

1 [Assignment and Assumption Agreement - California Barrel Company LLC - Potrero Power
2 Station Mixed-Use Project - Waiver of Indemnification Obligations]

3 **Resolution affirming the Planning Director's approval of an assignment and**
4 **assumption agreement between California Barrel Company LLC, a Delaware limited**
5 **liability company ("Developer"), and the Regents of the University of California, on**
6 **behalf of its San Francisco campus ("UCSF"), pursuant to which UCSF will assume a**
7 **portion of Developer's right, title and interest in and to the Development Agreement**
8 **between the City and Developer for the Potrero Power Station Project, with respect to**
9 **Block 2 of the Project; approving a Waiver of Liability by the City, acting by and**
10 **through its Planning Department, for the benefit of Developer, pursuant to which the**
11 **City will waive and release any claims made for actions subsequent to execution of the**
12 **Waiver against Developer, in connection with Developer's indemnification obligations**
13 **in Section 4.10 of the Development Agreement, with respect to Block 2 of the Project;**
14 **and adopting findings under the California Environmental Quality Act.**

15
16 WHEREAS, Developer owns approximately 21 acres of developed and undeveloped
17 land located in the City and County of San Francisco ("City"), generally bound by 22nd Street
18 to the north, the San Francisco Bay to the east, 23rd Street to the south and Illinois Street to
19 the west ("Developer Property"); and

20 WHEREAS, Existing structures on the Developer Property consist primarily of vacant
21 buildings and facilities associated with its use as a former power station; and

22 WHEREAS, The Developer and the City executed a Development Agreement dated
23 September 22, 2020, and subject to amendment from time to time ("Development
24 Agreement"), relating to the proposed development of a project known as the Potrero Power
25

1 Station ("Project"); the Development Agreement was approved by the Board of Supervisors
2 and Mayor in Ordinance No. 62-20, a copy of which is in File No. 200040; and

3 WHEREAS, The Project is a phased, mixed-use development on or around the
4 Developer Property that is more particularly described in the Development Agreement; and

5 WHEREAS, On April 4, 2024, the Board of Supervisors and Mayor approved an
6 Ordinance to amend to the Development Agreement to allow for the establishment of San
7 Francisco Enhanced Infrastructure Financing District No. 1 (Power Station) (Ordinance No.
8 67-24, a copy of which is in File No. 231274); and

9 WHEREAS, On January 30, 2020, by Motion No. 20635, the Planning Commission
10 certified as adequate, accurate and complete the Final Environmental Impact Report ("FEIR")
11 for the Project pursuant to the California Environmental Quality Act (California Public
12 Resources Code, Section 21000 et seq.) ("CEQA"); a copy of Planning Commission Motion
13 No. 20635 is on file with the Clerk of the Board of Supervisors in File No. 230168; also, on
14 January 30, 2020, by Motion No. 20635, the Planning Commission adopted findings, including
15 a rejection of alternatives and a statement of overriding considerations ("CEQA Findings") and
16 a Mitigation Monitoring and Reporting Program ("MMRP"); these Motions are on file with the
17 Clerk of the Board of Supervisors in File No. 230168; in Ordinance No. 62-20, the Board of
18 Supervisors adopted as its own and incorporated by reference as though fully set forth therein
19 the CEQA Findings, including the statement of overriding considerations, and the MMRP; and

20 WHEREAS, On September 9, 2020, the San Francisco Planning Department published
21 an Addendum to the FEIR finding certain proposed changes to the Project's phasing plan did
22 not change the conclusions of the FEIR and that the changes would not result in substantially
23 more severe impacts than what was identified in the FEIR (the "FEIR Addendum"); and

24 WHEREAS, On March 29, 2024, Developer submitted a Design Review Application
25 under Development Agreement section 3.4 for the construction of a new 130-foot-tall building

1 located at Block 2 of the Project, which would contain approximately 284,844 square feet of
2 Laboratory and Institutional Healthcare (Non-Hospital) uses for outpatient cancer treatment
3 and associated research (the "Block 2 Project") operated by UCSF; and

