

1 [Resolution of Intention to Establish Special Tax District No. 2022-1 (Power Station)]

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3 **Resolution of Intention to establish City and County of San Francisco Special Tax**
4 **District No. 2022-1 (Power Station), Improvement Area No. 1 and a Future Annexation**
5 **Area, and determining other matters in connection therewith, as defined herein.**

6

7 WHEREAS, California Barrel Company LLC, a Delaware limited liability company
8 ("Developer"), owns approximately 21.0 acres of developed and undeveloped land located in
9 the City and County of San Francisco ("City") that is generally bound by 22nd Street to the
10 north, the San Francisco Bay to the east, 23rd Street to the south and Illinois Street to the
11 west ("Developer Property"); existing structures on the Developer Property consist primarily of
12 vacant buildings and facilities associated with the former power station use of the Developer
13 Property; and

14 WHEREAS, Pacific Gas & Electric Company, a California corporation ("PG&E"), owns
15 approximately 4.8 acres of land located in the City that is adjacent to the Developer Property
16 ("PG&E Sub-Area"); and

17 WHEREAS, The City, through the Port of San Francisco ("Port"), owns approximately
18 2.9 acres of land located in the City that is comprised of the following three noncontiguous
19 sites in the vicinity of the Developer Property (collectively, "Port Sub-Area"):

20 (i) approximately 1.5 acres of land located between the Developer Property and the
21 San Francisco Bay ("Port Open Space");

22 (ii) approximately 1.3 acres of land located along 23rd Street between the Developer
23 Property and Illinois Street ("Port 23rd St. Property"); and

24 (iii) less than 0.1 acres of land located near the northeast corner of the Developer
25 Property and adjacent to the San Francisco Bay ("Port Bay Property"); and

1 WHEREAS, Developer and the Port executed a Ground Lease, dated March 15, 2021,
2 a copy of which is in File No. 200217, for the Port Open Space and the Port Bay Property in
3 order to allow Developer to occupy and develop the Port Open Space and the Port Bay
4 Property and include the same in the Waterfront Park (as defined in the Development
5 Agreement, as defined herein), and the Port 23rd St; property will be subject to a license
6 allowing Developer to construct Public Improvements; and

7 WHEREAS, The City also owns less than 0.1 acres of land located in the City that is
8 between the Developer Property and the Port 23rd Street Property ("City Sub-Area" and,
9 collectively with the Developer Property, the Port Sub-Area, and the PG&E Sub-Area, and,
10 upon the execution of a joinder in accordance with the Development Agreement PG&E or a
11 subsequent fee owner, "Project Site"); and

12 WHEREAS, The Developer and the City executed a Development Agreement dated
13 September 22, 2020, relating to the proposed development with a project known as the
14 Potrero Power Station ("Project"), which was approved by the Board of Supervisors pursuant
15 to Ordinance No. 62-20, which was adopted by the Board of Supervisors on April 21, 2020,
16 and signed by the Mayor on April 24, 2020, and a copy of which is in File No. 200040; and

17 WHEREAS, The Project is a phased, mixed use development on the Project Site that is
18 more particularly described in the Development Agreement; and

19 WHEREAS, On January 30, 2020, by Motion No. 20635, the Planning Commission
20 certified as adequate, accurate and complete the Final Environmental Impact Report ("FEIR")
21 for the Project pursuant to the California Environmental Quality Act (California Public
22 Resources Code Section 21000 et seq.) ("CEQA"); a copy of Planning Commission Motion
23 No. 20635 is on file with the Clerk of the Board of Supervisors in File No. 200040; also, on
24 January 30, 2020, by Motion No. 20635, the Planning Commission adopted findings, including
25 a rejection of alternatives and a statement of overriding considerations ("CEQA Findings") and

1 a Mitigation Monitoring and Reporting Program ("MMRP"); these Motions are on file with
2 the Clerk of the Board of Supervisors in File No. 200040; in Ordinance No. 62-20, the Board
3 of Supervisors adopted as its own and incorporated by reference as though fully set forth
4 therein the CEQA Findings, including the statement of overriding considerations, and the
5 MMRP; and

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

12 WHEREAS, Under Chapter 43, Article X of the San Francisco Administrative Code (as
13 it may be amended from time to time, "Code"), which Code incorporates by reference the
14 Mello-Roos Community Facilities Act of 1982, as amended ("Mello-Roos Act"), this Board of
15 Supervisors is authorized to establish a special tax district and to act as the legislative body
16 for a special tax district; and

17 WHEREAS, This Board of Supervisors now desires to proceed with the establishment
18 of a special tax district in order to finance costs of infrastructure and certain public services
19 necessary or incident to development within the proposed boundaries of the proposed special
20 tax district, including, without limitation, future improvements detailed in the Development
21 Agreement; and

22 WHEREAS, Pursuant to Mello-Roos Act, Section 53339.2, this Board of Supervisors
23 further desires to undertake proceedings to provide for future annexation of territory to the
24 proposed special tax district; now, therefore, be it

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1 RESOLVED, That this Board of Supervisors proposes to conduct proceedings to
2 establish a special tax district pursuant to the Code, and hereby determines that public
3 convenience and necessity require that a future annexation area be established; and, be it

4 FURTHER RESOLVED, That the name proposed for the special tax district is “City and
5 County of San Francisco Special Tax District No. 2022-1 (Power Station)” (“Special Tax
6 District”); and, be it

7 FURTHER RESOLVED, That pursuant to Mello-Roos Act, Section 53350, the territory
8 to be initially included in the Special Tax District (as shown on the map described below) is
9 hereby designated to include the following improvement area: “Improvement Area No. 1 of the
10 City and County of San Francisco Special Tax District No. 2022-1 (Power Station)”
11 (“Improvement Area No. 1”); and, be it

12 FURTHER RESOLVED, That the name proposed for the territory proposed to be
13 annexed into the Special Tax District in the future is “City and County of San Francisco
14 Special Tax District No. 2022-1 (Power Station) (Future Annexation Area)” (“Future
15 Annexation Area”), and in connection with the annexation of all or a portion of the Future
16 Annexation Area, this Board of Supervisors shall follow the Annexation Approval Procedures
17 described herein, which may include a designation that the area to be annexed shall be
18 annexed as a separate improvement area; and, be it

19 FURTHER RESOLVED, That the proposed boundaries of the Special Tax District,
20 Improvement Area No. 1 and the Future Annexation Area are as shown on the map of them
21 on file with the Clerk of the Board of Supervisors, which boundaries are hereby preliminarily
22 approved and to which map reference is hereby made for further particulars, and the Clerk of
23 the Board of Supervisors is hereby directed to record, or cause to be recorded, the map of the
24 boundaries of the Special Tax District, Improvement Area No. 1 and the Future Annexation

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1 Area in the office of the Assessor-Recorder for the City and County of San Francisco within 15
2 days of the date of adoption of this Resolution; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors has been informed by the
4 Developer that the property owners of Assessor's Parcel Numbers 4175-017 and 4175-018
5 have applied to the City for a lot line adjustment that, upon completion, will result in a transfer
6 of a portion of Assessor's Parcel Number 4175-018 ("Parcel D") to a Assessor's Parcel
7 Number 4175-017, and in order to document the addition of Parcel D to Improvement Area
8 No. 1 as a result of the addition of Parcel D to Assessor's Parcel Number 4175-017, the
9 Developer will execute a Unanimous Approval (as defined below) approving the annexation of
10 Parcel D to the Special Tax District and Improvement Area No. 1; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors has been informed by the
12 Developer that the property labeled on the boundary map as "AREA TO BE REMOVED
13 FROM IMPROVEMENT AREA NO. 1" (totaling 0.06 acres) ("Excluded Property") shall be
14 excluded from the proposed Special Tax District and automatically become part of the Future
15 Annexation Area upon completion of the lot line adjustment referenced above without any
16 further action by this Board of Supervisors, and the Clerk of the Board of Supervisors is
17 hereby authorized, upon the direction of the Director of the Office of Public Finance or her
18 designee, to (y) record a Notice of Cessation of Special Tax with respect to the Excluded
19 Property that complies with the requirements of Section 53330.5 of the Mello-Roos Act with
20 respect to such parcel in the in the office of the Assessor-Recorder for the City and County of
21 San Francisco and (z) record a modified boundary map of the Special Tax District,
22 Improvement Area No. 1 and the Future Annexation Area showing the Excluded Property as
23 part of the Future Annexation Area; and, be it

24 FURTHER RESOLVED, That, from time to time, parcels within the Future Annexation
25 Area shall be annexed to the Special Tax District only with the unanimous approval (each, a

1 “Unanimous Approval”) of the owner or owners of each parcel or parcels at the time that such
2 parcel(s) are annexed, and in accordance with the Annexation Approval Procedures
3 described herein, and the Board of Supervisors hereby determines that any property for which
4 the owner or owners execute a Unanimous Approval that is annexed into the Special Tax
5 District in accordance with the Annexation Approval Procedures shall be added to the Special
6 Tax District and the Clerk of the Board of Supervisors shall record (i) an amendment to the
7 notice of special tax lien for the Special Tax District pursuant to Streets & Highways Code,
8 Section 3117.5, if the property is annexed to an existing improvement area or (ii) a notice of
9 special tax lien for the Special Tax District pursuant to Streets & Highways Code, Section
10 3117.5, if the property annexed is designated as a new improvement area; provided, however,
11 the designation of property as Future Annexation Area and the ability to annex property to the
12 Special Tax District based on a Unanimous Approval shall not limit, in any way, the
13 annexation of property in the Future Annexation Area to the Special Tax District pursuant to
14 other provisions of the Code; and, be it

15 FURTHER RESOLVED, That the type of facilities proposed to be financed by the
16 Special Tax District, Improvement Area No. 1 and the Future Annexation Area (including any
17 area therein designated to be annexed as a separate improvement area) pursuant to the
18 Code shall consist of those listed as facilities on Exhibit A hereto and hereby incorporated
19 herein (“Facilities”), and this Board of Supervisors hereby determines that the Facilities are
20 necessary to meet increased demands placed upon local agencies as the result of
21 development occurring within the Special Tax District, Improvement Area No. 1 and the
22 Future Annexation Area, and this Board of Supervisors hereby finds and determines that the
23 public interest will not be served by allowing the property owners in the Special Tax District to
24 enter into a contract in accordance with Mello-Roos Act, Section 53329.5(a), and
25 notwithstanding the foregoing, this Board of Supervisors, on behalf of the Special Tax District,

