

RESOLUTION NO. 2-2012

RESOLUTION CONFIRMING THAT SOLELY FOR THE PURPOSES OF IMPLEMENTING ABX1 26, THE USE OF SPECIAL TAX REVENUES UNDER COMMUNITY FACILITIES DISTRICTS THAT THE FORMER REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO ESTABLISHED OR AGREED TO ESTABLISH (INCLUDING, BUT NOT LIMITED TO, IMPOSING OR INCREASING SPECIAL TAXES, SPENDING THE REVENUES OR ISSUING DEBT SECURED BY THOSE REVENUES), IS NOT SUBJECT TO THE OVERSIGHT BOARD'S REVIEW OR APPROVAL UNDER SUCH STATE LAW, AND THAT THE SPECIAL TAX REVENUES AND THEIR EXPENDITURE SHALL NOT BE INCLUDED IN THE ENFORCEABLE OBLIGATION PAYMENT SCHEDULE OR THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE

WHEREAS, Under Assembly Bill No. X1 26 (Chapter 5, Statutes of 2011-12, First Extraordinary Session) ("AB 26") and the California Supreme Court's decision in California Redevelopment Association v. Matosantos, No. S194861, the Redevelopment Agency of the City and County of San Francisco (the "Agency"), together with all other redevelopment agencies in the State of California, dissolved by operation of law on February 1, 2012; and,

WHEREAS, Consistent with AB 26, on January 24, 2012 the City's Board of Supervisors approved and on January 26, 2012 the Mayor signed Resolution No. 11-12 (the "Board of Supervisors Resolution"), providing for the City to become the successor agency of the Agency, and to acquire its housing and non-housing assets, funds and enforceable obligations, and to fulfill its rights and duties as successor agency to the Agency under AB 26; and,

WHEREAS, Upon the Agency's dissolution, the City, as successor agency to the Agency under AB 26 and the Board of Supervisors Resolution, assumed the former Agency's assets and the duty to pay and perform "enforceable obligations" of the Agency (including bonds and other indebtedness, loans, judgments and settlements, contracts and certain other obligations, all as more particularly defined in AB 26), subject to the terms, conditions and limitations set forth in AB 26. Those enforceable obligations of the Agency became the obligations of the City, as the Agency's successor agency, but such obligations are payable only from the property tax revenues (former tax increment) or other revenue sources that would have been allocated or payable to the Agency or from the security that the Agency originally provided or pledged for such obligations; and,

WHEREAS, AB 26 places successor agencies' performance of their duties under the supervision of newly established oversight boards, which are separate from the local legislative bodies and which will oversee the fiscal management of future successor agency activities regarding the enforceable obligations. In performing their functions required under AB 26, the oversight boards owe fiduciary responsibilities to the holders of enforceable obligations and the taxing entities entitled to the distribution of property tax revenues under AB 26. Some actions

by the oversight boards and successor agencies are also subject to discretionary review by the State Department of Finance and the State Controller under AB 26; and,

WHEREAS, In addition to the duties that AB 26 places on this Oversight Board, the City delegated to this Oversight Board, through the Board of Supervisors Resolution, certain authority and responsibility that the Commission of the former Agency exercised to implement three major approved development projects consistent with the integrated set of enforceable obligations governing them: (1) the Mission Bay North and the Mission Bay South Project Areas (collectively "Mission Bay"), (2) Phases One and Two of the Hunters Point Shipyard Project Area and Zone 1 of the Bayview Hunters Point Project Area (collectively, "Hunters Point Shipyard/Candlestick Point"), and (3) certain parts of the Transbay Transit Center Project Area, including Zone 1 ("Transbay"). (Mission Bay, Hunters Point Shipyard/Candlestick Point and Transbay are sometimes referred to in this resolution as the "Major Approved Development Projects."); and,

