

File No. 220085

Committee Item No. _____

Board Item No. 24

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: March 8, 2022

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- Draft Acquisition & Reimbursement Agreement _____
- Draft Special Tax District Report _____
- Draft Notice of Special Tax Lien _____
- Draft Hearing Notice - To Establish Special Tax District _____
- Draft Hearing Notice - To Incur Bonded Indebtedness _____
- Ballot Template _____
- Draft Canvass & Statement of Results of Election _____
- Department of Election Memo - 1/25/22 _____
- Controllers Memo - 12/14/21 _____
- Capital Planning Committee Presentation - 12/13/21 _____
- Updated Draft Notice of Special Tax Lien _____

Prepared by: Lisa Lew

Date: March 4, 2022

Prepared by: _____

Date: _____

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.

12

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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**ACQUISITION AND REIMBURSEMENT AGREEMENT
(POWER STATION)**

by and between

**CITY AND COUNTY OF SAN FRANCISCO,
a public body, corporate and politic, of the State of California,**

and

**CALIFORNIA BARREL COMPANY LLC,
a Delaware limited liability company**

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LIST OF EXHIBITS

- Exhibit A Description of Acquisition Facilities and Privately-Owned Community Improvements to Be Financed for the Project
- Exhibit B Description of Acquisition Facilities, Components and Privately-Owned Improvements with Cost Estimates
- Exhibit C Form of Payment Request – Acquisition Facilities and Components
- Exhibit C-1 Acquisition Facilities and Components to Which Payment Request Applies
- Exhibit C-2 Calculation of Actual Cost
- Exhibit D Form of Payment Request – Privately-Owned Community Improvements
- Exhibit D-1 Privately-Owned Community Improvements to Which Payment Request Applies
- Exhibit D-2 Calculation of Actual Cost

**ACQUISITION AND REIMBURSEMENT AGREEMENT
(POWER STATION)**

This ACQUISITION AND REIMBURSEMENT AGREEMENT (including any Supplement, this “**Agreement**”), dated for reference purposes only as of _____, 2022, is by and between City and Developer. As used in this Agreement, capitalized terms used herein have the meanings given to them in Article 9. Capitalized terms used but not otherwise defined in Article 9 have the meanings given to them in the Development Agreement.

RECITALS

A. Financing Plan. The City and Developer have entered into the Development Agreement, to establish the contractual framework for mutual cooperation necessary to implement the Project.

Under the Development Agreement and Government Code Section 53314.9, the City agrees to acquire authorized improvements and reimburse Qualified Project Costs; Qualified Project Costs include the costs of acquiring and constructing publicly-owned improvements and improvements that are privately-owned for the public benefit.

B. Purpose of this Agreement. This Agreement describes the procedures by which, at Developer’s request, the City will (1) acquire Acquisition Facilities and pay the related purchase price and (ii) reimburse the costs of Privately-Owned Community Improvements.

C. Acknowledgements. The City and Developer acknowledge the following:

(1) Developer may construct authorized improvements before CFD Bond proceeds and Remainder Taxes (together, “Funding Sources”) that will be used to acquire them or pay related Qualified Project Costs, as applicable, are available.

(2) The City shall inspect such improvements and process payment requests even if Funding Sources for the amount of pending payment requests are not then sufficient to satisfy them in full.

(3) Acquisition Facilities to be acquired by the City may be conveyed to and accepted by the City before the applicable payment requests are paid in full. Likewise, Privately-Owned Community Improvements may be conveyed to the owner thereof before the applicable payment requests are paid in full.

(4) The unpaid balance of applicable payment requests shall be paid when sufficient Funding Sources become available, whether or not at such time the City or other Person has accepted the relevant improvements, to the extent permitted by Government Code Section 53313.51, and such payments may be made: (A) in any number of installments as Funding Sources become available; (B) irrespective of the length of time payment is deferred; and (C) except with respect to the final payment for any Acquisition Facility to be acquired by the City , prior to formal acceptance by the Governmental Entity of the Acquisition Facility that are the subject of such payment requests.

(v) Developer's conveyance or dedication of Acquisition Facilities to the City before the availability of Funding Sources to acquire such Acquisition Facilities is not a dedication or gift or a waiver of Developer's right to payment of such Acquisition Facilities under the Financing Plan or this Agreement. Likewise, Developer's conveyance or dedication of Privately-Owned Community Improvements to the applicable Person before the availability of Funding Sources to reimburse for such Privately-Owned Community Improvements is not a dedication or gift or a waiver of Developer's right to payment of such Privately-Owned Community Improvements under the Financing Plan or this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and City hereby agree as follows:

ARTICLE 1 FUNDING

1.1 Use of Funding Sources. This Agreement: (a) implements and is subject to all limitations of the Development Agreement and the Financing Plan; (b) will become effective on the full execution and delivery of this Agreement (the "**Effective Date**"); and (c) describes the procedures by which, at Developer's request, the City will use available Funding Sources to make payments to Developer for the Actual Costs (or such lesser amount required by Section 4.4(a) and Section 5.3(b)) of the Acquisition Facilities, Components or Privately-Owned Community Improvements, as contemplated in the Financing Plan. To the extent set forth in an Assignment and Assumption Agreement, Developer will mean a Transferee.

1.2 Exhibit A and Supplements to Exhibit A. The Parties intend Exhibit A to be a complete list of all items eligible and intended to be financed by Funding Sources under the Financing Plan. Exhibit A sets forth: (a) reasonably detailed descriptions of all of the Acquisition Facilities; and (b) reasonably detailed descriptions of all of the Privately-Owned Community Improvements. At any time, Developer may submit proposed Supplements to Exhibit A for review in accordance with Section 1.4 that describe in reasonable detail any proposed revisions or additions to the Acquisition Facilities and Privately-Owned Community Improvements.

1.3 Exhibit B and Supplements to Exhibit B. The Parties intend Exhibit B to be a refinement of Exhibit A as the Parties obtain more information about the Acquisition Facilities and Privately-Owned Community Improvements, and the Actual Costs that are to be reimbursed under this Agreement. At any time, Developer may submit proposed Supplements to Exhibit B for review in accordance with Section 1.4 that: (a) describe and provide detail on any portion of the Acquisition Facilities set forth on Exhibit A, including the identification and detail of any Components of the Acquisition Facilities; (b) provide estimates of the Actual Costs of any portion of the Acquisition Facilities set forth on Exhibit A, including of any Components thereof; (c) provide estimates of the Actual Costs of the Privately-Owned Community Improvements; and (d) otherwise update or modify any other information in Exhibit B. The Parties agree that the City will not be obligated to pay Developer for the Actual Costs (or such lesser amount required

by Section 4.4(a)) of an Acquisition Facility or a Component or for the Actual Costs (or such lesser amount required by Section 5.3(b)) of a Privately-Owned Community Improvements under this Agreement unless such Acquisition Facility or Component and its estimated Actual Cost or such Privately-Owned Community Improvement and its estimate Actual Cost is set forth on Exhibit B.

1.4 Review and Approval of Supplements. The Department of Public Works will be the lead City agency to facilitate coordinated review of the Project and will assist the City as provided under this Agreement. Except as specifically provided otherwise in this Agreement, the Department of Public Works will be the lead City agency responsible for review of Developer's estimated Actual Costs and of any changes to its estimates of Actual Costs of Acquisition Facilities and Components or Privately-Owned Community Improvements contained in any Supplements submitted under this Agreement, subject to the following:

(a) Upon Developer's written request, the Department of Public Works will meet with representatives of Developer to establish acceptable contents of any Supplements to Exhibit A or Exhibit B. Subject to subsection (b) below, the Department of Public Works will have thirty (30) calendar days after receipt of a proposed Supplement submitted with Developer's written request for review and approval to accept or object in writing to all or any portion of the proposed Supplement. Developer may resubmit any proposed Supplement to which the Department of Public Works has timely objected, and the Department of Public Works will have thirty (30) calendar days to review any resubmitted proposed Supplement. The term "**Supplement Review Period**" as used in this Agreement will mean the applicable period specified above in this Section 1.4(a). If the Department of Public Works fails to notify Developer in writing that a Supplement is disapproved within the Supplement Review Period, then the Supplement will be Deemed Approved.

(b) The Department of Public Works will only be required to review a proposed Supplement after it is complete and contains all of the information set forth in Section 1.2 or Section 1.3, as applicable, and any supporting materials reasonably requested in writing by the Department of Public Works in connection with the proposed Supplement. The Supplement Review Period will be tolled: (i) as to a Supplement for which the Department of Public Works has requested additional information or materials, until such requested information or materials have been provided to the Department of Public Works; and (ii) as to any additional Supplement proposed by Developer during any Supplement Review Period, until any previously-submitted Supplement has been reviewed and approved, timely objected to or Deemed Approved, unless the Parties agree to a different order of priority for the Department of Public Works' review. Within the Supplement Review Period, as it may be tolled under this Section 1.4(b), the Department of Public Works will send a notice of approval or disapproval to Developer. Any notice of disapproval must state with specificity the Department of Public Works' grounds for disapproval, which must be made in good faith and will be limited to the following:

(i) For disapproval of a proposed Supplement to Exhibit A:
(A) a proposed Acquisition Facility or Privately-Owned Community Improvement is not contemplated to be financed by the Development Agreement; or (B) a proposed Acquisition

Facility or Privately-Owned Community Improvement may not be financed under the Governing Acts or the Development Agreement.

(ii) For disapproval of a proposed Supplement to Exhibit B: (A) the specified Acquisition Facilities or Privately-Owned Community Improvements are not listed on Exhibit A; (B) specified Components are not components of the Acquisition Facilities listed on Exhibit A; (C) for an Acquisition Facility with an estimated Actual Cost of one million dollars (\$1,000,000) or less, a proposed Component is not a complete, functional portion of an Acquisition Facility; or (D) all or any portion of the specified Acquisition Facility or Privately-Owned Community Improvements are not eligible to be financed as components under the Governing Acts.

(c) Any proposed Supplement approved or Deemed Approved in accordance with this Section 1.4 will be made a part of Exhibit A or Exhibit B, as applicable, without further approval of the City.

1.5 Funding Sources.

(a) The City will not be obligated to pay all or any part of the Actual Cost of an Acquisition Facility or Component or a Privately-Owned Community Improvement under this Agreement except from Funding Sources or any other sources that are mutually agreed to by the City and Developer. Unless otherwise agreed to in writing by the parties, in no circumstances shall the City's General Fund, credit, taxing power (other than to the limited extent described in this Agreement) or revenues other than the Funding Sources be pledged or be available to pay all or any part of the Actual Cost of an Acquisition Facility or Component or Privately-Owned Community Improvement, nor shall the City have any liability to pay all or any part of the Actual Cost of an Acquisition Facility or Component or Privately-Owned Community Improvement if the Acquisition Facility, Component, or Privately-Owned Community Improvement is determined to be ineligible to be financed under the Governing Acts, even if the City or the Department of Public Works did not object to the Exhibit or Supplement listing it on the grounds of ineligibility.

(b) Developer acknowledges that if the City and Developer agree to issue escrow bonds as part of an issuance of CFD Bonds and funds are deposited in an escrow fund, escrowed amounts will become Funding Sources: (i) only after satisfaction of all escrow requirements and release from the escrow fund; and (ii) in the amounts specified in the applicable Indenture. The City agrees to take all reasonable actions necessary to cause the satisfaction of all the conditions to the release of funds from an escrow fund.

(c) The City makes no warranty, express or implied, that Funding Sources will be sufficient to pay for all of the Acquisition Facilities, Components, and Privately-Owned Community Improvements. Other than as contemplated by the Funding Sources or as otherwise agreed to in writing by the parties, in no circumstances shall the City's credit, taxing power (other than to the limited extent described in this Agreement) or General Fund or any revenues other than the Funding Sources be pledged to or be available to pay all or any part of the Actual Cost of an Acquisition Facility, Components or all or any part of any Privately-Owned Community Improvements.

1.6 Deposits of Funding Sources.

(a) The proceeds of any CFD Bonds will be deposited, held, invested, reinvested, and disbursed as provided in the respective Indenture, all in a manner consistent with the Financing Plan and this Agreement. The portion of the proceeds of any CFD Bonds that is used to fund reserves for debt service, to capitalize interest on the CFD Bonds, and to pay costs of issuance and administration will not constitute Funding Sources.

(b) Pursuant to the Financing Plan, under certain circumstances, a portion of Remainder Taxes generated from a CFD may be deposited and held in, and invested, reinvested, and disbursed from the applicable Remainder Taxes Project Account. Developer acknowledges that from and after the CFD Conversion Date for such CFD, without the consent of the City, any Remainder Taxes for a CFD deposited in the CFD's Remainder Taxes Project Account will not be available to pay the Actual Costs of Acquisition Facilities, Components or Privately-Owned Community Improvements.

(c) Developer agrees that the City alone will direct the investment of Funding Sources in accordance with the City's investment policy and all applicable laws and the applicable Indenture. The City will have no responsibility to Developer with respect to any investment of Funding Sources before their use under this Agreement, including any loss of all or a portion of the principal invested or any penalty for liquidation of an investment, even if a loss diminishes the amount of available Funding Sources.

1.7 Payment of Certain Costs. The City and Developer agree that certain professional and consulting costs that Developer incurs in connection with the issuance of CFD Bonds will be financed with proceeds of the CFD Bonds to the extent permitted by the applicable Governing Act.

ARTICLE 2
CONSTRUCTION OF ACQUISITION FACILITIES AND PRIVATELY-OWNED
COMMUNITY IMPROVEMENTS

2.1 Plan Documents. Developer will prepare and obtain approval by the City of all Plan Documents for the Acquisition Facilities and by such other relevant Person for the Privately-Owned Community Improvements in accordance with, and at the times necessary to comply with the provisions of the Development Agreement.

2.2 Obligation to Construct Acquisition Facilities and Privately-Owned Community Improvements. Developer's obligation to construct the Acquisition Facilities and the Privately-Owned Community Improvements is governed by the Development Agreement. This Agreement does not create an obligation to construct any Acquisition Facility, Component or Privately-Owned Community Improvement. This Article 2 applies only to those Acquisition Facilities, Components or Privately-Owned Community Improvements for which Developer seeks the payment of the Actual Costs under this Agreement.

2.3 Relationship to Public Works Contracting Requirements.

(a) This Agreement provides for the acquisition of the Acquisition Facilities and payment for Components and the Privately-Owned Community Improvements from time to time from Funding Sources and is not intended as a public works contract. The Parties acknowledge and agree that the Acquisition Facilities, Components and Privately-Owned Community Improvements are of local, and not state-wide, concern, and that the provisions of the California Public Contract Code do not apply to the construction of the Acquisition Facilities, Components or Privately-Owned Community Improvements. The City and Developer further acknowledge and agree that any public works contracting requirements of the City are not applicable to the construction and acquisition of the Acquisition Facilities, Components or Privately-Owned Community Improvements. Nothing in this Section 2.3(a) shall limit or alter the requirements of the Development Agreement, including without limitation, the payment of prevailing wages as set forth in the Development Agreement.

(b) Developer agrees to award all contracts and execute all contract change orders for construction of the Acquisition Facilities, Components and Privately-Owned Community Improvements in a manner consistent with the Development Agreement.

(c) From time to time at the request of the City, representatives of Developer must meet and confer with the City and Department of Public Works staff, consultants, and contractors regarding matters arising under this Agreement with respect to the Acquisition Facilities, Components or Privately-Owned Community Improvements, compliance with City bidding requirements, and the progress in constructing and acquiring the same, and as to any other matter related to the Acquisition Facilities, Components or Privately-Owned Community Improvements or this Agreement. The City and Department of Public Works staff will have the right: (i) to attend (and at the request of Developer will attend) meetings between Developer and its contractors relating to the Acquisition Facilities, Components and Privately-Owned Community Improvements; and (ii) to meet and confer with individual contractors and Developer if deemed advisable by the City to resolve disputes or ensure the proper completion of the Acquisition Facilities, Components and Privately-Owned Community Improvements.

2.4 Independent Contractor.

(a) In performing under this Agreement, Developer is an independent contractor and not the agent or employee of the City or the CFD. Except as otherwise provided in this Agreement, none of the City or the CFD will be responsible for making any payments to any contractor, subcontractor, agent, consultant, employee, or supplier of Developer.

(b) The City has determined that it would obtain no advantage by directly undertaking the construction of the Acquisition Facilities or the Privately-Owned Community Improvements, and the City and Developer hereby agree that the Acquisition Facilities and Privately-Owned Community Improvements shall be constructed by Developer as if they had been constructed under the direction and supervision, or under the authority, of the City.

ARTICLE 3
ACQUISITION AND PAYMENT OF ACQUISITION FACILITIES

3.1 Inspection.

(a) This Article 3 applies only to those Acquisition Facilities and Components for which Developer seeks the payment of Actual Costs under this Agreement. Components may only be financed to the extent allowed under the applicable Governing Act. This Article 3 does not apply to Privately-Owned Community Improvements.

(b) Except as set forth in Section 3.3, the City will not be obligated to pay the Actual Costs (or such lesser amount required by Section 4.4(a)) of Acquisition Facilities or Components under this Agreement to Developer until the applicable Acquisition Facility or Component has been inspected and found by the Director of Public Works to be Ready for Payment. For purposes of clarification, for a Component that is dependent on the completion of other Components to actually be operational, the term "ready for intended use" means only that the Component has been constructed in accordance with the applicable Plan Documents and is capable of being operational when the other Components are completed.

(c) For Acquisition Facilities and Components to be acquired by the City, the Director of Public Works will arrange for the inspection to commence within five (5) Business Days following receipt of Developer's written request to inspect Acquisition Facilities or Components that Developer believes in good faith are Ready for Payment (the "**Inspection Request**"). The inspection will be conducted with due diligence and in a reasonable time given the scope of the inspection but not to exceed twenty-one (21) calendar days. Within five (5) Business Days following the completion of the inspection, the Director of Public Works shall notify Developer of the results of the inspection by providing a Completion Confirmation or by providing a punch list of items to be corrected.

3.2 Agreement to Sell and Purchase Acquisition Facilities. Developer agrees to sell Acquisition Facilities and Components to the City, and the City agrees to use available Funding Sources to pay the Actual Cost of the Acquisition Facilities and Components to Developer, subject to this Agreement (including, but not limited to, Section 4.4(a)) and the Financing Plan.

3.3 Component Financing.

(a) Section 53313.51 of the CFD Act authorizes the purchase of a Component of an Acquisition Facility where such Acquisition Facility has an estimated cost of up to one million dollars (\$1,000,000), but only if the Component is capable of serviceable use as determined by the City. Subject to the availability of Funding Sources, the City agrees to pay to Developer the Actual Costs (or such lesser amount required by Section 4.4(a)) of such Components under this Section 3.3(a) before: (i) completion of the Acquisition Facility of which the Component is a part (unless it is the final Component of an Acquisition Facility); or (ii) the transfer to the City of title to the Acquisition Facility and the property underlying applicable Component. A reasonably detailed description and estimated Actual Cost of each Component to

be financed under this Section 3.3(a) must be listed on Exhibit B (either originally or through an approved or Deemed Approved Supplement).

(b) If the estimated cost of an Acquisition Facility exceeds one million dollars (\$1,000,000), section 53313.51 of the CFD Act authorizes the purchase of Components whether or not the Components are capable of serviceable use. Subject to the availability of Funding Sources, the City agrees to pay to Developer the Actual Costs (or such lesser amount required by Section 4.4(a)) of such Components under this Section 3.3(b) before: (i) completion of the Acquisition Facility of which the Component is a part (unless it is the final Component of an Acquisition Facility); or (ii) the transfer to the City of title to the Acquisition Facility and the property underlying the Component. A reasonably detailed description and estimated Actual Cost of each Component to be financed under this Section 3.3(b) must be listed on Exhibit B (either originally or through an approved or Deemed Approved Supplement).

(c) Developer acknowledges that the City will not be obligated to accept an Acquisition Facility of which a Component is a part until the entire Acquisition Facility has been constructed and determined to be Complete as required under the Development Agreement. The City acknowledges that a Component does not have to be accepted by the City as a condition precedent to the payment of the Actual Costs (or such lesser amount required by Section 4.4(a)) of the Component.

(d) The procedures for payment of the Actual Cost of a Component described in this Section 3.3 will be governed by Article 4.

3.4 Defective or Nonconforming Work. If the Director of Public Works finds any of the work done or materials furnished for an Acquisition Facility or Component to be defective or not in conformance with the applicable Plan Documents and the Applicable Standards and such finding is made: (a) prior to payment of the Actual Costs (or such lesser amount required by Section 4.4(a)) of such Acquisition Facility or Component, the City may withhold the applicable payment until such defect or nonconformance is corrected to the satisfaction of the Director of Public Works; or (b) after payment of the Actual Costs (or such lesser amount required by Section 4.4(a)) of such Acquisition Facility or Component, then the Development Agreement will govern cure rights and obligations.

3.5 Conveyance of Land, Title. The transfer of, maintenance of, and right of entry with respect to all land on, in, or over which any of the Acquisition Facilities will be located will be governed by the Development Agreement and the Applicable Standards.

ARTICLE 4

PAYMENT REQUESTS FOR ACQUISITION FACILITIES AND COMPONENTS

4.1 Payment Requests. This Article 4 applies only to those Acquisition Facilities and Components for which Developer seeks the payment of Actual Costs under this Agreement. This Article 4 does not apply to Privately-Owned Community Improvements.

(a) To initiate the process for payment of the Actual Cost of an Acquisition Facility or Component, Developer must deliver to the Director of Public Works a Payment Request in the form of Exhibit C that contains all relevant information, including the

identity of all Funding Sources that are eligible to be used to pay it (the “**Identified Funding Sources**”), together with all required attachments and exhibits, all in an organized manner. Required attachments include:

- (i) a copy of the Completion Confirmation; and
- (ii) Proof of Payment evidencing that the Actual Costs were previously incurred and, if applicable, paid, for the Acquisition Facility or Component.

(b) Any Payment Request for a Component must be supported by the following documentation:

- (i) a statement specifying each contractor, subcontractor, materialman, and other Person with whom Developer or its contractor has entered into contracts or contract change orders with respect to any Component included in the Payment Request and, for each of them: (A) the amount of each such contract; and (B) the amount of the requested Actual Cost attributable to each specific contractor, subcontractor, materialman, and other Person; and

- (ii) duly executed unconditional or conditional lien releases and waivers (in the applicable form provided in Calif. Civil Code § 3262) from all contractors, subcontractors, materialmen, consultants, and other Persons retained by Developer in connection with the Component, under which each such Person unconditionally or conditionally waives all lien and stop notice rights with respect to the pending payment.

(c) A Payment Request for a Completed Acquisition Facility will be complete only after Developer has submitted all of the following documents, to the extent applicable:

- (i) if the real property on which the Acquisition Facility is located is not owned by the City at the time of the request, a copy of the recorded document(s) conveying Acceptable Title to the real property to the City;

- (ii) a copy of the Completion Confirmation;

- (iii) an executed assignment of any warranties and guaranties for the Acquisition Facility, in a form acceptable to the City;

- (iv) as-built drawings and an executed assignment of the Plan Documents, to the extent reasonably obtainable;

- (v) assignment of any and all rights of Developer to reimbursement from Third Parties with respect to the Actual Costs that are the subject of the Payment Request;

- (vi) an executed bill of sale for any utility substructures (e.g. vaults, conduits, etc.) that are the subject of the Payment Request, if applicable; and

(vii) duly executed unconditional or conditional lien releases and waivers (in the applicable form provided in Calif. Civil Code § 3262) from all contractors, subcontractors, materialmen, consultants, and other Persons retained by Developer in connection with the Acquisition Facility, under which each such Person unconditionally or conditionally waives all lien and stop notice rights with respect to the pending payment.