1 may enter into one or more contracts directly with any of the property owners with respect to
2 the construction and/or acquisition of the any portion of the Facilities; and, be it

3 FURTHER RESOLVED, That the Director of the Office of Public Finance is hereby
4 authorized and directed to enter into joint community facilities agreements with any entity that
5 will own or operate any of the Facilities, as may be necessary to comply with the provisions of
6 Mello-Roos Act, Sections 53316.2(a) and (b), and this Board of Supervisors' approval of a
7 joint community facilities agreement shall be conclusively evidenced by the execution and
8 delivery thereof by the Director of the Office of Public Finance, and this Board of Supervisors
9 hereby declares that such joint agreements will be beneficial to owners of property in the area
10 of the Special Tax District; and, be it

11 FURTHER RESOLVED, That the type of services proposed to be financed by the
12 Special Tax District, Improvement Area No. 1 and the Future Annexation Area (including any
13 area therein designated to be annexed as a separate improvement area) pursuant to the
14 Mello-Roos Act upon satisfaction of certain contingencies shall consist of those listed in
15 Exhibit A hereto and hereby incorporated herein ("Contingent Services") this Board of
16 Supervisors hereby determines that the Contingent Services are necessary to meet increased
17 demands for such services placed upon local agencies as the result of development occurring
18 within the area of the Special Tax District, Improvement Area No. 1 and the Future Annexation
19 Area; and, be it

20 FURTHER RESOLVED, That the Contingent Services are in addition to those provided
21 in the territory of the Special Tax District, Improvement Area No. 1 and the Future Annexation
22 Area as of the date hereof and will not supplant services already available within the territory
23 of the Special Tax District, Improvement Area No. 1 and the Future Annexation Area as of the
24 date hereof, and the City intends to provide the Contingent Services on an equal basis in the
25 original territory of the Special Tax District and Improvement Area No. 1 and, when it has

1 been annexed to the Special Tax District, the Future Annexation Area (including any area
2 therein designated to be annexed as a separate improvement area); and, be it

3 FURTHER RESOLVED, That except to the extent that funds are otherwise available,
4 the City will levy a special tax (“Special Tax”) to pay directly for the Facilities, including out of a
5 special-tax funded capital reserve established for the payment of Facilities, to pay the
6 principal and interest on bonds and other debt (as defined in the Mello-Roos Act) of the City
7 issued for Improvement Area No. 1 to finance the Facilities and to pay for the Contingent
8 Services, and the Special Tax will be secured by recordation of a continuing lien against all
9 non-exempt real property in the Special Tax District and Improvement Area No. 1, will be
10 levied annually within the Special Tax District and Improvement Area No. 1, and collected in
11 the same manner as ordinary ad valorem property taxes, or in such other manner as this
12 Board of Supervisors or its designee shall determine, including direct billing of the affected
13 property owners; and, be it

14 FURTHER RESOLVED, That the proposed rate and method of apportionment of the
15 Special Tax among the parcels of real property within Improvement Area No. 1, in sufficient
16 detail to allow each landowner within Improvement Area No. 1 to estimate the maximum
17 amount such owner will have to pay, is described in Exhibit B attached hereto and hereby
18 incorporated herein (“Improvement Area No. 1 Rate and Method”); and, be it

19 FURTHER RESOLVED, That the Special Tax to be levied in Improvement Area No. 1
20 (“Improvement Area No. 1 Special Tax”) shall not be levied in Improvement Area No. 1 to
21 finance Facilities after the fiscal year established therefor in the Improvement Area No. 1 Rate
22 and Method, except that an Improvement Area No. 1 Special Tax that was lawfully levied in or
23 before the final tax year and that remains delinquent may be collected in subsequent years.
24 Under no circumstances shall the Improvement Area No. 1 Special Tax levied against any
25 parcel in Improvement Area No. 1 to finance Facilities in any fiscal year used for private

1 residential purposes be increased in that fiscal year as a consequence of delinquency or
2 default by the owner of any other parcel or parcels within Improvement Area No. 1 by more
3 than 10 percent; and, be it

4 FURTHER RESOLVED, That a special tax to finance Facilities shall not be levied in
5 one or more future improvement areas formed to include territory that annexes into the
6 Special Tax District from the Future Annexation Area (each, a "Future Improvement Area")
7 after the fiscal year established therefor in the rate and method of apportionment for the
8 Future Improvement Area, except that a special tax that was lawfully levied in or before the
9 final tax year and that remains delinquent may be collected in subsequent years. Under no
10 circumstances shall the special tax for financing Facilities levied against any parcel in the
11 Future Improvement Area in any fiscal year used for private residential purposes be increased
12 in that fiscal year as a consequence of delinquency or default by the owner of any other parcel
13 or parcels within the Future Improvement Area by more than 10 percent; and, be it

14 FURTHER RESOLVED, That for Future Improvement Areas, a different rate and
15 method of apportionment may be adopted for annexed territory if the annexed territory is
16 designated as a separate improvement area. No supplements to the rate and method of
17 apportionment for any of the Future Improvement Areas and no new rate and method of
18 apportionment shall cause the maximum tax rate in the then-existing territory of the Special
19 Tax District (including Improvement Area No. 1) to increase, and the designation as an
20 improvement area of any territory annexing to the Special Tax District, the maximum amount
21 of bonded indebtedness and other debt for such improvement area, and the rate and method
22 of apportionment of special tax for such improvement area (including the conditions under
23 which the obligation to pay the special tax may be prepaid and permanently satisfied, if any),
24 shall be identified and approved in the Unanimous Approval executed by property owner(s) in
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1 connection with its annexation to the Special Tax District in accordance with the Annexation
2 Approval Procedures described herein; and, be it

3 FURTHER RESOLVED, That the “Annexation Approval Procedures” governing
4 annexations of parcels in the Future Annexation Area into the Special Tax District shall
5 consist of the following sets of procedures (specified in (A) and (B) that follow):

6 (A) The annexation and related matters described in the Unanimous Approval shall be
7 implemented and completed without the need for the approval of the Board of Supervisors as
8 long as the following conditions are met:

9 (1) The annexation is to an existing improvement area and the property proposed to
10 be annexed shall be subject to the Improvement Area No. 1 Rate and Method and the same
11 bonded indebtedness limits as such existing improvement area; or

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

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

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

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

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1 (iv) The rate and method of apportionment of special tax for the new
2 improvement area does not contain a type of special tax that was not included in the
3 Improvement Area No. 1 Rate and Method (for example, a one-time special tax).

4 (v) The rate and method of apportionment of special tax for the new
5 improvement area contains the same terms for "Collection of Special Tax" (including
6 with respect to the term of the special tax) as the Improvement Area No. 1 Rate and
7 Method.

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

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

24 (B) For any annexation and related matters described in the Unanimous Approval that
25 do not meet the requirements of Section (A) above, the following procedures shall apply

1 (provided, however, that nothing in the following procedures shall prevent the property owners
2 of property to be annexed into the Special Tax District from a Future Annexation Area from
3 annexing property to the Special Tax District (including into a new improvement area)
4 pursuant to Section (A) above and then instituting change proceedings pursuant to the Code
5 to make additional changes to the rate and method of apportionment of special tax or other
6 authorized purposes):

7 *First*, the owners(s) of property to be annexed into the Special Tax District shall submit
8 a Unanimous Approval for each parcel or parcels to be annexed into the Special Tax District
9 to the Director of the Office of Public Finance, together with a statement as to whether the
10 Unanimous Approval is consistent with the Financing Plan and, if not, the reasons for such
11 inconsistency.

12 *Second*, the Director of the Office of Public Finance shall have 60 days to either (a)
13 submit the Unanimous Approval to the Board of Supervisors, accompanied by a written staff
14 report that includes a statement from the Director of the Office of Public Finance as to whether
15 the Unanimous Approval is consistent with the Financing Plan and, if not, a description of the
16 inconsistencies, the reasons for such inconsistencies given by the property owners or the
17 Developer and the Director of the Office of Public Finance's recommendation as to such
18 inconsistencies or (b) notify the property owners and the Developer that the Director of the
19 Office of Public Finance shall not submit the Unanimous Approval to the Board of Supervisors
20 due to inconsistencies with the Financing Plan.

21 *Third*, the Board of Supervisors shall, within 60 days of the receipt of any Unanimous
22 Approval by the Director of the Office of Public Finance pursuant to *Second* above, either (i)
23 adopt a resolution accepting the Unanimous Approval or (ii) adopt a resolution rejecting the
24 Unanimous Approval, with the sole basis for rejection being a detailed conclusion that the
25 Unanimous Approval is not consistent with the Financing Plan.

1 *Fourth*, if the Board of Supervisors adopts a resolution rejecting the Unanimous
2 Approval, the owner(s) of property to be annexed into the Special Tax District may revise the
3 Unanimous Approval and resubmit it to the Director of the Office of Public Finance, who shall
4 endeavor to submit the revised Unanimous Approval to the Board of Supervisors,
5 accompanied by a written staff report as outlined above under *Second*, at the next available
6 meeting of the Board of Supervisors, and the Board of Supervisors shall consider the revised
7 Unanimous Approval and either (i) adopt a resolution accepting the revised Unanimous
8 Approval or (ii) adopt a resolution rejecting the revised Unanimous Approval, with the sole
9 basis for rejection being a detailed conclusion that the revised Unanimous Approval is not
10 consistent with the Financing Plan, in which event the owner(s) may further revise the
11 Unanimous Approval and repeat the process described in this clause *Fourth*.