WHEREAS, The Mello-Roos Community Facilities Act of 1982, as amended (the "Act") authorizes local government agencies to form community facilities districts ("CFD") to levy and collect a special tax on real property in a designated area (in addition to property taxes and assessments imposed on those properties) for the construction or maintenance of public infrastructure and other specified facilities or property and for the provision of certain public services, and to borrow money by issuing bonds or incurring other forms of indebtedness to assist with financing such activities; and,

WHEREAS, Consistent with its obligations under enforceable obligations, the Agency established CFDs to help finance the construction of facilities and pay for services in certain of its redevelopment project areas, including Mission Bay, Hunters Point Shipyard/Candlestick Point and Rincon Point-South Beach; and,

WHEREAS, The Agency's role as the recipient of the CFD special tax revenues has been to administer the funds to pay or reimburse the costs of construction of public infrastructure and other facilities under enforceable obligations, and to pay for operating and maintenance expenses for certain public services within the districts, such as operating expenses for public parks and open space; and,

WHEREAS, The Agency agreed to form new CFDs and issue debt secured by the CFD special tax revenues, as more particularly described in the applicable transaction documents for Mission Bay and Hunters Point Shipyard/Candlestick Point, to complete these Major Approved Development Projects, and the developers of these Major Approved Development Projects relied on these Agency obligations in investing substantial private equity; and,

WHEREAS, The existing CFD revenues and expenses have been included in the Enforceable Obligation Payment Schedules (EOPS) and draft Recognized Obligation Payment Schedule ("ROPS") of the Agency and the City, as its successor agency; and,

WHEREAS, CFD special tax revenues are not funds of the Agency, but are funds of the CFDs, and such special tax revenues can only be used for the purposes authorized for such CFDs; and,

WHEREAS, Because the CFD special tax revenues are not Agency funds, they are not tax revenues subject to redistribution under AB 26, nor are they revenues derived from assets of the former Agency, and therefore are not revenues or payments subject under AB 26 either to the approval of this Oversight Board or to review or disapproval by the Department of Finance or State Controller; and,

WHEREAS, Because CFD revenues and expenses are not subject to redistribution under AB 26, any such items should be deleted from the current EOPS and from the current draft ROPS and should not be included in any future amendments to the EOPS or in any future ROPS; and,

WHEREAS, The authority delegated to the City's Director of Administrative Services under the Board of Supervisors Resolution includes the responsibility to fulfill any administrative responsibilities under agreements or other documents related to the CFDs that are the subject of this motion and that do not otherwise require the approval of this Oversight Board under the terms of those agreements, provided that the imposition or increase in any special taxes or the issuance of debt secured by such tax revenues are subject to the approval of this Oversight Board consistent with the Board of Supervisors Resolution; now, therefore, be it

RESOLVED, That existing and future CFD special tax revenues and their expenditure for former redevelopment project areas, including Mission Bay, Hunters Point Shipyard/Candlestick Point and Rincon Point-South Beach, shall not be included in the EOPS or the ROPS, and shall not be subject to review or approval under AB 26 by this Oversight Board or to the review and disapproval of the Department of Finance or State Controller; instead, the City, as successor agency to the Agency, shall administer or cause to be administered such funds in accordance with the Act and other applicable laws and agreements governing their use; and, be it, further

RESOLVED, That this motion shall not affect the authority that the City delegated under the Board of Supervisors Resolution to this Oversight Board to implement the Major Approved Development Projects in compliance with enforceable obligations governing those projects, and this Oversight Board shall continue to implement those projects, including granting any approvals required on the part of the former Agency relating to the CFDs, including, without limitation, the use of funds and the issuance of CFD bonds, under the financing plans governing the Mission Bay and Hunters Point Shipyard/Candlestick Point Projects; and, be it, further

RESOLVED, That as to any future CFD formation or debt issuance that this Oversight Board may consider approving in connection with any of the Major Approved Development Projects, this Oversight Board shall consider such actions acting under the authority the City delegated to it under the Board of Supervisors Resolution and not under the authority that AB 26 vests in this Oversight Board.

I hereby certify that the foregoing resolution was adopted by the Oversight Board at its meeting of March 6, 2012


Board Secretary