(d) Developer will specify the “**Developer Allocation**” that is included in the calculation of the Actual Cost in Exhibit C-2 to each Payment Request under this Article 4, showing how Developer has allocated the following costs paid or incurred by Developer (as applicable):

(i) costs that apply to more than one Acquisition Facility or Component (e.g., soft costs), as allocated between the Acquisition Facilities or Components;

(ii) costs that apply to both Acquisition Facilities or Components and other improvements (e.g., grading), as allocated between the Acquisition Facilities or Components and the other improvements; and

(iii) amounts paid to the City that apply to more than one Acquisition Facility or Component (e.g., inspection fees, plan review fees, etc.), as allocated between the Acquisition Facilities or Components.

4.2 Processing Payment Requests for Acquisition Facilities and Components.

(a) Within ten (10) calendar days after receipt of any Payment Request, the Director of Public Works will review the Payment Request to: (i) determine that it is complete; or (ii) determine that the Payment Request is incomplete and to request additional information and documentation reasonably necessary for the Director to complete the review. If the Director of Public Works fails to notify Developer within the 10-calendar day review period that a Payment Request is incomplete, the Payment Request will be deemed complete. Developer agrees to cooperate with the Director of Public Works in conducting each such review and to provide the Director of Public Works with such additional information and documentation as is reasonably necessary for the Director of Public Works to conclude each such review.

(b) Within thirty (30) calendar days after the date a Payment Request is determined or deemed to be complete under Section 4.2(a), the Director of Public Works will review the Payment Request to confirm that all conditions in Article 3 and Section 4.1 have been satisfied, to the extent applicable, and provide notice to Developer either that: (i) the Payment Request is approved (which will be confirmed by counter-signing the Payment Request); or (ii) the Payment Request is disapproved in whole or in part, specifying in the notice the portion of the Payment Request that is disapproved and the reason(s) for disapproval. If the Payment Request is disapproved in part, the Director of Public Works will forward the Payment Request to the City for partial payment under Section 4.3, together with a copy of the Director’s notice of disapproval to Developer. Developer may resubmit any Payment Request disapproved in whole or in part with additional supporting documentation, and the Director of Public Works will review it within the amount of time that is reasonable in light of the materiality of the reasons for the disapproval, not to exceed fourteen (14) calendar days. If the Director of Public Works fails

to notify Developer within the review period that a Payment Request is approved or disapproved, then the Payment Request will be Deemed Approved.

(c) The period within which the Director of Public Works must review a Payment Request under Section 4.2(a) or Section 4.2(b) will be tolled: (i) as to any Payment Request, until Developer has provided any additional information or documentation that the Director of Public Works has requested under Section 4.2(a) or Section 4.2(b); and (ii) as to any additional Payment Request submitted by Developer during the review period under Section 4.2(a) or Section 4.2(b), until all previously-submitted Payment Requests have been reviewed and approved, disapproved or Deemed Approved, unless the Parties agree to a different order of priority for review by the Director of Public Works.

(d) The process for review of the Payment Requests is subject to Article 6.

4.3 Payment.

(a) Within five (5) Business Days after (i) approving a Payment Request or after the Deemed Approval of a Payment Request, and (ii) receipt of the Completion Confirmation, the Director of Public Works will forward the counter-signed approved Payment Request to the Director of Public Finance. If the Director of Public Works has not forwarded a counter-signed approved Payment Request within that period, Developer will have the right to deliver the unsigned Payment Request, together with proof of its delivery to the Director of Public Works, directly to the Director of Public Finance, with a copy to the Director of Public Works.

(b) The Developer Allocations will be presumed to be reasonable and will be accepted for all purposes of this Agreement unless the Director of Public Works notifies Developer of the City's good-faith objection to the Developer Allocation shown in the Payment Request within five (5) Business Days after the Director of Public Works receives the unsigned Payment Request and proof of delivery from Developer. If the Director of Public Works has timely objected to the Developer Allocation, then the Director of Public Works and Developer will promptly meet and confer in an attempt to agree on how to allocate such costs on a reasonable basis (the "**Agreed-Upon Allocation**").

(c) The City must pay the Actual Costs (or such lesser amount required by Section 4.4(a)) to the extent of available Identified Funding Sources within fifteen (15) Business Days after the City's receipt of a counter-signed approved Payment Request (or an unsigned Payment Request and proof of delivery). If the City objected to the Developer Allocation under Section 4.3(b), then the City may withhold payment only of the amount of the Developer Allocation that is the subject of the City's objection, and all undisputed portions of the Developer Allocation shall be paid to the Developer. When the City and Developer agree on the Agreed-Upon Allocation, any portion of the Developer Allocation that was withheld but that the City and Developer have agreed is part of the Agreed-Upon Allocation will be paid by the City to Developer within fifteen (15) Business Days thereafter. At the written request of Developer, the City will make payments under any approved or Deemed Approved Payment Requests directly to a Third Party, such as a contractor or supplier of materials.

4.4 Restrictions on Payments for Acquisition Facilities and Components. The following restrictions will apply to any payments made to Developer under Section 4.3:

(a) The total amount paid for any Acquisition Facility or Component must not exceed the lesser of the Actual Cost or value. Any Acquisition Facility or Component constructed in accordance with the Plan Documents will be presumed to have a value equal to its Actual Cost unless either Developer or the City provides evidence that extraordinary costs have been incurred. Promptly following the notice, the Director of Public Works and Developer will meet and confer to review the Actual Costs and make a reasonable determination of value. The Parties acknowledge and agree that all payments to Developer for the Actual Costs are intended to be payments to Developer for monies already expended or for immediate payment by Developer (or directly by the City) to Third Parties. Costs will not constitute extraordinary costs unless the City can demonstrate that the costs are commercially unreasonable under the circumstances.

(b) Subject to Section 4.4(e), the City will withhold final payment for any Completed Acquisition Facility (but not for any Component that is not the final Component of an Acquisition Facility) constructed in, on, or over land, until Acceptable Title to such land has been conveyed to the City if required under Section 4.1(c).

(c) Subject to Section 4.4(e), the City may withhold final payment for any Completed Acquisition Facility (if it has no Components) or the final Component of any Completed Acquisition Facility until: (i) the Completed Acquisition Facility has been finally inspected as provided in Section 3.1; (ii) the Acceptance Date for the Acquisition Facility has occurred and the requirements of Section 4.1 have been satisfied to the extent applicable; and (iii) general lien releases for the Acquisition Facility (conditioned solely upon payment from Funding Sources to be used to acquire such Acquisition Facility or final Component) have been submitted to the Director of Public Works.

(d) Nothing in this Agreement prohibits Developer from contesting in good faith the validity or amount of any mechanics' or materialman's lien or limits the remedies available to Developer with respect to such liens so long as any resulting delays do not subject the Acquisition Facilities or any Component to foreclosure, forfeiture, or sale. If Developer contests any such lien, Developer will only be required to post or cause the delivery of a bond in an amount equal to the amount in dispute with respect to any such contested lien, so long as such bond is drawn on an obligor and is otherwise in a form acceptable to the Director of Public Works. In addition, the City agrees that Developer will have the right to post or cause the appropriate contractor or subcontractor to post a bond with the City to indemnify the City and the City for any losses sustained by the City or the City because of any liens that may exist at the time of acceptance of such an Acquisition Facility, so long as such bond is drawn on an obligor and is otherwise in a form acceptable to the Director of Public Works.

(e) The City will be entitled to withhold from the amounts payable under each Payment Request a portion for retention as authorized by City policies and procedures that constitute Applicable Standards, but in any case not to exceed ten percent (10%) of the amount of the Actual Cost of an Acquisition Facility or Component. The City will be

obligated to release any retention it withholds in accordance with applicable City policies and procedures.

4.5 Additional Notice for Deemed Approval. Deemed Approval in those circumstances described in this Agreement will only occur following satisfaction of the following conditions:

(a) Developer must send notice by electronic mail, addressed to one or more line staff responsible for the specific matter for which approval is sought at least five, but no more than seven, business days before the response period has ended, stating in the subject line, “Immediate Action Required To Avoid Deemed Approval” or words to the same effect.

(b) If the electronic mail notice under clause (a) is not delivered timely, the City will not be deemed to have approved until the sixth business day after the notice is delivered. The response may be delivered by the addressee or other person authorized to act on the

ARTICLE 5 PAYMENT REQUESTS FOR PRIVATELY-OWNED COMMUNITY IMPROVEMENTS

5.1 Authorized Payments. This Article 5 applies only to Privately-Owned Community Improvements for which Developer seeks reimbursement under this Agreement.

5.2 Processing Payment Requests for Privately-Owned Community Improvements.

(a) To initiate the process for payment for a Privately-Owned Community Improvement, Developer must deliver to the Director of Public Works a Payment Request in the form of Exhibit D that contains all relevant information, including the Identified Funding Sources, together with all required attachments and exhibits, all in an organized manner. Required attachments to each Payment Request include:

(i) an inspection report signed by the authorized representative of the Developer or the owner of such Privately-Owned Community Improvement certifying that the Privately-Owned Community Improvement was constructed in accordance with Approvals and permits issued by the City and/or any Non-City Responsible Agencies, as applicable;

(ii) a final certificate of occupancy issued by the applicable City agency for the Privately-Owned Community Improvement;

(iii) acceptable forms of proof of payment for the Qualified Project Costs to be reimbursed;

(iv) other documents specified in the Development Agreement, including, without limitation, the offer in perpetuity for Privately-Owned Public Open Spaces (as defined in the Development Agreement) to be used for the

enjoyment and benefit of the public for open space and recreational purposes only required by Development Agreement Exhibit L-2; and

(v) other documents specified in Exhibit D (Form of Payment Request) to the extent applicable.

(vi) a completed copy of Exhibit D1 specifying each contractor, subcontractor, materialman, and other person with whom Developer or its contractor has entered into contracts with respect to any Privately-Owned Community Improvement included in the Payment Request;

(vii) the contract amount for each contract; and

(viii) signed and acknowledged lien releases and waivers (in the required statutory forms) from all contractors, subcontractors, materialmen, consultants, and other persons that Developer retained in connection with the Privately-Owned Community Improvement, in each instance unconditionally or conditionally waiving all lien and stop notice rights with respect to the pending payment.

(b) Cost Allocation. Developer will provide its cost allocation proposal for the categories of Actual Costs listed below. Developer's cost allocation proposal in a Payment Request will be presumed to be reasonable for purposes of this Acquisition Agreement unless the Director of Public Works notifies Developer of the City's good-faith reasonable objection to the cost allocation proposal within 10 days after Developer delivers the Payment Request to the Director of Public Works.

(i) Soft costs that apply not only to the Privately-Owned Community Improvement but also Acquisition Facilities and Vertical Improvements, such as design fees and inspection and review fees, will be allocated to the related hard costs.

(ii) Whenever hard costs and soft costs apply to both Privately-Owned Community Improvements, Acquisition Facilities and Project costs that are not Qualified, such costs will be allocated between Project Costs that are Qualified and those that are not.

(c) Review Process. The process for review of the Payment Requests for Privately-Owned Community Improvements is subject to Article 6.

5.3 Payment.

(a) Processing of Payment Requests. Payment Requests for Privately-Owned Community Improvements shall be processed pursuant to Sections 4.2, 4.3 and 4.4(a) above.

(b) Maximum Reimbursement Amount. The total amount paid for any Privately-Owned Community Improvement must not exceed the lesser of the Actual Cost or value.

ARTICLE 6
PAYMENT REQUESTS GENERALLY; VESTING; COVENANTS

6.1 Application of Payment Requests.

(a) Each Payment Request will be numbered consecutively. Each Payment Request will be assigned the next available number when submitted to the Director of Public Works, pursuant to Section 4.2 and Section 5.3.

(b) Each Payment Request will identify the Development Phase in which the work is being conducted or to which the reimbursement is allocated and all the Identified Funding Sources that are eligible to be used to pay it.

(c) The City will satisfy a Payment Request only from the Identified Funding Sources.

(d) The City shall not satisfy a Payment Request out of any Funding Sources while Developer is in default in the payment of any ad valorem taxes or CFD special taxes levied on any parcel that it then owns or while Developer is in Default under the Development Agreement.

(e) The City and Developer acknowledge that proceeds of Funding Sources may be applied to the payment of a Payment Request only to the extent that the costs of the Acquisition Facility, Component, or Privately-Owned Community Improvement are Qualified.

(f) Payment Requests may be paid: (i) in any number of installments as Identified Funding Sources become available; and (ii) irrespective of the length of time of such deferral of payment.

6.2 Partial Payments; Vested Payment Requests. If Identified Funding Sources are not sufficient to pay the full amount of a Payment Request, then the City will pay the Payment Request to the extent of available Identified Funding Sources and notify Developer of the amount of the remaining portion. The right to the payment of the remaining portion of the Payment Request from the Identified Funding Sources will vest in the payee of such Payment Request (the “**Vested Payment Request**”). Promptly following the availability of Identified Funding Sources, the City will, from time to time and in as many installments as necessary, pay any Vested Payment Request. The Vested Payment Request will be paid from such Identified Funding Sources to the payee of such Vested Payment Request in the chronological order of the number of the Payment Request. Unpaid Vested Payment Requests will be paid from the Identified Funding Sources in their relative order of priority under this Section 6.2 before Identified Funding Sources may be used for any other purposes under this Agreement regardless of: (a) the identity of the owner of any property in the Project Site at the time of the payment of the Vested Payment Request; (b) whether the payee under the Vested Payment Request is, at the time of payment, a Party or a party to the Development Agreement; and (c) whether the

Development Agreement has been terminated or assigned to or assumed by another Person. This Section 6.2 will survive termination of this Agreement and the Development Agreement.

6.3 Miscellaneous.

(a) Communications requesting additional information about and notices of approval or disapproval of a Supplement or a Payment Request or the insufficiency of Identified Funding Sources to pay an approved or Deemed Approved Payment Request in full may be made in any written form for which receipt may be confirmed, including facsimile, electronic mail, and certified first class mail, return receipt requested. Such communications will be effective upon receipt, or, if delivered after 5 p.m. or on a weekend or holiday, the next Business Day.

(b) All proposed Supplements and Payment Requests submitted to the Director of Public Works must be sent by certified first class mail - return receipt requested, personal delivery, or receipted overnight delivery. Payment Requests must be clearly marked: "Payment Request No. _____; Power Station; Attn: _____." Delivery of a Supplement or Payment Request to the Director of Public Works will be effective on the actual date of delivery, or, if delivered after 5 p.m. or on a weekend or holiday, the next Business Day. Copies of Payment Requests must be delivered in the same manner as the original.

(c) Except as provided in this Agreement, the City agrees that it will not withhold payment on any undisputed portion of a Payment Request, and that the City will be entitled to withhold payment only on a disputed portion of a Payment Request.

(d) In connection with processing any request under this Agreement (including Payment Requests and Supplements), the City agrees that any additional information request by the Director of Public Works to Developer must be submitted as soon as practicable following the submission of the original materials, but in any event prior to applicable deadlines required by this Agreement. The Director of Public Works will use its good faith efforts to make each additional information request comprehensive and thorough to minimize the number of requests delivered, and Developer will use its good faith efforts to provide a thorough, organized, and complete response to each request. Developer is authorized to communicate directly with the Director of Public Works and its designees, agents, and contractors to facilitate any additional information request, to facilitate the prompt resolution of any technical issues, and to minimize the amount of time it takes to resolve outstanding issues.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of Developer. Developer represents and warrants to and for the benefit of the City that:

(a) Developer is a limited liability company duly organized and validly existing under the laws of the State of Delaware, is qualified to transact business and is in good standing in the State of California, is in compliance with the laws of such state, and has the

power and authority to own its properties and assets and to carry on its business as now being conducted.

(b) Developer has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by Developer.

7.2 Representations and Warranties of the City. The City represents and warrants to and for the benefit of Developer that:

(a) The City is a duly formed corporate body under the Constitution, the laws of the State of California and its charter, is in compliance with the Constitution, the laws of the State of California and its charter, and has the power and authority to own its properties and assets and to carry on its business as now being conducted.

(b) The City has the power and authority to enter into this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by the City.

ARTICLE 8 MISCELLANEOUS

8.1 Limited Liability of the City. Except as otherwise provided in the Development Agreement, Developer agrees that any and all obligations of the City arising out of or related to this Agreement are special and limited obligations of the City, and the City's obligations to make any payments under this Agreement to implement the Financing Plan are restricted entirely to available Funding Sources as provided in the Financing Plan and from no other source. Unless otherwise agreed to in writing by the parties, in no circumstances shall the City's credit, taxing power (other than to the limited extent described in this Agreement) or General Fund or any revenues other than the Funding Sources be pledged to or be available to pay all or any part of the Actual Cost of an Acquisition Facility, Components or a Privately-Owned Community Improvement. No member of the Board of Supervisors, or City staff member or employee will incur any liability under this Agreement to Developer in their individual capacities by reason of their actions under this Agreement or execution of this Agreement. It is understood and agreed that no commissioners, members, officers, or employees of the City (or of its successors or assigns) will be personally liable to Developer, nor will any officers, directors, shareholders, agents, or employees of Developer (or of its successors or assigns) be personally liable to the City in the event of any default or breach of this Agreement by the City or for any amount that may become due to Developer or the City, as the case may be, under this Agreement or for any obligations of the Parties under this Agreement.

8.2 Attorneys' Fees.

(a) Should any Party institute any action or proceeding in court or other dispute resolution mechanism permitted or required under this Agreement, the prevailing party shall be entitled to receive from the losing party the prevailing party's reasonable costs and

expenses incurred including, without limitation, expert witness fees, document copying expenses, exhibit preparation costs, carrier expenses and postage and communication expenses, and such amount as may be awarded to be reasonable attorneys' fees and costs for the services rendered the prevailing party in such action or proceeding. Attorneys' fees under this Section 8.2 shall include attorneys' fees on any appeal.

(b) For purposes of this Agreement, reasonable fees of a Party's in-house attorneys shall be no more than the average fees regularly charged by private attorneys with an equivalent number of years of professional experience in the subject matter area of the law for which such attorneys services were rendered who practice in the City in law firms with approximately the same number of attorneys as employed by the applicable Party.

8.3 Notices. Except as provided in Sections 6.3(a) and (b), any notices to be provided under this Agreement must be delivered to the addresses and in the manner set forth in the Development Agreement.

8.4 Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the successors and assigns of the Parties, as governed by the Development Agreement. This Agreement may be assigned only in connection with an assignment of the Development Agreement that is permitted in accordance with its terms.

8.5 Other Agreements. The obligations of Developer under this Agreement will be those of a Party and not as an owner of property in the Project Site. Nothing in this Agreement may be construed as affecting the City's or Developer's rights, or duties to perform their respective obligations under the Development Agreement and any Applicable Standards. If this Agreement creates ambiguity in relation to or conflicts with any provision of the Financing Plan, the Financing Plan will prevail.

8.6 Waiver. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, or the failure by a Party to exercise its rights upon the default of the other Party, will not constitute a waiver of such Party's right to later insist upon and demand strict compliance by the other Party with the terms of this Agreement. Deemed Approval of a Supplement or Payment Request will not constitute a waiver of the right of the City or the Director of Public Works, as applicable, to obtain information and documents that would have been required for a proposed Supplement or Payment Request to be complete.

8.7 Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to or will be construed to confer upon or to give to any person or entity other than the City and Developer any rights, remedies or claims under or by reason of this Agreement or any covenants, conditions, or stipulations of this Agreement; and all covenants, conditions, promises, and agreements in this Agreement contained by or on behalf of the City or Developer will be for the sole and exclusive benefit of the City and Developer, subject to Section 8.4.

8.8 Amendment. This Agreement may be amended from time to time by the written agreement of the City and Developer, including a Supplement, executed by the City and Developer or otherwise approved or Deemed Approved under Section 1.4. The Parties agree that changes to the forms of the Payment Requests as needed to make adjustments to clarify and

expedite the payment process under this Agreement are ministerial in nature and do not require an amendment to this Agreement.

8.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, and all of which together shall constitute one and the same instrument. This Agreement shall become effective when the Parties have duly executed and delivered signature pages of this Agreement to each other. Delivery of this Agreement may be effectuated by hand delivery, mail, overnight courier or electronic communication (including by PDF sent by electronic mail, facsimile or similar means of electronic communication). Any signatures (including electronic signatures) delivered by electronic communication shall have the same legal effect as physically delivered original signatures.

8.10 Interpretation of Agreement. Unless otherwise specified, whenever in this Agreement reference is made to any capitalized Article, Section, Exhibit, Attachment, Supplement or any defined term, the reference will mean the Article, Section, Exhibit, Attachment, Supplement or defined term in this Agreement. Any reference to an Article or a Section includes all subsections, clauses, and subparagraphs of that Article or Section. The use in this Agreement of the words “including”, “such as”, or words of similar import when following any general term, statement or matter will not be construed to limit the statement, term or matter to the specific statements, terms or matters, whether or not language of non-limitation, such as “without limitation” or “but not limited to”, or words of similar import, is used. In the event of a conflict between the Recitals and the remaining provisions of this Agreement, the remaining provisions will prevail.

8.11 Numbers.

(a) Generally. For purposes of calculating a number under this Agreement, any fraction equal to or greater than one half (1/2) shall be rounded up to the nearest whole number and any fraction less than one half (1/2) shall be rounded down to the nearest whole number.

(b) Number of Days. References in this Agreement to days shall be to calendar days, unless otherwise specified; provided, that if the last day of any period to give notice, reply to a notice, meet a deadline or to undertake any other action occurs on a day that is not a Business Day, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding Business Day.

ARTICLE 9 DEFINITIONS

9.1 Definitions.

“**Acceptable Title**” means title to real property or interest in real property free and clear of all liens, taxes, assessments, leases, easements, and encumbrances, whether or not recorded, except for: (a) those determined not to interfere materially with the intended use of such real

property; (b) those required to satisfy the terms of the Development Agreement; and (c) if the lien is for any existing CFD, then the lien of the special taxes shall be a permitted exception to title so long as the real property, while owned by the City, is exempt from the special tax to be levied by the CFD.

“**Acceptance Date**” means the date that an action by the City to accept dedication of or transfer of title to an Acquisition Facility becomes final.

“**Acquisition Facilities**” means the Infrastructure, Parks and Open Spaces and Public Improvements that the Developer is required to construct under the Development Agreement shown in Exhibit A, as such exhibit may be amended or supplemented from time to time in accordance with the provisions of this Agreement.

“**Actual Cost**” means Qualified Project Costs of an Acquisition Facility, Component or Privately-Owned Community Improvement (which includes any applicable Developer Allocation or Agreed-Upon Allocation).

“**Agreed-Upon Allocation**” is defined in Section 4.3(b).

“**Agreement**” is defined in the introductory paragraph.

“**Applicable Standards**” is defined in the Development Agreement.

“**Approvals**” is defined in the Development Agreement.

“**Assignment and Assumption Agreement**” is defined in the Development Agreement.

“**Board of Supervisors**” is defined in the Development Agreement.

“**Business Day**” is defined in the Development Agreement.

“**CFD**” is defined in the Financing Plan.

“**CFD Act**” is defined in the Financing Plan.

“**CFD Bonds**” is defined in the Financing Plan.

“**CFD Conversion Date**” is defined in the Financing Plan.

“**City**” means the City and County of San Francisco, a public body, corporate and politic, of the State of California.

“**Complete**” (or its variant “**Completion**” or “**Completed**”) is defined in the Development Agreement.

“**Component**” means a component or phase of an Acquisition Facility shown in Exhibit B, as amended from time to time by an approved or Deemed Approved Supplement.

