

1 [Calling Special Election - Improvement Area No. 1 of City and County of San Francisco  
2 Special Tax District No. 2022-1 (Power Station)]

3 **Resolution calling a special election in Improvement Area No. 1 of the City and County**  
4 **of San Francisco Special Tax District No. 2022-1 (Power Station); and determining other**  
5 **matters in connection therewith, as defined herein.**

6  
7 WHEREAS, Under Chapter 43, Article X of the San Francisco Administrative Code (as  
8 it may be amended from time to time, "Code"), which Code incorporates by reference the  
9 Mello-Roos Community Facilities Act of 1982, as amended ("Mello-Roos Act"), this Board of  
10 Supervisors ("Board of Supervisors") of the City and County of San Francisco ("City"), State of  
11 California, has adopted a Resolution entitled "Resolution of Formation of City and County of  
12 San Francisco Special Tax District No. 2022-1 (Power Station), Improvement Area No. 1 and  
13 a Future Annexation Area, and determining other matters in connection therewith"  
14 ("Resolution of Formation"), ordering (i) the formation of (A) "City and County of San  
15 Francisco Special Tax District No. 2022-1 (Power Station)" ("Special Tax District"), (B)  
16 "Improvement Area No. 1 of the City and County of San Francisco Special Tax District No.  
17 2022-1 (Power Station)" ("Improvement Area No. 1"), and (C) a future annexation area for the  
18 Special Tax District ("Future Annexation Area"); and (ii) authorizing the levy of a special tax on  
19 property within Improvement Area No. 1 and preliminarily establishing an appropriations limit  
20 for the Special Tax District; and

21 WHEREAS, The property in the Special Tax District is proposed for development with a  
22 project known as the Potrero Power Station ("Project"); and

23 WHEREAS, In the Resolution of Formation, this Board of Supervisors made certain  
24 findings under the California Environmental Quality Act ("CEQA") about the Final  
25

1 Environmental Impact Report (“FEIR”) for the disposition and development of the Project, and  
2 those findings are incorporated in this Resolution as if set forth in their entirety herein; and

3 WHEREAS, This Board of Supervisors has also adopted a Resolution entitled  
4 “Resolution Determining Necessity to Incur Bonded Indebtedness and Other Debt for the City  
5 and County of San Francisco Special Tax District No. 2022-1 (Power Station) and determining  
6 other matters in connection therewith” (“Resolution Determining Necessity”), determining (i)  
7 the necessity for the Special Tax District to incur bonded indebtedness in the maximum  
8 aggregate principal amount of \$800 million and other debt (as defined in the Mello-Roos Act)  
9 upon the security of the special tax to be levied within Improvement Area No. 1 pursuant to  
10 the Code and (ii) the necessity for the Special Tax District to incur bonded indebtedness in the  
11 maximum aggregate principal amount of \$63 million and other debt for the territory in the  
12 Special Tax District that is not in Improvement Area No. 1 (“Non-Improvement Area No. 1  
13 Bonded Indebtedness Limit”) upon the security of the special tax to be levied in such territory  
14 pursuant to the Code; and

15 WHEREAS, Pursuant to the provisions of the Resolution of Formation and the  
16 Resolution Determining Necessity, the propositions of the levy of the special tax in  
17 Improvement Area No. 1, the incurring of the bonded indebtedness and other debt for  
18 Improvement Area No. 1 and the establishment of the appropriations limit for the Special Tax  
19 District and shall be submitted to the qualified electors of Improvement Area No. 1 as required  
20 by the provisions of the Code; now, therefore, be it

21 RESOLVED, That pursuant to Mello-Roos Act, Sections 53326, 53351 and 53325.7,  
22 the issues of the levy of the special tax for Improvement Area No. 1, the incurring of bonded  
23 indebtedness and other debt for Improvement Area No. 1 and the establishment of the  
24 appropriations limit for the Special Tax District shall be submitted to the qualified electors (as  
25 defined below) of Improvement Area No. 1 at an election called therefor as provided below;