12 *Fifth*, if the Board of Supervisors adopts a resolution accepting the Unanimous
13 Approval, the Clerk of the Board of Supervisors shall record an amendment to the notice of
14 special tax lien for the Special Tax District pursuant to Streets & Highways Code Section
15 3117.5 or a new notice of special tax lien for the Special Tax District pursuant to Streets &
16 Highways Code Section 3117.5; and, be it

17 FURTHER RESOLVED, That this Board of Supervisors hereby finds that the provisions
18 of Mello-Roos Act, Sections 53313.6, 53313.7 and 53313.9 (relating to adjustments to *ad*
19 *valorem* property taxes and schools financed by a community facilities district), are
20 inapplicable to the proposed Special Tax District, Improvement Area No. 1 and the Future
21 Annexation Area; and, be it

22 FURTHER RESOLVED, That as required by Mello-Roos Act, Section 53339.3(d), this
23 Board of Supervisors hereby determines that the Special Tax proposed to pay for the
24 Facilities to be supplied within the Future Annexation Area financed with bonds that have
25 already been issued and that are secured by previously-existing areas of the Special Tax

1 District will be equal to the Special Taxes levied to pay for the same Facilities in previously-
2 existing areas of the Special Tax District and Improvement Area No. 1, except that (i) a higher
3 Special Tax may be levied within the Future Annexation Area to pay for the same Facilities to
4 compensate for the interest and principal previously paid from Special Taxes in the original
5 area of the Special Tax District and Improvement Area No. 1, less any depreciation allocable
6 to the financed Facilities and (ii) a higher Special Tax may be levied in the Future Annexation
7 Area to pay for new or additional Facilities, with or without bond financing; and, be it

8 FURTHER RESOLVED, That as required by Mello-Roos Act Section 53339.3(d), this
9 Board of Supervisors hereby further determines that the Special Tax proposed to pay for
10 Contingent Services to be supplied within the Future Annexation Area shall be equal to any
11 Special Tax levied to pay for the same Contingent Services in the existing Special Tax District
12 and Improvement Area No. 1, except that a higher or lower tax may be levied within the
13 Future Annexation Area to the extent that the actual cost of providing the Contingent Services
14 in the Future Annexation Area is higher or lower than the cost of providing those Contingent
15 Services in the existing Special Tax District and Improvement Area No. 1. In so finding, this
16 Board of Supervisors does not intend to limit its ability to levy a Special Tax within the Future
17 Annexation Area to provide new or additional services beyond those supplied within the
18 existing Special Tax District and Improvement Area No. 1 or its ability to implement changes
19 pursuant to Article 3 of the Mello-Roos Act within one or more improvement areas; and, be it

20 FURTHER RESOLVED, That except as may otherwise be provided by law or by the
21 Improvement Area No. 1 Rate and Method, all lands owned by any public entity, including the
22 United States, the State of California and/or the City, or any departments or political
23 subdivisions thereof, shall be omitted from the levy of the Special Tax to be made to cover the
24 costs and expenses of the Facilities, the Contingent Services, the Special Tax District or
25 Improvement Area No. 1. In the event that a portion of the property within Improvement Area

1 No. 1 shall become for any reason exempt, wholly or in part, from the levy of the Special Tax,
2 this Board of Supervisors will, on behalf of the Special Tax District, increase the levy to the
3 extent necessary upon the remaining property within Improvement Area No. 1 which is not
4 exempt in order to yield the required debt service payments and other annual expenses of
5 Improvement Area No. 1, if any, subject to the provisions of the Improvement Area No. 1 Rate
6 and Method; and, be it

7 FURTHER RESOLVED, That except as may otherwise be provided by law or by the
8 rate and method of apportionment of special tax for a Future Improvement Area, all lands
9 owned by any public entity, including the United States, the State of California and/or the City,
10 or any departments or political subdivisions thereof, shall be omitted from the levy of the
11 special tax to be made to cover the costs and expenses of the Facilities, the Contingent
12 Services and the Future Improvement Area. In the event that a portion of the property within
13 the Future Improvement Area shall become for any reason exempt, wholly or in part, from the
14 levy of the special tax, this Board of Supervisors will, on behalf of the Special Tax District,
15 increase the levy to the extent necessary upon the remaining property within the Future
16 Improvement Area which is not exempt in order to yield the required debt service payments
17 and other annual expenses of the Future Improvement Area, if any, subject to the provisions
18 of the rate and method of apportionment of the special tax; and, be it

19 FURTHER RESOLVED, That the levy of the Improvement Area No. 1 Special Tax and
20 an appropriations limit for the Special Tax District shall be subject to the approval of the
21 qualified electors of Improvement Area No. 1 at a special election, and the proposed voting
22 procedure shall be by mailed or hand-delivered ballot among the landowners in the proposed
23 Improvement Area No. 1, with each owner having one vote for each acre or portion of an acre
24 such owner owns in Improvement Area No. 1 not exempt from the Improvement Area No. 1
25 Special Tax; and, be it

1 FURTHER RESOLVED, That a special tax shall be levied in the Future Annexation
2 Area only with the Unanimous Approval of the owner or owners of each parcel or parcels at
3 the time that parcel or those parcels are annexed into the Special Tax District and in
4 accordance with the Annexation Approval Procedures; and, be it

