

1 [Closed Session - Existing Litigation - Consolidated Cases Relating to Transient Occupancy
2 Tax]

3 **Motion that the Board of Supervisors convene in closed session on May 14, 2013, for**
4 **the purpose of conferring with, or receiving advice from, Legal Counsel regarding**
5 **existing litigation relating to the Transient Occupancy Tax in which the City is a**
6 **defendant pursuant to California Government Code, Section 54956.9(a), and San**
7 **Francisco Administrative Code, Section 67.10(d)(1), which permits this closed session**
8 **because discussion in open session concerning this matter would likely and**
9 **unavoidably prejudice the position of the City in the existing litigation.**

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11 WHEREAS, California Government Code, Section 54956.9(a), and San Francisco
12 Administrative Code, Section 67.10(d)(1), allow the Board of Supervisors to convene in closed
13 session to confer with or receive advice from Legal Counsel regarding existing litigation; and

14 WHEREAS, The City and County of San Francisco is a defendant in each of the
15 following consolidated cases:

- 16
17 • Judicial Council Coordinated Proceeding Case No. 4472, Consolidated Action in Los
18 Angeles Superior Court, consolidating, among others, the following actions in which
19 the City is a defendant: *Hotwire Inc. v. City and County of San Francisco, et al.* (San
20 Francisco Superior Court Case No. CGC 09-488289); *Expedia, Inc. v. City and County*
21 *of San Francisco, et al.* (San Francisco Superior Court Case No. CGC 09-488292);
22 *Priceline.com Inc. et al. v. City and County of San Francisco, et al.* (San Francisco
23 Superior Court Case No. CGC 09-509573); *Travelocity.com, L.P., et al. v. City and*
24 *County of San Francisco, et al.* (San Francisco Superior Court Case No. CGC 09-
25

1 489356); and *City and County of San Francisco v. San Francisco Hilton Union*
2 *Square, et al.* (San Francisco Superior Court Case No. CGC-11-510705); and

- 3 • *BHR Operations, LLC, dba Crowne Plaza and dba Holiday Inn Fisherman's Wharf, et*
4 *al. v. City and County of San Francisco* (San Francisco Superior Court Case No. CGC-
5 10-498514, consolidated with San Francisco Superior Court Case No. CGC-10-
6 505526); now, therefore, be it

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8 MOVED, That the Board of Supervisors convene in closed session on May 14, 2013, to
9 consult with Legal Counsel for the purpose of conferring with, or receiving advice from, Legal
10 Counsel regarding existing litigation in each of the following consolidated cases:

- 11
12 • Judicial Council Coordinated Proceeding Case No. 4472, Consolidated Action in Los
13 Angeles Superior Court, consolidating, among others, the following actions in which
14 the City is a defendant: *Hotwire Inc. v. City and County of San Francisco, et al.* (San
15 Francisco Superior Court Case No. CGC 09-488289); *Expedia, Inc. v. City and County*
16 *of San Francisco, et al.* (San Francisco Superior Court Case No. CGC 09-488292);
17 *Priceline.com Inc. et al. v. City and County of San Francisco, et al.* (San Francisco
18 Superior Court Case No. CGC 09-509573); *Travelocity.com, L.P., et al. v. City and*
19 *County of San Francisco, et al.* (San Francisco Superior Court Case No. CGC 09-
20 489356); and *City and County of San Francisco v. San Francisco Hilton Union*
21 *Square, et al.* (San Francisco Superior Court Case No. CGC-11-510705); and
22 • *BHR Operations, LLC, dba Crowne Plaza and dba Holiday Inn Fisherman's Wharf, et*
23 *al. v. City and County of San Francisco* (San Francisco Superior Court Case No. CGC-
24 10-498514, consolidated with San Francisco Superior Court Case No. CGC-10-
25 505526).

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FURTHER MOVED, Government Code Section, 54956.9(a), and Administrative Code, Section 67.10(d)(1), permit this closed session because discussion in open session concerning this matter would likely and unavoidably prejudice the position of the City in the existing litigation.

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City and County of San Francisco

Tails

Motion: M13-064

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

File Number: 130403

Date Passed: May 14, 2013

Motion that the Board of Supervisors convene in closed session on May 14, 2013, for the purpose of conferring with, or receiving advice from, Legal Counsel regarding existing litigation relating to the Transient Occupancy Tax in which the City is a defendant pursuant to California Government Code, Section 54956.9(a), and San Francisco Administrative Code, Section 67.10(d)(1), which permits this closed session because discussion in open session concerning this matter would likely and unavoidably prejudice the position of the City in the existing litigation.

May 14, 2013 Board of Supervisors - APPROVED

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

Absent: 1 - Mar

File No. 130403

I hereby certify that the foregoing Motion was APPROVED on 5/14/2013 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board