

**OVERSIGHT BOARD TO THE SUCCESSOR AGENCY OF THE REDEVELOPMENT
AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 14-2014
Adopted December 12, 2014

**CONDITIONALLY AUTHORIZING A FIRST AMENDMENT TO THE
TRANSBAY OPTION AGREEMENT FOR THE PURCHASE AND SALE OF
REAL PROPERTY AND SUBORDINATION AGREEMENTS TO FACILITATE A
LOAN AGREEMENT BETWEEN THE TRANSBAY JOINT POWERS
AUTHORITY AND GOLDMAN SACHS BANK USA THAT FUNDS THE
TRANSBAY TERMINAL CONSTRUCTION; TRANSBAY REDEVELOPMENT
PROJECT AREA**

WHEREAS, The City, TJPA, and the former Redevelopment Agency of the City and County of San Francisco ("**Former Agency**"), the Agency's predecessor in interest, entered into the Option Agreement for the Purchase and Sale of Real Property ("**Option Agreement**") dated as of January 31, 2008. The Option Agreement implemented the Former Agency's obligations under various agreements and state law related to the development and funding of the Transbay Terminal Project, public infrastructure and affordable housing; it also granted the Former Agency the option to take title to certain currently or formerly State-owned parcels (the "**Agency Transfer Parcels**"), subject to certain limitations; and,

WHEREAS, The City approved, by Ordinance No. 124-05 and Ordinance No. 99-06, the Redevelopment Plan (the "**Redevelopment Plan**") for the Transbay Redevelopment Project (the "**Redevelopment Project**"). The Redevelopment Plan provides for the redevelopment, rehabilitation, and revitalization of the area generally bounded by Mission, Main, Second, and Folsom Streets in downtown San Francisco, and containing approximately forty (40) acres of land (the "**Project Area**"). The Redevelopment Plan also provides for the financing of the Transbay Terminal Project and thus triggered the requirement that 35 percent of all dwelling units developed within the project area shall be affordable to low- and moderate-income households, Assembly Bill No. 812 (Chapter 99, Statutes of 2003, codified at California Public Resources Code Section 5027.1), and that is incorporated into enforceable obligations (the "**Transbay Affordable Housing Obligation**"); and,

WHEREAS, Approximately ten (10) acres of land in Zone One of the Project Area were publicly owned land, including the former Transbay Terminal building and its bus access ramps (the "**State-Owned Parcels**"). The former Transbay Terminal building and ramps were in a blighted physical condition. Because these structures occupied several acres of land centrally located in the Project Area, they had a primary impact on physical and economic blighting

conditions in the Project Area. The State, acting by and through its Department of Transportation (“Caltrans”), the City, and the TJPA entered into that certain Cooperative Agreement, dated as of July 11, 2003 (the “Cooperative Agreement”), pursuant to which the State has or will transfer the State-Owned Parcels to the City and the TJPA subject to certain terms and conditions, including the use of the State-Owned Parcels for the construction, or to fund the construction, of the Transbay Terminal Project (as defined in the Cooperative Agreement); and,

WHEREAS, Pursuant to the Cooperative Agreement, the State has a Power of Termination with respect to any State-Owned Parcel transferred to the TJPA or to the City (the “Power of Termination”) that permits the State to re-take title to such State-Owned Parcel under certain terms and conditions specified in the Cooperative Agreement. The Cooperative Agreement obligates the State to release such Power of Termination over a State-Owned Parcel, however, if it is sold to a third party and the Gross Sales Proceeds (as defined in the Cooperative Agreement) from such sale are deposited in the Trust Account (as defined in the Cooperative Agreement) and used to pay the Capital Costs (as defined in the Cooperative Agreement) as required under the Cooperative Agreement; and,

WHEREAS, Consistent with and in furtherance of the Cooperative Agreement, the Redevelopment Plan, and the Redevelopment Project, the City, TJPA, and the Former Agency entered into that certain Transbay Redevelopment Project Tax Increment Allocation and Sales Proceeds Pledge Agreement (the “Pledge Agreement”), dated as of January 31, 2008, pursuant to which the parties provided for the irrevocable pledge of Net Tax Increment, as defined in the Pledge Agreement, to TJPA for construction and design of the Transbay Terminal Project. Also in furtherance of the Cooperative Agreement, the Redevelopment Plan and Redevelopment Project, the TJPA and the Former Agency entered into that certain Transbay Redevelopment Project Implementation Agreement, dated as of January 20, 2005 (the “Implementation Agreement”), which requires, among other things, the Former Agency to prepare and sell the Agency Transfer Parcels to third parties, deposit the Gross Sales Proceeds in the Trust Account, to help pay for the cost of constructing the Transbay Terminal Project, and execute all activities related to the implementation of the Redevelopment Plan, including the Transbay Affordable Housing Obligation; and,

WHEREAS, TJPA demolished the former Transbay Terminal and ramps, and is constructing the Transbay Terminal Project, which is a public benefit and a central part of the Redevelopment Project. The Transbay Terminal Project will help to revitalize the Project Area and stimulate private investment by serving as a center of transit, retail, entertainment, and community facilities for the new transit oriented neighborhood. TJPA’s demolition of the former Transbay Terminal building and ramps has provided additional vacant land for development consistent with the Redevelopment Plan and Redevelopment Project; and,

WHEREAS, On February 1, 2012, the Former Agency was dissolved pursuant to Assembly Bill No. IX 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, 53 Cal. 4th 231 (2011). On June 27, 2012, AB 26 was amended in part by Assembly Bill No. 1484 (Chapter 26, Statutes of 2011-12) (“AB 1484”). (AB 26 and AB 1484 are codified in sections 33500 et seq. of the California Health and Safety Code, which sections, as amended from time to time, are referred to as the “Redevelopment Dissolution Law.”); and,

WHEREAS, Under Redevelopment Dissolution Law, the Agency was designated as the successor agency to receive certain assets of the Former Agency, and the Agency succeeded, by operation of law, to the Former Agency's rights, title and interest in the Option Agreement, without the necessity for any assignment or other action on the part of any party. On October 2, 2012, the City's Board of Supervisors adopted Ordinance 215-12 (File No. 120898) acknowledging that the Agency is a separate legal entity, creating a commission for the Agency (the “Commission”) as a policy body of the Agency and delegating to the Commission the authority to act in place of the former San Francisco Redevelopment Agency Commission to implement certain projects, but retaining authority to approve material changes in the affordable housing obligations of the Agency. As required by Redevelopment Dissolution Law, the City also established the oversight board of the Agency (the “Oversight Board”); and,

WHEREAS, On April 15, 2013, the California Department of Finance (“DOF”) determined finally and conclusively that the Pledge Agreement, the Implementation Agreement, and the Transbay Affordable Housing Obligation are enforceable obligations under Redevelopment Dissolution Law and will not be subject to further DOF review except to determine if future Agency expenditures are consistent with those obligations. Letter, S. Szalay, DOF Local Government Consultant, to T. Bohee, Agency Executive Director (April 15, 2012[sic]) (the “Transbay Final and Conclusive Enforceable Obligations”); and,

WHEREAS, California Health and Safety Code Section 34177 provides that the Agency, as a successor agency, is required to (1) perform obligations required pursuant to any enforceable obligation, and (2) continue to oversee development of properties until the contracted work has been completed; and,

WHEREAS, The Option Agreement is an “enforceable obligation” under Redevelopment Dissolution Law because it is a legally binding contract that existed prior to June 28, 2011, the date on which AB 26 became effective. Under the Option Agreement, Section 2.1, the Agency holds an exclusive and irrevocable option to purchase (the “Option”) the Agency Transfer Parcels, including, among others, Parcel F (Block 3721, Lot 015A), and Parcel O (portion of Block 3739, Lot 008), Parcel O’ (portion of Block 3739, Lot 008), and Parcel O” (portion of Block 3739, Lot 008) (together the northern

about one-third of Parcels O, O' and O'' and generally depicted on Exhibit 4 to the Redevelopment Plan are referred to as "Redevelopment Block 4"), in San Francisco, CA, on the terms and conditions of the Option Agreement. One of the conditions of the Option Agreement prohibits the Agency from selling an Agency Transfer Parcel to a third party unless the sales price is equal to or greater than the Baseline Valuation, as defined in the Option Agreement, for that Agency Transfer Parcel. Baseline Valuation is the minimum price that Agency can accept for the sale of an Agency Transfer Parcel and is determined by an appraisal that includes consideration of Redevelopment Plan development restrictions, environmental contamination, legally required affordable housing, and other conditions which reasonably affect the fair market value. Under the current projections of housing units that will be built in the Project Area, assuming Redevelopment Block 4's projected capacity of 550 units, up to 45 percent of the units on Redevelopment Block 4 (or 248 units), will need to be affordable units to comply with the Transbay Affordable Housing Obligation, and the affordable units for any residential project located within Parcel F will be subject to the affordable housing requirements specified in the Planning Code; and,

