

1 [Determining Necessity to Incur Bonded Indebtedness and Other Debt - Special Tax District  
2 No. 2019-2 (Pier 70 Leased Properties) - Not to Exceed \$1,841,600,000]

3 **Resolution determining necessity to incur bonded indebtedness and other debt in an**  
4 **aggregate principal amount not to exceed \$1,841,600,000 for the City and County of**  
5 **San Francisco Special Tax District No. 2019-2 (Pier 70 Leased Properties); and**  
6 **determining other matters in connection therewith, as defined herein.**

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8 WHEREAS, California Statutes of 1968, Chapter 1333 (“Burton Act”) and San  
9 Francisco Charter, Section 4.114 and Appendix B, beginning at Section B3.581, empower the  
10 City and County of San Francisco (“City”), acting through the San Francisco Port Commission  
11 (“Port” or “Port Commission”), with the power and duty to use, conduct, operate, maintain,  
12 manage, regulate, and control the lands within Port jurisdiction; and

13 WHEREAS, FC Pier 70, LLC, a Delaware limited liability company (“Master  
14 Developer”) and the City, acting by and through the Port, are parties to a Disposition and  
15 Development Agreement (as amended from time to time, “DDA”), including a Financing Plan  
16 (as amended from time to time, “Financing Plan”), that governs the disposition and  
17 development of approximately 28 acres of land in the waterfront area of the City known as  
18 Pier 70 (“Project Site”); and

19 WHEREAS, In the general election held on November 4, 2014, an initiative entitled, the  
20 “Union Iron Works Historic District Housing, Waterfront Parks, Jobs and Preservation  
21 Initiative” (“Proposition F”), was approved by the voters in the City; and

22 WHEREAS, The DDA contemplates a project (“Project”) under which the Port would  
23 initially lease the Project Site to the Master Developer for infrastructure development, and,  
24 ultimately, lease and sell parcels in the Project Site to vertical developers, for development of  
25 a mixed-use project described in the DDA; and

1           WHEREAS, The City anticipates that, in addition to the infrastructure and private  
2 development described above, future improvements will be necessary to ensure that the  
3 shoreline, public facilities, and public access improvements will be protected should sea level  
4 rise in the vicinity of the Project Site, and the Board of Supervisors of the City (“Board”)  
5 desires to provide a mechanism to pay for the costs of such improvements; and

6           WHEREAS, At its hearing on August 24, 2017, and prior to recommending proposed  
7 Planning Code amendments for approval, by Motion No. 19976, the Planning Commission  
8 certified a Final Environmental Impact Report (“FEIR”) for the Project (Case No. 2014-  
9 001272ENV) pursuant to the California Environmental Quality Act (“CEQA”) (California Public  
10 Resources Code Section 21000 et seq.), the CEQA Guidelines (14 Cal. Code Reg. Section  
11 15000 et seq.), and Chapter 31 of the Administrative Code; a copy of said Motion is on file  
12 with the Clerk of the Board of Supervisors in File No. 170930, and is incorporated herein by  
13 reference; and

14           WHEREAS, In recommending the proposed Planning Code amendments for approval  
15 by this Board at its hearing on August 24, 2017, by Motion No. 19977, the Planning  
16 Commission also adopted findings under CEQA, including a statement of overriding  
17 consideration, and a Mitigation Monitoring and Reporting Program (“MMRP”), a copy of said  
18 Motion and MMRP are on file with the Clerk of the Board in File No. 170930, and is  
19 incorporated herein by reference; and

20           WHEREAS, Under Chapter 43, Article X of the San Francisco Administrative Code (as  
21 it may be amended from time to time, “Code”), which Code incorporates by reference the  
22 Mello-Roos Community Facilities Act of 1982, as amended (“Mello-Roos Act”), this Board is  
23 authorized to establish a special tax district and to act as the legislative body for a special tax  
24 district; and

1           WHEREAS, On November 19, 2019, this Board adopted Resolution No. 502-19  
2 entitled "Resolution declaring the intention of the Board to establish City and County of San  
3 Francisco Special Tax District No. 2019-2 (Pier 70 Leased Properties) and a Future  
4 Annexation Area; ordering and setting a time and place for a public hearing of the Board,  
5 sitting as a Committee of the Whole, on January 14, 2020; determining other matters in  
6 connection therewith, as defined herein; and making findings under the California  
7 Environmental Quality Act" ("Resolution of Intention to Establish"), which Resolution of  
8 Intention to Establish was signed by the Mayor on November 27, 2019, stating its intention to  
9 form (i) "City and County of San Francisco Special Tax District No. 2019-2 (Pier 70 Leased  
10 Properties)" ("Special Tax District") and (ii) a "City and County of San Francisco Special Tax  
11 District No. 2019-2 (Pier 70 Leased Properties) (Future Annexation Area)" ("Future  
12 Annexation Area"), pursuant to the Code, and which Resolution of Intention to Establish is on  
13 file with the Clerk of the Board in File No. 191078; and

