  
6 Office of the Assessor-Recorder on December 20, 2016 at 1:53 p.m. in Book 001 at Page  
7 114, as Document 2016-K377867-00 of Maps of Assessment and Community Facilities  
8 Districts, are hereby approved, are incorporated herein by reference and shall be the  
9 boundaries of the CFD, Improvement Area No. 1 and the Future Annexation Area; and, be it

10 FURTHER RESOLVED, That, from time to time, parcels within the Future Annexation  
11 Area shall be annexed to the CFD only with the unanimous approval (each, a “Unanimous  
12 Approval”) of the owner or owners of each parcel or parcels at the time that parcel(s) are  
13 annexed, and in accordance with the Annexation Approval Procedures described herein; and,  
14 be it

15 FURTHER RESOLVED, The Board of Supervisors hereby determines that any  
16 property for which the owner or owners execute a Unanimous Approval that is annexed into  
17 the CFD in accordance with the Annexation Approval Procedures shall be added to the CFD  
18 and the Clerk of the Board of Supervisors shall record (i) an amendment to the notice of  
19 special tax lien for the CFD pursuant to Streets & Highways Code Section 3117.5 if the  
20 property is annexed to an existing improvement area or (ii) a notice of special tax lien for the  
21 CFD pursuant to Streets & Highways Code Section 3117.5 if the property annexed is  
22 designated as a new improvement area; provided, however, the designation of property as  
23 Future Annexation Area and the ability to annex property to the CFD based on a Unanimous  
24 Approval shall not limit, in any way, the annexation of property in the Future Annexation Area  
25 to the CFD pursuant to other provisions of the Mello-Roos Act; and, be it

1 FURTHER RESOLVED, That the type of public facilities proposed to be financed by  
2 the CFD, Improvement Area No. 1 and the Future Annexation Area (including any area  
3 therein designated to be annexed as a separate improvement area) pursuant to the Mello-  
4 Roos Act shall consist of those items listed as facilities in Exhibit A hereto and by this  
5 reference incorporated herein (“Facilities”); and, be it

6 FURTHER RESOLVED, That the type of public services proposed to be financed by  
7 the CFD, Improvement Area No. 1 and the Future Annexation Area (including any area  
8 therein designated to be annexed as a separate improvement area) pursuant to the Mello-  
9 Roos Act shall consist of those items shown in Exhibit A hereto and by this reference  
10 incorporated herein (“Services”); and, be it

11 FURTHER RESOLVED, The City intends to provide the Services on an equal basis in  
12 the original territory of the CFD and Improvement Area No. 1 and, when it has been annexed  
13 to the CFD, the Future Annexation Area (including any area therein designated to be annexed  
14 as a separate improvement area); and, be it

15 FURTHER RESOLVED, That:

16 a. Except to the extent that funds are otherwise available from Improvement Area  
17 No. 1, the City will levy a special tax (“Improvement Area No. 1 Special Tax”) sufficient to pay  
18 directly for the Facilities, including out of a special tax-funded capital reserve established for  
19 the payment of Facilities, to pay the principal and interest on bonds and other debt (as defined  
20 in the Mello-Roos Act) of the City issued for Improvement Area No. 1 to finance the Facilities,  
21 and to pay for the Services, and the Improvement Area No. 1 Special Tax will be secured by  
22 the recordation of a continuing lien against all non-exempt real property in Improvement Area  
23 No. 1, will be levied annually within Improvement Area No. 1, and will be collected in the same  
24 manner as ordinary *ad valorem* property taxes or in such other manner as this Board of  
25



1 Supervisors or its designee shall determine, including direct billing of the affected property  
2 owners.

3 b. The proposed rate and method of apportionment of the Special Tax among the  
4 parcels of real property within Improvement Area No. 1, in sufficient detail to allow each  
5 landowner within Improvement Area No. 1 to estimate the maximum amount such owner will  
6 have to pay, are shown in Exhibit B attached hereto and hereby incorporated herein (“Rate  
7 and Method”).