4 WHEREAS, UCSF's world-renowned hospital, biomedical research facilities and
5 medical, dental, pharmacy and nursing schools contribute invaluable benefits to San
6 Francisco residents and to the entire Bay Area and the State of California; and

7 WHEREAS, Beyond economic benefits, UCSF provides other public benefits, including
8 a diverse range of superior quality education and health services, by way of patient care at its
9 three medical centers at Parnassus Heights, Mount Zion, and Mission Bay and through
10 staffing of the Zuckerberg San Francisco General Hospital ("ZSFG") and the Veterans
11 Administration Medical Center; UCSF and ZSFG have maintained a major hospital affiliation
12 agreement for over 150 years; and

13 WHEREAS, UCSF's commitment to the residents of San Francisco has been
14 demonstrated through community service and volunteer programs, including health care
15 services for the homeless, dental services at the Buchanan Dental Center, the Science and
16 Health Education Partnership (SEP) program with the San Francisco Unified School District,
17 and a variety of other community service programs; and

18 WHEREAS, UCSF also operates programs that focus on increased employment
19 opportunities and access for residents of neighborhoods in the southeastern portion of the
20 City and particularly in neighborhoods bordering the UCSF campus at Mission Bay; and

21 WHEREAS, The retention of UCSF, which is one of the City's largest employers, within
22 the City, and the development of the Block 2 Project affords numerous public benefits to the
23 City and its residents, including, but not limited to, the advancement of public education and
24 medical research, the provision of an outpatient cancer treatment center, and the creation of
25 jobs; and

1 WHEREAS, Section 12.1 of the Development Agreement grants Developer the right to
2 convey, assign or transfer all or any portion of its right, title and interest in and to all or part of
3 the Developer Property without the City's consent, provided that Developer
4 contemporaneously transfers all of its right, title and interest under the Development
5 Agreement with respect to the portion of the Developer Property being transferred; and

6 WHEREAS, To facilitate UCSF's operation of the Block 2 Project, Developer intends to
7 assign to UCSF a portion of Developer's right, title and interest under the Development
8 Agreement with respect to Block 2 of the Project pursuant to that certain Assignment and
9 Assumption Agreement in the form presented to this Board (the "Assignment Agreement");
10 and

11 WHEREAS, The Developer, UCSF and the City agree that, consistent with the
12 Constitution of the State of California, UCSF, as a state entity, is exempt from local land use
13 regulation, including redevelopment plans, planning and zoning codes, and local building
14 codes with respect to the Block 2 Project; provided, however, that the City's determination is
15 limited to the Block 2 Project.; and

16 WHEREAS, The City reserves the right to address UCSF's exemption from local land
17 use regulation with regard to any other term, use, right, or obligation of the Development
18 Agreement, including any substantially different use of Block 2, or any other development
19 besides the Block 2 Project; and

20 WHEREAS, Section 12.3 of the Development Agreement requires that the assignment
21 and assumption agreement executed by Developer and UCSF be in substantially the form
22 attached as Exhibit X to the Development Agreement (the "Form of Assignment"), and that if
23 there are any material changes to the Form of Assignment, such changes must be approved
24 by the City's Planning Director; and
25

1 WHEREAS, Developer has requested that the City's Planning Director approve the
2 Assignment Agreement, which Assignment Agreement materially differs from the Form of
3 Assignment by limiting the scope of the indemnification obligations set forth in section 4.10 of
4 the Development Agreement (the "Indemnification Obligations") as they relate to UCSF, which
5 UCSF and Developer have determined is necessary to facilitate UCSF's assumption of the
6 Development Agreement given UCSF's status as a state entity under the Constitution of the
7 state of California; and

