

1 [Calling Special Election - Special Tax District No. 2019-1 (Pier 70 Condominiums)]

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3 **Resolution calling a special election in the City and County of San Francisco Special**
4 **Tax District No. 2019-1 (Pier 70 Condominiums); and determining other matters in**
5 **connection therewith, as defined herein.**

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

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

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

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

25

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 in File No. 170930, and is incorporated herein by reference; and

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

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

24 WHEREAS, On January 14, 2020, this Board adopted a resolution (which resolution
25 was signed by the Mayor on January 24, 2020) entitled “Resolution of formation of City

1 and County of San Francisco Special Tax District No. 2019-1 (Pier 70 Condominiums) and a
2 Future Annexation Area; determining other matters in connection therewith, as defined herein;
3 and making findings under the California Environmental Quality Act” (“Resolution of
4 Formation”), ordering the formation of the “City and County of San Francisco Special Tax
5 District No. 2019-1 (Pier 70 Condominiums)” (“Special Tax District”) and a future annexation
6 area, authorizing the levy of special taxes on property within the Special Tax District and
7 preliminarily establishing an appropriations limit for the Special Tax District, all pursuant to the
8 Code; and

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

12 WHEREAS, On January 14, 2020, this Board also adopted a resolution (which
13 resolution was signed by the Mayor on January 24, 2020) entitled “Resolution determining
14 necessity to incur bonded indebtedness and other debt in an aggregate principal amount not
15 to exceed \$1,697,600,000 for the City and County of San Francisco Special Tax District
16 No. 2019-1 (Pier 70 Condominiums) and determining other matters in connection therewith,
17 as defined herein” (“Resolution Determining Necessity”), determining the necessity to incur
18 bonded indebtedness and other debt (as defined in the Mello-Roos Act) one or more series in
19 in the maximum aggregate principal amount of \$1,697,600,000 (to be calculated as set forth
20 therein) upon the security of certain special taxes to be levied within the Special Tax District
21 pursuant to the Code; and

22 WHEREAS, Pursuant to the provisions of the Resolution of Formation and the
23 Resolution Determining Necessity, the propositions of the levy of the special taxes, the
24 establishment of the appropriations limit and the incurring of bonded indebtedness and other
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1 debt shall be submitted to the qualified electors of the Special Tax District as required by the
2 provisions of the Code; now, therefore, be it

3 RESOLVED, That pursuant to Sections 53326, 53351 and 53325.7 of the Mello-Roos
4 Act, the issues of the levy of the special taxes, the incurring of bonded indebtedness and
5 other debt (as defined in the Mello-Roos Act) and the establishment of the appropriations limit
6 shall be submitted to the qualified electors (as defined below) of the Special Tax District at an
7 election called therefor as provided below; and, be it

8 FURTHER RESOLVED, That this Board hereby calls a special election in the Special
9 Tax District to consider the propositions of the levy of the special taxes, the establishment of
10 the appropriations limit and the incurring of the bonded indebtedness and other debt for the
11 Special Tax District, which election shall be held and canvassed on January 27, 2020, and the
12 results thereof declared at the meeting of this Board on January 28, 2020; and, be it

13 FURTHER RESOLVED, The Director, Department of Elections of the City and County
14 of San Francisco is hereby designated as the official to conduct the election and to receive all
15 ballots until 3:00 p.m. on the election date, and it is hereby acknowledged that the Clerk of the
16 Board and the Director, Department of Elections have on file the Resolution of Formation, a
17 certified map of the boundaries of the Special Tax District, and a sufficient description to allow
18 the Director, Department of Elections to determine the electors of the Special Tax District,
19 and pursuant to Mello-Roos Act Section 53327, the election shall be conducted by messenger
20 or mail-delivered ballot pursuant to California Elections Code, Section 4000, except that
21 Mello-Roos Act, Sections 53326 and 53327, shall govern for purposes of determining the date
22 of election; and, be it

23 FURTHER RESOLVED, That the Director, Department of Elections has reported that
24 there were no registered voters in the boundaries of the proposed Special Tax District as of
25 December 5, 2019, and in reliance on such report, this Board hereby finds that fewer than 12

1 persons have been registered to vote within the territory of the Special Tax District for each of
2 the 90 days preceding the close of the public hearings heretofore conducted and concluded
3 by this Board for the purposes of these proceedings; and, be it

4 FURTHER RESOLVED, Accordingly, and pursuant to Section 53326 of the Mello-Roos
5 Act, this Board finds that, for these proceedings, the qualified electors are the landowners (as
6 defined in the Mello-Roos Act) within the Special Tax District and that the vote shall be by
7 such landowners as of the close of the public hearings or their authorized representatives,
8 each having one vote for each acre or portion thereof such landowner owns in the Special Tax
9 District not exempt from the special taxes; and, be it