“Completion Confirmation” means, as the context requires, a Determination of Completion or a Notice of Component Completion issued by the Director of Public Works under Section 3.1(c) with respect to an Acquisition Facility or Component, respectively.

“Deemed Approved” or **“Deemed Approval”** means a Supplement or Payment Request that will be treated as approved in the form submitted for all purposes under this Agreement due to the expiration of any applicable review and approval periods provided in this Agreement, subject to the final sentence of Section 1.5(a) and Section 4.5.

“Default” is defined in the Development Agreement.

“Department of Public Works” is defined in Section 1.4.

“Determination of Completion” means a written notice from the Director of Public Works that an Acquisition Facility has been approved as inspected. The form of the written notice shall be the form customarily provided by the Director of Public Works to evidence the completion and approval of the inspection of a facility.

“Developer” is defined in the Development Agreement.

“Developer Allocation” is defined in Section 4.1(d).

“Development Agreement” is defined in the Financing Plan.

“Development Phase” is defined in the Development Agreement.

“Director of Public Works” means the Director of Public Works of the City (or any successor officer designated by or under law) or the Director’s authorized designee, acting in that capacity under this Agreement.

“DRDAP” means the design review and document approval procedures for the Project Site attached to the Development Agreement as Exhibit E, as may be amended or supplemented from time to time.

“Effective Date” is defined in Section 1.1.

“Financing Plan” is defined in the Development Agreement.

“Funding Sources” is defined in the Financing Plan, and is subject to the limitations on the use of those funds set forth in the Financing Plan.

“Governing Acts” means, as applicable, the CFD Act, or the laws governing the issuance of CFD Bonds.

“Identified Funding Sources” is defined in Section 4.1(a).

“Indenture” is defined in the Financing Plan.

“Infrastructure” is defined in the Development Agreement.

“Inspection Request” is defined in Section 3.1(c).

“Non-City Responsible Agencies” is defined in the Development Agreement.

“Notice of Component Completion” means a written notice of the Director of Public Works that a Component has been approved as inspected. The form of the written notice shall be the form customarily provided by the Director of Public Works to evidence the completion and approval of the inspection of a facility with appropriate changes to reflect that the Director of Public Works is not accepting dedication or transfer of title to an Acquisition Facility of which the Component is a part.

“Parks and Open Spaces” is defined in the Development Agreement.

“Party” or **“Parties”** means, individually or collectively as the context requires, Developer and the City.

“Payment Request” means a document to be used by Developer in requesting payment for: (a) the Actual Costs of an Acquisition Facility or Component, substantially in the form of Exhibit C; or (b) the Actual Costs of a Privately-Owned Community Improvement, substantially in the form of Exhibit D.

“Person” is defined in the Development Agreement.

“Plan Documents” is defined in the Development Agreement.

“Privately-Owned Community Improvements” is defined in the Development Agreement.

“Project” is defined in the Development Agreement.

“Project Costs” is defined in the Financing Plan.

“Project Site” is defined in the Development Agreement.

“Proof of Payment” means a cancelled check, a wire confirmation demonstrating delivery of a direct transfer of funds, an executed and acknowledged unconditional lien release, or other evidence approved by the City demonstrating payment of the applicable Actual Cost.

“Public Improvements” is defined in the Development Agreement.

“Qualified” is defined in the Financing Plan.

“Ready for Payment” means that the Acquisition Facility or Component is ready for its intended use and is completed in substantial conformity with the Development Agreement, Plan Documents and Applicable Standards and procedures, irrespective of the functionality of the larger system of which it is a part.

“Remainder Taxes” is defined in the Financing Plan.

“Remainder Taxes Project Account” is defined in the Financing Plan.

“Supplement” means a written amendment to Exhibit A or Exhibit B.

“Supplement Review Period” is defined in Section 1.4(a).

“Third Party” means a Person that is not a Party.

“Third Party Reimbursements” means payments, if any, from Third Parties that are received by Developer as a reimbursement of Qualified Project Costs incurred with respect to the Acquisition Facilities or Privately-Owned Community Improvements, such as utility or other reimbursements.

“Transferee” is defined in the Development Agreement.

“Vested Payment Request” is defined in Section 6.2.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City and Developer have each caused this Agreement to be duly executed on its behalf as of the Effective Date.

CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By:

Name:

Title:

Approved as to form:

DENNIS J. HERRERA,
City Attorney

By:

Name:

Deputy City Attorney

DEVELOPER:

CALIFORNIA BARREL COMPANY LLC,
a Delaware limited liability company

By: _____

Name: _____

Its: _____

EXHIBIT A

Description of Acquisition Facilities and Privately-Owned Community Improvements to be Financed for the Project

A. Acquisition Facilities

[to come]

B. Privately-Owned Community Improvements

[to come]

EXHIBIT B

**Description of Acquisition Facilities and Components and Privately-Owned Community
Improvements, with Cost Estimates**

[To be completed from time to time]

EXHIBIT C

Form of Payment Request – Acquisition Facilities and Components

PAYMENT REQUEST NO. _____
MADE ON BEHALF OF: _____ (“Developer”)
DEVELOPMENT PHASE: _____

The undersigned hereby requests payment in the total amount of \$_____ for the Acquisition Facilities or Components (as described in Exhibit B to that certain Acquisition and Reimbursement Agreement between the City and County of San Francisco and California Barrel Company LLC, dated for reference purposes only as of _____) (the “Acquisition Agreement”), all as more fully described in Exhibit C-1. In connection with this Payment Request, the undersigned hereby represents and warrants to the Director of Public Works and the City as follows:

1. They undersigned is a duly authorized officer of Developer, qualified to execute this Payment Request for payment on behalf of Developer and is knowledgeable as to the matters set forth in this Payment Request.
2. The Acquisition Facilities or Components for which payment is requested were constructed in accordance with the Development Agreement, and an Inspection Request is pending for the Director of Public Works’ review. Payment shall not be made until such time that the Inspection Request has been approved as indicated in a notice from the Director of Public Works.
3. All costs of the Acquisition Facilities or Components for which payment is requested hereby are Actual Costs, and have not been inflated in any respect, as indicated in the attached Proof of Payment. The items for which payment is requested have not been the subject of any prior payment request submitted to the City.
4. The costs for which payment is requested are not the subject of dispute with any contractor, subcontractor, materialman, or other Person who supplied goods or labor, as evidenced by the attached conditional or unconditional lien releases.
5. Developer is in compliance with the terms and provisions of the Acquisition Agreement and no portion of the amount being requested to be paid was previously paid.
6. The Actual Cost of each Acquisition Facility or Component (a detailed calculation of which is shown in Exhibit C-2 for each such Acquisition Facility or Component), has been calculated in conformance with the terms of the Acquisition Agreement.
7. To the knowledge of the undersigned, Developer is not delinquent in the payment of ad valorem real property taxes, possessory interest taxes or special taxes or special assessments levied on the regular County tax rolls against property owned by Developer in the Project Site.

8. The Payment Request must be paid solely from the following sources of Funding Sources:

Funding Sources from which Actual Costs may be Paid (check one or more boxes)	Identified Funding Sources
	Improvement Area No. 1 Bonds
	Remainder Taxes for Improvement Area No. 1
	Improvement Area No. 2 Bonds
	Remainder Taxes for Improvement Area No. 2
	Other Source (specify):
Total Actual Cost	

Note: the table above may be expanded as needed to reflect additional improvement areas or additional Funding Sources.

9. Payments under this Payment Request, when approved or Deemed Approved, to be made as follows:

[] The amount of \$ _____ to the Developer by wire, according to the following _____ instructions:

[] The following amount(s) to the following Third Party(ies) at the following address(es):

10. Other relevant information about Payment Request: _____

I hereby declare that the above representations and warranties and all information provided in this Payment Request, including attachments and exhibits, are true and correct to the best of my knowledge.

DEVELOPER:

[insert name of Developer]

By: _____
Authorized Representative
of Developer

Date: _____

Attachments:

- Notice of Approval following inspection by Director of Public Works
- Unconditional lien releases from the following: _____

Conditional lien releases from the following: _____

- For Completed Acquisition Facility:** Copy of recorded conveyance of land
- For Completed Acquisition Facility:** Copy of Determination of Completion
- For Completed Acquisition Facility:** Original assignment of warranties and guaranties
- For Completed Acquisition Facility:** Original assignment of Plan Documents
- For Completed Acquisition Facility:** Original assignment of reimbursements from Third Parties payable with respect to the Acquisition Agreement
- For Completed Acquisition Facility:** As-built drawings of the Acquisition Facility
- Exhibit C-1
- Exhibit C-2

DEEMED APPROVAL NOTICE

Under Section 4.2(b) of the Acquisition and Reimbursement Agreement,

if you fail to notify Developer that

this Payment Request is approved or disapproved

within thirty (30) calendar days after your receipt of this Payment Request,

it will be Deemed Approved.

Payment Request Approved on _____.

By: _____
Director of Public Works

EXHIBIT C-1

Acquisition Facilities and Components to Which Payment Request Applies

PAYMENT REQUEST NO. _____

MADE ON BEHALF OF: _____

DEVELOPMENT PHASE: _____

1. The Acquisition Facilities and Components for which payment is requested under this Payment Request are: _____

2. Contract information for each contractor, subcontractor, materialman, and other contract for which payment is requested under this Payment Request is shown below.

Name	Amt. of Contract	Amt. Requested	Amt. Previously Pd.
Total			

Attachments:

Approved Supplement(s) *(include proof of delivery if Deemed Approved)*

Proof of Payment for each amount and included in the Actual Costs

EXHIBIT C-2

Calculation of Actual Cost

PAYMENT REQUEST NO. _____
MADE ON BEHALF OF: _____

DEVELOPMENT PHASE: _____

- 1. Description (by reference to Exhibit B to the Acquisition and Reimbursement Agreement) of the Acquisition Facility or Component _____
- 2. Actual Cost (list here total of supporting invoices and/or other documentation supporting determination of Actual Cost, including any Developer Allocation): \$ _____
- 3. Subtractions:
 - A. Holdback for lien releases (see Section 4.4(c) of the Acquisition and Reimbursement Agreement): (\$ _____)
 - B. Retention (see Section 4.4(e) of the Acquisition and Reimbursement Agreement): (\$ _____)
 - C. Third Party Reimbursements: (\$ _____)
- 4. Total disbursement requested (Amount listed in 2, less amounts, if any, listed in 3) \$ _____

Attachments – Complete Acquisition Facilities Only:

[] Copies of Payment Requests for which release of retention is requested.

EXHIBIT D

Form of Payment Request – Privately-Owned Community Improvement

PAYMENT REQUEST NO. _____
MADE ON BEHALF OF: _____ (“Developer”)
DEVELOPMENT PHASE: _____

The undersigned hereby requests payment in the total amount of \$_____ for the Privately-Owned Community Improvements as described in Exhibit B to that certain Acquisition and Reimbursement Agreement between the City and County of San Francisco and California Barrel Company LLC, dated for reference purposes only as of _____ (the “Acquisition Agreement”), all as more fully described in Exhibit D-1. In connection with this Payment Request, the undersigned hereby represents and warrants to the Director of Public Works and the City as follows:

1. The undersigned is a duly authorized officer of Developer, qualified to execute this Payment Request for payment on behalf of Developer and is knowledgeable as to the matters set forth in this Payment Request.
2. The Privately-Owned Community Improvements for which payment is requested were constructed in accordance with the Development Agreement and inspected pursuant to Section 5.2(a)(i) of the Acquisition Agreement.
3. All costs of the Privately-Owned Community Improvements for which payment is requested hereby are Actual Costs, and have not been inflated in any respect, as indicated in the attached Proof of Payment. The items for which payment is requested have not been the subject of any prior payment request submitted to the City.
4. The costs for which payment is requested are not the subject of dispute with any contractor, subcontractor, materialman, or other Person who supplied goods or labor, as evidenced by the attached conditional or unconditional lien releases.
5. Developer is in compliance with the terms and provisions of the Acquisition Agreement and no portion of the amount being requested to be paid was previously paid.
6. The Actual Cost of each Privately-Owned Community Improvements (a detailed calculation of which is shown in Exhibit D-Privately-Owned Community Improvement), has been calculated in conformance with the terms of the Acquisition and Reimbursement Agreement.
7. To the knowledge of the undersigned, Developer is not delinquent in the payment of ad valorem real property taxes, possessory interest taxes or special taxes or special assessments levied on the regular County tax rolls against property owned by Developer in the Project Site.

8. The Payment Request must be paid solely from the following sources of Funding Sources:

Funding Sources from which Actual Costs may be Paid (check one or more boxes)	Identified Funding Sources
	Improvement Area No. 1 Bonds
	Remainder Taxes for Improvement Area No. 1
	Improvement Area No. 2 Bonds
	Remainder Taxes for Improvement Area No. 2
	Other Source (specify):
Total Actual Cost	

Note: the table above may be expanded as needed to reflect additional improvement areas or additional Funding Sources.

9. Payments under this Payment Request, when approved or Deemed Approved, to be made as follows:

[] The amount of \$ _____ to the Developer by wire, according to the following _____ instructions:

[] The following amount(s) to the following Third Party(ies) at the following address(es):

10. Other relevant information about Payment Request: _____

I hereby declare that the above representations and warranties and all information provided in this Payment Request, including attachments and exhibits, are true and correct to the best of my knowledge.

DEVELOPER:

[insert name of Developer]

By: _____

Authorized Representative
of Developer

Date: _____

Attachments:

Certificate of occupancy

Unconditional lien releases from the following: _____

 Conditional lien releases from the following: _____

 Documents required by Development Agreement

Exhibit D-1

Exhibit D-2

DEEMED APPROVAL NOTICE

**Under Article 5 of the Acquisition and Reimbursement Agreement,
if you fail to notify Developer that
this Payment Request is approved or disapproved
within thirty (30) calendar days after your receipt of this Payment
Request,
it will be Deemed Approved.**

Payment Request Approved on _____.

By: _____
Director of Public Works

EXHIBIT D-1

Privately-Owned Community Improvement to Which Payment Request Applies

PAYMENT REQUEST NO. _____

MADE ON BEHALF OF: _____

DEVELOPMENT PHASE: _____

1. The Privately-Owned Community Improvements for which payment is requested under this Payment Request are: _____

2. Contract information for each contractor, subcontractor, materialman, and other contract for which payment is requested under this Payment Request is shown below.

Name	Amt. of Contract	Amt. Requested	Amt. Previously Pd.
Total			

Attachments:

Approved Supplement(s) *(include proof of delivery if Deemed Approved)*

Proof of Payment for each amount and included in the Actual Costs

EXHIBIT D-2

Calculation of Actual Cost

PAYMENT REQUEST NO. _____

MADE ON BEHALF OF: _____

DEVELOPMENT PHASE: _____

1. Description (by reference to Exhibit B to the Acquisition and Reimbursement Agreement) of the Privately-Owned Community Improvements _____

2. Actual Cost (list here total of supporting invoices and/or other documentation supporting determination of Actual Cost, including any Developer Allocation): \$ _____

Jones Hall draft 1-19-22

**CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)**

SPECIAL TAX DISTRICT REPORT

CONTENTS

Introduction

- A. Description of Facilities and Services
- B. Proposed Boundaries of the Special Tax District
- C. Cost Estimate

EXHIBIT A - Description of Facilities and Services to be Financed by the Special Tax District and Each Improvement Area Therein

EXHIBIT B - Cost Estimate

CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)

INTRODUCTION

The Board of Supervisors (the “Board of Supervisors”) of the City and County of San Francisco (the “City”) under Chapter 43, Article X of the San Francisco Administrative Code (the “Code”), which Code incorporates by reference the Mello-Roos Community Facilities Act of 1982, as amended (the “Mello-Roos Act”), on January 25, 2022, adopted a resolution entitled “Resolution of Intention to establish City and County of San Francisco Special Tax District No. 2022-1 (Power Station), Improvement Area No. 1 and a Future Annexation Area, and determining other matters in connection therewith” (the “Resolution of Intention”).

In the Resolution of Intention, the Board of Supervisors expressly ordered the preparation of a written Special Tax District Report (the “Report”), for the proposed (i) “City and County of San Francisco Special Tax District No. 2022-1 (Power Station)” (the “Special Tax District”), (ii) “Improvement Area No. 1 of the City and County of San Francisco Special Tax District No. 2022-1 (Power Station)” (“Improvement Area No. 1”) and (iii) “City and County of San Francisco Special Tax District No. 2022-1 (Power Station) (Future Annexation Area)” (the “Future Annexation Area”).

The Resolution of Intention ordering the Report directed that the Report generally contain the following:

(a) A description of the facilities (the “Facilities”) and the services (the “Services”) by type which will be required to adequately meet the needs of the Special Tax District, Improvement Area No. 1 and the Future Annexation Area.

(b) An estimate of the fair and reasonable cost of the Facilities including the cost of acquisition of lands, rights-of-way and easements, any physical facilities required in conjunction therewith and incidental expenses in connection therewith, including the costs of the proposed bond financing and all other related costs as provided in Section 53345.3 of the Mello-Roos Act.

(c) An estimate of the fair and reasonable cost of the Services and incidental expenses in connection therewith, and all other related costs.

For particulars, reference is made to the Resolution of Intention for the Special Tax District, as previously approved and adopted by the Board of Supervisors.

NOW, THEREFORE, I, the Director of the Office of Public Finance, do hereby submit the following data:

A. DESCRIPTION OF FACILITIES AND SERVICES. A general description of the proposed Facilities and Services is as shown in Exhibit “A” attached hereto and hereby made a part hereof. The Special Tax District, Improvement Area No. 1, and each improvement area created in connection with the annexation of territory in the Future Annexation Area to the

Special Tax District (each a “Future Improvement Area”) are authorized to finance the Facilities and Services without limitation.

In general, the Facilities to be funded are those described in the Development Agreement by and between the City and California Barrel Company LLC, dated September 22, 2020, relating to the Potrero Power Station development project (the “Development Agreement”) that are eligible to be funded under the Code.

The Services to be financed by the Special Tax District consist of the Contingent Services described in the Development Agreement.

B. PROPOSED BOUNDARIES OF THE SPECIAL TAX DISTRICT. The proposed boundaries of the Special Tax District and Improvement Area No. 1 are those properties and parcels in which special taxes may be levied to pay for the costs and expenses of the Facilities. The proposed boundaries of the Special Tax District and Improvement Area No. 1 are described on the map of the Special Tax District on file with the Clerk of the Board of Supervisors, to which reference is hereby made.

Parcels within the Future Annexation Area shall be annexed to the Special Tax District only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, and in accordance with the annexation approval procedures set forth in the Resolution of Intention. The proposed boundaries of the Future Annexation Area are also described on the map of the Special Tax District on file with the Clerk of the Board of Supervisors, to which reference is hereby made.

C. **COST ESTIMATE.** The cost estimate for the Facilities and the Services and incidental expenses for the Special Tax District is set forth in Exhibit "B" attached hereto and hereby made a part hereof.

Dated as of January 25, 2022

By: _____
Director of the Office of Public Finance,
City and County of San Francisco

EXHIBIT A

City and County of San Francisco Special Tax District No. 2022-1 (Power Station)

DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY THE SPECIAL TAX DISTRICT AND EACH IMPROVEMENT AREA THEREIN

FACILITIES

The Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) shall be authorized to finance all or a portion of the costs of the acquisition, construction, improvement, maintenance, repair or replacement of improvements authorized by Chapter 43, Article X of the San Francisco Administrative Code (as it may be amended from time to time, "Code"), which Code incorporates by reference the Mello-Roos Community Facilities Act of 1982, as amended ("Mello-Roos Act"), including, but not limited to, the improvements described below that are either owned by the City and County of San Francisco (including through its Port Commission or other City agencies, collectively, "City") or privately-owned and privately-maintained but dedicated to public access and use. Capitalized terms used herein but not defined herein have the meanings given them in the Development Agreement by and between the City and California Barrel Company LLC, dated September 22, 2020, relating to the Potrero Power Station development project, as amended from time to time (including all exhibits thereto, "Development Agreement").

- Shoreline Improvements: Maintenance, repair, and replacement of improvements in the Shoreline Area undertaken following Completion of the initial Improvements to that area required under the Development Agreement
- Future Sea Level Rise Improvements: Future improvements deemed necessary or appropriate by the City to ensure that the shoreline, related public or publicly accessible facilities (located on public or private property), and public access improvements will be protected should sea level rise at or near the Project Site.
- Additional Community Facilities: (i) Public facilities (located on public or private property) that serve the Project Site, including maintenance, restoration, rehabilitation, reconstruction or replacement of facilities previously financed under the Financing Plan of the Development Agreement, (ii) Future Sea Level Rise Improvements and (iii) Shoreline Improvements.
- Infrastructure: Infrastructure to be constructed by Developer as described in the Infrastructure Plan attached as Exhibit G to the Development Agreement.
- Parks and Open Space: All of the publicly-accessible open spaces developed in accordance with the Design for Development attached as Exhibit E to the Development Agreement.
- Public Improvements: The facilities, both on- and off-site, to be improved, constructed and dedicated by Developer and, upon Completion in accordance with the Development Agreement, accepted by the City. Public Improvements include the streets within the Project Site shown on Exhibit N of the Development Agreement, and all Infrastructure and public utilities within such streets (such as electricity, water and sewer lines but

excluding any non-municipal utilities), including sidewalks, landscaping, bicycle lanes, bus boarding island, street furniture, and paths and intersection improvements (such as curbs, medians, signaling, traffic controls devices, signage, and striping). The Public Improvements also include the SFPUC Infrastructure, and the SFMTA Infrastructure. The Public Improvements do not include Privately-Owned Community Improvements or, if any, privately owned facilities or improvements in the public right of way.

- Privately-Owned Community Improvements: Those facilities and services that are privately-owned and privately-maintained, at no cost to the City (other than any public financing set forth in the Financing Plan), for the public benefit and not dedicated to the City, including any Infrastructure that is not a Public Improvement. The Privately-Owned Community Improvements are shown generally on Exhibit L-1 of the Development Agreement and further described in the Design for Development. Privately-Owned Community Improvements include certain pedestrian paths, alleys (such as Craig Lane) storm drainage facilities, open spaces, SFMTA employee restroom, Muni bus shelter, and community or recreation facilities to be built on land owned by Developer, or on land owned by the City if the Privately-Owned Community Improvements thereon are subject to an encroachment permit or other permit allowing their installation on such land.

SERVICES

Special taxes collected in the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) may finance, in whole or in part, the following services ("services" shall have the meaning given that term in the Code). Capitalized terms used herein but not defined herein have the meanings given them in the Development Agreement.

- Maintenance, repair, replacement and operation of the following (i) Privately-Owned Community Improvements, (ii) Infrastructure, (iii) Parks and Open Space and (iv) Public Improvements, in each case, developed by Developer or the Port Property Maintenance Party on the Port Lease Property
- Maintenance, repair, replacement and operation of Craig Lane

OTHER

The Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees of the City and the bond trustee or fiscal agent related to the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) and the Bonds.
3. Reimbursement of costs related to the formation of the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) advanced by the City, the landowner(s) in the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area), or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) or any party related to any of the foregoing, for facilities, fees or other purposes or costs of the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area).

EXHIBIT B

CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)

COST ESTIMATE

FACILITIES

The following is a summary of the total estimated costs of acquisition and construction of the Facilities, including related incidental expenses.

