

[Hotel Development Incentive Agreement - Bespoke Hospitality, LLC - Hearst Hotel Development Project - 5 Third Street and 17-29 Third Street - Not to Exceed \$40,000,000 in Net Present Value]

Ordinance approving a Hotel Development Incentive Agreement between the City and County of San Francisco and Bespoke Hospitality, LLC for the Hearst Hotel Development Project, to provide financial assistance not to exceed \$40,000,000 in net present value over 20 years calculated for measurement purposes only as a percentage of new Transient Occupancy Taxes the City actually receives from occupancy of guest rooms in a proposed new hotel, related to the development and operation of a project on certain real property known as 5 Third Street and 17-29 Third Street; waiving Chapter 21G of the Administrative Code and certain sections of the Labor and Employment Code; ratifying past actions and authorizing future actions in furtherance of this Ordinance; making findings under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

The Board of Supervisors makes the following findings:

1 (a) Bespoke Hospitality, LLC (“Developer”) has a long-term lease to develop and
2 operate the property commonly known as 5 Third Street and 17-29 Third Street (Assessor’s
3 Parcel Block No. 3707, Lot No. 057) (the “Property”). The Property is currently improved with
4 three buildings: (i) a 13-story mixed-use office building that was constructed in 1911 by
5 William Randolph Hearst as the headquarters for the San Francisco Examiner newspaper, (ii)
6 an adjacent eight-story commercial building, and (iii) an adjacent three-story commercial
7 building. The three buildings, which have an internal connection and are collectively known as
8 the “Hearst Building”, have an approximately 74% vacancy rate.

9 (b) Developer has obtained approvals from the City to rehabilitate and convert the
10 Hearst Building to consist of the following (collectively, the “Project”): (i) a mixed-use hotel
11 (“Hotel”) located on the second through twelfth floors and having up to 170 hotel guest rooms,
12 (ii) modifications to the rooftop to include new event space and a rooftop bar and patio,
13 (iii) 5,920 square feet of office space, (iv) approximately 11,393 square feet of retail space, (iv)
14 approximately 4,005 square feet of restaurant and/or bar uses, (v) the rehabilitation and repair
15 of the Hearst Building’s historic façade cladding, cast-iron storefront surrounds, and window
16 elements, (vi) seismic and structural building system upgrades, and (vii) retention of and
17 minor upgrades to the publicly accessible ground-floor lobby that was designed by Julia
18 Morgan.

19 (c) Following the COVID-19 pandemic and the shift toward remote work, the
20 demand for office space in San Francisco has declined and commercial vacancy rates have
21 increased. These impacts persist even as public health threats have waned, and are
22 particularly acute in San Francisco’s downtown neighborhoods. Between the first quarter of
23 2019 and the first quarter of 2024, the downtown office sector experienced a fivefold increase
24 in the total vacancy rate and high vacancy rates persist.

1 (d) Downtown-based businesses have historically generated nearly half of the City's
2 sales tax revenue and almost all (95%) of the City's business tax revenue. This revenue funds
3 many key services such as public safety, cleaning, open space, and transportation.
4 Downtown's high commercial vacancy rates and the reduction in downtown office workers and
5 foot traffic have adversely impacted the downtown and other sectors of San Francisco's
6 economy, including retail and small business, and more broadly has impacted use and
7 activation of downtown public space, transportation, and public safety.

8 (e) To address the high downtown commercial vacancy rates and the resulting
9 impacts on San Francisco's larger economy, the City has approved a variety of programs to
10 incentivize the conversion of downtown's commercial properties to housing, including waivers
11 from inclusionary housing requirements, impact and development fees, and certain Planning
12 Code requirements and taking actions to create a tax increment financing district, and the
13 City's voters approved a real estate transfer tax exemption that applies to those conversions
14 (collectively, the "Downtown Adaptive Reuse Programs").

15 (f) The conversion of the Hearst Building's commercial space to hotel use would,
16 similar to the Downtown Adaptive Reuse Programs and recent Heart of the City Mayoral
17 Executive Directive, activate underutilized property and diversify downtown land use and
18 activities.