10 FURTHER RESOLVED, That this Board has received and accepted a Public Agency
11 Statement and Consent executed by the Port Commission in which it declares that the City is
12 a “landowner” in the Special Tax District (as defined in the Mello-Roos Act) and qualified
13 elector for the Special Tax District because the property owned by the City within the
14 proposed boundaries of the Special Tax District either will be (a) transferred by conveyance of
15 the fee interest to private ownership for the construction of improvements, in which case the
16 City agrees that such property will be subject to the special tax on the same basis as private
17 property within the Special Tax District and affirmatively waives any defense based on the fact
18 of public ownership to any action to foreclose on such property in the event of nonpayment of
19 the special tax or (b) leased to a nonexempt person or entity and, pursuant to Section 53340.1
20 of the Mello-Roos Act, the special tax will be levied on the leasehold interest and payable by
21 the owner of the leasehold interest, a copy of which Public Agency Statement and Consent is
22 on file with the Clerk of the Board in File No. 191076 and is incorporated herein by reference;
23 and, be it

24 FURTHER RESOLVED, That this Board has received and accepted a Consent and
25 Waiver Relating to Formation of a Special Tax District executed by the Executive Director of

1 the Port Commission, as authorized representative of 64 PKN Owner, LLC, the other
2 landowner in the boundaries of the proposed Special Tax District, a copy of which Consent
3 and Waiver Relating to Formation of a Special Tax District is on file with the Clerk of the
4 Board in File No. 191076 and is incorporated herein by reference; and

5 FURTHER RESOLVED, That as authorized by Section 53353.5 of the Mello-Roos Act,
6 the three propositions described above shall be combined into a single ballot measure, the
7 form of which is attached hereto as Exhibit "A" and by this reference incorporated herein and
8 the form of ballot is hereby approved (subject to amendment by the Election Official in
9 accordance with applicable provisions of law); the Election Official is hereby authorized and
10 directed to cause a ballot, in substantially the form of Exhibit "A" (subject to amendment by the
11 Election Official in accordance with applicable provisions of law) to be delivered to each of the
12 qualified electors of the Special Tax District; each ballot shall indicate the number of votes to
13 be voted by the respective landowner to which the ballot pertains; each ballot shall be
14 accompanied by all supplies and written instructions necessary for the use and return of the
15 ballot; the envelope to be used to return the ballot shall be enclosed with the ballot, shall have
16 the return postage prepaid, and shall contain the following: (a) the name and address of the
17 landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of
18 record or authorized representative of the landowner entitled to vote and is the person whose
19 name appears on the envelope, (c) the printed name, signature and address of the voter, (d)
20 the date of signing and place of execution of the declaration pursuant to clause (b) above, and
21 (e) a notice that the envelope contains an official ballot and is to be opened only by the
22 canvassing board of the election; and, be it

23 FURTHER RESOLVED, That this Board hereby further finds that the provisions of
24 Mello-Roos Act, Section 53326, requiring a minimum of 90 days following the adoption of the
25 Resolution of Formation to elapse before the special election are for the protection of the

1 qualified electors of the Special Tax District, and there is on file with the Clerk of the Board
2 and the Director, Department of Elections a written waiver executed by all of the qualified
3 electors of the Special Tax District allowing for a shortening of the time for the special election
4 to expedite the process of formation of Special Tax District and waiving any requirement for
5 notice, analysis and arguments in connection with the election, and accordingly, this Board
6 finds and determines that the qualified electors have been fully apprised of and have agreed
7 to the shortened time for the election and waiver of analysis and arguments, and have thereby
8 been fully protected in these proceedings, and this Board also finds and determines that the
9 Director, Department of Elections has concurred in the shortened time for the election; and,
10 be it

11 FURTHER RESOLVED, That analysis and arguments with respect to the ballot
12 measures are hereby waived, as provided in Mello-Roos Act, Section 53327; and, be it

13 FURTHER RESOLVED, That this Board hereby finds that the measure described
14 above as it relates to the issuance of bonds and other debt constitutes a “local bond measure”
15 within the meaning of Sections 53410, et seq. of the California Government Code; as a result,
16 the bond measure shall include the following: (a) the specific purpose of the bonds shall be as
17 set forth in the measures; (b) any proceeds received from the sale of any bonds or other debt
18 shall be applied only to the purposes set forth in the measures; (c) the proceeds of any bonds
19 or other debt shall be deposited into special accounts to be created therefor as part of the
20 issuance of the bonds or the incurrence of other debt; and (d) the City shall cause a report to
21 be prepared annually under Section 53411 of the Government Code; and, be it