14           WHEREAS, On November 19, 2019, this Board also adopted Resolution No. 503-19  
15 entitled "Resolution declaring the intention of the Board to incur bonded indebtedness and  
16 other debt in an aggregate principal amount not to exceed \$1,841,600,000 for the City and  
17 County of San Francisco Special Tax District No. 2019-2 (Pier 70 Leased Properties) and  
18 determining other matters in connection therewith, as defined herein" ("Resolution of Intention  
19 to Incur Indebtedness"), which Resolution of Intention to Incur Indebtedness, was signed by  
20 the Mayor on November 27, 2019, stating its intention to incur bonded indebtedness and other  
21 debt (as defined in the Mello-Roos Act) within the boundaries of the Special Tax District for  
22 the purpose of financing the costs of certain facilities and incidental expenses specified in the  
23 Resolution of Intention to Establish, and which Resolution of Intention to Incur Indebtedness is  
24 on file with the Clerk of the Board in File No. 191079; and

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1           WHEREAS, In the Resolution of Intention, the Board determined that such debt may  
2 include an agreement by the Special Tax District (or the City on behalf of the Special Tax  
3 District) to repay the City, acting by and through the Port Commission, for one or more  
4 advances of land proceeds and other sources of Port funding to pay the costs of the Facilities  
5 and incidental expenses (“Advances”), which repayment obligation (“Repayment Obligation”)  
6 may be evidenced by a promissory note ratified or executed by the Special Tax District (or the  
7 City on behalf of the Special Tax District) in favor of the Port Commission; and

8           WHEREAS, This Board held a noticed public hearing as required by the Mello-Roos  
9 Act about the determination to proceed with the formation of the Special Tax District, including  
10 a future annexation area, the provision of certain facilities, services and incidental expenses  
11 by the Special Tax District and the rate and method of apportionment of the special taxes to  
12 be levied within the Special Tax District to pay for the costs of the authorized facilities,  
13 services and incidental expenses, including the principal and interest on the proposed bonded  
14 indebtedness and other debt in the Special Tax District and the administrative costs of the  
15 City relative to the Special Tax District; and

16           WHEREAS, Subsequent to the public hearing, this Board adopted a resolution entitled  
17 “Resolution of formation of City and County of San Francisco Special Tax District No. 2019-2  
18 (Pier 70 Leased Properties) and a Future Annexation Area; determining other matters in  
19 connection therewith, as defined herein; and making findings under the California  
20 Environmental Quality Act” (“Resolution of Formation”), which Resolution of Formation, was  
21 signed by the Mayor on January 24, 2020; and

22           WHEREAS, In the Resolution of Formation, this Board made certain findings under  
23 CEQA about the FEIR for the disposition and development of the Project Site, and those  
24 findings are incorporated in this Resolution as if set forth in their entirety herein; and

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1           WHEREAS, The Clerk of the Board published notice of a public hearing relative to the  
2 matters material to the questions set forth in the Resolution of Intention to Incur Indebtedness  
3 pursuant to Section 53346 of the Mello-Roos Act; and

4           WHEREAS, This Board has held a noticed public hearing as required by the Code  
5 relative to the matters material to the questions set forth in the Resolution of Intention to Incur  
6 Indebtedness; and

7           WHEREAS, No written protests with respect to the matters material to the questions  
8 set forth in the Resolution of Intention to Incur Indebtedness have been filed with the Clerk of  
9 the Board; now, therefore, be it

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

11          FURTHER RESOLVED, That this Board deems it necessary to incur bonded  
12 indebtedness and other debt (as defined in the Mello-Roos Act) in one or more series in the  
13 maximum aggregate principal amount of \$1,841,600,000 ("Limit") for the purpose of financing  
14 the costs of all or a portion of the facilities defined in the Resolution of Formation ("Facilities")  
15 and the incidental expenses defined in the Resolution of Formation ("incidental expenses"),  
16 including, but not limited to, the costs of issuing and selling bonds and such other debt to  
17 finance all or a portion of the Facilities, all or a portion of the incidental expenses and the  
18 costs of the City in establishing and administering the Special Tax District; and, be it