1 the designation as an improvement area of any territory annexing to the Special Tax District,  
2 the maximum amount of bonded indebtedness for such improvement area, the rate and  
3 method of apportionment of special tax for such improvement area and the appropriations  
4 limit for the Special Tax District shall be identified and approved in the unanimous approval  
5 executed by property owners in connection with their annexation to the Special Tax District  
6 (each, a "Unanimous Approval") and in accordance with the Annexation Approval Procedures  
7 described in the Resolution of Formation, and the amount of the maximum indebtedness for  
8 such improvement area shall be subtracted from the Non-Improvement Area No. 1 Bonded  
9 Indebtedness Limit as set forth in a resolution of this Board of Supervisors, which shall result  
10 in a reduction in the Non-Improvement Area No. 1 Bonded Indebtedness Limit; and, be it

11 FURTHER RESOLVED, The Director, Department of Elections has reported that there  
12 were no registered voters in the boundaries of the proposed Special Tax District as of January  
13 25, 2022; and

14 FURTHER RESOLVED, That this Board of Supervisors hereby finds that fewer than 12  
15 persons residing in Improvement Area No. 1 have been registered to vote within the territory  
16 of Improvement Area No. 1 for each of the 90 days preceding the close of the public hearings  
17 heretofore conducted and concluded by this Board of Supervisors for the purposes of these  
18 proceedings, and accordingly, and pursuant to Mello-Roos Act, Section 53326, this Board of  
19 Supervisors finds that, for these proceedings, the qualified electors are the landowners within  
20 Improvement Area No. 1 and that the vote shall be by such landowners or their authorized  
21 representatives, each having one vote for each acre or portion thereof such landowner owns  
22 in Improvement Area No. 1 not exempt from the special tax as of the close of the public  
23 hearings; and, be it

24 FURTHER RESOLVED, That this Board of Supervisors hereby calls a special election  
25 in Improvement Area No. 1 to consider the propositions of the levy of the special tax for

1 Improvement Area No. 1, the incurring of the bonded indebtedness and other debt for  
2 Improvement Area No. 1 and the establishment of the appropriations limit for the Special Tax  
3 District, which election shall be held and canvassed on March 21, 2022, and the results  
4 thereof declared at the meeting of this Board of Supervisors on March 22, 2022. The Director  
5 of Elections of the City and County of San Francisco is hereby designated as the official to  
6 conduct the election and to receive all ballots until 3:00 p.m. on the election date, and it is  
7 hereby acknowledged that the Clerk of the Board of Supervisors and the Director of Elections  
8 have on file the Resolution of Formation, a certified map of the boundaries of the Special Tax  
9 District and Improvement Area No. 1, and a sufficient description to allow the Director of  
10 Elections to determine the electors of Improvement Area No. 1, and pursuant to Mello-Roos  
11 Act Section 53327, the election shall be conducted by messenger or mail-delivered ballot  
12 pursuant to California Elections Code Section 4000, except that Mello-Roos Act Sections  
13 53326 and 53327 Act shall govern for purposes of determining the date of election; and, be it

14           FURTHER RESOLVED, That as authorized by Mello-Roos Act, Section 53353.5, the  
15 three propositions described above shall be combined into a single ballot measure for  
16 Improvement Area No. 1, the form of which is attached hereto as Exhibit "A" and by this  
17 reference incorporated herein and the form of ballot is hereby approved, and the Director of  
18 Elections is hereby authorized and directed to cause a ballot, in substantially the form of  
19 Exhibit "A," to be delivered to each of the qualified electors of Improvement Area No. 1, and  
20 each ballot shall indicate the number of votes to be voted by the respective landowner to  
21 which the ballot pertains, and each ballot shall be accompanied by all supplies and written  
22 instructions necessary for the use and return of the ballot, and the envelope to be used to  
23 return the ballot was enclosed with the ballot, had the return postage prepaid, and contained  
24 the following: (a) the name and address of the landowner, (b) a declaration, under penalty of  
25 perjury, stating that the voter is the owner of record or authorized representative of the

1 landowner entitled to vote and is the person whose name appears on the envelope, (c) the  
2 printed name, signature and address of the voter, (d) the date of signing and place of  
3 execution of the declaration pursuant to clause (b) above, and (e) a notice that the envelope  
4 contains an official ballot and is to be opened only by the canvassing board of the election;  
5 and, be it

6 FURTHER RESOLVED, That this Board of Supervisors hereby further finds that the  
7 provisions of Mello-Roos Act, Section 53326 requiring a minimum of 90 days following the  
8 adoption of the Resolution of Formation to elapse before the special election are for the  
9 protection of the qualified electors of Improvement Area No. 1, and there is on file with the  
10 Clerk of the Board of Supervisors and the Director of Elections a written waiver executed by  
11 all of the qualified electors of Improvement Area No. 1 allowing for a shortening of the time for  
12 the special election to expedite the process of formation of Improvement Area No. 1 and  
13 waiving any requirement for notice, analysis and arguments in connection with the election,  
14 and accordingly, this Board of Supervisors finds and determines that the qualified electors  
15 have been fully apprised of and have agreed to the shortened time for the election and waiver  
16 of analysis and arguments, and have thereby been fully protected in these proceedings, and  
17 this Board of Supervisors also finds and determines that the Director of Elections has  
18 concurred in the shortened time for the election; analysis and arguments with respect to the  
19 ballot measures are hereby waived, as provided in Mello-Roos Act, Section 53327; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors hereby finds that the proposed  
21 issuance of bonds and other debt for Improvement Area No. 1 constitutes a "local bond  
22 measure" within the meaning of California Government Code, Sections 53410 *et seq.*, and as  
23 a result, the bond measure shall include the propositions set forth above and the following: (a)  
24 the specific purpose of the bonds and other debt shall be as set forth in the propositions; (b)  
25 any proceeds received from the sale of any bonds and other debt shall be applied only to the

1 purposes set forth in the propositions; (c) the proceeds of any bonds and other debt shall be  
2 deposited into special accounts to be created therefor as part of the issuance of the bonds  
3 and other debt; and (d) the City shall cause a report to be prepared annually under  
4 Government Code, Section 53411; and, be it

5 FURTHER RESOLVED, That under Government Code, Section 50075.1, the following  
6 accountability provisions shall apply to the special taxes: (a) the provision and/or acquisition of  
7 the Facilities and the Contingent Services, the payment of debt service on the bonds and  
8 other debt and the incidental costs thereof, all as defined in the Resolution of Formation, shall  
9 constitute the specific single purpose; (b) the proceeds shall be applied only to the specific  
10 purposes identified in (a) above; (c) there shall be created special account(s) or funds(s) into  
11 which the proceeds shall be deposited; and (d) there shall be caused to be prepared an  
12 annual audit and report of the Special Tax District; and, be it

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

21 FURTHER RESOLVED, That the Mayor, the Controller, the Director of the Office of  
22 Public Finance, the Clerk of the Board of Supervisors and any and all other officers of the City  
23 are hereby authorized, for and in the name of and on behalf of the City, to do any and all  
24 things and take any and all actions, including execution and delivery of any and all  
25 documents, assignments, certificates, requisitions, agreements, notices, consents,

1 instruments of conveyance, warrants and documents, which they, or any of them, may deem  
2 necessary or advisable in order to effectuate the purposes of this Resolution; provided  
3 however that any such actions be solely intended to further the purposes of this Resolution,  
4 and are subject in all respects to the terms of the Resolution; and, be it

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

8 FURTHER RESOLVED, That this Resolution shall take effect upon its enactment.  
9 Enactment occurs when the Mayor signs the Resolution, the Mayor returns the Resolution  
10 unsigned or does not sign the Resolution within ten days of receiving it, or the Board of  
11 Supervisors overrides the Mayor's veto of the Resolution.

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13 APPROVED AS TO FORM:  
14 DAVID CHIU, City Attorney

15  
16 By: /s/ MARK D. BLAKE  
17 MARK D. BLAKE  
18 Deputy City Attorney

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