8 c. The Improvement Area No. 1 Special Tax shall not be levied in Improvement  
9 Area No. 1 to finance Facilities after the fiscal year established therefor in the Rate and  
10 Method, and the Improvement Area No. 1 Special Tax shall only be levied to finance Services  
11 thereafter, except that an Improvement Area No. 1 Special Tax that was lawfully levied in or  
12 before the final tax year and that remains delinquent may be collected in subsequent years.  
13 Under no circumstances shall the Improvement Area No. 1 Special Tax levied in any fiscal  
14 year for financing Facilities against any parcel in Improvement Area No. 1 used for private  
15 residential purposes be increased in that fiscal year as a consequence of delinquency or  
16 default by the owner of any other parcel or parcels within Improvement Area No. 1 by more  
17 than 10 percent.

18 d. A special tax to finance the costs of Facilities shall not be levied in one or more  
19 future improvement areas formed to include territory that annexes into the CFD from the  
20 Future Annexation Area (each, a “Future Improvement Area” and together with Improvement  
21 Area No. 1, the “Improvement Areas”) after the fiscal year established therefor in the rate and  
22 method for the Future Improvement Area and the special tax shall only be levied to finance  
23 Services thereafter, except that a special tax that was lawfully levied in or before the final tax  
24 year and that remains delinquent may be collected in subsequent years. Under no  
25 circumstances shall the special tax levied in any fiscal year for financing Facilities against any

1 parcel in the Future Improvement Area for private residential purposes be increased in that  
2 fiscal year as a consequence of delinquency or default by the owner of any other parcel or  
3 parcels within the Future Improvement Area by more than 10 percent.

4 e. For Future Improvement Areas, a different rate and method may be adopted for  
5 the annexed territory if the annexed territory is designated as a separate improvement area.  
6 No supplements to the Rate and Method for any of the Future Improvement Areas and no  
7 new rate and method shall cause the maximum tax rate in the then-existing territory of the  
8 CFD (including Improvement Area No. 1) to increase. The designation as an Improvement  
9 Area of any territory annexing to the CFD, the maximum amount of bonded indebtedness and  
10 other debt for such Improvement Area, the rate and method of apportionment of special tax  
11 for such improvement area (including the conditions under which the obligation to pay the  
12 special tax may be prepaid and permanently satisfied, if any), and the appropriations limit for  
13 such Improvement Area shall be identified and approved in the Unanimous Approval executed  
14 by property owner(s) in connection with its annexation to the CFD in accordance with the  
15 Annexation Approval Procedures described herein.

16 f. Territory in the Future Annexation Area will be annexed into the CFD and a  
17 special tax will be levied on such territory only with the Unanimous Approval of the owner or  
18 owners of each parcel or parcels at the time that parcel or those parcels are annexed into the  
19 CFD in accordance with the Annexation Approval Procedures described herein. Except to the  
20 extent that funds are otherwise available to the CFD to pay for the Facilities, the Services  
21 and/or the principal and interest as it becomes due on bonds of the CFD issued to finance the  
22 Facilities, a Special Tax sufficient to pay the costs thereof, secured by the recordation of a  
23 continuing lien against all non-exempt real property in the Future Annexation Area, is intended  
24 to be levied annually within the Future Annexation Area, and collected in the same manner as  
25

1 ordinary *ad valorem* property taxes or in such other manner as may be prescribed by this  
2 Board of Supervisors.

3 g. As required by Mello-Roos Act Section 53339.3(d), the Board of Supervisors  
4 hereby determines that the Special Tax proposed to pay for one or more Facilities to be  
5 supplied within the Future Annexation Area financed with bonds that have already been  
6 issued and that are secured by previously-existing areas of the CFD will be equal to the  
7 Special Taxes levied to pay for the same Facilities in previously-existing areas of the CFD,  
8 except that (i) a higher Special Tax may be levied within the Future Annexation Area to pay  
9 for the same Facilities to compensate for the interest and principal previously paid from  
10 Special Taxes in the original area of the CFD, less any depreciation allocable to the financed  
11 Facilities and (ii) a higher Special Tax may be levied in the Future Annexation Area to pay for  
12 new or additional Facilities, with or without bond financing. As required by Mello-Roos Act  
13 Section 53339.3(d), the Board of Supervisors hereby further determines that the Special Tax  
14 proposed to pay for Services to be supplied within the Future Annexation Area shall be equal  
15 to any Special Tax levied to pay for the same Services in the existing CFD, except that a  
16 higher or lower tax may be levied within the Future Annexation Area to the extent that the  
17 actual cost of providing the Services in the Future Annexation Area is higher or lower than the  
18 cost of providing those Services in the existing CFD. In so finding, the Board of Supervisors  
19 does not intend to limit its ability to levy a Special Tax within the Future Annexation Area to  
20 provide new or additional services beyond those supplied within the existing CFD and  
21 Improvement Area No. 1 or its ability to implement changes pursuant to the Mello-Roos Act,  
22 Article 3, within one or more improvement areas; and, be it