WHEREAS, The planned uses of Parcel F and Redevelopment Block 4 by third parties must comply with the Development Controls and Design Guidelines for the Transbay Redevelopment Project set forth in the Redevelopment Plan (the "Development Controls"), which govern private projects in Zone One and require, among other things, the parcelization and assembly of land into blocks and lots that are suitable for development. Under the Redevelopment Project, the Agency plans to aggregate and prepare Parcel F for disposition and development as primarily office use, and aggregate and prepare Redevelopment Block 4 for disposition and development as residential use, but these planned uses are subject to change; and,

WHEREAS, Under the Option Agreement, Section 4.1(a), the Agency may first exercise the Option only after certain conditions have been satisfied, including, relative to Parcel F and Redevelopment Block 4, only after such parcels are not being used by TJPA for actual construction or demolition of ramps and siting of the temporary terminal facility, which are part of the Transbay Terminal Project. TJPA is currently using Parcel F for actual construction of the new bus ramps and train box, and Parcels O, O', and O'' for the temporary terminal facility. TJPA currently expects its use of Parcel F and Parcels O, O', and O'' for these purposes will end in late 2016 and late 2017, respectively, although the schedule is subject to change. Thus, TJPA and the Agency do not expect that the conditions precedent to the Agency's ability to exercise its rights under the Option Agreement for Parcel F or Redevelopment Block 4 will be satisfied until late 2016 and late 2017. The Agency's ability to complete its work under the Redevelopment Project relative to Parcel F and Redevelopment Block 4 and wind down its affairs under the Redevelopment Project are facilitated by TJPA's timely completion of construction of Phase 1 of the Transbay Terminal Project.

The property tax revenues that are expected to flow to the taxing entities upon completion of development of Parcel F and Redevelopment Block 4, as well as the other Agency Transfer Parcels, will be facilitated by TJPA's timely completion of construction of the Transbay Terminal Project; and,

WHEREAS, In January 2010, TJPA entered into a \$171.0 million loan under the Transportation Infrastructure Finance and Innovation Act (the "TIFIA Loan") to fund a portion of the Transbay Terminal Project costs. As of the effective date of this First Amendment, TJPA has not yet satisfied all of the disbursement conditions under the TIFIA Loan. As a result, TJPA cannot currently requisition proceeds under the TIFIA Loan. TJPA expects to satisfy all of the disbursement conditions and draw on the TIFIA Loan in late 2015, although the schedule is subject to change; and,

WHEREAS, To obtain interim cash flow funding necessary to certify construction contracts and make construction disbursements for the Transbay Terminal Project, pending TJPA's satisfaction of the remaining disbursement conditions under the TIFIA Loan, TJPA intends to close a bridge loan in the amount of \$171.0 million (the "Bridge Loan") arranged by Goldman Sachs Bank USA ("Goldman") pursuant to that certain Credit Agreement, among TJPA, as borrower, the lenders party thereto (the "Lenders"), and Goldman, as administrative agent and collateral agent for the Lenders (as amended, restated, supplemented, extended or otherwise modified from time to time and as refinanced, refunded or replaced from time to time, the "Credit Agreement"); and,

WHEREAS, As a condition to funding the Bridge Loan under the Credit Agreement, the Lenders require, among other things, the following to occur in order to protect and create certain security interests for the Bridge Loan: (1) Caltrans shall relinquish its Power of Termination with respect to Parcel F and Redevelopment Block 4, and any interest Caltrans has in the Gross Sales Proceeds of such parcels (including any requirement that such Gross Sales Proceeds be deposited in the Trust Account) and any gross lease revenues generated from any portion of such parcels, in exchange for a portion of the proceeds of the Bridge Loan being deposited in the Trust Account at the closing of the Bridge Loan (the "Caltrans Release"), (2) TJPA shall execute a deed of trust, assignment of leases and rents and security agreement, creating a first priority pledge of, security interest in and lien on all of TJPA's right, title and interest in and to Parcel F, as well as, among other things, the cash proceeds from the sale, lease or other disposition of Parcel F, subject to TJPA's reservation for certain train box components on Parcel F (the "Deed of Trust"), (3) TJPA shall execute a recordable negative covenant on Parcels O, O', and O'', prohibiting TJPA from selling or encumbering Redevelopment Block 4 before the Bridge Loan is repaid in full, unless TJPA deposits a specified amount into a "lockbox" account (the "Lockbox Account") as collateral for the Bridge Loan (the "Negative Pledge"); and (4) TJPA and the Agency shall subordinate the Option Agreement and the Agency's interest in the Option relative to Parcel F to the