19 (g) In addition to restoring and reactivating the historic Hearst Building, the Project
20 is anticipated to create an annual average of approximately 250 jobs during the construction
21 period and, upon completion, support between approximately 100 and 150 net new
22 permanent on-site jobs. The Project will also stimulate economic development and activity
23 benefiting the downtown community and San Francisco as a whole. The Project's mix of uses
24 will generate both daytime and nighttime activity in the downtown neighborhoods, with a new
25 hotel catering to tourists and businesses, and new restaurant, bar, and retail space.

1 (h) Due to the significant proposed investment required to restore and reactivate the
2 historic Hearst Building, Developer has received a tax credit allocation from the State Historic
3 Rehabilitation Tax Credit program, which allocates tax credits to incentivize the rehabilitation
4 of historic buildings that are eligible for listing on the National Register of Historic Places or
5 California Register of Historic Places. This program requires the commencement and
6 completion of rehabilitation work within a certain time frame, and the financing needed for the
7 rehabilitation work is contingent on Developer achieving Project feasibility.

8 (i) The Office of Economic and Workforce Development ("OEWD") retained, at
9 Developer's expense, an independent and experienced development and financial analyst
10 (the "Financial Analyst") to evaluate the Project and advise the City with regard to the financial
11 feasibility of the Project and the net fiscal impact of the Project on City's revenues and
12 expenditures. Based on a detailed review of the Project's pro forma, the Financial Analyst
13 estimated that the Project would not be feasible to develop without financial assistance from
14 the City. OEWD and the Financial Analyst evaluated varying levels and durations of financial
15 assistance to measure their impact on the Project's feasibility and determined that providing
16 the financial assistance detailed in the Hotel Development Incentive Agreement (the
17 "Agreement") on file with the Clerk of the Board of Supervisors in File No. 251246 would allow
18 the Project to reach financial feasibility based upon an industry-acceptable rate of return.

19 (j) Pursuant to the Agreement, after completion of the Hotel, the City will make
20 quarterly payments to Developer for a period of 20 years. The measurement of the quarterly
21 payments will be 89.3% of the taxes the City actually receives from occupancy of Hotel guest
22 rooms pursuant to Article 7 of the Business and Tax Regulations Code (the "Transient
23 Occupancy Tax") up to a financial assistance amount of \$40,000,000 in net present value.
24 The Transient Occupancy Tax revenues will be used solely to measure the quarterly
25 payments and the Agreement will not designate any Transient Occupancy Tax revenues for

1 any purpose, such that the Transient Occupancy Tax revenues will continue to be deposited
2 and used in accordance with Article 7 of the San Francisco Business and Tax Regulations
3 Code.

4 (k) Providing the payments will support the feasibility of developing the Project and
5 allow the Project to leverage the State historic tax credits. The Project will serve many public
6 purposes by (i) promoting economic development and contributing to San Francisco's
7 economy and downtown recovery, (ii) activating a prominent intersection and street frontage
8 in the downtown core, (iii) diversifying downtown land use and activities , (iv) rehabilitating and
9 preserving the historic Hearst Building, including through seismic and building system
10 upgrades, and (v) creating well-paying construction and permanent jobs through the
11 development of the Project on underutilized parcels.

12 13 Section 2. Planning and Environmental Findings.

14 (a) On August 22, 2018, the Planning Department published a Preliminary Mitigated
15 Negative Declaration ("PMND"), which found that the Project could not have a significant
16 impact on the environment. The Planning Department prepared and publicized the PMND in
17 compliance with the provisions of the California Environmental Quality Act ("CEQA")
18 (California Public Resources Code Sections 21000 et seq.), the CEQA Guidelines (14 Cal.
19 Code Reg. Sections 15000 et seq.), and Chapter 31 of the Administrative Code.

20 (b) On February 14, 2019, the Planning Commission, through Motion No. 20385,
21 affirmed the Planning Department's decision to issue a Mitigated Negative Declaration for the
22 Project. A copy of Motion No. 20385 is on file with the Clerk of the Board of Supervisors in File
23 No. 251246 and is incorporated herein by reference.