23 FURTHER RESOLVED, That the “Annexation Approval Procedures” governing  
24 annexations of parcels in the Future Annexation Area into the CFD shall consist of the  
25 following sets of procedures (specified in (A) and (B) that follow):

1 (A) The annexation and related matters described in the Unanimous Approval shall  
2 be implemented and completed without the need for the approval of either the Board of  
3 Directors of TIDA (“TIDA Board”) or this Board of Supervisors as long as the following  
4 conditions are met:

5 (1) The annexation is to an existing improvement area and the property proposed to  
6 be annexed shall be subject to the same rate and method of apportionment of special tax and  
7 the same bonded indebtedness limits as such existing improvement area; or

8 (2) The annexation is to a new improvement area and the following conditions  
9 apply:

10 (i) The rate and method of apportionment of special tax for the new  
11 improvement area is prepared by a special tax consultant retained by the City and paid for by  
12 the property owners submitting the Unanimous Approval.

13 (ii) The rate and method of apportionment of special tax for the new  
14 improvement area is consistent with the Financing Plan.

15 (iii) The rate and method of apportionment of special tax for the new  
16 improvement area does not establish a maximum special tax rate for the initial fiscal year in  
17 which the special tax may be levied for any category of property subject to the special tax that  
18 is greater than 120% of the maximum special tax rate established for the same category of  
19 property subject to the special tax for the same fiscal year calculated pursuant to the Rate and  
20 Method (i.e., the rate and method of apportionment of special tax for Improvement Area  
21 No. 1).

22 (iv) The rate and method of apportionment of special tax for the new  
23 improvement area does not contain a type of special tax that was not included in the Rate and  
24 Method (for example, a one-time special tax).

1 (v) The rate and method of apportionment of special tax for the new  
2 improvement area contains the same terms for “Collection of Special Tax” (including with  
3 respect to the term of the special tax) and for application of Remainder Special Taxes (as  
4 defined in the Rate and Method) with respect to park maintenance costs as the Rate and  
5 Method.

6 (vi) If the rate and method of apportionment of special tax for the new  
7 improvement area includes a provision allowing prepayment of the special tax, in whole or in  
8 part, the Director of the Office of Public Finance, after consulting with the special tax  
9 consultant retained by the City and the City Attorney, shall be satisfied that such prepayment  
10 provision will not adversely impact the financing of authorized Facilities and Services;  
11 *provided*, that if the prepayment formula set forth in such rate and method of apportionment  
12 has previously been approved by this Board, then such prepayment formula may be  
13 replicated in the rate and method of apportionment for such new improvement area without  
14 meeting such test.

15 If the foregoing conditions ((1) or (2), as applicable), are satisfied, as determined by the  
16 Director of the Office of Public Finance and set forth in a written acceptance by the Director of  
17 the Office of Public Finance delivered to the property owner(s) that executed the Unanimous  
18 Approval and the Clerk of the Board of Supervisors, the Unanimous Approval shall be  
19 deemed accepted by the City and the Clerk of the Board of Supervisors shall record an  
20 amendment to the notice of special tax lien or a new notice of special tax lien for the CFD  
21 pursuant to Streets & Highways Code Section 3117.5.

22 (B) For any annexation and related matters described in the Unanimous Approval  
23 that do not meet the requirements of Section (A) above, the following procedures shall apply  
24 (provided, however, that nothing in the following procedures shall prevent the property owners  
25 of property to be annexed into the CFD from a Future Annexation Area from annexing

1 property to the CFD (including into a new improvement area) pursuant to Section (A) above  
2 and then instituting change proceedings pursuant to Mello-Roos Act, Article 3, to make  
3 additional changes to the rate and method or other authorized purposes):

4 *First*, the owners(s) of property to be annexed into the CFD shall submit a Unanimous  
5 Approval for each parcel or parcels to be annexed into the CFD to the Treasure Island  
6 Director of TIDA, together with a statement as to whether the Unanimous Approval is  
7 consistent with the Financing Plan and, if not, the reasons for such inconsistency.