8 WHEREAS, As a result of the Assignment Agreement's material changes to the Form
9 of Assignment, Developer will retain a portion of the Indemnification Obligations with respect
10 to Block 2 of the Project despite having transferred Block 2 of the Project to UCSF; Developer
11 has requested that the City execute that certain Waiver of Liability in substantially the form on
12 file with the Clerk of the Board of Supervisors in File No. 240686 (the "Waiver"), pursuant to
13 which the City agrees to waive and release Developer from any claims made for actions
14 subsequent to execution of the Waiver related to the Indemnification Obligations with respect
15 to Block 2 of the Project so as to encourage Developer's assignment of the Development
16 Agreement to UCSF with respect to Block 2 of the Project; and

17 WHEREAS, Given that the Indemnification Obligations are a core aspect of the
18 Development Agreement, the City's Planning Director has requested that this Board of
19 Supervisors affirm his decision to approve the Assignment Agreement and approve and
20 authorize his execution of the Waiver on behalf of the City; now, therefore, be it

21 RESOLVED, That the Board of Supervisors hereby adopts and incorporates the CEQA
22 Findings contained in Ordinance No. 62-20 and the FEIR Addendum, and further finds that,
23 pursuant to CEQA Guidelines, Section 15162, no additional environmental review is required
24 because there are no substantial changes to the Project analyzed in the FEIR and the FEIR
25 Addendum, no change in circumstances under which the Project is being undertaken, and no

1 new information that was not known and could not have been known shows that new
2 significant impacts would occur, that the impacts identified in the FEIR and the FEIR
3 Addendum as significant impacts would be substantially more severe, or that mitigation or
4 alternatives previously found infeasible are now feasible; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors hereby affirms the Planning
6 Director's approval of the Assignment Agreement in the form presented to this Board of
7 Supervisors, and specifically affirms the Planning Director's decision to approve limiting the
8 scope of the Indemnification Obligations as they apply to UCSF with respect to Block 2 of the
9 Project so as to facilitate UCSF's assumption of the Development Agreement; and, be it

10 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and urges
11 the Planning Director to execute the Waiver, in the name and on behalf of the City, in
12 substantially the form of such waiver presented to this Board of Supervisors so as to facilitate
13 UCSF's assumption of the Development Agreement and the development of the Block 2
14 Project; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors acknowledges that Developer
16 would not have agreed to the partial assignment of the Indemnification Obligations but for the
17 City's agreement to execute the Waiver, and that Developer is executing the Assignment
18 Agreement in reliance thereon; and, be it

19 FURTHER RESOLVED, That all actions authorized and directed by this Resolution,
20 consistent with any documents presented herein, and heretofore taken are hereby ratified,
21 approved and confirmed by this Board of Supervisors.



City and County of San Francisco

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

Tails
Resolution

File Number: 240686

Date Passed: July 02, 2024

Resolution affirming the Planning Director's approval of an assignment and assumption agreement between California Barrel Company LLC, a Delaware limited liability company ("Developer"), and the Regents of the University of California, on behalf of its San Francisco campus ("UCSF"), pursuant to which UCSF will assume a portion of Developer's right, title and interest in and to the Development Agreement between the City and Developer for the Potrero Power Station Project, with respect to Block 2 of the Project; approving a Waiver of Liability by the City, acting by and through its Planning Department, for the benefit of Developer, pursuant to which the City will waive and release any claims made for actions subsequent to execution of the Waiver against Developer, in connection with Developer's indemnification obligations in Section 4.10 of the Development Agreement, with respect to Block 2 of the Project; and adopting findings under the California Environmental Quality Act.

June 26, 2024 Budget and Finance Committee - RECOMMENDED

July 02, 2024 Board of Supervisors - ADOPTED

Ayes: 9 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen and Walton

Excused: 1 - Stefani

Absent: 1 - Safai

File No. 240686

I hereby certify that the foregoing Resolution was ADOPTED on 7/2/2024 by the Board of Supervisors of the City and County of San Francisco.

Handwritten signature of Angela Calvillo

Angela Calvillo
Clerk of the Board

Handwritten signature of London N. Breed

London N. Breed
Mayor

Handwritten date: 7/9/24

Date Approved