24 (c) On March 5, 2019, the Planning Department published a Final Mitigated
25 Negative Declaration ("FMND").

1 (d) At its hearing on April 25, 2019, by Motion No. 20437, the Planning Commission
2 adopted findings under CEQA, including a Mitigation Monitoring and Reporting Program
3 ("MMRP") as required by State and local law (collectively, "CEQA Findings"). The Board of
4 Supervisors hereby adopts the CEQA Findings and MMRP by reference. A copy of Motion
5 No. 20437 is on file with the Clerk of the Board of Supervisors in File No. 251246 and is
6 incorporated herein by reference.

7 (e) The Board further finds that, with the subsequent action on the Project contained
8 in this ordinance, (1) no substantial changes are proposed in the Project and no substantial
9 changes have occurred with respect to the circumstances under which the Project will be
10 undertaken that would cause new significant environmental effects or a substantial increase in
11 the severity of previously identified effects, and (2) there is no new information of substantial
12 importance showing that the Project would have any significant effects not discussed in the
13 FMND, that significant effects would be substantially more severe, or that new or different
14 mitigation measures or alternatives would substantially reduce one or more significant effects
15 of the Project.

16 (g) The Board of Supervisors finds that the Agreement is, on balance, in conformity
17 with the General Plan and the eight priority policies of Planning Code, Section 101.1 for the
18 reasons set forth in Planning Commission Motion No. 20436. The Board hereby adopts the
19 findings set forth in Planning Commission Motion No. 20436 as its own.
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21 Section 3. Hotel Development Incentive Agreement.

22 (a) The Board of Supervisors approves all of the terms and conditions of the
23 Agreement, in substantially the form on file with the Clerk of the Board of Supervisors in File
24 No. 251246.
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1 (b) The Executive Director of OEWD ("Director") is authorized to execute and
2 deliver the Agreement, and the Treasurer and Tax Collector and other applicable City officials
3 are authorized to take all actions reasonably necessary or prudent to perform the City's
4 obligations under the Agreement in accordance with the terms of the Agreement. The
5 Director, at their discretion and in consultation with Treasurer and Tax Collector and the City
6 Attorney, is authorized to enter into any additions, amendments, or other modifications to the
7 Agreement that the Director determines are in the best interests of the City and that do not
8 materially increase the obligations or liabilities of the City or materially decrease the benefits
9 to the City under Agreement.

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11 Section 4. Administrative Code and Labor and Employment Code Waivers.

12 (a) The Board of Supervisors finds that the public financial assistance provided by
13 the Agreement is not a "Grant" within the intent of Administrative Code Section 21G.2, and
14 waives, to the extent applicable to the Agreement, the provisions of Chapter 21G of the
15 Administrative Code.

16 (b) The Board of Supervisors approves the Agreement terms and conditions for
17 Developer's construction of the Project and waives the requirements of Labor and
18 Employment Code Sections 103.1, 103.3(a)-(d), 103.3(f), 104.1, 104.2, 104.3, 106.1, 106.2,
19 106.4, and 106.6 to the extent otherwise applicable to the Project.

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21 Section 5. Ratification of Past City Officials' Actions and Authorization of Future
22 Actions.

23 All actions taken by City officials in preparing and submitting the Agreement to the
24 Board of Supervisors for review and consideration are hereby ratified and confirmed, and the
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1 Board of Supervisors hereby authorizes all subsequent action to be taken by City officials
2 consistent with this ordinance.

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4 Section 6. Effective and Operative Dates.

5 This ordinance shall become effective 30 days after enactment. Enactment occurs
6 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
7 sign the ordinance within 10 days of receiving it, or the Board of Supervisors overrides the
8 Mayor's veto of the ordinance.

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10 APPROVED AS TO FORM:
11 DAVID CHIU, City Attorney

12 By: /s/ Carol Wong
13 CAROL WONG
14 Deputy City Attorney

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