5 FURTHER RESOLVED, That it is the intention of this Board of Supervisors, acting as
6 the legislative body of the Special Tax District, to cause bonds of the City and other debt (as
7 defined in the Mello-Roos Act) to be issued for Improvement Area No. 1 pursuant to the Mello-
8 Roos Act to finance in whole or in part the construction and/or acquisition of the Facilities, and
9 the bonds shall be in the aggregate principal amount of not to exceed \$800,000,000
10 (“Improvement Area No. 1 Bonded Indebtedness Limit”), shall be issued in such series and
11 bear interest payable semi-annually or in such other manner as this Board of Supervisors
12 shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by
13 applicable law at the time of sale of each series of bonds, and any series of bonds shall
14 mature not to exceed 40 years from the date of the issuance thereof; and, be it

15 FURTHER RESOLVED, That the amount of debt other than bonds that may be issued
16 by the City for the CFD with respect to Improvement Area shall not be subject to the
17 Improvement Area No. 1 Bonded Indebtedness Limit; and

18 FURTHER RESOLVED, That it is the intention of this Board of Supervisors, acting as
19 the legislative body of the Special Tax District, to cause bonds of the City and other debt (as
20 defined in the Mello-Roos Act) to be issued for that portion of the Special Tax District that is
21 not included in Improvement Area No. 1 to finance in whole or in part the construction and/or
22 acquisition of the Facilities, and the bonds shall be in the aggregate principal amount of not to
23 exceed \$63,000,000 (“Non-Improvement Area No. 1 Bonded Indebtedness Limit”), shall be
24 issued in such series and bear interest payable semi-annually or in such other manner as this
25 Board of Supervisors shall determine, at a rate not to exceed the maximum rate of interest as

1 may be authorized by applicable law at the time of sale of each series of bonds, and each
2 series of bonds shall mature not to exceed 40 years from the date of the issuance thereof;
3 and, be it

4 FURTHER RESOLVED, That the amount of debt other than bonds that may be issued
5 by the City for the CFD with respect to that portion of the Special Tax District that is not
6 included in Improvement Area No. 1 shall not be subject to the Non-Improvement Area No. 1
7 Bonded Indebtedness Limit; and

8 FURTHER RESOLVED, That in the event all or a portion of the Future Annexation
9 Area is annexed as one or more Future Improvement Areas, the designation as an
10 improvement area of any territory annexing to the Special Tax District, the maximum amount
11 of bonded indebtedness and other debt for such improvement area, and the rate and method
12 of apportionment of special tax for such improvement area shall be identified and approved in
13 the Unanimous Approval executed by property owners in connection with their annexation to
14 the Special Tax District in accordance with the Annexation Approval Procedures. In that
15 event, the amount of the maximum indebtedness for the Future Improvement Area shall be
16 subtracted from the Non-Improvement Area No. 1 Bonded Indebtedness Limit, which shall
17 result in a reduction in the Non-Improvement Area No. 1 Bonded Indebtedness Limit; and, be
18 it

19 FURTHER RESOLVED, That the City's Director of the Office of Public Finance, as the
20 officer having charge and control of the Facilities and the Contingent Services in and for the
21 Special Tax District, Improvement Area No. 1 and the Future Annexation Area, is hereby
22 directed to study said proposed Facilities and Contingent Services and to make, or cause to
23 be made, and file with the Clerk of the Board of Supervisors a report in writing ("Special Tax
24 District Report") presenting the following:

25 ///

1 (a) A description of the Facilities and the Contingent Services by type which
2 will be required to adequately meet the needs of the Special Tax District (which is
3 proposed to consist initially of Improvement Area No. 1) and the Future Annexation Area.

4 (b) An estimate of the fair and reasonable cost of the Facilities including the
5 cost of acquisition of lands, rights-of-way and easements, any physical facilities required
6 in conjunction therewith and incidental expenses in connection therewith, including the
7 costs of the proposed bond financing and other debt and all other related costs as
8 provided in Mello-Roos Act Section 53345.3.

9 (c) An estimate of the fair and reasonable cost of the Contingent Services and
10 incidental expenses in connection therewith, and all other related costs.

11 The Special Tax District Report shall be made a part of the record of the public hearing
12 specified below; and, be it

13 FURTHER RESOLVED, Tuesday, March 8, 2022 at _:00 p.m. or as soon as possible
14 thereafter, in the Board of Supervisors Chambers, 1 Dr. Carlton B. Goodlett Place, San
15 Francisco, California, be, and the same are hereby appointed and fixed as the time and place
16 when and where this Board of Supervisors, as legislative body for the Special Tax District, will
17 conduct a public hearing on the establishment of the Special Tax District, Improvement Area
18 No. 1 and the Future Annexation Area and consider and finally determine whether the public
19 interest, convenience and necessity require the formation of the Special Tax District,
20 Improvement Area No. 1, the Future Annexation Area and the levy of the Special Tax,
21 including the Improvement Area No. 1 Special Tax; and, be it

22 FURTHER RESOLVED, That the Clerk of the Board of Supervisors is hereby directed
23 to cause notice of the public hearing to be given by publication one time in a newspaper
24 published in the area of the Special Tax District and the Future Annexation Area; the
25 publication shall be completed at least seven days before the date of the public hearing
specified above; the notice shall be substantially in the form specified in Mello-Roos Act,

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1 Section 53322, with the form summarizing the provisions hereof hereby specifically approved;
2 and, be it

3 FURTHER RESOLVED, That Mello-Roos Act, Section 53314.9, provides that, either
4 before or after formation of the Special Tax District, the City may accept advances of funds
5 and may provide, by resolution, for the use of those funds, including but not limited to pay any
6 cost incurred by the local agency in creating the Special Tax District, and may agree to
7 reimburse the advances under all of the following conditions: (A) the proposal to repay the
8 advances is included both in the resolution of intention and the resolution of formation to
9 establish the Special Tax District; and (B) any proposed special tax is approved by the
10 qualified electors of the Special Tax District and, if the qualified electors of the Special Tax
11 District do not approve the proposed special tax, the City shall return any funds which have
12 not been committed for any authorized purpose by the time of the election and, in furtherance
13 of Mello-Roos Act, Section 53314.9, the Board of Supervisors hereby approves the execution
14 and delivery of a Deposit and Reimbursement Agreement (“Deposit Agreement”) between the
15 City and the Developer in substantially the form on file with the Clerk of the Board of
16 Supervisors; each of the Mayor, the Controller and the Director of the Office of Public
17 Finance, or such other official of the City as may be designated by such officials (each, an
18 “Authorized Officer”), is hereby authorized and directed to execute and deliver, and the Clerk
19 of the Board of Supervisors is hereby authorized and directed to attest to, the Deposit
20 Agreement, together with such additions or changes as are approved by such Authorized
21 Officer upon consultation with the City Attorney; and, be it

22 FURTHER RESOLVED, That Mello-Roos Act Section 53314.9 provides that, either
23 before or after formation of the Special Tax District, the City may accept work in-kind from any
24 source, including, but not limited to, private persons or private entities, may provide, by
25 resolution, for the use of that work in-kind for any authorized purpose and this Board of

1 Supervisors may enter into an agreement, by resolution, with the person or entity advancing
2 the work in-kind, to reimburse the person or entity for the value, or cost, whichever is less, of
3 the work in-kind, as determined by this Board of Supervisors, with or without interest, under
4 the conditions specified in the Mello-Roos Act; any work in-kind must be performed or
5 constructed as if the work had been performed or constructed under the direction and
6 supervision, or under the authority of, the City and, in furtherance of Mello-Roos Act, Section
7 53314.9, the Board of Supervisors will, at a subsequent meeting, be asked to approve the
8 execution and delivery of an Acquisition and Reimbursement Agreement between the City
9 and the Developer; and, be it

10 FURTHER RESOLVED, That this Board of Supervisors reserves to itself the right and
11 authority set forth in Mello-Roos Act Section 53344.1, subject to any limitations set forth in any
12 bond resolution or trust indenture related to the issuance of bonds; and, be it

13 FURTHER RESOLVED, That the Board of Supervisors has reviewed and considered
14 the FEIR and finds that the FEIR is adequate for its use for the actions taken by this resolution
15 and incorporates the FEIR and the CEQA findings contained in Ordinance No. 62-20 by this
16 reference; and, be it

17 FURTHER RESOLVED, That this Resolution shall in no way obligate this Board of
18 Supervisors of the City to form the Special Tax District, Improvement Area No. 1 or the Future
19 Annexation Area. The formation of the Special Tax District, Improvement Area No. 1 and the
20 Future Annexation Area shall be subject to the approval of this Board of Supervisors by
21 resolution following the holding of the public hearing referred to above; and, be it

22 FURTHER RESOLVED, That if any section, subsection, sentence, clause, phrase, or
23 word of this resolution, or any application thereof to any person or circumstance, is held to be
24 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
25 shall not affect the validity of the remaining portions or applications of this resolution, this

1 Board of Supervisors hereby declaring that it would have passed this resolution and each and
2 every section, subsection, sentence, clause, phrase, and word not declared invalid or
3 unconstitutional without regard to whether any other portion of this resolution or application
4 thereof would be subsequently declared invalid or unconstitutional; and, be it

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

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

17 FURTHER RESOLVED, That this Resolution shall take effect upon its adoption.
18

19 APPROVED AS TO FORM:
20 DAVID CHIU, City Attorney
21

22 By: /s/ MARK D. BLAKE
23 Mark D. Blake
24 Deputy City Attorney
25 n:\financlas2021\2200255\01569115.docx

EXHIBIT A

CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)

DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY THE
SPECIAL TAX DISTRICT AND EACH IMPROVEMENT AREA THEREIN

FACILITIES

The Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) shall be authorized to finance all or a portion of the costs of the acquisition, construction, improvement, maintenance, repair or replacement of improvements authorized by Chapter 43, Article X of the San Francisco Administrative Code (as it may be amended from time to time, "Code"), which Code incorporates by reference the Mello-Roos Community Facilities Act of 1982, as amended ("Mello-Roos Act"), including, but not limited to, the improvements described below that are either owned by the City and County of San Francisco (including through its Port Commission or other City agencies, collectively, "City") or privately-owned and privately-maintained but dedicated to public access and use. Capitalized terms used herein but not defined herein have the meanings given them in the Development Agreement by and between the City and California Barrel Company LLC, dated September 22, 2020, relating to the Potrero Power Station development project, as amended from time to time (including all exhibits thereto, "Development Agreement").

- Shoreline Improvements: Maintenance, repair, and replacement of improvements in the Shoreline Area undertaken following Completion of the initial Improvements to that area required under the Development Agreement
- Future Sea Level Rise Improvements: Future improvements deemed necessary or appropriate by the City to ensure that the shoreline, related public or publicly accessible facilities (located on public or private property), and public access improvements will be protected should sea level rise at or near the Project Site.
- Additional Community Facilities: (i) Public facilities (located on public or private property) that serve the Project Site, including maintenance, restoration, rehabilitation, reconstruction or replacement of facilities previously financed under the Financing Plan of the Development Agreement, (ii) Future Sea Level Rise Improvements and (iii) Shoreline Improvements.
- Infrastructure: Infrastructure to be constructed by Developer as described in the Infrastructure Plan attached as Exhibit G to the Development Agreement.
- Parks and Open Space: All of the publicly-accessible open spaces developed in accordance with the Design for Development attached as Exhibit E to the Development Agreement.
- Public Improvements: The facilities, both on- and off-site, to be improved, constructed and dedicated by Developer and, upon Completion in accordance with the Development Agreement, accepted by the City. Public Improvements include the streets within the Project Site shown on Exhibit N of the Development Agreement, and all Infrastructure

1 and public utilities within such streets (such as electricity, water and sewer lines but
2 excluding any non-municipal utilities), including sidewalks, landscaping, bicycle lanes,
3 bus boarding island, street furniture, and paths and intersection improvements (such as
4 curbs, medians, signaling, traffic controls devices, signage, and striping). The Public
5 Improvements also include the SFPUC Infrastructure, and the SFMTA Infrastructure.
6 The Public Improvements do not include Privately-Owned Community Improvements or,
7 if any, privately owned facilities or improvements in the public right of way.

- 8 • Privately-Owned Community Improvements: Those facilities and services that are
9 privately-owned and privately-maintained, at no cost to the City (other than any public
10 financing set forth in the Financing Plan), for the public benefit and not dedicated to the
11 City, including any Infrastructure that is not a Public Improvement. The Privately-Owned
12 Community Improvements are shown generally on Exhibit L-1 of the Development
13 Agreement and further described in the Design for Development. Privately-Owned
14 Community Improvements include certain pedestrian paths, alleys (such as Craig Lane)
15 storm drainage facilities, open spaces, SFMTA employee restroom, Muni bus shelter,
16 and community or recreation facilities to be built on land owned by Developer, or on land
17 owned by the City if the Privately-Owned Community Improvements thereon are subject
18 to an encroachment permit or other permit allowing their installation on such land.
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SERVICES

1 Special taxes collected in the Special Tax District (and each Improvement Area therein, as
2 originally designated and as designated in the future in conjunction with the annexation of the
3 Future Annexation Area) may finance, in whole or in part, the following services (“services” shall
4 have the meaning given that term in the Code). Capitalized terms used herein but not defined
5 herein have the meanings given them in the Development Agreement.

- 6 • Maintenance, repair, replacement and operation of the following (i) Privately-Owned
7 Community Improvements, (ii) Infrastructure, (iii) Parks and Open Space and (iv)
8 Public Improvements, in each case, developed by Developer or the Port Property
9 Maintenance Party on the Port Lease Property
- 10 • Maintenance, repair, replacement and operation of Craig Lane

OTHER

11 The Special Tax District (and each Improvement Area therein, as originally designated and as
12 designated in the future in conjunction with the annexation of the Future Annexation Area) may
13 also finance any of the following:

14 1. Bond related expenses, including underwriters discount, reserve fund, capitalized
15 interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses,
16 bond remarketing costs, and all other incidental expenses.

17 2. Administrative fees of the City and the bond trustee or fiscal agent related to the
18 Special Tax District (and each Improvement Area therein, as originally designated and as
19 designated in the future in conjunction with the annexation of the Future Annexation Area) and
20 the Bonds.

21 3. Reimbursement of costs related to the formation of the Special Tax District (and
22 each Improvement Area therein, as originally designated and as designated in the future in
23 conjunction with the annexation of the Future Annexation Area) advanced by the City, the
24 landowner(s) in the Special Tax District (and each Improvement Area therein, as originally
25 designated and as designated in the future in conjunction with the annexation of the Future
Annexation Area), or any party related to any of the foregoing, as well as reimbursement of any
costs advanced by the City, the landowner(s) in the Special Tax District (and each Improvement
Area therein, as originally designated and as designated in the future in conjunction with the
annexation of the Future Annexation Area) or any party related to any of the foregoing, for
facilities, fees or other purposes or costs of the Special Tax District (and each Improvement
Area therein, as originally designated and as designated in the future in conjunction with the
annexation of the Future Annexation Area).

EXHIBIT B

CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR
IMPROVEMENT AREA NO. 1

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