19          FURTHER RESOLVED, That because the City expects to repay the Repayment  
20 Obligation with, among other sources, special taxes levied in the Special Tax District and  
21 proceeds of bonded indebtedness and other debt incurred by or on behalf of the Special Tax  
22 District, the Board hereby determines that (i) the Repayment Obligation shall be included in  
23 the calculation of the Limit and (ii) any such bonded indebtedness or other debt (as defined in  
24 the Mello-Roos Act) incurred by or on behalf of the Special Tax District to repay the  
25 Repayment Obligation (and the related costs of issuance and costs of funding a debt service

1 reserve fund) shall not be included in the calculation of the Limit; and, be it

2 FURTHER RESOLVED, That the Board hereby approves and ratifies the appointment  
3 of the Port as the CFD Agent (as defined in the DDA) for the Special Tax District and  
4 approves and ratifies all actions taken prior to the date hereof by the Port in its capacity as  
5 CFD Agent, including, but not limited to, execution or ratification of one or more promissory  
6 notes to evidence the Repayment Obligation and execution of one more pledge agreements  
7 with an infrastructure financing district to receive property tax revenues to repay the  
8 Repayment Obligation; and, be it

9 FURTHER RESOLVED, That the whole of the Special Tax District shall pay for the  
10 bonded indebtedness and such other debt through the levy of certain special taxes; the tax is  
11 to be apportioned in accordance with the formula set forth in Exhibit "B" to the Resolution of  
12 Formation; and, be it

13 FURTHER RESOLVED, That bonds and other debt (as defined in the Mello-Roos Act)  
14 in an aggregate maximum amount not exceeding the Limit (such Limit to be calculated in  
15 accordance with the Code and the third preceding paragraph) are hereby authorized subject  
16 to voter approval; the bonds and such other debt may be issued in one or more series and  
17 mature and bear interest at such rate or rates, payable semiannually or in such other manner,  
18 all as this Board or its designee shall determine, at the time or times of sale of such bonds  
19 and such other debt; provided, however, that the interest rate or rates shall not exceed the  
20 maximum interest rate permitted by applicable law at the time of sale of the bonds and such  
21 other debt and the bonds and such other debt or any series thereof shall have a maximum  
22 term of not to exceed forty (40) years; and, be it

23 FURTHER RESOLVED, That the proposition of incurring the bonded indebtedness and  
24 other debt (as defined in the Mello-Roos Act) herein authorized shall be submitted to the  
25 qualified electors of the Special Tax District and shall be consolidated with elections on the

1 proposition of levying special taxes within the Special Tax District and the establishment of an  
2 appropriations limit for the Special Tax District pursuant to Mello-Roos Act Section 53353.5;  
3 the time, place and further particulars and conditions of such election shall be as specified by  
4 separate resolution of this Board; and, be it

5 FURTHER RESOLVED, That the Director, Department of Elections (or its designee) is  
6 hereby directed to publish this Resolution in a newspaper of general circulation circulating  
7 within the Special Tax District, to the extent required by the Code; and, be it

8 FURTHER RESOLVED, That this Board hereby waives any provisions of the Amended  
9 and Restated Local Goals and Policies for Community Facilities Districts and Special Tax  
10 Districts (“Goals and Policies”) adopted by this Board by Resolution No. 414-13 to the extent  
11 the Goals and Policies are inconsistent with the provisions hereof or the DDA; and, be it

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

20 FURTHER RESOLVED, That the Mayor, the Controller, the Director, Department of  
21 Elections, Director of the Office of Public Finance, the Clerk of the Board and any and all other  
22 officers of the City are hereby authorized, for and in the name of and on behalf of the City, to  
23 do any and all things and take any and all actions, including execution and delivery of any and  
24 all documents, assignments, certificates, requisitions, agreements, notices, consents,  
25 instruments of conveyance, warrants and documents, which they, or any of them, may deem

1 necessary or advisable in order to effectuate the purposes of this Resolution; provided  
2 however that any such actions be solely intended to further the purposes of this Resolution,  
3 and are subject in all respects to the terms of the Resolution; and, be it

4 FURTHER RESOLVED, That all actions authorized and directed by this Resolution,  
5 consistent with any documents presented herein, and heretofore taken are hereby ratified,  
6 approved and confirmed by this Board; and, be it

7 FURTHER RESOLVED, That this Resolution shall take effect upon its adoption.

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9 APPROVED AS TO FORM:  
10 DENNIS J. HERRERA, City Attorney

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13 By: \_\_\_\_\_  
14 MARK D. BLAKE  
15 Deputy City Attorney  
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