The Financing Plan of the Development Agreement contemplates two tranches of bonds to be issued for the Special Tax District, a first tranche that would finance the Facilities that are required for the initial development of the Project Site, and a second tranche that would finance Shoreline Improvement Costs, Future Sea Level Rise Improvement Costs with respect to Future Sea Level Rise Improvements in the vicinity of the Project Site and Additional Community Facilities Costs. Because the second tranche bonds will be issued approximately 35-40 years after the initial first tranche bonds, the estimated Facilities costs set forth below do not include the estimated costs of the Facilities to be financed by the second tranche bonds.

<u>Type of Facility</u>	<u>Estimated Cost (in Millions)</u>
Shoreline Improvements	\$35,000,000
Infrastructure	19,000,000
Parks & Open Spaces	9,000,000
Public Improvements	76,000,000
Privately-Owned Community Improvements	<u>60,000,000</u>
Total	\$199,000,000

SERVICES

It is estimated that the cost of providing the Services to the territory in the Special Tax District, Improvement Area No. 1 and the Future Annexation Area will be \$737,169 for Fiscal Year 2021-22, with the cost escalating annually thereafter.

OTHER

In addition to the acquisition and construction costs of the Facilities and the cost of providing the Services, the City will finance bond or other debt-issuance costs, capitalized interest, a debt service reserve fund and other costs associated with the sale of bonds or other debt and annual administration of the Special Tax District.

The estimated bond or other debt issuance costs are approximately 5% of the principal amount of the bond or other debt.

The estimated costs of determining the amount of taxes, collecting special taxes, allocating special taxes, and other costs incurred in order to carry out the authorized purposes of the Special Tax District is approximately \$200,000 per year (not including Project Management services).

The estimated costs of forming the Special Tax District are approximately \$150,000.

**RECORDING REQUESTED BY AND
AFTER RECORDATION RETURN TO:**

Clerk of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Affected APNs:	Affected Addresses*:
4175-017	1201 Illinois Street
4232-006	420 23rd Street

NOTICE OF SPECIAL TAX LIEN

**IMPROVEMENT AREA NO. 1 OF THE
CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)**

Pursuant to the requirements of Section 3114.5 of the California Streets and Highways Code of California and Section 53328.3 of the California Government Code, the undersigned Clerk of the Board of Supervisors of the City and County of San Francisco, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the Board of Supervisors of the City and County of San Francisco. The special tax secured by this lien is authorized to be levied for the purpose of (i) financing directly the acquisition and construction of all or a portion of the facilities described in Exhibit A attached hereto (the "Facilities"), (ii) financing the contingent services described in Exhibit A attached hereto (the "Contingent Services"), (iii) paying principal and interest on bonds (and other debt as defined in the Mello-Roos Act), the proceeds of which are being used to finance the acquisition and construction of all or a portion of the Facilities, and (iv) to pay the cost of administering the Improvement Area and the Special Tax District (defined below).

The special tax is authorized to be levied within "Improvement Area No. 1 of the City and County of San Francisco Special Tax District No. 2022-1 (Power Station)" (the "Improvement Area") which has now been officially formed under the San Francisco Special Tax Financing Law (Admin. Code ch. 43, art. X), which incorporates the Mello-Roos Community Facilities Act of 1982 (Cal. Gov't Code Section 53311 et seq.), and the lien of the special tax is a continuing lien which shall secure each annual levy of the special tax and which shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the California Government Code.

The rate, method of apportionment, and manner of collection of the authorized special tax for the Improvement Area is as set forth in Exhibit B attached hereto and hereby made a part hereof. Conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled are as set forth in Exhibit B attached hereto and hereby made a part hereof.

Notice is further given that upon the recording of this notice in the Office of the Assessor-Recorder for the City and County of San Francisco, State of California the obligation to pay the

special tax levy shall become a lien upon all nonexempt real property within the Improvement Area in accordance with Section 3115.5 of the California Streets and Highways Code.

The name(s) of the owner(s) and the assessor's tax parcel numbers of the real property included within the area of the Improvement Area and not exempt from the special tax are as set forth in Exhibit C attached hereto and hereby made a part hereof.

Reference is made to the boundary map of the Improvement Area recorded on _____, 2022 at ___ p.m. in Book ___ of Maps of Assessment and Community Facilities Districts at Page ____, as Document _____ in the Office of the Assessor-Recorder for the City and County of San Francisco, State of California, which map is now the final boundary map of the Improvement Area.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the Director of the Office of Public Finance, City and County of San Francisco, 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102; Telephone: (415) 554-5956.

Dated: As of _____, 2022

By: _____
Clerk of the Board of Supervisors,
City and County of San Francisco

EXHIBIT A

NOTICE OF SPECIAL TAX LIEN

IMPROVEMENT AREA NO. 1 OF THE CITY AND COUNTY OF SAN FRANCISCO Special Tax District No. 2022-1 (Power Station)

DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY THE SPECIAL TAX DISTRICT AND IMPROVEMENT AREA NO. 1 THEREIN

FACILITIES

The Special Tax District and Improvement Area No. 1 are authorized to finance all or a portion of the costs of the acquisition, construction and improvement of any of the following types of facilities:

The Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) shall be authorized to finance all or a portion of the costs of the acquisition, construction, improvement, maintenance, repair or replacement of improvements authorized by Chapter 43, Article X of the San Francisco Administrative Code (as it may be amended from time to time, "Code"), which Code incorporates by reference the Mello-Roos Community Facilities Act of 1982, as amended ("Mello-Roos Act"), including, but not limited to, the improvements described below that are either owned by the City and County of San Francisco (including through its Port Commission or other City agencies, collectively, "City") or privately-owned and privately-maintained but dedicated to public access and use. Capitalized terms used herein but not defined herein have the meanings given them in the Development Agreement by and between the City and California Barrel Company LLC, dated September 22, 2020, relating to the Potrero Power Station development project, as amended from time to time (including all exhibits thereto, "Development Agreement").

- Shoreline Improvements: Maintenance, repair, and replacement of improvements in the Shoreline Area undertaken following Completion of the initial Improvements to that area required under the Development Agreement
- Future Sea Level Rise Improvements: Future improvements deemed necessary or appropriate by the City to ensure that the shoreline, related public or publicly accessible facilities (located on public or private property), and public access improvements will be protected should sea level rise at or near the Project Site.
- Additional Community Facilities: (i) Public facilities (located on public or private property) that serve the Project Site, including maintenance, restoration, rehabilitation, reconstruction or replacement of facilities previously financed under the Financing Plan of the Development Agreement, (ii) Future Sea Level Rise Improvements and (iii) Shoreline Improvements.
- Infrastructure: Infrastructure to be constructed by Developer as described in the Infrastructure Plan attached as Exhibit G to the Development Agreement.

- Parks and Open Space: All of the publicly-accessible open spaces developed in accordance with the Design for Development attached as Exhibit E to the Development Agreement.
- Public Improvements: The facilities, both on- and off-site, to be improved, constructed and dedicated by Developer and, upon Completion in accordance with the Development Agreement, accepted by the City. Public Improvements include the streets within the Project Site shown on Exhibit N of the Development Agreement, and all Infrastructure and public utilities within such streets (such as electricity, water and sewer lines but excluding any non-municipal utilities), including sidewalks, landscaping, bicycle lanes, bus boarding island, street furniture, and paths and intersection improvements (such as curbs, medians, signaling, traffic controls devices, signage, and striping). The Public Improvements also include the SFPUC Infrastructure, and the SFMTA Infrastructure. The Public Improvements do not include Privately-Owned Community Improvements or, if any, privately owned facilities or improvements in the public right of way.
- Privately-Owned Community Improvements: Those facilities and services that are privately-owned and privately-maintained, at no cost to the City (other than any public financing set forth in the Financing Plan), for the public benefit and not dedicated to the City, including any Infrastructure that is not a Public Improvement. The Privately-Owned Community Improvements are shown generally on Exhibit L-1 of the Development Agreement and further described in the Design for Development. Privately-Owned Community Improvements include certain pedestrian paths, alleys (such as Craig Lane) storm drainage facilities, open spaces, SFMTA employee restroom, Muni bus shelter, and community or recreation facilities to be built on land owned by Developer, or on land owned by the City if the Privately-Owned Community Improvements thereon are subject to an encroachment permit or other permit allowing their installation on such land.

SERVICES

Special taxes collected in the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) may finance, in whole or in part, the following services (“services” shall have the meaning given that term in the Code). Capitalized terms used herein but not defined herein have the meanings given them in the Development Agreement.

- Maintenance, repair, replacement and operation of the following (i) Privately-Owned Community Improvements, (ii) Infrastructure, (iii) Parks and Open Space and (iv) Public Improvements, in each case, developed by Developer or the Port Property Maintenance Party on the Port Lease Property
- Maintenance, repair, replacement and operation of Craig Lane

OTHER

The Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.

2. Administrative fees of the City and the bond trustee or fiscal agent related to the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) and the Bonds.

Reimbursement of costs related to the formation of the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) advanced by the City, the landowner(s) in the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area), or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) or any party related to any of the foregoing, for facilities, fees or other purposes or costs of the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area

EXHIBIT B

NOTICE OF SPECIAL TAX LIEN

**IMPROVEMENT AREA NO. 1 OF THE
CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT C

NOTICE OF SPECIAL TAX LIEN

**IMPROVEMENT AREA NO. 1 OF THE
CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)**

**ASSESSOR'S PARCEL NUMBERS AND OWNERS OF LAND
WITHIN IMPROVEMENT AREA NO. 1**

Assessor's Parcel Nos.

Names of Property Owners

4175-017
4232-006

California Barrel Company LLC
California Barrel Company LLC

NOTICE OF PUBLIC HEARING
To Establish a Special Tax District

CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)

On January 25, 2022, under Chapter 43, Article X of the San Francisco Administrative Code (as it may be amended from time to time, "Code"), which Code incorporates by reference the Mello-Roos Community Facilities Act of 1982, as amended ("Mello-Roos Act"), the Board of Supervisors ("Board of Supervisors") of the City and County of San Francisco ("City"), State of California adopted its "Resolution of Intention to establish City and County of San Francisco Special Tax District No. 2022-1 (Power Station), Improvement Area No. 1 and a Future Annexation Area, and determining other matters in connection therewith" (the "Resolution of Intention") to establish (i) "City and County of San Francisco Special Tax District No. 2022-1 (Power Station)" ("Special Tax District"), (ii) "Improvement Area No. 1 of the City and County of San Francisco Special Tax District No. 2022-1 (Power Station)" ("Improvement Area No. 1"), and (iii) a future annexation area for the Special Tax District ("Future Annexation Area"). Under the Code and the Resolution of Intention, the Board of Supervisors gives notice as follows:

1. The text of the Resolution of Intention, with the Exhibits A and B thereto, as adopted by the Board of Supervisors, is on file with the Clerk of the Board of Supervisors and reference is made thereto for the particular provisions thereof. The text of the Resolution of Intention is summarized as follows:

a. Under the Code, this Board of Supervisors is undertaking proceedings for the establishment of the Special Tax District, Improvement Area No. 1 and the Future Annexation Area, the boundaries of which are shown on a map on file with the City.

b. The purpose of the Special Tax District, Improvement Area No. 1 and the Future Annexation Area is to provide for the financing of (i) the facilities ("Facilities") as more fully described in the Resolution of Intention and Exhibit A thereto and (ii) certain services ("Services") as more fully described in the Resolution of Intention and Exhibit A thereto.

c. The method of financing the Facilities and the Services is through the imposition and levy of a Facilities Special Tax and a Contingent Services Special Tax (collectively, "Special Tax") to be apportioned on the properties in Improvement Area No. 1 under the rate and method of apportionment described in the Resolution of Intention and Exhibit B thereto.

d. The Resolution of Intention directed the preparation of a Special Tax District Report that shows the Facilities and the Services and the estimated costs of the Facilities and the Services. The Special Tax District Report will be made a permanent part of the record of the public hearing specified below. Reference is made to the Special Tax District Report as filed with the Clerk of the Board of Supervisors.

e. Property within the Future Annexation Area will be annexed to the Special Tax District, and may be designated as one or more improvement areas (each, "Future

Improvement Area”), and a special tax will be levied on such property, only with the unanimous approval (each, “Unanimous Approval”) of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without additional hearings or elections.

f. As set forth below, the Board of Supervisors will hold a public hearing on the establishment of the Special Tax District, Improvement Area No. 1 and the Future Annexation Area, the Facilities, the Services and the Special Tax.

2. The public hearing will be held on March 8, 2022, at 3:00 p.m. or as soon as possible thereafter, in the Board of Supervisors Chambers, 1 Dr. Carlton B. Goodlett Place, San Francisco, California.

3. At the hearing, the testimony of all interested persons or taxpayers, including all persons owning property within Improvement Area No. 1, for or against the establishment of the Special Tax District and Improvement Area No. 1, the Special Tax to be levied in Improvement Area No. 1, the extent of the Special Tax District and Improvement Area No. 1 and the furnishing of the specified Facilities and Services, will be heard. Any person interested may file a protest in writing as provided in Section 53323 of the Mello-Roos Act. Any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularities and defects to which objection is made. All written protests must be filed with the Clerk of the Board of Supervisors on or before the time fixed for the hearing.

If 50% or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be included in Improvement Area No. 1, or the owners of one-half or more of the area of land in the territory proposed to be included in Improvement Area No. 1 and not exempt from the Special Tax to be levied in Improvement Area No. 1, file written protests against the establishment of Improvement Area No. 1 and the protests are not withdrawn to reduce the value of the protests to less than a majority, the Board of Supervisors shall take no further action to create the Special Tax District and Improvement Area No. 1 or levy the Special Tax in Improvement Area No. 1 for a period of one year from the date of decision of the Board of Supervisors, and, if the majority protests of the registered voters or landowners are only against the furnishing of a type or types of Facilities or Services within the Special Tax District and Improvement Area No. 1, or against levying a specified part of the Special Tax in Improvement Area No. 1, those types of Facilities or Services or the specified part of the Special Tax to be levied in Improvement Area No. 1 will be eliminated from the proceedings to form the Special Tax District and Improvement Area No. 1.

In addition, at the hearing, the testimony of all interested persons for and against the establishment of the Future Annexation Area or the levying of special taxes within any portion of the Future Annexation Area annexed in the future to the Special Tax District will be heard. If 50% or more of the registered voters, or 6 registered voters, whichever is more, residing within the proposed territory of the Special Tax District, or if 50% or more of the registered voters, or 6 registered voters, whichever is more, residing in the territory proposed to be included in the Future Annexation Area, or the owners of 50% or more of the area of land in the territory proposed to be included in the Special Tax District or in the Future Annexation Area, file written protests against the establishment of the Future Annexation Area and the protests are not withdrawn to reduce the value of the protests to less than a majority, the Board of Supervisors shall take no further action to create the Future Annexation Area for a period of one year from the date of decision of the City Council.

4. If there is no majority protest, the Board of Supervisors may submit the levy of the Special Tax in Improvement Area No. 1 for voter approval at a special election. The Special Tax requires the approval of 2/3rds of the votes cast at a special election by the property owner voters of Improvement Area No. 1, with each owner having one vote for each acre or portion thereof such owner owns in Improvement Area No. 1 not exempt from the Special Tax.

Dated as of January 25, 2022

City and County of San Francisco

***PUBLISH ONCE AT LEAST 7 DAYS BEFORE THE PUBLIC HEARING;
OBTAIN PROOF OR AFFIDAVIT OF PUBLICATION AND PROVIDE TO
JONES HALL***

NOTICE OF PUBLIC HEARING
To Incur Bonded Indebtedness and Other Debt

CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)

On January 25, 2022, the Board of Supervisors (the “Board of Supervisors”) of the City and County of San Francisco (the “City”), State of California adopted its “Resolution of intention to incur bonded indebtedness and other debt for the City and County of San Francisco Special Tax District No. 2022-1 (Power Station), and determining other matters in connection therewith” (“Resolution”) for (i) “City and County of San Francisco Special Tax District No. 2022-1 (Power Station)” (“Special Tax District”), (ii) “Improvement Area No. 1 of the City and County of San Francisco Special Tax District No. 2022-1 (Power Station)” (“Improvement Area No. 1”) and (iii) a future annexation area for the Special Tax District (“Future Annexation Area”) under Chapter 43, Article X of the San Francisco Administrative Code (as it may be amended from time to time, “Code”), which Code incorporates by reference the Mello-Roos Community Facilities Act of 1982, as amended (“Mello-Roos Act”). Under the Code and the Resolution, the Board of Supervisors gives notice as follows:

1. Reference is hereby made to the entire text of the above Resolution, a complete copy of which is on file with the Clerk of the Board of Supervisors. The text of the Resolution is summarized as follows:

a. The Board of Supervisors has adopted its “Resolution of Intention to establish City and County of San Francisco Special Tax District No. 2022-1 (Power Station), Improvement Area No. 1 and a Future Annexation Area, and determining other matters in connection therewith,” stating its intention to form the Special Tax District, Improvement Area No. 1 and the Future Annexation Areas for the purpose of financing, among other things, all or part of certain facilities (“Facilities”), as further provided in that Resolution of Intention.

b. The Board of Supervisors estimates the amount required to finance the costs of the Facilities to be not more than \$863,000,000 and, in order to finance such costs, it is necessary to (i) incur bonded indebtedness in the amount of not more than \$800,000,000 for Improvement Area No. 1 upon the security of the special tax to be levied within Improvement Area No. 1 pursuant to the Code, (ii) incur bonded indebtedness in the maximum aggregate principal amount of \$63,000,000 for the territory in the Special Tax District that is not in Improvement Area No. 1 (“Non-Improvement Area No. 1 Bonded Indebtedness”) upon the security of the special tax to be levied in such territory pursuant to the Code and (iii) incur other debt (as defined in the Code) as described in the Resolution.

c. The proposed bonded indebtedness and other debt is to finance the Facilities, including acquisition and improvement costs and all costs incidental to or connected with the accomplishment of such purposes and of the financing thereof, as permitted by the Code.

d. The Board of Supervisors intends to authorize the issuance and sale of bonds and other forms of debt (as defined in the Code) payable from the Improvement Area No. 1 Special Tax, provided that aggregate principal amount of the bonds shall not exceed \$800,000,000 (the "Improvement Area No. 1 Bonded Indebtedness Limit"). The Board of Supervisors intends to authorize the issuance and sale of bonds and other forms of debt (as defined in the Code) payable from special taxes levied in the portion of the Special Tax District that is not in Improvement Area No. 1, provided that the aggregate principal amount of such bonds shall not exceed \$63,000,000 (the "Non-Improvement Area No. 1 Bonded Indebtedness Limit"). The designation as an improvement area of any territory annexing to the Special Tax District (each a, "Future Improvement Area"), the maximum amount of bonded indebtedness for such Future Improvement Area and the rate and method of apportionment of special tax for such Future Improvement Area shall be identified and approved in the unanimous approval executed by property owners in connection with their annexation to the Special Tax District, and the amount of the maximum bonded indebtedness for such Future Improvement Area shall be subtracted from the Non-Improvement Area No. 1 Bonded Indebtedness Limit as set forth in a resolution of this Board of Supervisors, which shall result in a reduction in the Non-Improvement Area No. 1 Bonded Indebtedness Limit, as determined by the Board of Supervisors.

The Board of Supervisors intends to authorize the issuance and sale of bonds and other forms of debt (as defined in the Code) payable from a special tax levied in each Future Improvement Area (collectively, the "Future Annexation Area Bonds"), and the aggregate principal amount of such bonds shall be determined at the time of annexation of such territory as a separate improvement area.

2. On Tuesday, March 8, 2022, at 3:00 p.m. or as soon as possible thereafter, in the Board of Supervisors Chambers, 1 Dr. Carlton B. Goodlett Place, San Francisco, California, the Board of Supervisors will hold a public hearing on the necessity of incurring the above amount of bonded indebtedness and other debt for the Special Tax District and Improvement Area No. 1.

3. At public hearing the testimony of all interested persons, including voters and/or persons owning property in the area of the proposed Special Tax District, for and against the proposed bonded debt and other debt, will be heard. Interested persons may submit written protests or comment to the City.

Dated as of January 25, 2022

City and County of San Francisco

**PUBLISH ONCE AT LEAST 7 DAYS BEFORE THE PUBLIC HEARING;
OBTAIN PROOF OR AFFIDAVIT OF PUBLICATION AND PROVIDE TO
JONES HALL**

**IMPROVEMENT AREA NO. 1 OF THE
CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)**

**OFFICIAL BALLOT
SPECIAL TAX ELECTION**

This ballot is for a special, landowner election. You must return this ballot in the enclosed postage paid envelope to the office of the Director of Elections of the City and County of San Francisco no later than the hour of 3:00 p.m. on March 21, 2022, either by mail or in person. The office of the Director of Elections of the City and County of San Francisco is located at 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102.

To vote, mark a cross (X) on the voting line after the word "YES" or after the word "NO". All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the Director of Elections of the City and County of San Francisco and obtain another.

Shall the following measure be adopted: authorizing the City and County of San Francisco to (i) levy a Facilities Special Tax solely on lands within Improvement Area No. 1 of the City and County of San Francisco Community Facilities District No. 2022-1 (Power Station) ("Improvement Area") in accordance with the rate and method contained in the resolution of the City Council establishing the Improvement Area ("Formation Resolution"), commencing in the City's fiscal year 2022-23 (with annual escalation thereafter), to pay for the facilities specified in the Formation Resolution, to pay debt service on bonds and other debt of the Special Tax District with respect to the Improvement Area, and to pay the costs of the City in administering the Special Tax District, which Facilities Special Tax, if levied at the maximum rate and assuming full build-out of the properties in the Improvement Area at the time of formation, is anticipated to raise \$5,026,252 in fiscal year 2022-23 (with annual escalation thereafter); (ii) levy a Contingent Services Special Tax solely on lands within the Improvement Area in accordance with the rate and method contained in the Formation Resolution, subject to the occurrence of the Contingent Trigger Event, commencing in the City's fiscal year 2022-23 (with annual escalation thereafter), to pay for the services specified in the Formation Resolution, and to pay the costs of the City in administering the Special Tax District, which Contingent Services Special Tax, if levied at the maximum rate and assuming full build-out of the properties in the Improvement Area at the time of formation, is anticipated to raise \$754,305 in fiscal year 2021-22 dollars (with annual escalation thereafter); (iii) establish an annual

appropriations limit for the Special Tax District in the amount of \$863,000,000 (subject to increase in accordance with law); and (iv) issue bonds for the Special Tax District with respect to the Improvement Area in the maximum aggregate principal amount of not to exceed \$800,000,000 and other debt for the Special Tax District with respect to the Improvement Area, with interest at a rate or rates not to exceed the maximum interest rate permitted by law at the time of sale of such bonds or issuance of such debt, the proceeds of which bonds and other debt will be used to acquire and/or construct certain facilities, reimburse certain costs of the facilities paid prior to the date of issuance of the bonds, and pay for the costs of issuing the bonds and debt and related expenses?

YES: _____

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.