Deed of Trust, and the Option Agreement and the Agency's interest in the Option relative to Parcels O, O', and O'' to the Negative Pledge (the "Subordinations"); and,

WHEREAS, The Credit Agreement establishes the Lien Release Price for Parcel F and Redevelopment Block 4. TJPA and the Agency have determined that the Lien Release Price is reasonably achievable, after taking into consideration the Redevelopment Plan development restrictions, environmental contamination, legally required affordable housing, and other conditions which reasonably affect the fair market value; the Lien Release Price is not subject to change; and,

WHEREAS, Nothing in the Credit Agreement, the Deed of Trust, the Negative Pledge, and the Subordinations prevents the Agency from fulfilling its obligations under the Transbay Final and Conclusive Enforceable Obligations with respect to Parcel F, Redevelopment Block 4, or any other portion of Parcels O, O', and O''; and,

WHEREAS, The Bridge Loan has a four year term and may be prepaid by TJPA without penalty or premium after the first anniversary of the closing of the Bridge Loan. TJPA expects to satisfy the conditions precedent under the TIFIA Loan, draw on the TIFIA Loan, and prepay in full the Bridge Loan in late 2015, although the schedule is subject to change. Pursuant to the Credit Agreement and the Subordinations, the Deed of Trust and the Negative Pledge will each be released when TJPA repays the Bridge Loan in full. Thus, TJPA expects that the Agency's Subordinations would be released in late 2015, one to two years before the Agency would otherwise be eligible to exercise its Option to acquire Parcel F or Redevelopment Block 4, although the schedule is subject to change; and,

WHEREAS, In the event that the Agency is eligible to exercise its Option to acquire Parcel F or Redevelopment Block 4 before the TJPA repays the Bridge Loan in full, the Credit Agreement, the Deed of Trust, the Negative Pledge, and the Subordinations expressly acknowledge the requirement for the Agency to fulfill the Transbay Affordable Housing Obligation and authorize the Agency to exercise the Option relative to Parcel F or Redevelopment Block 4, as the case may be, in accordance with the Option Agreement, and require the release of the Deed of Trust or the Negative Pledge, as applicable, provided that (1) TJPA is not in default under the Credit Agreement or the other Bridge Loan documents, (2) the Gross Sales Proceeds from the Agency's sale of Parcel F or Redevelopment Block 4, as the case may be, to a third party are equal to or greater than the Lien Release Price, (3) those Gross Sales Proceeds are deposited into the Lockbox Account in an amount that, at a minimum, repays the Bridge Loan in full, and (4) certain other conditions set forth in the Subordinations are satisfied; and,

WHEREAS, In the event of a foreclosure sale or a sale pursuant to any power of sale contained in or under any mortgage, deed of trust, or other encumbrance upon all or any portion of Parcel F or Redevelopment Block 4, the purchaser

or purchasers and their successors and assigns, and the property, shall continue to be subject to all of the conditions, restrictions and covenants provided in the Transbay Final and Conclusive Enforceable Obligations and the Transbay Redevelopment Project Area Declaration of Restrictions, and the Agency retains the obligation and authority to determine the infrastructure, affordable housing, and open space requirements that apply to any development on all or any portion of Parcel F or Redevelopment Block 4. Pursuant to the Credit Agreement, the Deed of Trust, the Negative Pledge, and the Subordinations, the Lenders expressly acknowledge that the terms and conditions of the Transbay Final and Conclusive Enforceable Obligations, including the Transbay Affordable Housing Obligation, apply to and pass with Parcel F and Redevelopment Block 4, and apply to and bind the successors in interest of any owner of all or any portion of Parcel F and Redevelopment Block 4; and that Parcel F and Redevelopment Block 4 shall be held, transferred, sold and conveyed, subject to the conditions, restrictions, reservations and covenants set forth in the Transbay Final and Conclusive Enforceable Obligations and the Transbay Redevelopment Project Area Declaration of Restrictions; and,

WHEREAS, In order to (1) permit TJPA to offer the Deed of Trust for Parcel F and the Negative Pledge for Parcels O, O', and O'' as security for the Bridge Loan, and (2) authorize TJPA and the Agency to subordinate to the Deed of Trust and the Negative Pledge the Option Agreement and the Agency's rights and privileges under the Option relative to Parcel F and Parcels O, O', and O'', all for the purpose of facilitating timely completion of construction of Phase 1 of the Transbay Terminal Project, and the significant public and tax benefits that derive therefrom under the Redevelopment Project, the City, TJPA, and the Agency wish to enter into this First Amendment; and,

WHEREAS, This First Amendment is in the best interests of the taxing entities, including the City and TJPA. This First Amendment will: (1) facilitate timely completion of Phase 1 of the Transbay Transit Center, revitalize the Project Area, stimulate private investment, and thus promote increases in property values that will generate tax revenues for the benefit of taxing entities, (2) preserve the Agency's ability to dispose of, and develop, in a timely fashion, Redevelopment Block 4 and Parcel F under the Redevelopment Project, (3) preserve the Agency's ability to fulfill its Transbay Affordable Housing Obligation, and (4) promote the winding down of the affairs of the Agency; and,

WHEREAS, Authorizing the First Amendment to the Option Agreement and Subordination Agreements for the Options with respect to Parcel F and Parcels O, O', and O'' is an administrative activity that is not a "project" as defined by the California Environmental Quality Act ("CEQA") Guidelines Section 15378 (b) (5) because it will not result in direct or indirect physical changes in the environment; and,

WHEREAS, Authorizing the First Amendment to the Transbay Option Agreement and Subordination Agreements for the Options with respect to Parcel F and

Parcels O, O', and O'', substantially in the form of the documents accompanying this Resolution, and to take related actions to facilitate a loan agreement between the Transbay Joint Powers Authority and Goldman Sachs Bank USA that funds construction of the Transbay Terminal Project, was approved by the Commission on Community Investment and Infrastructure on November 4, 2014 by Resolution No. 91-2014; and,

WHEREAS, On November 4, 2014, the Commission on Community Investment and Infrastructure conditionally approved, by Resolution 91-2014, an amendment to the Option Agreement, Subordination Agreements, and related actions that both facilitate the funding for the TTC construction and preserve the Successor Agency's ability to fulfill its Transbay enforceable obligations; and

WHEREAS, On December 9, 2014 the Board of Supervisors, sitting as a Committee of the Whole and acting in its capacity as the legislative body to the Successor Agency to the former Redevelopment Agency of the City and County of San Francisco, adopted Resolution No. _____ approving actions by the Commission on Community Investment and Infrastructure to subordinate property interest in a site designated for affordable housing in the Transbay Redevelopment Project Area; and to facilitate interim financing by the Transbay Joint Powers Authority for the construction of Transbay Transit Center; and,

WHEREAS, On December 9, 2014, the Board of Supervisors approved Resolution No. _____ 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''; and,

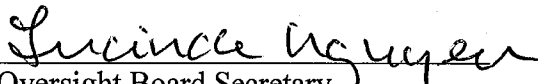
WHEREAS, Authorizing the First Amendment to the Transbay Option Agreement and Subordination Agreements for the Options with respect to Parcel F and Parcels O, O', and O'' also requires approval of the Oversight Board and the California Department of Finance to determine compliance with the Redevelopment Dissolution Law's standard that modifications of existing agreements are in the best interest of the taxing entities (Cal. Health & Safety Code 34181 (e). Now, therefore, be it

RESOLVED, The Oversight Board, hereby finds, for the reasons stated above that conditionally authorizing a First Amendment to the Transbay Option Agreement and Subordination Agreements for the Options with respect to Parcel F and Parcels O, O', and O'' to facilitate a loan agreement between the Transbay Joint Powers Authority and Goldman Sachs Bank USA that

funds construction of the Transbay Terminal Project, would be in the best interests of the taxing entities; and be it further

RESOLVED, The Oversight Board hereby approves the First Amendment to the Transbay Option Agreement and the Subordination Agreements for the Options with respect to Parcel F and Parcels O, O', and O," substantially in the form of the documents accompanying the Oversight Board Memorandum, subject to the non-objection or approval by the Department of Finance.

I hereby certify that the foregoing resolution was adopted by the Oversight Board at its meeting of December 12, 2014.


Oversight Board Secretary