22 FURTHER RESOLVED, That pursuant to Section 50075.1 of the Government Code,
23 the following accountability provisions shall apply to the special taxes: (a) the provision and/or
24 acquisition of the Facilities and the incidental costs thereof, all as defined in the Resolution of
25 Formation, shall constitute the specific single purpose; (b) the proceeds shall be applied only

1 to the specific purposes identified in the preceding clause (a); (c) there shall be created
2 special account(s) or funds(s) into which the proceeds shall be deposited; and (d) there shall
3 be caused to be prepared an annual audit and report of the Special Tax District under Section
4 50075.3 of the Government Code; and, be it

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

13 FURTHER RESOLVED, That the Mayor, the Controller, the Director, Department of
14 Elections, the Director of the Office of Public Finance, the Clerk of the Board and any and all
15 other officers of the City are hereby authorized, for and in the name of and on behalf of the
16 City, to do any and all things and take any and all actions, including execution and delivery of
17 any and all documents, assignments, certificates, requisitions, agreements, notices, consents,
18 instruments of conveyance, warrants and documents, which they, or any of them, may deem
19 necessary or advisable in order to effectuate the purposes of this Resolution; provided
20 however that any such actions be solely intended to further the purposes of this Resolution,
21 and are subject in all respects to the terms of the Resolution; and, be it

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

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

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

By: _____
MARK D. BLAKE
Deputy City Attorney
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1 **EXHIBIT A**

2 FORM OF BALLOT

3 CITY AND COUNTY OF SAN FRANCISCO
4 Special Tax District No. 2019-1
(Pier 70 Condominiums)

5 OFFICIAL BALLOT

6 SPECIAL TAX ELECTION
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8 This ballot is for a special, landowner election. You must return this ballot in the enclosed
9 postage paid envelope to the office of the Director, Department of Elections of the City and
10 County of San Francisco no later than the hour of 2:00 p.m. on January 27, 2020, either by
11 mail or in person. The office of the Director of Elections of the City and County of San
12 Francisco is located at 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102.
13

14 To vote, mark a cross (X) on the voting line after the word "YES" or after the word "NO". All
15 marks otherwise made are forbidden. All distinguishing marks are forbidden and make the
16 ballot void.
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18 If you wrongly mark, tear, or deface this ballot, return it to the Director of Elections of the City
19 and County of San Francisco and obtain another.
20

21 Shall the following measure be adopted: authorizing the City and
22 County of San Francisco ("City") to (i) levy special taxes solely on
23 lands within City and County of San Francisco Special Tax District
24 No. 2019-1 (Pier 70 Condominiums) ("Special Tax District") in
25 accordance with and for the duration set forth in the rate and

1 method contained in the resolution of the Board of Supervisors
2 establishing the Special Tax District (“Formation Resolution”),
3 commencing in the City’s fiscal year 2020-21 (with annual
4 escalation thereafter), to pay for the facilities, services and
5 incidental expenses specified in the Formation Resolution, to pay
6 debt service on bonds and other debt (“bonds”) of the Special Tax
7 District and to pay the costs of the City in administering the Special
8 Tax District, which special taxes, if levied at the maximum rate and
9 assuming full build-out of the properties in the Special Tax District
10 at the time of formation, is anticipated to raise \$2,627,564 in fiscal
11 year 2020-21 (with annual escalation thereafter); (ii) establish an
12 annual appropriations limit for the Special Tax District in the
13 amount of \$1,697,600,000; and (iii) issue bonds in one or more
14 series for the Special Tax District in the maximum aggregate
15 principal amount of \$1,697,600,000 (calculated in accordance with
16 the resolution of the Board of Supervisors declaring the necessity
17 for such bonds), with interest at a rate or rates not to exceed the
18 maximum interest rate permitted by law at the time of sale of such
19 bonds on behalf of the Special Tax District, the proceeds of which
20 bonds will be used to acquire and/or construct certain facilities,
21 reimburse certain costs of the facilities paid prior to the date of
22 issuance of the bonds, and pay for the costs of issuing the bonds
23 and incidental expenses?

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25 YES: _____

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NO: _____

By execution in the space provided below, you also indicate your waiver of (i) the time limit pertaining to the conduct of the election, (ii) any requirement for analysis and arguments with respect to the ballot measure, and (iii) any irregularity in the proceedings that may be claimed as a result of the application of such waivers.

Assessor's Parcel Number(s):

Number of Votes: _____

[Property Owner Name]

By: _____

Name:
Title: