

1 [Adding Territory to and Adopting Amendments to the Infrastructure Financing Plan for
2 Infrastructure and Revitalization Financing District No. 1 (Treasure Island)]

3 **Ordinance adding territory to and adopting amendments to the Infrastructure Financing**
4 **Plan for City and County of San Francisco Infrastructure and Revitalization Financing**
5 **District No. 1 (Treasure Island) and project areas therein; and determining other**
6 **matters in connection therewith, as defined herein.**

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

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

16 Section 1. The Board of Supervisors of the City and County of San Francisco hereby
17 finds, determines and declares based on the record before it that:

18 A. Naval Station Treasure Island (“NSTI”) is a former United States Navy base
19 located in the City and County of San Francisco (the “City”) that consists of two islands
20 connected by a causeway: (1) Treasure Island, and (2) an approximately 90-acre portion of
21 Yerba Buena Island.

22 B. Under the Treasure Island Conversion Act of 1997, which amended Section
23 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of
24 the Statutes of 1968, the California Legislature (i) designated the Treasure Island
25 Development Authority, a California non-profit public benefit corporation (“TIDA”) as a
redevelopment agency under California redevelopment law with authority over NSTI upon

1 approval of the City's Board of Supervisors, and (ii) with respect to those portions of NSTI
2 which are subject to Tidelands Trust, vested in TIDA the authority to administer the public
3 trust for commerce, navigation and fisheries as to such property.

4 C. The Board of Supervisors approved the designation of TIDA as a redevelopment
5 agency for NSTI in 1997.

6 D. On January 24, 2012, the Board of Supervisors rescinded designation of TIDA
7 as the redevelopment agency for Treasure Island under California Community
8 Redevelopment Law in Resolution No. 11-12; and such rescission does not affect TIDA's
9 status as the Local Reuse Authority for NSTI or the Tidelands Trust trustee for the portions of
10 NSTI subject to the Tidelands Trust, or any of the other powers or authority.

11 E. The United States of America, acting by and through the Department of the
12 Navy ("Navy"), and TIDA entered into an Economic Conveyance Memorandum of Agreement
13 (as amended and supplemented from time to time, the "Conveyance Agreement") that
14 governs the terms and conditions for the transfer of NSTI from the Navy to TIDA; and under
15 the Conveyance Agreement, the Navy has and will convey NSTI to TIDA in phases after the
16 Navy has completed environmental remediation and issued a Finding of Suitability to Transfer
17 (as defined in the Conveyance Agreement) for specified parcels of NSTI or portions thereof.

18 F. Treasure Island Community Development, LLC ("Developer") and TIDA have
19 previously entered into a Disposition and Development Agreement (Treasure Island/Yerba
20 Buena Island) dated June 28, 2011 (the "DDA"), including a Financing Plan (Treasure
21 Island/Yerba Buena Island) (the "Financing Plan"), which governs the disposition and
22 development of a portion of NSTI (the "Project Site") after the Navy's transfer of NSTI to TIDA
23 in accordance with the Conveyance Agreement.

24 G. The DDA contemplates a project (the "Project") under which TIDA acquires the
25 Project Site from the Navy and conveys portions of the Project Site to Developer (or an

1 affiliate of the Developer) for the purposes of (i) alleviating blight in the Project Site through
2 development of certain improvements, (ii) geotechnically stabilizing the Project Site, (iii)
3 constructing public infrastructure to support the Project and other proposed uses on NSTI,
4 (iv) constructing and improving certain public parks and open spaces, (v) abatement of certain
5 existing hazardous substances, and (vi) selling and ground leasing lots to vertical developers
6 who will construct residential units and commercial and public facilities.

7 H. On April 21, 2011, the Planning Commission by Motion No. 18325 and the
8 Board of Directors of TIDA, by Resolution No. 11-14-04/21, as co-lead agencies, certified the
9 completion of the Final Environmental Impact Report for the Project, and unanimously
10 approved a series of entitlement and transaction documents relating to the Project, including
11 certain environmental findings under the California Environmental Quality Act (“CEQA”), a
12 mitigation and monitoring and reporting program (the “MMRP”), and the DDA and other
13 transaction documents.

14 I. On June 7, 2011, in Motion No. M11-0092, the Board of Supervisors
15 unanimously affirmed certification of the Final Environmental Impact Report. On that same
16 date, the Board of Supervisors, in Resolution No. 246-11, adopted CEQA findings and the
17 MMRP, and made certain environmental findings under CEQA (collectively, the “FEIR”). Also
18 on that date, the Board of Supervisors, in Ordinance No. 95-11, approved the DDA and other
19 transaction documents, including the Transportation Plan and Infrastructure Plan.

20 J. TIDA and the Developer had been working diligently since then to implement the
21 Project consistent with the DDA, the MMRP and other documents.

22 K. No additional environmental review is required because there are no substantial
23 changes to the project analyzed in the FEIR, no change in circumstances under which the
24 project is being undertaken, and no new information of substantial importance indicating that
25 new significant impacts would occur, that the impacts identified in the FEIR as significant

1 impacts would be substantially more severe, or that mitigation or alternatives previously found
2 infeasible are now feasible.

3 L. Developer and the City previously entered into a Development Agreement
4 related to the Project Site to eliminate uncertainty in the City's land use planning for the
5 Project Site and secure orderly development of the Project consistent with the DDA and other
6 applicable requirements, and the Financing Plan was also an exhibit to the Development
7 Agreement.

8 M. The Financing Plan identified certain financial goals for the Project and the
9 contractual framework for cooperation between TIDA, the City, and Developer in achieving
10 those goals and implementing the Project.

11 N. The Financing Plan, among other things, obligates TIDA and the City to take all
12 actions reasonably necessary for, and obligates Developer to cooperate reasonably with the
13 efforts of (i) the City to form requested community facilities districts (each, a "CFD"; together,
14 the "CFDs") and take related actions under the Mello-Roos Community Facilities Act of 1982
15 (the "Mello-Roos Act") to pay for Qualified Project Costs, Ongoing Park Maintenance and
16 Additional Community Facilities (as those terms are defined in the Financing Plan), (ii) the City
17 to form requested infrastructure financing districts and take related actions under applicable
18 provisions of the Government Code of the State of California to pay for Qualified Project Costs
19 (although the Financing Plan refers to a different infrastructure financing act than the IRFD
20 Law (as defined below) because the IRFD Law had not been created at the time, the City
21 finds that the provisions of the Financing Plan discussing infrastructure financing districts shall
22 apply to the IRFD (as defined herein) and the IRFD Law) and (iii) the City to issue bonds and
23 other debt for the CFDs and the infrastructure financing districts and other public financing
24 instruments described in the Financing Plan (defined in the Financing Plan as "Public
25 Financing").

1 O. Under Chapter 2.6 of Part 1 of Division 2 of Title 5 of the California Government
2 Code commencing with Section 53369 (the “IRFD Law”), this Board of Supervisors is
3 authorized to establish an infrastructure and revitalization financing district and to act as the
4 legislative body for an infrastructure and revitalization financing district.

5 P. Pursuant to IRFD Law Section 53369.5, an infrastructure and revitalization
6 financing district may be divided into project areas.

7 Q. Pursuant to the Financing Plan and the IRFD Law, the Board of Supervisors
8 adopted Ordinance No. 21-17 on January 31, 2017, which the Mayor signed on February 9,
9 2017 (“IRFD Formation Ordinance”), pursuant to which the Board of Supervisors declared City
10 and County of San Francisco Infrastructure and Revitalization Financing District No. 1
11 (Treasure Island) (“IRFD”) and the following project areas within the IRFD (collectively, “Initial
12 Project Areas,” and together with any future project areas that may be established in the
13 IRFD, the “Project Areas”) to be fully formed with full force and effect of law:

14 (i) Project Area A of the City and County of San Francisco Infrastructure and
15 Revitalization Financing District No. 1 (Treasure Island) (“Project Area A”);

16 (ii) Project Area B of the City and County of San Francisco Infrastructure and
17 Revitalization Financing District No. 1 (Treasure Island) (“Project Area B”);

18 (iii) Project Area C of the City and County of San Francisco Infrastructure and
19 Revitalization Financing District No. 1 (Treasure Island) (“Project Area C”);

20 (iv) Project Area D of the City and County of San Francisco Infrastructure and
21 Revitalization Financing District No. 1 (Treasure Island) (“Project Area D”); and

22 (v) Project Area E of the City and County of San Francisco Infrastructure and
23 Revitalization Financing District No. 1 (Treasure Island) (“Project Area E”).

24 R. The City formed the IRFD and the Project Areas for the purpose of financing the
25 cost of certain facilities (the “Facilities”) as further provided in the IRFD Formation Ordinance.

1 S. Pursuant to the IRFD Formation Ordinance, the Board of Supervisors also
2 approved an Infrastructure Financing Plan for the IRFD (“IFP”).

3 T. The IRFD Law provides that the legislative body of an infrastructure and
4 revitalization financing district may, at any time, add territory to a district or amend the
5 infrastructure financing plan for the district by conducting the same procedures for the
6 formation of a district or approval of bonds as provided in the IRFD Law.

7 U. The Board of Supervisors has been notified by the California State Board of
8 Equalization that the boundaries of the IRFD and the Project Areas must conform to the
9 boundaries of assessor parcel numbers established by the San Francisco Assessor-Recorder
10 in order for the Board of Equalization to assign tax rate areas to the Project Areas.

11 V. The Board of Supervisors wishes to amend the boundaries of the IRFD and
12 certain Initial Project Areas to reflect the final development parcels for certain portions of
13 Treasure Island and Yerba Buena Island, including the addition of territory to the IRFD, and to
14 approve an amended map for the IRFD.

15 W. Because the Board of Supervisors anticipates the need to make future changes
16 to the boundaries of the IRFD and the Project Areas in order to conform to final development
17 parcels approved by the Board of Supervisors so that the California State Board of
18 Equalization can assign tax rate areas to the Project Areas, the Board of Supervisors wishes
19 to amend the IFP to establish a procedure by which certain future amendments of the
20 boundaries of the IRFD may be approved by the Board of Supervisors as the legislative body
21 of the IRFD without further hearings or approvals, as long as the amendments will not
22 adversely affect the owners of bonds issued by or for the IRFD.

23 X. The Board of Supervisors wishes to further amend the IFP to reduce the tax
24 increment allocated to the IRFD in order to conform to existing law.

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1 Y. The Board of Supervisors wishes to further amend the IFP to provide that
2 actions related to the IRFD, the Project Areas and the IFP shall not require the approval of the
3 qualified electors in the IRFD if the IRFD Law is amended to eliminate any such requirement.

4 Z. On October 19, 2021, pursuant to Resolution No. 481-21, which the Mayor
5 signed on October 22, 2021 (“Resolution of Intention to Amend IRFD”), the Board of
6 Supervisors declared its intention to conduct proceedings to make the above-described
7 amendments to the IRFD and the IFP (“Amendments”), pursuant to Section 53369.5(b) of the
8 IRFD Law.

9 AA. On October 26, 2021, pursuant to Resolution No. 497-21, which the Mayor
10 signed on November 5, 2021 (“Resolution Directing IFP Preparation”), the Board of
11 Supervisors authorized and directed the Director of the Office of Public Finance, or designee,
12 to prepare, or cause to be prepared, an amended IFP (“Amended IFP”) that is consistent with
13 the general plan of the City and includes all of the Amendments, pursuant to Section
14 53369.13 of the IRFD Law.

15 BB. As required by the IRFD Law and the Resolution of Intention to Amend IRFD,
16 the Clerk of the Board of Supervisors caused to be mailed a copy of the Resolution of
17 Intention to Amend IRFD to each owner of land (as defined in the IRFD Law) within the IRFD
18 and to any affected taxing entities, and in addition, in accordance with IRFD Law Section
19 53369.17, the Clerk of the Board of Supervisors caused notice of the public hearing to be
20 published not less than once a week for four successive weeks in a newspaper of general
21 circulation published in the City.

22 CC. As further required by the IRFD Law and the Resolution Directing IFP
23 Preparation, the Director of the Office of Public Finance caused to be prepared the Amended
24 IFP, and the Treasure Island Director sent the Amended IFP to (i) the planning commission of
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1 the City, (ii) this Board of Supervisors, (iii) each owner of land within the proposed IRFD and
2 (iv) each affected taxing entity (if any).

3 DD. As further required by the IRFD Law, the Treasure Island Director sent to the
4 owners of land within the proposed amended IRFD, the affected taxing entities (if any) , the
5 planning commission of the City and this Board of Supervisors any report required by CEQA
6 that pertains to the Project.

7 EE. The Clerk of the Board of Supervisors made the Amended IFP and the reports
8 required by CEQA available for public inspection.

9 FF. On December 14, 2021, as required by the IRFD Law, the Board of Supervisors,
10 as the legislative body of the City, which is the only affected taxing entity that is subject to the
11 division of taxes pursuant the IRFD Law, considered and adopted its Resolution No. 568-21,
12 which the Mayor signed on December ~~24~~22, 2021, pursuant to which the Board of
13 Supervisors, as the governing body of the City, in its capacity as an affected taxing entity,
14 approved the addition of territory to the IRFD and the other Amendments.

15 GG. On January 11, 2022, following publication of a notice consistent with the
16 requirements of the IRFD Law, this Board of Supervisors, as the legislative body of the IRFD,
17 held a public hearing as required by the IRFD Law relating to the proposed Amendments.

18 HH. At the hearing any persons having any objections to the Amendments, or the
19 regularity of any of the prior proceedings, and all written and oral objections, and all evidence
20 and testimony for and against the adoption of the Amendments, were heard and considered,
21 and a full and fair hearing was held.

22 II. On January 11, 2022, after holding the public hearing described above, the
23 Board of Supervisors, as the legislative body of the IRFD, (i) adopted its Resolution No. 010-
24 22, which the Mayor signed on January 21, 2022 (“Resolution Proposing Amendments”),
25 proposing the addition of territory to the IRFD and the other Amendments, and (ii) adopted its

1 Resolution No. 011-22, which the Mayor signed on January 21, 2022 (“Election Resolution”),
2 pursuant to which the Board of Supervisors submitted the propositions to amend the IRFD
3 and the Initial Project Areas and to approve the Amended IFP to the qualified electors of the
4 IRFD as required by the provisions of the IRFD Law.

5 JJ. The Board of Supervisors recited in the Election Resolution that there was on
6 file with the Clerk of the Board of Supervisors and the Director of Elections of the City and
7 County of San Francisco one or more written waivers executed by all of the qualified electors
8 of the IRFD, and those waivers, as permitted by the IRFD Law, waived time limits specified in
9 the IRFD Law and any requirement of applicable law pertaining to the conduct of the election
10 in order to expedite the approval of the Amendments.

11 JJKK. Pursuant to the terms of the Election Resolution, the special election was held
12 and on January 17, 2022, and all of the qualified electors in the IRFD submitted ballots and
13 voted in favor o the propositions.

14 LL. The Director of Elections of the City and County of San Francisco filed with the
15 Board of Supervisors a Canvass and Statement of Results of Election (“Canvass”) regarding
16 the special election.

17 ~~KKMM.~~ This Board of Supervisors reviewed the Canvass, and, on February 1, 2022, the
18 Board of Supervisors, as the legislative body of the IRFD, adopted its Resolution No. ____,
19 which the Mayor signed on February 11, 2022 (“Election Results Resolution”), pursuant to
20 which it approved the Canvass and determined that the issues presented at the special
21 election within the IRFD were approved by all of the qualified electors ~~by more than two thirds~~
22 ~~of the votes cast at the special election~~ of the IRFD.

23 NN. Staff has informed the Board of Supervisors that, as a result of administrative
24 oversight, the Resolution Proposing Amendments and the Election Resolution were not
25 signed by the Mayor prior to the election, and, as a result, the resolutions were not effective

1 prior to the election. In the Election Results Resolution, the Board of Supervisors ratified,
2 confirmed and approved the Resolution Proposing Amendments, the Election Resolution and
3 the election on the basis of its determination that, because all (100 percent) of the qualified
4 electors in the IRFD submitted waivers allowing for an accelerated election timeline and
5 waiving any requirement of applicable law pertaining to the conduct of the special election and
6 submitted ballots in favor of the propositions, there is no reasonable basis to conclude that the
7 mis-sequencing described above would have affected the outcome of the election.

8 Section 2. By the passage of this Ordinance this Board of Supervisors hereby declares
9 that (i) territory has been added to the IRFD and the boundaries of certain Initial Project Areas
10 have been amended as shown in the amended boundary map and described in the amended
11 legal descriptions that are included in the Amended IFP and (ii) the Amended IFP is hereby
12 adopted, all as provided in the proceedings for the IRFD and in the IRFD Law. The Board of
13 Supervisors hereby ratifies, approves and confirms all actions heretofore taken with respect to
14 the matters described in this ordinance, including the Resolution Proposing Amendments, the
15 Election Resolution, the Election Results Resolution and the election at which all of the
16 qualified electors voted in favor of the propositions.

17 Section 3. The Board of Supervisors has reviewed and considered the FEIR and finds
18 that the FEIR is adequate for its use for the actions taken by this Ordinance and incorporates
19 the FEIR and the CEQA findings contained in Board of Supervisors Resolution No. 246-11 by
20 this reference.

21 Section 4. If any section, subsection, sentence, clause, phrase, or word of this
22 ordinance, or any application thereof to any person or circumstance, is held to be invalid or
23 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
24 affect the validity of the remaining portions or applications of this ordinance, this Board of
25 Supervisors hereby declaring that it would have passed this ordinance and each and every

1 section, subsection, sentence, clause, phrase, and word not declared invalid or
2 unconstitutional without regard to whether any other portion of this ordinance or application
3 thereof would be subsequently declared invalid or unconstitutional.

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

8 Section 6. Under Section 53369.7 of the IRFD Law, any action or proceeding to attack,
9 review, set aside, void, or annul the addition of territory to the IRFD, the amended boundaries
10 of certain Initial Project Areas and the Amended IFP, including any action or proceeding citing
11 the technical errors or irregularities related to the election described above, must be
12 commenced within 30 days after the enactment of this ordinance.

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15 APPROVED AS TO FORM:
16 DAVID CHIU
City Attorney

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18 By: /s/ MARK D. BLAKE
19 MARK D. BLAKE
Deputy City Attorney
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