Number of Votes:21

Number of acreage: 20.55

Property Owner:
CALIFORNIA BARREL COMPANY LLC,
a Delaware limited liability company

By: _____
Enrique Landa
Principal

CANVASS AND STATEMENT OF RESULT OF ELECTION

IMPROVEMENT AREA NO. 1 OF THE
CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)

I hereby certify that on March 21, 2022 I canvassed the returns of the election held on March 21, 2022 in Improvement Area No. 1 of the City and County of San Francisco Special Tax District No. 2022-1 (Power Station) and the total number of ballots cast in said Improvement Area and the total number of votes cast for and against the measure are as follows and the totals as shown for and against the measure are full, true and correct:

	<u>Qualified Landowner Votes</u>	<u>Votes Cast</u>	<u>YES</u>	<u>NO</u>
Improvement Area No. 1 of the City and County of San Francisco Special Tax District No. 2022-1 (Potrero Power Station), Special Tax Election, March 21, 2022	21	_____	_____	_____

Shall the following measure be adopted: authorizing the City and County of San Francisco to (i) levy a Facilities Special Tax solely on lands within Improvement Area No. 1 of the City and County of San Francisco Community Facilities District No. 2022-1 (Power Station) (“Improvement Area”) in accordance with the rate and method contained in the resolution of the City Council establishing the Improvement Area (“Formation Resolution”), commencing in the City’s fiscal year 2022-23 (with annual escalation thereafter), to pay for the facilities specified in the Formation Resolution, to pay debt service on bonds and other debt of the Special Tax District with respect to the Improvement Area, and to pay the costs of the City in administering the Special Tax District, which Facilities Special Tax, if levied at the maximum rate and assuming full build-out of the properties in the Improvement Area at the time of formation, is anticipated to raise \$5,026,252 in fiscal year 2022-23 (with annual escalation thereafter); (ii) levy a Contingent Services Special Tax solely on lands within the Improvement Area in accordance with the rate and method contained in the Formation Resolution, subject to the occurrence of the Contingent Trigger Event, commencing in the City’s fiscal year 2022-23 (with annual escalation thereafter), to pay for the services specified in the Formation Resolution, and to pay the costs of the City in administering the Special Tax District, which Contingent Services Special Tax, if levied at the maximum rate and assuming full build-out of the properties in the Improvement Area at the time of formation, is anticipated to raise \$754,305 in fiscal year 2021-22

dollars (with annual escalation thereafter); (iii) establish an annual appropriations limit for the Special Tax District in the amount of \$863,000,000 (subject to increase in accordance with law); and (iv) issue bonds for the Special Tax District with respect to the Improvement Area in the maximum aggregate principal amount of not to exceed \$800,000,000 and other debt for the Special Tax District with respect to the Improvement Area, with interest at a rate or rates not to exceed the maximum interest rate permitted by law at the time of sale of such bonds or issuance of such debt, the proceeds of which bonds and other debt will be used to acquire and/or construct certain facilities, reimburse certain costs of the facilities paid prior to the date of issuance of the bonds, and pay for the costs of issuing the bonds and debt and related expenses?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 21st day of March, 2022.

By: _____
John Arntz
Director of Elections



**CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF ELECTIONS**

John Arntz, Director

January 25, 2022

Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Registered Voters within Boundaries of Proposed City and County of San Francisco Special Tax District No. 2022-1 (Power Station) and related Future Annexation Area

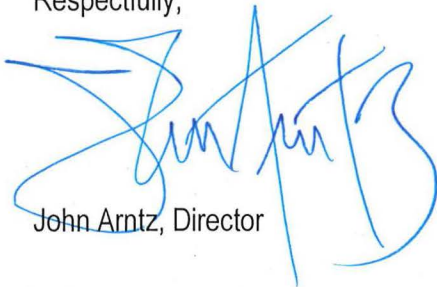
Honorable Members, San Francisco Board of Supervisors:

This letter confirms that on January 25, 2022, I reviewed the records of registered voters for the territory that is encompassed within the proposed boundaries of the City and County of San Francisco Special Tax District No. 2022-1 (Power Station) (the "Special Tax District") and the future annexation area (the "Future Annexation Area") proposed to be established for the Special Tax District, as such territory is (a) shown on the boundary map for the Special Tax District and the Future Annexation Area, reference to which map is hereby made and by this reference incorporated herein and (b) identified by the following list of Assessor Parcel Numbers and landowners:

Block	Lot	Owner per Assessor's Roll	Special Tax District or Future Annexation Area
4175	017	California Barrel Company LLC	Special Tax District
4232	006	California Barrel Company LLC	Special Tax District
4175	018	Pacific Gas & Electric Company	Future Annexation Area

Based on this review, I hereby certify that on the date hereof, there are no registered voters within the boundaries of the Special Tax District or the Future Annexation Area.

Respectfully,



John Arntz, Director



OFFICE OF THE CONTROLLER
CITY AND COUNTY OF SAN FRANCISCO

Ben Rosenfield
Controller
Todd Rydstrom
Deputy Controller
Anna Van Degna
Director, Office of Public Finance

MEMORANDUM

TO: Honorable Members, Board of Supervisors

FROM: Anna Van Degna, Director of the Office of Public Finance
Marisa Pereira Tully, Office of Public Finance
Luke Brewer, Office of Public Finance
Bridget Katz, Office of Public Finance

DATE: December 14, 2021

SUBJECT: Memorandum on the initial legislative steps to Form a Special Tax District (and a related Future Annexation Area) to finance improvements and ongoing services in the Power Station Mixed-Use Project located between 22nd, Illinois, 23rd streets and the San Francisco Bay

Background

In April of 2020, the Board of Supervisors (Board) approved a package of legislation which provides the framework for the Power Station Project (Project), formerly known as the Potrero Power Station Project, consistent with prior approvals from the Port and Planning Commissions. The approved legislation included a ground lease between the City and County of San Francisco (City) and the California Barrel Company LLC (Master Developer) (file # 200217), General Plan Amendments (file # 200174), Planning Code Text and Map Amendments (file # 200039), and the Development Agreement (Agreement) between the City and the Master Developer (file # 200040). The Agreement commits the Master Developer to provide various public benefits including 30% affordable housing and approximately 6.9 acres of publicly accessible parks and open space.

Formation of the Special Tax District (District) and a related future annexation area (Future Annexation Area) is a key component of the Power Station Financing Plan (Financing Plan), which is Exhibit C of the Agreement. The process to form the Special Tax District is outlined below. Exhibit A of to this memorandum summarizes the proposed tax structure and rates for the District. The City will be authorized to levy Facilities Special Taxes to finance capital facilities as well as Contingent Services Special Taxes in the case of a Contingent Trigger Event, as outlined in the Financing Plan. After the formation of the District, project and City staff will pursue issuance of bonds that will be payable from the Facilities Special Taxes levied in the District, which will require future Board action.

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Formation of the Future Annexation Area allows for additional parcels to annex into the District through a streamlined process; the Master Developer anticipates annexing property that is currently owned by Pacific Gas & Electric Company (PG&E) at a later date.

Special Tax District Formation Process

Forming the District is a multi-step legislative process. The first legislative step is to declare the intention to form the District and the Future Annexation Area and the intention to incur bonded indebtedness and other debt for the District. The legislative packet before the Board with this introduction includes:

- Petition to Create a Special Tax District (Including Waivers), pursuant to which the Master Developer asks the Board of Supervisors to establish the District
- Resolution of Intention to establish City and County of San Francisco Special Tax District No. 2022-1 (Power Station), Improvement Area No. 1 and a Future Annexation Area, and determining other matters in connection therewith, which includes a list of authorized facilities and services and the RMA described below
- Resolution of Intention to Incur Bonded Indebtedness and Other Debt for the City and County of San Francisco Special Tax District No. 2022-1 (Power Station), and determining other matters in connection therewith
- Rate and Method of Apportionment of Special Taxes (RMA), which establishes the rate and method of levying the Facilities Special Taxes and the Contingent Services Special Taxes
- Certificate of Registrar of Voters confirming that there are no registered voters in the boundaries of the District
- Map of the Proposed Boundaries of the Special Tax District (exhibit to RMA)
- Deposit and Reimbursement Agreement, pursuant to which the Master Developer will deposit funds with the City in an amount sufficient to pay the City's non-contingent District formation costs

The second legislative step involves the Board holding a noticed public hearing, adopting a resolution forming the District, adopting a resolution declaring the necessity to incur bonded indebtedness and other debt for the District, and calling an election of the qualified elector(s); the only qualified elector for the District is expected to be the Master Developer, as the sole landowner in the District. Introduction of this second tranche of legislation is planned for late January. The election is anticipated to occur in March 2022.

The third legislative step involves the Board declaring the results of the election and introducing an ordinance levying special taxes in the District, which will be adopted at a subsequent meeting. At a subsequent meeting, the Board will adopt the ordinance levying special taxes in the District.

After the District is established, the Office of Public Finance (OPF) will return to the Board to request authorization to issue bonds, secured by the Facilities Special Taxes levied in the District, to finance the horizontal infrastructure improvements for the Project. This initial issuance of bonds is currently anticipated to occur in 2023.

Power Station Project

The Power Station site is located on approximately 29 acres of land on 6 privately-owned parcels and approximately 2.75 acres of land owned by the City and the Port of San Francisco (Port). Current uses on the site include a small office building occupied by the Master Developer, an electrical switchyard owned and operated by PG&E, and street rights of way or shoreline areas owned by the Port and City; the remainder of the site includes multiple vacant structures and unused infrastructure related to the site's previous use as a power station.

The Project will be built in up to three phases and include:

- 2.5 million square feet (sq ft) of residential space (2,601 units);
- 100,000 sq ft of Retail Sales and Service;
- 800,000 sq ft of Office;
- 650,000 sq ft of Life Science/Laboratory;
- 240,000 sq ft of hotel (250 rooms);
- 35,000 sq ft of Production, Distribution, and Repair (PDR) uses;
- 25,000 sq ft of entertainment/assembly uses;
- 50,000 sq ft of community facilities;
- Up to 2,686 off-street automobile parking spaces; and
- 6.9 acres of publicly accessible open space.

Proposed Uses

The Project is proposing the establishment of the District in order to levy Facilities Special Taxes, issue bonds, and fund certain project costs pursuant to the Development Agreement (summarized in Planning Department memo, Exhibit B) including but not limited to the following:

- Shoreline improvements including maintenance, repair, and replacement of improvements;
- Future sea level rise improvements deemed necessary or appropriate by the City to ensure that the shoreline, related public or publicly accessible facilities (located on public or private property), and public access improvements will be protected should sea level rise at or near the Project Site;
- Additional community facilities including public facilities (located on public or private property) that serve the Project Site;
- Infrastructure to be constructed by the Master Developer as described in the Infrastructure Plan attached to the Development Agreement;
- Publicly accessible parks and open space in accordance with the Design for Development;
- Public improvements including streets, all Infrastructure and public utilities within such streets (such as electricity, water and sewer lines but excluding any non-municipal utilities). The Public Improvements also include the SFPUC Infrastructure, and the SFMTA Infrastructure. The Public Improvements do not include Privately-Owned Community Improvements or, if any, privately owned facilities or improvements in the public right of way.
- Privately-owned community improvements that are privately-owned and privately maintained, at no cost to the City (other than any public financing set forth in the Financing Plan), for the public benefit and not dedicated to the City, including any Infrastructure that is not a Public Improvement.

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The District will also finance the maintenance, repair, replacement and operation of certain improvements in the event certain contingencies are met.

Proposed Timeline of Legislation

<u>First Legislative Packet (<i>this introduction</i>)</u>	<u>Dates*</u>
Capital Planning Committee	December 13
Board of Supervisors Introduction	December 14
Budget & Finance Committee Hearing	January 12
Board Approval of Resolutions and Selection of Public Hearing Date	January 25
<u>Second Legislative Packet</u>	
Board of Supervisors Introduction	January 25
Public Hearing	March 8
Board Approval of Formation Resolutions	March 8
Election of Qualified Electors	March 21
Board Approval of Resolution Declaring Results of Election and 1 st vote on Ordinance	March 22
Board Approval of Ordinance	April 5

*Please note that dates are preliminary and may change.

Please contact Anna Van Degna (Anna.VanDegna@sfgov.org) or Marisa Pereira Tully (Marisa.Pereira.Tully@sfgov.org) if you have any questions. Your consideration of this matter is greatly appreciated.

cc: Angela Calvillo, Clerk of the Board of Supervisors
Andrea Bruss, Mayor's Office
Andres Powers, Mayor's Office
Tom Paulino, Mayor's Office
Ashley Groffenberger, Mayor's Budget Director
Harvey Rose, Budget Analyst
Severin Campbell, Budget Analyst
Ben Rosenfield, Controller
Mark Blake, Deputy City Attorney
Brian Strong, Office of Resilience and Capital Planning
Kate Sofis, Office of Economic and Workforce Development
Jon Lau, Office of Economic and Workforce Development
Christine Maher, Port of San Francisco

Exhibit A: Structure and Rate of Taxes (from Rate and Method of Apportionment, p. 16)

The Rate and Method of Apportionment of Special Taxes (RMA) establishes the rate and method of levying the Facilities Special Taxes and the Contingent Services Special Taxes. The Base Facilities Special Tax Rates are shown in FY2021-22\$ in the table below and on page 16 of the RMA.

The RMA also provides for a Contingent Services Special Tax to the extent a Contingent Trigger Event

Table 1 Base Facilities Special Tax	
Land Use Category	Base Facilities Special Tax (FY 2021-22) *
For-Sale Residential Square Footage	\$3.75 per Square Foot
Rental Residential Square Footage	\$1.00 per Square Foot
Taxable Non-Residential Square Footage	\$1.50 per Square Foot
Excess Exempt Square Footage	\$3.75 per Square Foot if For-Sale Residential Square Footage was reduced, \$1.00 per Square Foot if Rental Residential Square Footage was reduced, or \$1.50 per Square Foot if Taxable Non-Residential Square Footage was reduced.

*** The Base Facilities Special Taxes shown above shall be escalated as set forth in Section D.1.**

(as defined in Exhibit E of the Agreement) occurs in the future. Per page 18 of the RMA, the Base Rate for the Contingent Services Special Tax is \$0.29 per Square Foot in FY2021-22\$. This rate escalates as set forth in Section D.2 of the RMA.

Table 2 Base Contingent Services Special Tax	
Land Use Category	Base Contingent Services Special Tax (FY 2021-22) *
For-Sale Residential Square Footage	\$0.29 per Square Foot
Rental Residential Square Footage	\$0.29 per Square Foot
Taxable Non-Residential Square Footage	\$0.29 per Square Foot
Excess Exempt Square Footage	\$0.29 per Square Foot

*** The Base Contingent Services Special Taxes shown above shall be escalated as set forth in Section D.2.**

Exhibit B: Planning Memo - Development Agreement, October 7th, 2020 - attached

EXHIBIT B

IMPROVEMENT AREA NO. 1 OF THE CITY AND COUNTY OF SAN FRANCISCO SPECIAL TAX DISTRICT NO. 2022-1 (POWER STATION)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Taxable Parcel in Improvement Area No. 1 of the City and County of San Francisco Special Tax District No. 2022-1 (Power Station) shall be levied and collected according to the tax liability determined by the Administrator through the application of the appropriate amount or rate for Taxable Parcels, as described below. All Taxable Parcels in Improvement Area No. 1 shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to Improvement Area No. 1.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Accessory Square Footage” means, within a building on a Taxable Parcel, any square footage that is not used directly as part of the residential, business or hotel operations, including, but not limited to, walkways, elevator shafts, mezzanines, corridors, and stairwells.

“Act” means the San Francisco Special Tax Financing Law (Admin. Code ch. 43, art. X), which incorporates the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code, as amended from time to time.

“Adjusted Base Aggregate Facilities Special Tax Revenues” means the reduced amount of Base Aggregate Facilities Special Tax Revenues that will, in the Conversion Year, be calculated pursuant to Section D.3 if it is determined that the PG&E Affected Area will not be annexed into the STD.

“Administrative Expenses” means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out duties with respect to the STD and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the City Controller’s Office and/or the City Treasurer and Tax Collector’s Office, costs related to property owner inquiries regarding the Special Taxes, costs associated with appeals or requests for interpretation associated with the Special Taxes and this RMA, amounts needed to pay rebate to the federal government with respect to the Bonds, costs associated with complying with any continuing disclosure requirements for the City and any major property owner, costs associated with foreclosure and collection of delinquent Special Taxes, and all other costs and expenses of the City and Port in any way related to the establishment or administration of the STD.

“Administrator” means the Director of the Office of Public Finance or his/her designee who shall be responsible for administering the Special Taxes according to this RMA.

“Affordable Housing Project” means a residential or primarily residential project, as determined by the Review Authority, within which 100% of the Residential Units are Affordable Units.

“Affordable Square Footage” means (i) the entire square footage of an Affordable Housing Project, (ii) any Welfare Exemption Square Footage, and (iii) the aggregate Square Footage that is or is expected to be associated with Affordable Units within a building on a Parcel of Developed Property. The Review Authority shall make the final determination as to the amount of Affordable Square Footage within a building in the STD, and such determination shall be conclusive and binding.

“Affordable Unit” means a Residential Unit for which a deed restriction has been recorded that (i) limits the rental rates or sales price for the unit or (ii) in any other way is intended to restrict the current or future value of the unit, as determined by the Review Authority.

“Aggregate Project Revenues” means, at any point in time, the aggregate revenues that could be generated from land uses expected within the Project as a whole if the Maximum Facilities Special Taxes identified in Table 1 in Section C were applied to the actual and expected Square Footage in the Project, including Square Footage in Improvement Area No. 1. The Aggregate Project Revenues at the time of STD Formation are shown in Attachment 3 hereto, and will be amended from time to time if there are changes to the Square Footage or Land Use Categories in a Block. Such update shall be maintained internally by the Administrator and will not require recordation of an amended RMA.

“Airspace Parcel” means a parcel with an assigned Assessor’s Parcel number that constitutes vertical space of an underlying land parcel.

“Assessor’s Parcel” or **“Parcel”** means a lot or parcel, including an Airspace Parcel, shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating Parcels by Assessor’s Parcel number.

“Association” means a homeowners or property owners association, including any master or sub-association, that provides services to, and collects dues, fees, or charges from, property within the STD.

“Association Property” means any property within the boundaries of Improvement Area No. 1 that is (i) owned in fee or by easement by an Association, not including any such property that is located directly under a residential structure; and (ii) used for purposes of the Association and not leased or otherwise used for purposes that are not part of the operation of the Association.

“Association Square Footage” means Square Footage within a building that is (i) leased to an Association, not including any such property that is located directly under a residential structure; and (ii) used for purposes of the Association and not leased or otherwise used for purposes that are not part of the operation of the Association.

“Authorized Expenditures” means those public facilities and public services authorized to be funded by the STD as set forth in the documents adopted by the Board at STD Formation, as may be amended from time to time.

“Base Aggregate Facilities Special Tax Revenues” means \$3.3 million in Fiscal Year 2019-20 dollars, which amount shall, beginning July 1, 2020 and each July 1 thereafter, be increased by 2% of the amount in effect in the prior Fiscal Year.

“Base Contingent Services Special Tax” means, for any Land Use Category, the Contingent Services Special Tax for Square Footage within such Land Use Category, as identified in Table 2 in Section C herein.

“Base Facilities Special Tax” means, for any Land Use Category, the Facilities Special Tax for Square Footage within such Land Use Category, as identified in Table 1 in Section C herein.

“Base Special Tax” means, collectively, the Base Facilities Special Tax and Base Contingent Services Special Tax.

“Block” means a specific geographic area within Improvement Area No. 1 for which Expected Land Uses have been identified. The Blocks and Expected Land Uses within Improvement Area No. 1 at the time of STD Formation are identified in Attachments 1 and 2 of this RMA and may be revised pursuant to Sections C, D, and E herein. Such update shall be maintained internally by the Administrator and will not require recordation of an amended RMA.

“Board” means the Board of Supervisors of the City, acting as the legislative body of the STD.

“Bonds” means bonds or other debt (as defined in the Act), whether in one or more series, that are issued or assumed by or for Improvement Area No. 1 to finance Authorized Expenditures and are secured by the Facilities Special Tax.

“Building Permit” means the first permit, whether a site permit or building permit, issued by the City that, immediately upon issuance or ultimately after addenda to the permit, allows for vertical construction of a building or buildings.

“Capitalized Interest” means funds in any capitalized interest account available to pay debt service on Bonds.

“Certificate of Occupancy” means the first certificate, including any temporary certificate of occupancy, issued by the City to confirm that a building or a portion of a building has met all of the building codes and can be occupied for residential or non-residential use. For purposes of this RMA, “Certificate of Occupancy” shall not include any certificate of occupancy that was issued prior to January 1, 2021 for a building within the STD; however, any subsequent

certificates of occupancy that are issued for new construction, or expansion of a building shall be deemed a Certificate of Occupancy and the Special Taxes shall apply to the associated Square Footage. A certificate of occupancy following rehabilitation, relocation, or other work not constituting permanent new development under the Development Agreement, as determined in the sole discretion of the Review Authority, shall not be a Certificate of Occupancy for purposes of this RMA.

“**City**” means the City and County of San Francisco, California.

“**Community Facility Square Footage**” means Square Footage that occupies or is expected to occupy one or more land uses that contribute to the general welfare of the community and provide services that enhance the social, economic, religious, medical and/or artistic well-being of residents and employees in the City. Such uses, which are set forth in more detail in the Planning Code, include but are not limited to community and neighborhood centers, licensed child care facilities, philanthropic organizations, job training facilities, tax-exempt religious institutions, social service facilities, residential care facilities providing licensed medical care, and spaces used for the production of art. The Review Authority shall make the final determination as to the amount of Community Facility Square Footage within a building in Improvement Area No. 1, and such determination shall be conclusive and binding.

“**Contingent Services Special Tax**” means a special tax levied in any Fiscal Year after the Contingent Trigger Event to pay the Contingent Services Special Tax Requirement.

“**Contingent Services Special Tax Requirement**” means the amount necessary in any Fiscal Year after the Contingent Trigger Event to: (i) pay the costs of operations and maintenance and other public services that are included as Authorized Expenditures; (ii) cure delinquencies in the payment of Contingent Services Special Taxes in the prior Fiscal Year; and (iii) pay Administrative Expenses that have not been factored into the calculation of the Facilities Special Tax Requirement for the Fiscal Year.

“**Contingent Trigger Event**” is defined in the Financing Plan. The City shall make the determination as to whether the Contingent Trigger Event has occurred, and such determination shall be conclusive and binding. Upon such determination, the City shall notify the Administrator that the Contingent Services Special Tax should be levied in the following Fiscal Year and in all future Fiscal Years in which there is a Contingent Services Special Tax Requirement to be paid from proceeds of the Contingent Services Special Tax levy.

“**Conversion Date**” means, for Improvement Area No. 1, the earlier of (i) the date that all Qualified Project Costs have been paid or reimbursed to the Developer for the Project as a whole, and all Bonds issued for Improvement Area No. 1 to pay for such Qualified Project Costs have been fully repaid; or (ii) the date that is forty-two (42) years after the First Bond Sale for Improvement Area No. 1.

“**Conversion Year**” means the Fiscal Year following the Fiscal Year in which the Conversion Date occurred.

“Converted For-Sale Unit” means, in any Fiscal Year, an individual Residential Unit within a Converted Rental Residential Building for which an escrow has closed, on or prior to June 30 of the preceding Fiscal Year, in a sale to an individual homeowner or investor, as determined by the Administrator.

“Converted Rental Residential Building” means, in any Fiscal Year, a building: (i) that had, in the prior Fiscal Year, been a Rental Residential Building, and (ii) within which one or more Residential Units have been sold to individual homeowners or investors, which investors shall not include parties involved in the sale of the building to a subsequent landlord that intends to operate the building as a Rental Residential Building. In the first Fiscal Year in which the Administrator identifies a building as a Converted Rental Residential Building, the Administrator shall apply the Maximum Special Taxes for For-Sale Residential Square Footage to Converted For-Sale Units in the building. Rental Units in the Converted Rental Residential Building shall continue to be taxed as Rental Units unless and until such units become Converted For-Sale Units.

“County” means the City and County of San Francisco, California.

“D4D” means the Potrero Power Station Design for Development dated February 26, 2020 and as amended from time to time.

“Developed Property” means, in any Fiscal Year, all Taxable Parcels that are not Taxable Association Property or Taxable Public Property for which a Certificate of Occupancy was issued prior to June 30 of the preceding Fiscal Year, but not prior to January 1, 2021.

“Developer” means (i) California Barrel Company LLC, a Delaware limited liability company, (ii) any transferee to the extent set forth in an Assignment and Assumption Agreement, and (iii) any person or entity that obtains title to a Taxable Parcel (other than an Airspace Parcel for an individual For-Sale Unit) as a result of foreclosure proceedings or conveyance or other action in lieu thereof to the extent that such person or entity has specifically assumed the prior landowner’s obligations in accordance with the terms hereof.

“Development Agreement” means the Development Agreement, including all exhibits and attachments, executed by the City and California Barrel Company LLC, dated September 22, 2020, and as amended from time to time.

“Development Approval Documents” means, collectively, the Development Agreement, D4D, tentative subdivision map, Final Map, Review Authority approval, or other such approved or recorded document or plan that identifies the type of structure(s), acreage, Square Footage, and/or number of Residential Units approved for development on Taxable Parcels.

“Development Class” means, individually, Developed Property, Undeveloped Property, Taxable Association Property, and Taxable Public Property.

“Development Project” means a residential, non-residential, or mixed-use development that includes one or more buildings that are planned and entitled in a single Building Permit.

“Escalator” means the lesser of the following: (i) the increase, if any, in the Consumer Price Index (CPI) for All Urban Consumers in the San Francisco-Oakland-Hayward region (base years 1982-1984=100) published by the Bureau of Labor Statistics of the United States Department of Labor, or, if such index is no longer published, some other index approved by the City and Developer, and (ii) five percent (5%).

“Estimated Base Facilities Special Tax Revenues” means, at any point in time, the amount calculated by the Administrator by multiplying the Base Facilities Special Tax by Square Footage within each Land Use Category proposed for development on a Parcel or within a Block.

“Excess Exempt Square Footage” means, after the First Bond Sale, any Square Footage in a building on a Parcel of Developed Property that is determined by the Review Authority to exceed the amount of Exempt Square Footage for such building.

“Exempt Square Footage” means, prior to the First Bond Sale, any Square Footage in or expected in a building on a Parcel of Developed Property that is determined by the Review Authority to be used or reserved for an Exempt Use. After the First Bond Sale, Exempt Square Footage for any building on a Parcel of Developed Property shall be the sum of following, as determined by the Review Authority:

1. The Initial Exempt Square Footage for the building; and
2. Square Footage in or expected in the building that (i) exceeds the Initial Exempt Square Footage, and (ii) if exempted from the Facilities Special Tax, would not reduce coverage on outstanding Bonds below the Required Coverage.

“Exempt Use” means any of the following uses:

- 1) Affordable Square Footage
- 2) Association Square Footage
- 3) Accessory Square Footage
- 4) Community Facility Square Footage
- 5) Public Square Footage
- 6) Parking – areas reserved for automobile, motorcycle, or bicycle parking
- 7) Utilities – areas reserved for facilities associated with the treatment of water or sewer, or the transmission or provision of gas and electricity, or the heating and cooling of buildings.
- 8) Amenity Square Footage – areas reserved for sitewide amenities, such as a welcome center, leasing office, sitewide management, or sitewide security.

“Expected Land Uses” means the total Square Footage in each Land Use Category expected within each Block in Improvement Area No. 1. The Expected Land Uses at the time of STD Formation are identified in Attachment 2 and may be revised pursuant to Sections C, D, and E herein. Such update will be maintained internally by the Administrator and will not require recordation of an amended RMA.

“Expected Maximum Facilities Special Tax Revenues” means the aggregate Facilities Special Tax that can be levied based on application of the Base Facilities Special Tax to the Expected Land Uses. The Expected Maximum Facilities Special Tax Revenues for each Block at the time of STD Formation are shown in Attachment 2 and may be revised pursuant to Sections C, D, and E herein. Such update will be maintained internally by the Administrator and will not require recordation of an amended RMA.

“Facilities Special Tax” means a special tax levied in any Fiscal Year to pay the Facilities Special Tax Requirement.

“Facilities Special Tax Requirement” means the amount necessary in any Fiscal Year to: (i) pay principal and interest on Bonds that are due in the calendar year that begins in such Fiscal Year; (ii) pay periodic costs on the Bonds, including but not limited to, credit enhancement, liquidity support and rebate payments on the Bonds, (iii) replenish reserve funds created for the Bonds under the Indenture to the extent such replenishment has not been included in the computation of the Facilities Special Tax Requirement in a previous Fiscal Year; (iv) cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year; (v) pay Administrative Expenses; and (vi) pay directly for Authorized Expenditures in the priority set forth in the Financing Plan, so long as such levy under this clause (vi) does not increase the Facilities Special Tax levied on Undeveloped Property. The amounts referred to in clauses (i) and (ii) of the definition of Facilities Special Tax Requirement may be reduced in any Fiscal Year by: (a) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against such costs pursuant to the Indenture; (b) in the sole and absolute discretion of the City, proceeds received by the STD from the collection of penalties associated with delinquent Facilities Special Taxes; and (c) any other revenues available to pay such costs, each as determined in the sole discretion of the Administrator.

“Final Map” means a final map, or portion thereof, recorded by the County pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates individual lots on which Building Permits for new construction may be issued without further subdivision.

“Financing Plan” means the Financing Plan attached as Exhibit C to the Development Agreement, as such plan may be amended or supplemented from time to time in accordance with the terms of the Development Agreement.

“First Bond Sale” means issuance of the first series of Bonds secured, in whole or in part, by Facilities Special Taxes levied and collected from Taxable Parcels in Improvement Area No. 1.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“For-Sale Residential Square Footage” means the Square Footage of a For-Sale Unit or Hotel Condominium as (i) reflected on a condominium plan, site plan, Building Permit, or Certificate of Occupancy; (ii) provided by the Developer or the City; or (iii) expected pursuant to Development Approval Documents. For-Sale Residential Square Footage shall not include Affordable Square Footage, although Affordable Square Footage may become For-Sale Residential Square Footage, as provided by Section D.3 herein. The Administrator, in conjunction with the Review Authority, shall make the final determination as to the amount of For-Sale Residential Square Footage on a Taxable Parcel, and such determination shall be conclusive and binding.

“For-Sale Units” means: (i) Market Rate Units that are available or, upon completion, will be available for sale to individual homeowners or investors, (ii) Converted For-Sale Units, and (iii) all Market Rate Units in a building within which one or more Residential Units are available for sale to individual homeowners or investors, unless such building is a Converted Rental Residential Building. The Administrator shall make the final determination as to whether a Residential Unit is a For-Sale Unit, an Affordable Unit, or a Rental Unit, and such determination shall be conclusive and binding. For purposes of levying and collecting the Facilities Special Tax, after the First Bond Sale, a For-Sale Unit shall never be subsequently categorized as a Rental Unit regardless of changes of use in the building or a decision to permanently or temporarily rent the For-Sale Unit.

“Future Annexation Area” means that geographic area that, at the time of STD Formation, was considered potential annexation area for the STD and which was, therefore, identified as “future annexation area” on the recorded STD boundary map. Such designation does not mean that any or all of the Future Annexation Area will annex into Improvement Area No. 1, but should property designated as Future Annexation Area choose to annex, the annexation may be processed pursuant to the annexation procedures in the Act for territory included in a future annexation area, as well as the procedures established by the Board.

“Hotel” means a structure or portion of a structure that constitutes a place of lodging, providing temporary sleeping accommodations for travelers, which structure may include one or more of the following: spa services, restaurants, gift shops, meeting and convention facilities. Residential Units that are offered for rent to travelers (e.g., units offered through Airbnb) shall not be categorized as Hotel.

“Hotel Condominium” means a For-Sale Unit within a Hotel Project.

“Hotel Project” means a Development Project within which a building proposed to be constructed is either a Hotel or a residential or mixed-use building being developed in conjunction with a Hotel that will share common area and amenities with the Hotel. Notwithstanding the foregoing, if a Development Project includes multiple buildings, one of which is a Hotel, and one or more other buildings in the Development Project do not share common area or amenities with the Hotel and are not otherwise affiliated with the Hotel, such other building(s) shall be considered a separate Development Project for purposes of this RMA

and the Residential Units within such Development Project shall be categorized as For-Sale Units or Rental Units based on the definitions set forth herein.

“Hotel Square Footage” means the Square Footage within a building that is, or is expected to be, a Hotel, as reflected on a condominium plan, site plan, Building Permit, or Certificate of Occupancy; as provided by the Developer or the City; or as expected pursuant to Development Approval Documents. All Square Footage that is (i) not For-Sale Residential Square Footage, Rental Residential Square Footage, Exempt Square Footage, or Excess Exempt Square Footage and (ii) shares an Assessor’s Parcel number within such a structure, including Square Footage of restaurants, meeting and convention facilities, gift shops, spas, offices, and other related uses, shall be categorized as Hotel Square Footage. Upon assignment of Assessor’s Parcel numbers to the Airspace Parcels for any Hotel Condominiums, the Hotel Condominiums shall be assigned a Maximum Special Tax based on application of the Base Special Tax for Rental Residential Square Footage or For-Sale Residential Square Footage, as applicable. The Administrator, in conjunction with the Review Authority, shall make the final determination as to the amount of Hotel Square Footage within a building, and such determination shall be conclusive and binding. Hotel Square Foot means a single square-foot unit of Hotel Square Footage. For purposes of levying and collecting the Facilities Special Tax, after the First Bond Sale, a Hotel Condominium shall never be subsequently categorized as a Rental Unit or as Hotel Square Footage regardless of changes of use in the building or a decision to permanently or temporarily rent the Hotel Condominium.

“Improvement Area No. 1” means Improvement Area No. 1 of the STD, as it existed at STD Formation and as expanded with future annexations to Improvement Area No. 1 (if any).

“Indenture” means any indenture, fiscal agent agreement, resolution, or other instrument pursuant to which Bonds are issued, as modified, amended, and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“Initial Exempt Square Footage” means, for any building on a Parcel of Developed Property, the Square Footage in or expected in the building that, at the time the Parcel became Developed Property, was determined by the Review Authority to be reserved for an Exempt Use.

“Land Use Category” means, individually, For-Sale Residential Square Footage, Rental Residential Square Footage, Taxable Non-Residential Square Footage, and Excess Exempt Square Footage.

“Land Use Change” means a change to the Expected Land Uses within Improvement Area No. 1 after STD Formation.

“Market Rate Square Footage” means residential Square Footage that is not Affordable Square Footage.

“Market Rate Unit” means a Residential Unit that is not an Affordable Unit.

“Maximum Contingent Services Special Tax” means the greatest amount of Contingent Services Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year after the Contingent Trigger Event, as determined in accordance with Section C herein.

“Maximum Facilities Special Tax” means the greatest amount of Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C, D, and E herein.

“Maximum IA1 Revenues” means, at any point in time, the aggregate Maximum Facilities Special Tax that can be levied on all Taxable Parcels.

“Maximum Special Tax” or **“Maximum Special Taxes”** means the Maximum Facilities Special Tax and, in any Fiscal Year after the Contingent Trigger Event, the Maximum Contingent Services Special Tax.

“PDR Square Footage” means Square Footage within a grouping of uses that includes, but is not limited, to industrial and agricultural uses, ambulance services, animal hospital, automotive service station, automotive repair, automotive wash, arts activities, business services, cat boarding, catering service, commercial storage, kennel, motor vehicle tow service, livery stable, parcel delivery service, public utilities yard, storage yard, trade office, trade shop, wholesale sales, and wholesale storage, pursuant to Section 102 of the Planning Code or successor sections. The Administrator, in conjunction with the Review Authority, shall make the final determination as to the amount of PDR Square Footage within a building, and such determination shall be conclusive and binding.

“PG&E Affected Area” is defined in the Development Agreement.

“Planning Code” means the Planning Code of the City and County of San Francisco, as may be amended from time to time.

“Port” means the Port of San Francisco.

“Project” is defined in the Development Agreement.

“Proportionately” means that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Parcels or Square Footage taxed pursuant to each step in Section F herein.

“Public Property” means any property within the boundaries of the STD that is owned by or leased to the federal government, State of California, City, or other public agency. Parcels of Public Property, and/or leasehold interests in Public Property, that do not fall within the definition of Exempt Square Footage shall be taxed as Developed Property or Undeveloped Property, as determined by the Administrator pursuant to the definitions set forth in this RMA.

“Public Square Footage” means Square Footage on a Taxable Parcel that is or is expected to be owned or occupied by the federal government, the State of California, the City, or any other public agency.

“Qualified Project Costs” has the meaning set forth in the Financing Plan and refers to the Project as a whole.

“Remainder Special Taxes” means, as calculated between September 2st and December 31st of any Fiscal Year, any Facilities Special Tax revenues that were collected in the prior Fiscal Year and were not needed to: (i) pay debt service on the Bonds that was due in the calendar year in which the Remainder Special Taxes are being calculated; (ii) pay periodic costs on the Bonds, including but not limited to, credit enhancement, liquidity support and rebate payments on the Bonds; (iii) replenish reserve funds created for the Bonds under the Indenture; (iv) cure any delinquencies in the payment of principal or interest on Bonds which have occurred in the prior Fiscal Year; or (v) pay Administrative Expenses that have been incurred, or are expected to be incurred, by the City prior to the receipt of additional Facilities Special Tax proceeds.

“Rental Residential Building” means a building within Improvement Area No. 1 for which a Building Permit or use permit has been issued or is expected to be issued for construction of a residential structure within which all Residential Units are offered for rent to the general public, and cannot be purchased by individual homeowners or investors.

“Rental Residential Square Footage” means Square Footage that is or is expected to be used for one or more of the following uses: (i) Rental Units, (ii) any type of group or student housing which provides lodging for a week or more and may or may not have individual cooking facilities, including but not limited to boarding houses, dormitories, housing operated by medical institutions, and single room occupancy units, or (iii) a residential care facility that is not staffed by licensed medical professionals. The Administrator, in conjunction with the Review Authority, shall make the final determination as to the amount of Rental Residential Square Footage within a building, and such determination shall be conclusive and binding.

“Rental Unit” means (i) Residential Units within a Rental Residential Building, and (ii) all Rental Units within a Converted Rental Residential Building that have yet to be sold to an individual homeowner or investor. “Rental Unit” shall not include: (i) any Residential Unit which has been purchased by a homeowner or investor and subsequently offered for rent to the general public, or (ii) any Residential Units within a building that includes one or more For-Sale Units unless such building is a Converted Rental Residential Building. The Administrator shall make the final determination as to whether a Residential Unit is a For-Sale Unit or a Rental Unit, and such determination shall be conclusive and binding.

“Required Coverage” means the amount by which the Maximum IA1 Revenues must exceed the Bond debt service and priority Administrative Expenses (if any), as set forth in the Indenture, Certificate of Special Tax Consultant, or other formation or bond document that sets forth the minimum required debt service coverage.

“Residential Unit” means a room, or suite of two or more rooms, that is designed for residential occupancy for 32 consecutive days or more, including provisions for sleeping, eating and sanitation. “Residential Unit” will include, but not be limited to, an individual townhome, condominium, flat, apartment, or loft unit, and individual units within a senior or assisted living facility.

“Review Authority” means the City Planning Director or an alternate designee from the City who is responsible for approvals and entitlements of a Development Project.

“RMA” means this Rate and Method of Apportionment of Special Taxes.

“Special Tax” or **“Special Taxes”** means, prior to the Contingent Trigger Event, the Facilities Special Tax and, in and after the first Fiscal Year following the Contingent Trigger Event, the Facilities Special Tax and the Contingent Services Special Tax.

“Square Footage” means the net saleable or net leasable square footage of each Land Use Category within a building on a Taxable Parcel, as determined by the Review Authority in conjunction with the Developer. If a Building Permit is issued that will increase Taxable Square Footage on any Parcel, the Administrator shall, in any Fiscal Year after the final Building Permit inspection has been conducted in association with such expansion, work with the Review Authority to recalculate (i) the Taxable Square Footage on each Taxable Parcel, and (ii) the Maximum Special Tax for each Taxable Parcel based on the increased Taxable Square Footage. The final determination of Square Footage for each Land Use Category on each Taxable Parcel shall be made by the Review Authority. Square Foot means, within a particular Land Use Category, a single square-foot unit of the Square Footage within that Land Use Category.

“STD” means the City and County of San Francisco Special Tax District No. 2022-1 (Power Station).

“STD Formation” means the date on which the Board approved documents to form the STD.

“Taxable Association Property” means, in any Fiscal Year after the First Bond Sale, any Parcel of Association Property that satisfies all three of the following conditions: (i) the Parcel had not been Association Property on the date of the First Bond Sale; (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Section D below), the Parcel was not anticipated to be Association Property as determined by the Administrator; and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it is Association Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

“Taxable Non-Residential Square Footage” means the Square Footage within a building that is or is expected to be: (i) Square Footage of a commercial establishment that sells general merchandise, hard goods, food and beverage, personal services, and other items directly to consumers, including but not limited to, museums, restaurants, bars, entertainment venues, health clubs, spas, laundromats, dry cleaners, repair shops, storage facilities, and parcel delivery shops; (ii) Square Footage used for office or industrial business operations; (iii) Hotel Square Footage; (iv) PDR Square Footage; and (v) any other Square Footage in the building that does not meet the definition of Rental Residential Square Footage, For-Sale Residential Square Footage, Exempt Square Footage, or Excess Exempt Square Footage. Taxable Non-Residential Square Footage shall be determined based on reference to the condominium plan, site plan, Building Permit, Certificate of Occupancy, Development Approval Documents, or as provided by the Developer or the City. The Administrator, in conjunction with the Review Authority, shall make

the final determination as to the amount of Taxable Non-Residential Square Footage on any Taxable Parcel within Improvement Area No. 1, and such determination shall be conclusive and binding. Incidental retail or commercial uses in an otherwise exempt building (e.g., a snack bar in a recreation center on Association Property) shall not constitute Taxable Non-Residential Square Footage.

“Taxable Parcel” means any Parcel within Improvement Area No. 1 that is not exempt from the Special Tax pursuant to law or Section H herein.

“Taxable Public Property” means in any Fiscal Year after the First Bond Sale, any Parcel of Public Property that satisfies all three of the following conditions: (i) the Parcel had not been Public Property on the date of the First Bond Sale; (ii) based on reference to Attachments 1 and 2 (as may be updated pursuant to Section D below), the Parcel was not anticipated to be Public Property as determined by the Administrator; and (iii) if the Parcel were to be exempt from the Facilities Special Tax because it is Public Property, the Expected Maximum Facilities Special Tax Revenues would be reduced to a point at which Required Coverage could not be maintained.

“Taxable Square Footage” means, collectively, For-Sale Residential Square Footage, Rental Residential Square Footage, Taxable Non-Residential Square Footage, and Excess Exempt Square Footage.

“Undeveloped Property” means, in any Fiscal Year, all Taxable Parcels that are not Developed Property, Taxable Association Property, or Taxable Public Property.

“Welfare Exemption Square Footage” means, in any Fiscal Year, any Square Footage in the STD that has received a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code and for which such welfare exemption is still in place.

B. DATA FOR STD ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Taxable Parcels. The Administrator shall also determine: (i) whether each Taxable Parcel is Developed Property, Undeveloped Property, Taxable Association Property, or Taxable Public Property (ii) within which Block each Assessor’s Parcel is located, (iii) for Developed Property, the For-Sale Residential Square Footage, Rental Residential Square Footage, Taxable Non-Residential Square Footage, and Excess Exempt Square Footage on each Parcel, (iv) whether the Conversion Date or the Contingent Trigger Event occurred in any prior Fiscal Year, and (v) the Facilities Special Tax Requirement and, if the Contingent Trigger Event occurred in any prior Fiscal Year, the Contingent Services Special Tax Requirement for the Fiscal Year.

The Administrator shall review Development Approval Documents and coordinate with the City and the Developer to identify Affordable Square Footage within each building. If there are transfers of Affordable Square Footage and For-Sale Residential Square Footage or Rental Residential Square Footage, as applicable, the Administrator shall refer to Section D.4 to determine the Maximum Special Taxes for each Taxable Parcel after such transfer. If, at any

time after the First Bond Sale, it is determined that a proposed increase in Affordable Square Footage will decrease Maximum IA1 Revenues to a point at which Required Coverage cannot be maintained, then some or all of the Affordable Square Footage that was not originally part of the Expected Land Uses shall be designated as Excess Exempt Square Footage and will be subject to the levy of the Facilities Special Tax pursuant to Section F herein. In such a case, the Administrator shall determine how much of the Affordable Square Footage must be subject to the Facilities Special Tax in order to maintain Required Coverage, and the City shall determine which Affordable Square Footage will be deemed Excess Exempt Square Footage. Based on the determination, the Administrator shall update Attachments 2 and 3 accordingly. Such update shall be maintained internally by the Administrator and will not require recordation of an amended RMA.

When a Taxable Parcel becomes Developed Property, the Administrator and Review Authority shall also identify and document the Initial Exempt Square Footage for the building or buildings on or expected on the Taxable Parcel. The Administrator shall keep a record of the Initial Exempt Square Footage broken down by Exempt Use. After the First Bond Sale, as Square Footage within a building is designated for Exempt Uses, the Administrator shall compare the actual Square Footage used for each Exempt Use to the Initial Exempt Square Footage by Exempt Use. If, at any point in time, there is determined to be Excess Exempt Square Footage within a building, the Administrator and Review Authority shall use this comparison to determine which Square Footage should be designated Excess Exempt Square Footage. In addition, the Administrator shall determine whether the Excess Exempt Square Footage resulted in a reduction in For-Sale Residential Square Footage, Rental Residential Square Footage, or Taxable Non-Residential Square Footage expected in the building and, based on this determination, identify the applicable Maximum Special Taxes for the Excess Exempt Square Footage pursuant to the tables in Section C herein.

Prior to the First Bond Sale, the Administrator, City, and Developer shall coordinate to review the Expected Land Uses and determine if changes should be made to reflect more current estimates for land uses on any Blocks within the Project. Based on this review, the Administrator shall update Attachments 2 and 3 with the then-current Expected Land Uses, Expected Maximum Facilities Special Tax Revenues, and Aggregate Project Revenues. The adjusted Expected Maximum Facilities Special Tax Revenues, escalated pursuant to Section D.1, will thereafter be the amount used to size Bond sales unless and until there are additional updates of Attachment 2. Such update shall be maintained internally by the Administrator and will not require recordation of an amended RMA.

If a Certificate of Occupancy has been issued for a structure, and additional structures are anticipated to be built within the Block, as shown in Attachment 2 and the Development Approval Documents, the Administrator shall, regardless of the definitions set forth herein, categorize the building(s) for which the Certificate of Occupancy was issued as Developed Property and any remaining buildings for which Certificates of Occupancy have not yet been issued as Undeveloped Property for purposes of levying the Special Taxes. If the buildings share an Assessor's Parcel, the Administrator shall take the sum of the Special Taxes determined for each building after application of the steps in Section F to determine the Special Tax levies for the Parcel.

In any Fiscal Year, if it is determined that (i) a parcel map or condominium plan was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created parcels into the then current tax roll), (ii) because of the date the map or plan was recorded, the Assessor does not yet recognize the newly-created parcels, and (iii) one or more of the newly-created parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the map or plan by determining the Special Tax that applies separately to each newly-created parcel, then applying the sum of the individual Special Taxes to the Assessor's Parcel that was subdivided by recordation of the parcel map or condominium plan.

In addition to the tasks set forth above, on an ongoing basis, the Administrator will review the Development Approval Documents for property in Improvement Area No. 1 and communicate with the Developer regarding proposed Land Use Changes. The Administrator will, upon review of each Certificate of Occupancy, and upon any proposed Land Use Change that is made known to the Administrator, update Attachments 2 and 3 to reflect (i) the then-current Expected Land Uses for each Block, (ii) the Expected Maximum Facilities Special Tax Revenues, and (iii) the Aggregate Project Revenues. Such updates shall be maintained internally by the Administrator and shall not require recordation of an amended RMA.

C. MAXIMUM SPECIAL TAX

1. *Undeveloped Property*

1a. *Facilities Special Tax*

The Maximum Facilities Special Tax for Undeveloped Property in Improvement Area No. 1 shall be the Expected Maximum Facilities Special Tax Revenues shown in Attachment 2 of this RMA, as it may be amended as set forth herein. If, in any Fiscal Year, separate Assessor's Parcels have not yet been created for property within each Block, the Administrator shall sum the Expected Maximum Facilities Special Tax Revenues for all Blocks within an Assessor's Parcel to determine the Maximum Facilities Special Tax that shall apply to the Parcel in such Fiscal Year.

If an Assessor's Parcel contains a portion of one or more Blocks, or if a Block contains a portion of one or more Assessor's Parcels, the Administrator will coordinate with the Review Authority to estimate the Expected Land Uses that will occur on each Taxable Parcel in order to allocate the Expected Maximum Facilities Special Tax Revenues among the Taxable Parcels that are in effect for the Fiscal Year, and such allocation shall be conclusive and binding. If it is unclear as to where the Expected Land Uses will be located on the Taxable Parcels, the Expected Maximum Facilities Special Tax Revenues may be allocated based on the acreage of the Taxable Parcels. The Maximum IA1 Revenues after such allocation shall not be less than the Maximum IA1 Revenues prior to this allocation.

1b. Contingent Services Special Tax

No Contingent Services Special Tax shall be levied on Parcels of Undeveloped Property within Improvement Area No. 1.

2. Developed Property

2a. Facilities Special Tax

When a Taxable Parcel becomes Developed Property, the Administrator shall use the Base Facilities Special Taxes shown in Table 1 below and apply the steps set forth in this Section 2a to determine the Maximum Facilities Special Tax for the Taxable Parcel. If property annexes into Improvement Area No. 1, such property shall also be subject to the Maximum Facilities Special Taxes set forth in Table 1.

Table 1 Base Facilities Special Tax	
Land Use Category	Base Facilities Special Tax (FY 2021-22) *
For-Sale Residential Square Footage	\$3.75 per Square Foot
Rental Residential Square Footage	\$1.00 per Square Foot
Taxable Non-Residential Square Footage	\$1.50 per Square Foot
Excess Exempt Square Footage	\$3.75 per Square Foot if For-Sale Residential Square Footage was reduced, \$1.00 per Square Foot if Rental Residential Square Footage was reduced, or \$1.50 per Square Foot if Taxable Non-Residential Square Footage was reduced.

*** The Base Facilities Special Taxes shown above shall be escalated as set forth in Section D.1.**

Step 1. Identify the For-Sale Residential Square Footage, Rental Residential Square Footage, Taxable Non-Residential Square Footage, and/or Excess Exempt Square Footage in the building(s) on the Taxable Parcel.

Step 2. Multiply the applicable Base Facilities Special Tax from Table 1 by the actual and/or expected For-Sale Residential Square Footage, Rental Residential Square Footage, and Taxable Non-Residential Square Footage on the Taxable Parcel. Prior to the First Bond Sale, the Maximum Facilities Special Tax for the Taxable Parcel shall be the sum of the amounts calculated for For-Sale Residential Square Footage, Rental Residential Square Footage, and Taxable Non-Residential Square Footage, and Step 3 below shall not apply.

After the First Bond Sale, the Administrator shall apply Step 3 to determine the Maximum Facilities Special Tax for the Taxable Parcel.

Step 3. Compare the Estimated Base Facilities Special Tax Revenues from Step 2 to the Expected Maximum Facilities Special Tax Revenues, and, apply one of the following, as applicable:

- *If the Estimated Base Facilities Special Tax Revenues are: (i) greater than or equal to the Expected Maximum Facilities Special Tax Revenues or (ii) less than the Expected Maximum Facilities Special Tax Revenues, but the Estimated Base Facilities Special Tax Revenues are still sufficient to provide Required Coverage, then the Maximum Facilities Special Tax for the Taxable Parcel shall be determined by multiplying the applicable Base Facilities Special Taxes by the actual and/or expected For-Sale Residential Square Footage, Rental Residential Square Footage, and Taxable Non-Residential Square Footage on the Taxable Parcel. The Administrator shall update Attachments 2 and 3 to reflect the change in the Expected Maximum Facilities Special Tax Revenues and Aggregate Project Revenues.*
- *If the Estimated Base Facilities Special Tax Revenues are less than the Expected Maximum Facilities Special Tax Revenues, and the Estimated Base Facilities Special Tax Revenues are insufficient to provide Required Coverage, then the Administrator and Review Authority shall coordinate with the Developer, and the Review Authority shall determine which of the following shall occur:*
 - (i) *the Base Facilities Special Taxes that were applied to For-Sale Residential Square Footage, Rental Residential Square Footage, and Taxable Non-Residential Square Footage on the Taxable Parcel in Step 2 shall be increased proportionately until the amount that can be levied on the Taxable Parcel, combined with the Expected Maximum Facilities Special Tax Revenues from all other Taxable Parcels in the STD, is sufficient to maintain Required Coverage, **or***
 - (ii) *if the Estimated Base Facilities Special Tax Revenues are less than the Expected Maximum Facilities Special Tax Revenues due to Excess Exempt Square Footage, then the Base Facilities Special Tax for Excess Exempt Square Footage shall be levied against all Excess Exempt Square Footage included on the Taxable Parcel.*

If, pursuant to (i) above, the Base Facilities Special Taxes are proportionately increased to maintain Required Coverage, the Administrator shall use the adjusted per-square-foot rates to calculate the Maximum Facilities Special Tax for each building on the Taxable Parcel. The Administrator shall revise Attachments 2 and 3 to reflect any changes to the Expected Land Uses (including the addition of Excess

Exempt Square Footage), the Expected Maximum Facilities Special Tax Revenues, and the Aggregate Project Revenues.

Pursuant to this Section C.2a, the Administrator may from time to time update Attachments 2 and 3 to reflect revised Expected Maximum Facilities Special Tax Revenues and Aggregate Project Revenues. Such updates shall be maintained internally by the Administrator and shall not require recordation of an amended RMA.

2b. Contingent Services Special Tax

In the first Fiscal Year after the Fiscal Year in which the Contingent Trigger Event occurs, and in each Fiscal Year thereafter, when a Taxable Parcel becomes Developed Property, the Administrator shall use the Base Contingent Services Special Taxes shown in Table 2 below and apply the steps set forth in this Section 2b to determine the Maximum Contingent Services Special Tax for the Taxable Parcel.

Table 2	
Base Contingent Services Special Tax	
Land Use Category	Base Contingent Services Special Tax (FY 2021-22) *
For-Sale Residential Square Footage	\$0.29 per Square Foot
Rental Residential Square Footage	\$0.29 per Square Foot
Taxable Non-Residential Square Footage	\$0.29 per Square Foot
Excess Exempt Square Footage	\$0.29 per Square Foot

*** The Base Contingent Services Special Taxes shown above shall be escalated as set forth in Section D.2.**

- Step 1.* Identify the For-Sale Residential Square Footage, Rental Residential Square Footage, Taxable Non-Residential Square Footage, and/or Excess Exempt Square Footage on the Taxable Parcel.
- Step 2.* Multiply the applicable Base Contingent Services Special Tax from Table 2 by the actual and/or expected For-Sale Residential Square Footage, Rental Residential Square Footage, Taxable Non-Residential Square Footage, and/or Excess Exempt Square Footage on the Taxable Parcel. The Maximum Contingent Services Special Tax for the Taxable Parcel shall be the sum of the amounts calculated for each Land Use Category on the Taxable Parcel.

If additional structures are anticipated to be built on the Taxable Parcel as shown in the Development Approval Documents, the Administrator shall, regardless of the definitions set forth herein, categorize each building for which a Certificate of Occupancy has been issued as Developed Property, and any remaining buildings for which Certificates of

Occupancy have not yet been issued shall not be subject to a Contingent Services Special Tax until a Certificate of Occupancy is issued for such remaining buildings. To determine the Contingent Services Special Tax for any such Taxable Parcel, the Administrator shall take the sum of the Contingent Services Special Taxes determined for each building.

3. *Taxable Association Property and Taxable Public Property*

3a. *Facilities Special Tax*

If, in any Fiscal Year, the Administrator determines that there is Taxable Association Property and/or Taxable Public Property, the Administrator will, for each such Parcel, determine the Expected Land Uses and Expected Maximum Facilities Special Tax Revenues that had applied to the Parcel before it became Association Property or Public Property. The Expected Maximum Facilities Special Tax Revenues for the Parcel shall continue to be the Expected Maximum Facilities Special Tax that will apply to the Parcel, as well as the Maximum Facilities Special Tax that will apply for purposes of levying the Facilities Special Tax pursuant to Section F herein. The Maximum Facilities Special Tax assigned to the Parcel shall be adjusted pursuant to Section D.1.

3b. *Contingent Services Special Tax*

No Contingent Services Special Tax shall apply to Taxable Association Property or Taxable Public Property.

D. CHANGES TO THE MAXIMUM SPECIAL TAXES

1. *Annual Escalation of Facilities Special Tax*

Beginning July 1, 2022 and each July 1 thereafter, the Base Facilities Special Taxes in Table 1, the Expected Maximum Facilities Special Tax Revenues in Attachment 2, the Aggregate Project Revenues in Attachment 3, and the Maximum Facilities Special Tax assigned to each Taxable Parcel in Improvement Area No. 1 shall be increased by 2% of the amount in effect in the prior Fiscal Year.

2. *Annual Escalation of Contingent Services Special Tax*

Beginning July 1, 2022 and each July 1 thereafter, the Base Contingent Services Special Taxes in Table 2 and the Maximum Contingent Services Special Tax assigned to each Taxable Parcel shall be adjusted by the Escalator.

3. *Adjustment of Maximum Facilities Special Tax in the Conversion Year*

In the Conversion Year, the Administrator shall apply the following steps to calculate a reduced amount of Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1 and

a corresponding reduction in the Maximum Facilities Special Tax for all Taxable Parcels in Improvement Area No. 1:

- Step 1.* Coordinate with the Review Authority to confirm the current expected land uses within the Project, including Square Footage expected within the PG&E Affected Area.
- Step 2.* Based on the information collected in Step 1, (i) update Attachment 3 and calculate the current Aggregate Project Revenues; and (ii) update the Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1 in Attachment 2. For purposes of this Section D.3, the updated Expected Maximum Facilities Special Tax Revenues shall be deemed the “**Original Maximum Revenues**”.
- Step 3.* If the PG&E Affected Area has annexed or is still expected to annex into the STD, identify the Base Aggregate Facilities Special Tax Revenues for the current Fiscal Year. If the PG&E Affected Area is no longer expected to annex into the STD, calculate the Adjusted Base Aggregate Facilities Special Tax Revenues, as follows:
- 3a.** Using the information from Step 2, divide the Original Maximum Revenues by the Aggregate Project Revenues.
- 3b.** Multiply the quotient from Step 3a. by the Base Aggregate Facilities Special Tax Revenues to calculate the Adjusted Base Aggregate Facilities Special Tax Revenues, which shall also be the new Expected Maximum Facilities Special Tax Revenues for Improvement Area No. 1. This amount shall, beginning July 1 of the following Fiscal Year, be adjusted pursuant to Section D.1.
- Step 4.* If the PG&E Affected Area has annexed or is still expected to annex into the STD, divide the Base Aggregate Facilities Special Tax Revenues for the current Fiscal Year by the Original Maximum Revenues. If the PG&E Affected Area is no longer expected to annex into the STD, divide the Adjusted Base Aggregate Facilities Special Tax Revenues calculated in Step 3b by the Original Maximum Revenues from Step 2.
- Step 5.* Multiply the quotient calculated in Step 4 by the Maximum Facilities Special Tax assigned to all Taxable Parcels in Improvement Area No. 1 to calculate a reduced Maximum Facilities Special Tax that will (i) apply to each Parcel in the Conversion Year, and (ii) escalate on July 1 each Fiscal Year thereafter pursuant to Section D.1.
- Step 6.* Multiply the quotient calculated in Step 4 by the Base Facilities Special Tax for each Land Use Category, as determined pursuant to Section C.2a herein. The reduced Base Facilities Special Taxes shall, beginning in the Conversion Year,

be the effective Base Facilities Special Taxes for purposes of this RMA and will continue to increase each subsequent Fiscal Year pursuant to Section D.1.

- Step 7.* Update Attachment 2 to reflect the reduced Expected Maximum Facilities Special Tax Revenues determined pursuant to the steps above. Attachment 2 may be further revised pursuant to Sections C, D, and E herein. Such updates will be maintained internally by the Administrator and will not require recordation of an amended RMA.

Attachment 4 to this RMA provides a sample calculation of the adjustment to the Maximum Facilities Special Tax in the Conversion Year pursuant to this Section D.3. This sample is based on assumptions that are likely to change before the Conversion Year and is intended simply to provide an illustrative example of how the steps set forth above will be applied.

4. Adjustments to Affordable Square Footage

If, in any Fiscal Year after the First Bond Sale, the Administrator determines that Square Footage that had previously been designated as Affordable Square Footage no longer qualifies as such, the Maximum Facilities Special Taxes on such Square Footage shall be increased to the Maximum Facilities Special Taxes that would be levied on Market Rate Square Footage within the same Land Use Category. If, after the First Bond Sale, Market Rate Square Footage becomes Affordable Square Footage and, by exempting the Affordable Square Footage, the Administrator determines that Maximum IA1 Revenues would be reduced to a point at which Required Coverage cannot be maintained, then the Affordable Square Footage shall be designated as Excess Exempt Square Footage and shall be subject to the levy of the Facilities Special Tax pursuant to Section C herein.

5. Changes in Land Use Category on a Parcel of Developed Property

If the Square Footage on any Parcel that had been taxed as Developed Property in a prior Fiscal Year is rezoned or otherwise changes Land Use Category, the Administrator shall multiply the Base Facilities Special Tax by the Square Footage within each of the new Land Use Category(ies); if the First Bond Sale has not occurred, this amount shall be the Maximum Facilities Special Tax for the Parcel. If the First Bond Sale has taken place, the Administrator shall apply the remainder of this Section D.5.

If the amount determined is greater than the Maximum Facilities Special Tax that applied to the Taxable Parcel prior to the Land Use Change, the Administrator shall increase the Maximum Facilities Special Tax for the Parcel to the amount calculated for the new Land Use Category(ies). If the amount determined is less than the Maximum Facilities Special Tax that applied prior to the Land Use Change, there will be no change to the Maximum Facilities Special Tax for the Parcel. Except as otherwise provided in this RMA, under no circumstances shall the Maximum Facilities Special Tax on any Parcel of Developed Property be reduced, regardless of changes in Land Use Category or Square Footage on the Parcel, including reductions in Square Footage that may occur due to demolition, fire, water damage, or acts of God.

6. *Reduction in Maximum Facilities Special Tax Prior to First Bond Sale*

As set forth in, and subject to the requirements of, Section 2.3(m) of the Financing Plan, the Maximum Facilities Special Taxes assigned to Taxable Parcels in Improvement Area No. 1 may be proportionately or disproportionately reduced prior to the First Bond Sale. Such reduction shall be made administratively without Board action or a vote of the qualified STD electors following: (i) initiation by written request to the City, and (ii) consultation with the City regarding such request. The reduction shall be codified by recordation of an amended Notice of Special Tax Lien against all Taxable Parcels within Improvement Area No. 1.

7. *Converted Rental Residential Building*

If a Rental Residential Building in the STD becomes a Converted Rental Residential Building, the Administrator will rely on information from the County Assessor, site visits to the sales office, data provided by the entity that is selling Residential Units within the building, and any other available source of information to track sales of Residential Units. In the first Fiscal Year in which there is a Converted For-Sale Unit within the building, the Administrator shall apply the Base Special Tax for For-Sale Residential Square Footage to calculate the Maximum Special Taxes for all Converted For-Sale Units in the building in that Fiscal Year. In addition, the Base Special Tax for For-Sale Residential Square Footage, escalated as set forth in Section D.1 or, as applicable, D.2 above, shall be used to calculate the Maximum Special Taxes for all future Converted For-Sale Units within the building. Rental Units within the Converted Rental Residential Building shall continue to be subject to the Maximum Special Taxes for Rental Units until such time as the units become Converted For-Sale Units. The Maximum Special Taxes for all Residential Units within the building shall escalate each Fiscal Year as set forth in Section D.1 or, as applicable, D.2 above.

E. ANNEXATIONS

If, in any Fiscal Year, a property owner within the Future Annexation Area wants to annex property into Improvement Area No. 1, the Administrator shall apply the following steps as part of the annexation proceedings:

- Step 1.** Working with City staff and the landowner, the Administrator shall determine the Expected Land Uses for the area to be annexed.
- Step 2.** The Administrator shall prepare and keep on file updated Attachments 1, 2, and 3 to reflect the annexed property and identify the revised Expected Land Uses and Expected Maximum Facilities Special Tax Revenues. After the annexation is complete, the application of Sections C, D and F of this RMA shall be based on the adjusted Expected Land Uses, Expected Maximum Facilities Special Tax Revenues, and Maximum IA1 Revenues including the newly annexed property.
- Step 3.** The Administrator shall ensure that a Notice of Special Tax Lien is recorded against all Parcels that are annexed to the STD.

F. METHOD OF LEVY OF THE SPECIAL TAXES

1. *Facilities Special Tax*

Each Fiscal Year, the Facilities Special Tax shall be levied according to the steps outlined below:

Step 1. In all Fiscal Years prior to and including the earlier of (i) the Fiscal Year in which the City makes a finding that all Qualified Project Costs have been funded pursuant to the Financing Plan, or (ii) 42 years after the First Bond Sale for Improvement Area No. 1, the Maximum Facilities Special Tax shall be levied on the For-Sale Residential Square Footage, Rental Residential Square Footage, and Taxable Non-Residential Square Footage on all Parcels of Developed Property regardless of debt service on Bonds (if any), and any Remainder Special Taxes collected shall be applied as set forth in the Financing Plan.

In all Fiscal Years after the earlier of: (i) the Fiscal Year in which the City makes a finding that all Qualified Project Costs have been funded pursuant to the Financing Plan, or (ii) 42 years after the First Bond Sale for Improvement Area No. 1, the Special Tax shall be levied Proportionately on For-Sale Residential Square Footage, Rental Residential Square Footage, and Taxable Non-Residential Square Footage on each Parcel of Developed Property, up to 100% of the Maximum Facilities Special Tax until the amount levied is equal to the Facilities Special Tax Requirement.

Step 2. If additional revenue is needed after Step 1 in order to meet the Facilities Special Tax Requirement after Capitalized Interest has been applied to reduce the Facilities Special Tax Requirement, the Facilities Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year.

Step 3. If additional revenue is needed after Step 2, the Facilities Special Tax shall be levied Proportionately on (i) each Parcel of Taxable Association Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Taxable Association Property, (ii) each Parcel of Taxable Public Property, up to 100% of the Maximum Facilities Special Tax for each Parcel of Taxable Public Property, and (iii) all Excess Exempt Square Footage, up to 100% of the Maximum Facilities Special Tax for Excess Exempt Square Footage.

2. *Contingent Services Special Tax*

Each Fiscal Year after the Fiscal Year in which the Contingent Trigger Event occurs, the Administrator shall coordinate with the City to determine the Contingent Services Special Tax Requirement for the Fiscal Year. The Contingent Services Special Tax shall then be levied Proportionately on each Parcel of Developed Property, in an amount up to 100% of the

Maximum Contingent Services Special Tax for each Parcel of Developed Property for such Fiscal Year until the amount levied is equal to the Contingent Services Special Tax Requirement. The Contingent Services Special Tax shall not be levied on Undeveloped Property, Taxable Association Property, or Taxable Public Property.

G. COLLECTION OF SPECIAL TAXES

The Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill the Special Taxes, may collect Special Taxes at a different time or in a different manner, and may collect delinquent Special Taxes through foreclosure or other available methods.

The Facilities Special Tax shall be levied and collected until the earlier of (i) the Fiscal Year in which the City determines that all Qualified Project Costs have been funded pursuant to the Financing Plan and all other Authorized Expenditures that will be funded by the STD have been funded, and (ii) Fiscal Year 2131-32. The Contingent Services Special Tax shall be levied in the Fiscal Year following the Contingent Trigger Event and in perpetuity thereafter. Pursuant to Government Code Section 53321(d) (to the extent incorporated in the Act), the Facilities Special Tax levied against a Parcel used for private residential purposes shall under no circumstances increase more than ten percent (10%) as a consequence of delinquency or default by the owner of any other Parcel or Parcels and shall, in no event, exceed the Maximum Facilities Special Tax in effect for the Fiscal Year in which the Facilities Special Tax is being levied.

H. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Special Taxes shall be levied on (i) Exempt Square Footage other than Excess Exempt Square Footage, or (ii) Public Property or Association Property, except Taxable Public Property or Taxable Association Property.

I. INTERPRETATION OF SPECIAL TAX FORMULA

The City may interpret, clarify, and revise this RMA to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, as long as such interpretation, clarification, or revision does not materially affect the levy and collection of Special Taxes and security for any Bonds.

J. SPECIAL TAX APPEALS

Any taxpayer who wishes to challenge the accuracy of computation of Special Taxes in any Fiscal Year may file an application with the Administrator. The Administrator, in consultation with the City Attorney, shall promptly review the taxpayer's application. If the Administrator concludes that the computation of a Special Tax was not correct, the Administrator shall correct the Special Tax levy and, if applicable in any case, a refund shall be granted. If the Administrator concludes that the computation of the Special Tax was correct, then such

determination shall be final and conclusive, and the taxpayer shall have no appeal to the Board from the decision of the Administrator.