8 *Second*, the Treasure Island Director shall have 30 days to either (a) submit the  
9 Unanimous Approval to the TIDA Board, accompanied by a written staff report that includes a  
10 statement from the Treasure Island Director as to whether the Unanimous Approval is  
11 consistent with the Financing Plan and, if the Treasure Island Director concludes that it is not  
12 consistent with the Financing Plan, a description of the inconsistencies, the reasons for such  
13 inconsistencies given by the Developer and the Treasure Island Director's recommendation  
14 as to such inconsistencies or (b) notify the Developer that the Treasure Island Director shall  
15 not submit the Unanimous Approval to the TIDA Board due to inconsistencies with the  
16 Financing Plan.

17 *Third*, the TIDA Board shall, within 60 days of the receipt of any Unanimous Approval  
18 by the Treasure Island Director pursuant to *Second* above, either (i) adopt a resolution  
19 accepting the Unanimous Approval or (ii) adopt a resolution rejecting the Unanimous  
20 Approval, with the sole basis for rejection being a detailed conclusion that the Unanimous  
21 Approval is not consistent with the Financing Plan.

22 *Fourth*, if the TIDA Board adopts a resolution rejecting the Unanimous Approval, the  
23 owner(s) of property to be annexed into the CFD may revise the Unanimous Approval and  
24 resubmit it to the Treasure Island Director, who shall endeavor to submit the revised  
25 Unanimous Approval to the TIDA Board, accompanied by a written staff report as outlined

1 above under *Second*, at the next available meeting of the TIDA Board, and the TIDA Board  
2 shall consider the revised Unanimous Approval and either (i) adopt a resolution accepting the  
3 revised Unanimous Approval or (ii) adopt a resolution rejecting the revised Unanimous  
4 Approval, with the sole basis for rejection being a detailed conclusion that the revised  
5 Unanimous Approval is not consistent with the Financing Plan, in which event the owner(s)  
6 may further revise the Unanimous Approval and repeat the process described in this clause  
7 *Fourth*. In lieu of submitting a revised Unanimous Approval to the Treasure Island Director,  
8 the owner(s) of property to be annexed into the CFD may appeal the TIDA Board's decision to  
9 reject the Unanimous Approval to this Board of Supervisors, with the sole basis for appeal  
10 being that the Unanimous Approval should not have been rejected because the Unanimous  
11 Approval is consistent with the Financing Plan.

12 *Fifth*, within 30 days of the adoption by the TIDA Board of a resolution accepting a Unanimous  
13 Approval or an appeal of the TIDA Board's decision to reject a Unanimous Approval, the Director of  
14 the Office of Public Finance shall submit said Unanimous Approval as an information item to the Clerk  
15 of the Board of Supervisors, and, unless within 30 days of the receipt of the Unanimous Approval by  
16 the Clerk, one of the members of this Board of Supervisors asks for it to be placed on an agenda for  
17 consideration by the Board of Supervisors (which consideration shall be limited to whether the  
18 Unanimous Approval is consistent with the Financing Plan), the Unanimous Approval shall be deemed  
19 accepted by the City and the Clerk of the Board of Supervisors shall record an amendment to the  
20 notice of special tax lien for the CFD pursuant to Streets & Highways Code Section 3117.5 or a new  
21 notice of special tax lien for the CFD pursuant to Streets & Highways Code Section 3117.5; and, be it

22 FURTHER RESOLVED, That it is hereby found and determined that the Facilities and  
23 the Services are necessary to meet increased demands placed upon local agencies as the  
24 result of development occurring in the CFD, Improvement Area No. 1 and the Future  
25 Annexation Area; and, be it

1 FURTHER RESOLVED, That the Director of the Office of Public Finance, 1 Dr. Carlton  
2 B. Goodlett Place, San Francisco, CA 94102, (415) 554-5956, is the officer of the City who will  
3 be responsible for preparing annually a current roll of special tax levy obligations by  
4 assessor's parcel number and who will be responsible for estimating future special tax levies  
5 pursuant to the Mello-Roos Act; and, be it

6 FURTHER RESOLVED, That upon recordation of a notice of special tax lien pursuant  
7 to Streets & Highways Code Section 3114.5, a continuing lien to secure each levy of the  
8 special tax shall attach to all nonexempt real property in the respective Improvement Areas  
9 and this lien shall continue in force and effect until the special tax obligation is prepaid and  
10 permanently satisfied and the lien canceled in accordance with law or until collection of the tax  
11 by the City ceases; and, be it

12 FURTHER RESOLVED, That in accordance with the Mello-Roos Act, the annual  
13 appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California  
14 Constitution, of Improvement Area No. 1 is hereby preliminarily established at \$90 million and  
15 said appropriations limit shall be submitted to the voters of Improvement Area No. 1 as  
16 hereafter provided; and, be it

17 FURTHER RESOLVED, The proposition establishing said annual appropriations limit  
18 shall become effective if approved by the qualified electors voting thereon and shall be  
19 adjusted in accordance with the applicable provisions of the Mello-Roos Act; and, be it

20 FURTHER RESOLVED, That pursuant to the provisions of the Mello-Roos Act, the  
21 proposition of the levy of the Improvement Area No. 1 Special Tax and the proposition of the  
22 establishment of the appropriations limit specified above shall be submitted to the qualified  
23 electors of Improvement Area No. 1 at an election; and, be it

24 FURTHER RESOLVED, The time, place and conditions of the election shall be as  
25 specified by a separate resolution of the Board of Supervisors; and, be it



1           FURTHER RESOLVED, That Mello-Roos Act Section 53314.9 provides that, either  
2 before or after formation of the CFD, the City may accept work in-kind from any source,  
3 including, but not limited to, private persons or private entities, may provide, by resolution, for  
4 the use of that work in-kind for any authorized purpose and this Board of Supervisors may  
5 enter into an agreement, by resolution, with the person or entity advancing the work in-kind, to  
6 reimburse the person or entity for the value, or cost, whichever is less, of the work in-kind, as  
7 determined by this Board of Supervisors, with or without interest, under the conditions  
8 specified in the Mello-Roos Act; and, be it

9           FURTHER RESOLVED, Any work in-kind must be performed or constructed as if the  
10 work had been performed or constructed under the direction and supervision, or under the  
11 authority of, the City and, in furtherance of Mello-Roos Act Section 53314.9, the Board of  
12 Supervisors previously approved the execution and delivery of an Acquisition and  
13 Reimbursement Agreement among the City, TIDA and the Developer; and, be it

14           FURTHER RESOLVED, That the Board of Supervisors has reviewed and considered  
15 the FEIR and finds that the FEIR is adequate for its use for the actions taken by this  
16 Resolution and incorporates the FEIR and the CEQA findings contained in Board of  
17 Supervisors Resolution No. 246-11 by this reference; and, be it

18           FURTHER RESOLVED, That if any section, subsection, sentence, clause, phrase, or  
19 word of this resolution, or any application thereof to any person or circumstance, is held to be  
20 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision  
21 shall not affect the validity of the remaining portions or applications of this resolution, this  
22 Board of Supervisors hereby declaring that it would have passed this resolution and each and  
23 every section, subsection, sentence, clause, phrase, and word not declared invalid or  
24 unconstitutional without regard to whether any other portion of this resolution or application  
25 thereof would be subsequently declared invalid or unconstitutional; and, be it

1 FURTHER RESOLVED, That the Mayor, the Controller, the Director of the Office of  
2 Public Finance, the Clerk of the Board of Supervisors and any and all other officers of the City  
3 are hereby authorized, for and in the name of and on behalf of the City, to do any and all  
4 things and take any and all actions, including execution and delivery of any and all  
5 documents, assignments, certificates, requisitions, agreements, notices, consents,  
6 instruments of conveyance, warrants and documents, which they, or any of them, may deem  
7 necessary or advisable in order to effectuate the purposes of this Resolution; provided  
8 however that any such actions be solely intended to further the purposes of this Resolution,  
9 and are subject in all respects to the terms of the Resolution; and, be it

10 FURTHER RESOLVED, That all actions authorized and directed by this Resolution,  
11 consistent with any documents presented herein, and heretofore taken are hereby ratified,  
12 approved and confirmed by this Board of Supervisors; and, be it

13 FURTHER RESOLVED, That this Resolution shall take effect upon its enactment.  
14 Enactment occurs when the Mayor signs the resolution, the Mayor returns the resolution  
15 unsigned or does not sign the resolution within ten days of receiving it, or the Board of  
16 Supervisors overrides the Mayor's veto of the resolution.

17  
18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20  
21 By: \_\_\_\_\_  
22 Mark D. Blake  
23 Deputy City Attorney  
24 n:\spec\las2016\0600537\01143583.docx  
25