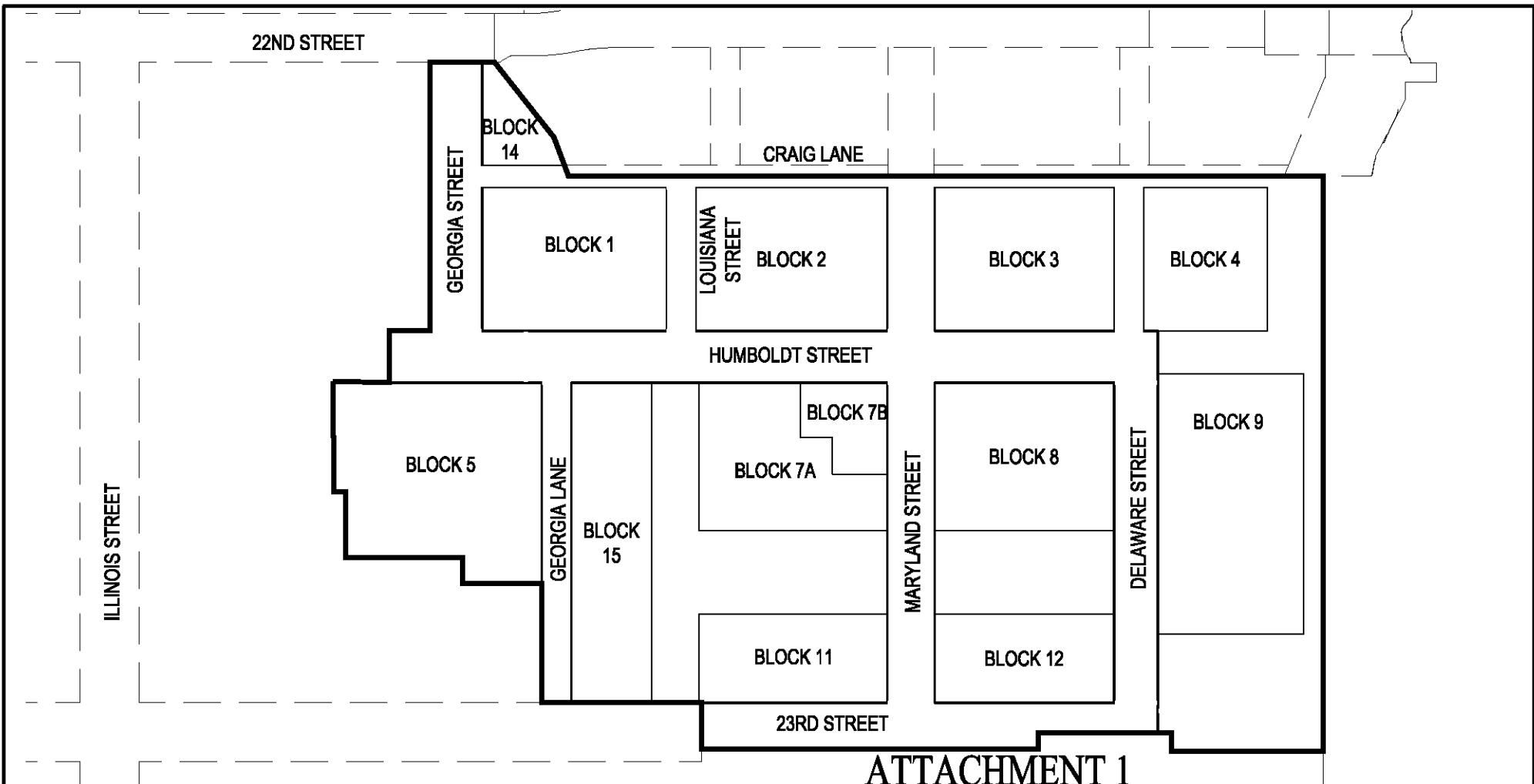
The filing of an application or an appeal shall not relieve the taxpayer of the obligation to pay Special Taxes when due.

Nothing in this Section J shall be interpreted to allow a taxpayer to bring a claim that would otherwise be barred by applicable statutes of limitation set forth in the Act or elsewhere in applicable law.

ATTACHMENT 1

**Improvement Area No. 1 of the
City and County of San Francisco
Special Tax District No. 2022-1
(Power Station)**

**Identification of Blocks in the
Power Station Project**



ATTACHMENT 1

CITY AND COUNTY OF SAN FRANCISCO SPECIAL TAX DISTRICT
NO. 2022-1 (POWER STATION)

IDENTIFICATION OF BLOCKS

LEGEND



BOUNDARIES OF SPECIAL TAX DISTRICT AND IMPROVEMENT
AREA NO. 1 (POWER STATION)

CITY AND COUNTY OF SAN FRANCISCO CALIFORNIA

DATE: DECEMBER 2021 SCALE: 1"=200'



SAN RAMON (925) 866-0322
ROSEVILLE (916) 788-4456
WWW.CBANDG.COM

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ATTACHMENT 2

Improvement Area No. 1 of the City and County of San Francisco Special Tax District No. 2022-1 (Power Station)

Expected Land Uses and Expected Maximum Facilities Special Tax Revenues by Block

Block/1	Expected Land Use	Expected Square Footage /2	Base Facilities Special Tax (FY 2021-22) /3	Expected Maximum Facilities Special Tax Revenues (FY 2021-22) /3
1	Rental Residential Square Footage Taxable Non-Residential Square Footage	288,841 9,526	\$1.00 per Square Foot \$1.50 per Square Foot	\$288,841 \$14,289
2	Taxable Non-Residential Square Footage	290,491	\$1.50 per Square Foot	\$435,737
3	Taxable Non-Residential Square Footage	294,701	\$1.50 per Square Foot	\$442,052
4	For-Sale Residential Square Footage Taxable Non-Residential Square Footage	130,400 6,206	\$3.75 per Square Foot \$1.50 per Square Foot	\$489,000 \$9,309
7A	For-Sale Residential Square Footage Taxable Non-Residential Square Footage	314,919 7,266	\$3.75 per Square Foot \$1.50 per Square Foot	\$1,180,946 \$10,899
8	Rental Residential Square Footage Taxable Non-Residential Square Footage	292,854 14,906	\$1.00 per Square Foot \$1.50 per Square Foot	\$292,854 \$22,359
9	For-Sale Residential Square Footage Taxable Non-Residential Square Footage	140,000 3,296	\$3.75 per Square Foot \$1.50 per Square Foot	\$525,000 \$4,944
11	Taxable Non-Residential Square Footage	200,101	\$1.50 per Square Foot	\$300,152
12	Taxable Non-Residential Square Footage	202,726	\$1.50 per Square Foot	\$304,089
15	Taxable Non-Residential Square Footage	404,818	\$1.50 per Square Foot	\$607,227
Total Expected Square Footage		2,601,051	N/A	N/A
Expected Maximum Facilities Special Tax Revenues (Fiscal Year 2021-22 \$)				\$4,927,698

1. See Attachment 1 for the geographic area associated with each Block.
2. The Expected Square Footage in Block 1 assumes that a lot line adjustment for parcels that are part of the PG&E Affected Area has occurred. If such lot line adjustment does not occur, the Expected Square Footage for Block 1 will be reduced to zero.
3. Beginning July 1, 2022 and each July 1 thereafter, the dollar amounts shown above shall be escalated as set forth in Section D.1.

ATTACHMENT 3

**Improvement Area No. 1 of the
City and County of San Francisco
Special Tax District No. 2022-1
(Power Station)**

Aggregate Project Revenues

Area	Expected Land Use	Expected Square Footage /1	Base Facilities Special Tax (FY 2021-22) /2	Estimated Maximum Facilities Special Tax Revenues (FY 2021-22) /2
Improvement Area No. 1	Rental Residential Square Footage	581,695	\$1.00 per Square Foot	\$581,695
	For-Sale Residential Square Footage	585,319	\$3.75 per Square Foot	\$2,194,946
	Taxable Non-Residential Square Footage	1,434,037	\$1.50 per Square Foot	\$2,151,056
PG&E Affected Area	Rental Residential Square Footage	379,353	\$1.00 per Square Foot	\$379,353
	Taxable Non-Residential Square Footage	5,495	\$1.50 per Square Foot	\$8,243
Total Aggregate Project Revenues (Fiscal Year 2021-22 \$)				\$5,315,293

1. The Expected Square Footage in Block 1 assumes that a lot line adjustment for parcels that are part of the PG&E Affected Area has occurred. If such lot line adjustment does not occur, the Expected Square Footage for Block 1 will be reduced to zero.
2. Beginning July 1, 2022 and each July 1 thereafter, the dollar amounts shown above shall be escalated as set forth in Section D.1.

ATTACHMENT 4

**City and County of San Francisco
Community Facilities District No. 2022-1
(Power Station)**

**Sample Calculation For Reduction in Conversion Year (RMA Section D.3)
Example Assumes PG&E Affected Area Annexes Into Improvement Area No. 1**

Assumptions			
		<u>Square Feet</u>	<u>Expected Revenues</u>
Original IA No. 1 Boundaries		2,601,051	\$4,927,697
PG&E Affected Area (Block 13)		384,848	\$387,596
Total		2,985,899	\$5,315,293
<u>Base Aggregate Facilities Special Tax Revenues</u>			
FY 2019-20 \$			\$3,300,000
FY 2021-22 \$			\$3,433,320
Adjustment of Maximum Facilities Special Tax in Conversion Year			
		<u>PG&E Included</u>	<u>PG&E Excluded</u>
Step 1:	Expected Land Uses for Project (Sq. Ft.)	2,985,899	2,601,051
Step 2:	Aggregate Project Revenues (APR)	\$5,315,293	\$5,315,293
	Original Maximum Revenues (OMR)	\$5,315,293	\$4,927,697
Step 3:	Base Aggregate Facilities Revenues	\$3,433,320	n/a
Step 3a:	OMR as a % of the APR	n/a	92.7%
Step 3b:	Adjusted Base Aggregate Facilities Revenues	n/a	\$3,182,959
Step 4:	Divide Base or Adjusted Base by OMR	64.6%	64.6%
Step 5:	Multiply Step 4 by Maximum Facilities Special Tax		
	Original IA No. 1 Boundaries	\$3,182,959	\$3,182,959
	PG&E Affected Area (Block 13)	\$250,361	n/a
		<u>\$3,433,320</u>	<u>\$3,182,959</u>
Step 6:	Determine Reduced Base Fac. Special Tax Rates		<u>FY 2021-22 \$</u>
	For-Sale Residential SF	\$2.42 per sf	\$2.42 per sf
	Rental Residential SF	\$0.65 per sf	\$0.65 per sf
	Taxable Non-Residential SF	\$0.97 per sf	\$0.97 per sf



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Power Station Special Tax District Formation
Office of Public Finance & Office of Economic and Workforce Development
Capital Planning Committee

December 13, 2021

Presentation Overview

2

- ▣ Project Overview
 - ▣ Location, Programming, and Public Benefits
- ▣ Proposed Special Tax District
 - ▣ Tax Rates
 - ▣ Proposed Uses
- ▣ Next Steps

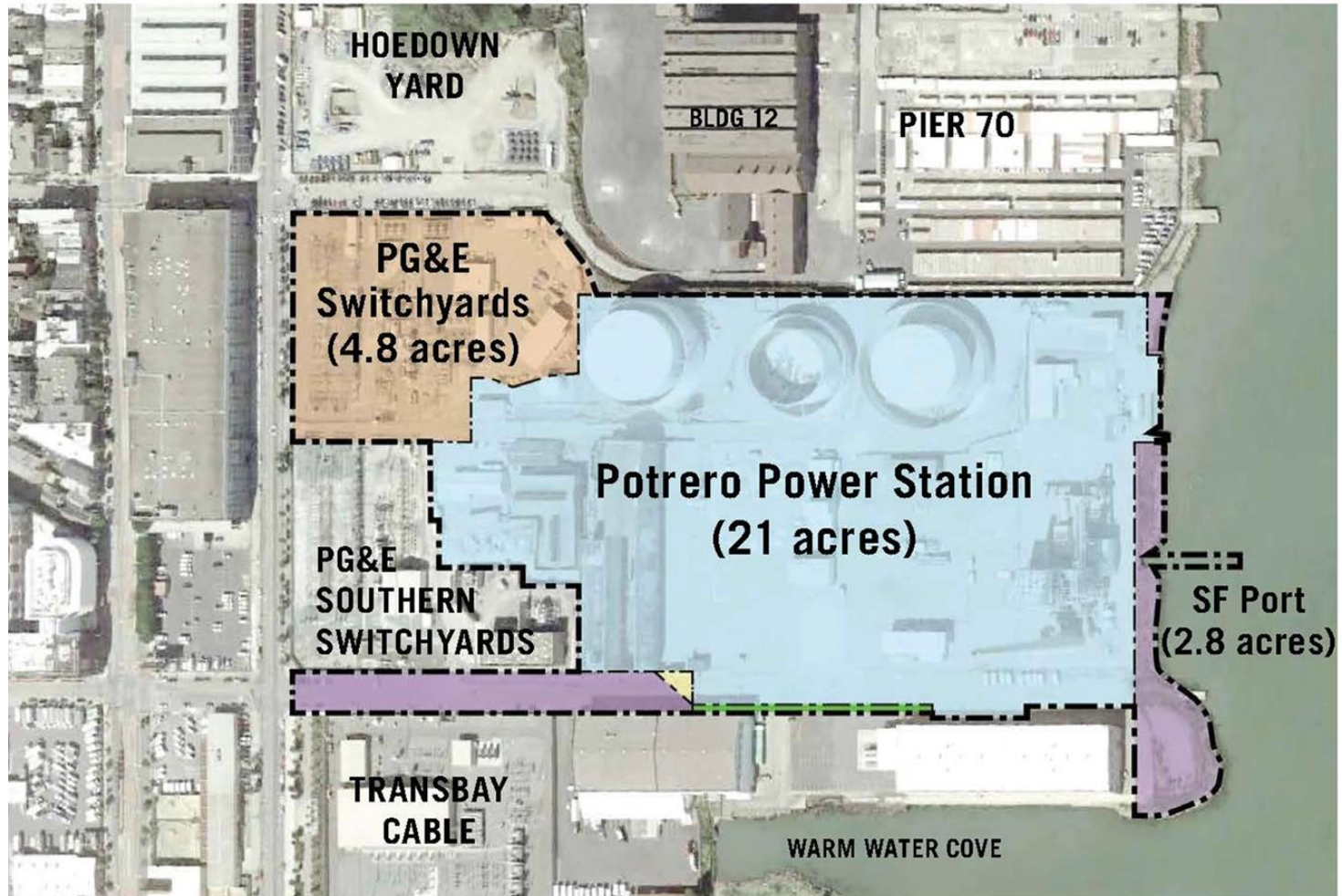
Project Overview - Location

3



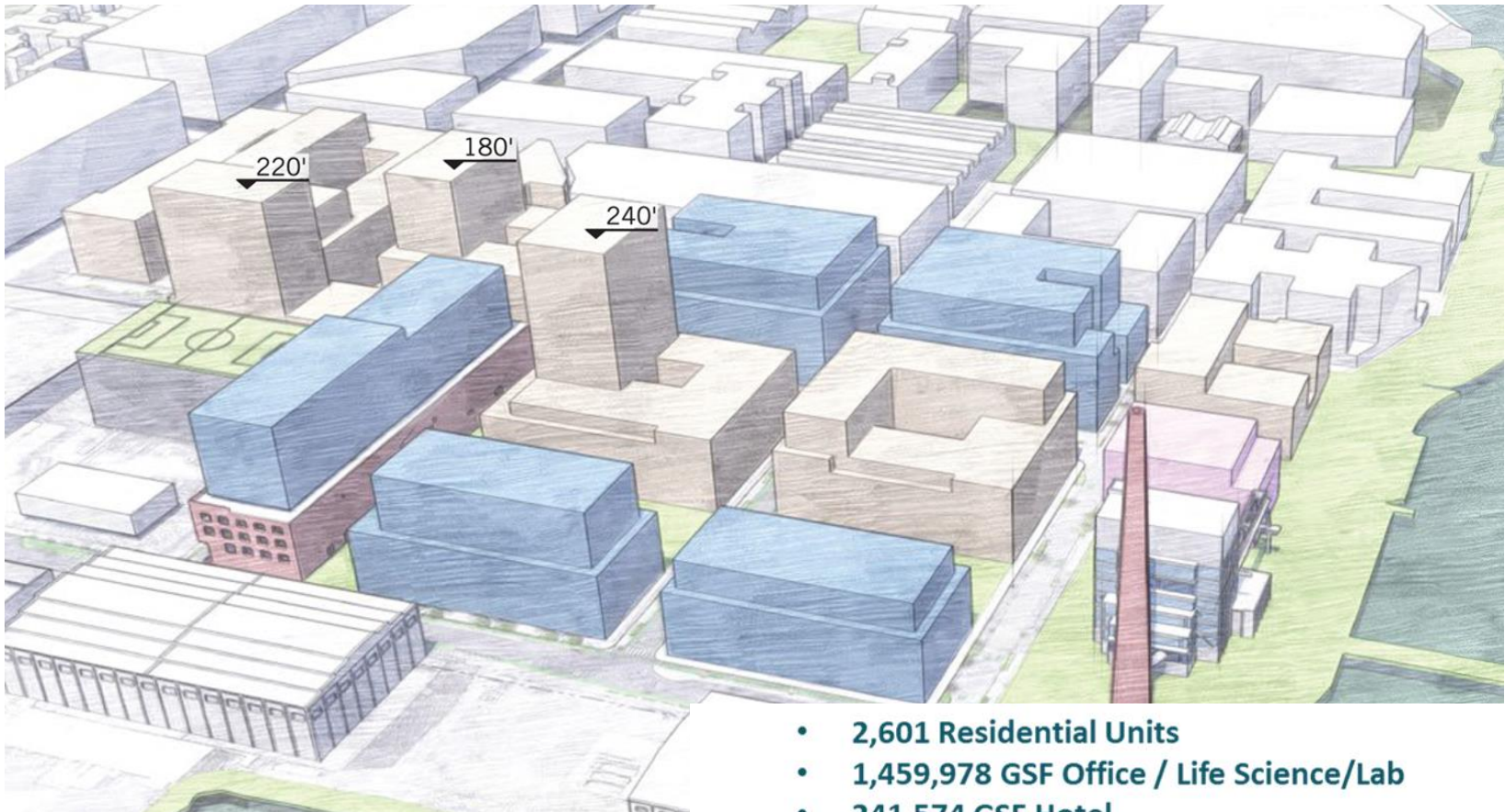
Project Overview - Size

4



Project Overview - Program

5



- **2,601 Residential Units**
- **1,459,978 GSF Office / Life Science/Lab**
- **241,574 GSF Hotel**
- **99,464 GSF Retail**

Project Overview – Public Benefits

6

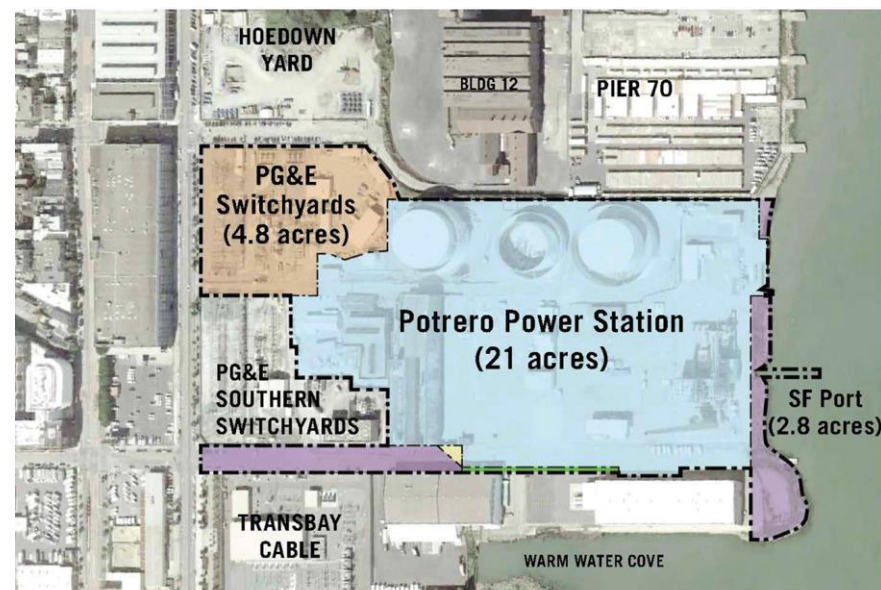
- ▣ Housing
 - ▣ 30% BMR in every phase (780 total affordable units, two-thirds onsite)
- ▣ Transportation
 - ▣ Bus stop and layover facilities, shuttle to BART, \$65M in transportation fees
- ▣ Workforce Development
 - ▣ Robust First Source Hiring and LBE Agreements, specific tech/biotech programs
- ▣ Open Space
 - ▣ 7 acres of new open space – includes passive and active recreation
- ▣ Community Facilities and Historic Preservation
 - ▣ Space for new YMCA, on-site childcare facilities, retention of “Station A” complex
- ▣ Adaptation/Resiliency/Benefits to Port
 - ▣ Improvements to shoreline areas never before open to public
 - ▣ Special Tax District – funding mechanism for future SLR improvements

Project Overview – Project Features

7

PG&E Property

- Potential to annex “Northern Switchyard site” into project (Block 13 of development program)
- New PG&E facilities
- Percentage of affordable housing remains unchanged in either scenario



Contingent Services Tax

- Maintenance, repair, replacement and operation of improvements on shoreline parks and Craig Lane
- Contingent Tax provides “guarantee” to Port in the event of a default by Developer or HOA in providing these services



Special Tax District

8

- Per the Development Agreement between the City and the Master Developer, the City is introducing legislation to allow for the formation of a Special Tax District.
- The Rate and Method of Apportionment (RMA) provides for two taxes for this District:
 - Facilities
 - Contingent Services
- The proceeds from the Facilities Tax are expected to be leveraged for future bond issuances.
- The not-to-exceed bonded indebtedness limit is \$800 million with an additional \$63 million should the PG&E annexation occur.
- Initially Qualified Project Costs under the Development Agreement will be financed from bonds issued by the Special Tax District (First Tranche Bonds). At the earlier of (i) 42 years or (ii) after the First Tranche bonds have been repaid, the special taxes will be reduced to \$3.3 million (in FY 2019-20\$) and the City may issue debt to fund Additional Community Facilities, which includes Future Sea Level Rise Improvements and Shoreline Improvements.

Special Tax District – Tax Rates

Table 1 Base Facilities Special Tax	
Land Use Category	Base Facilities Special Tax (FY 2021-22) *
For-Sale Residential Square Footage	\$3.75 per Square Foot
Rental Residential Square Footage	\$1.00 per Square Foot
Taxable Non-Residential Square Footage	\$1.50 per Square Foot
Excess Exempt Square Footage	\$3.75 per Square Foot if For-Sale Residential Square Footage was reduced, \$1.00 per Square Foot if Rental Residential Square Footage was reduced, or \$1.50 per Square Foot if Taxable Non-Residential Square Footage was reduced.

Expected maximum Facilities Special Tax revenues of \$4,927,698 (in FY 2021-22 \$), not assuming a future PG&E annexation, and \$5,315,293 with the PG&E annexation, prior conversion. Annual escalator defined as 2%.

Special Tax District – Tax Rates

Table 2 Base Contingent Services Special Tax	
Land Use Category	Base Contingent Services Special Tax (FY 2021-22) *
For-Sale Residential Square Footage	\$0.29 per Square Foot
Rental Residential Square Footage	\$0.29 per Square Foot
Taxable Non-Residential Square Footage	\$0.29 per Square Foot
Excess Exempt Square Footage	\$0.29 per Square Foot

If a Contingent Trigger Event occurs, the Contingent Services Special Tax would be levied to generate an estimate \$737,169 (in FY 2021-22 \$) with an annual escalator of the lesser of the change in CPI and 5%.

Special Tax District – Eligible Uses

11

Facilities

- ▣ Shoreline Improvements
- ▣ Future Sea Level Rise Improvements
- ▣ Additional Community Facilities
- ▣ Infrastructure
- ▣ Parks and Open Space
- ▣ Public Improvements
- ▣ Privately-Owned Community Improvements

Contingent Services Tax

- ▣ Maintenance, repair, replacement and operation of:
 - ▣ Infrastructure on Port Lease Property
 - ▣ Parks and Open Space on Port Lease Property
 - ▣ Public Improvements on Port Lease Property
 - ▣ Privately-Owned Community Improvements on Port Lease Property
 - ▣ Craig Lane

Other

- ▣ Bond related expenses
- ▣ Administrative fees
- ▣ Reimbursement of costs related to the formation of the Special Tax District and Improvement Area(s)

Timeline

12

Proposed Timeline of Legislation

First Legislative Packet (*this introduction*)

Capital Planning Committee

Board of Supervisors Introduction

Budget & Finance Committee Hearing

Board Approval of Resolutions and Selection of Public Hearing Date

Dates*:

December 13

December 14

January 12

January 25

Second Legislative Packet

Board of Supervisors Introduction

Public Hearing

Board Approval of Formation Resolutions

Election of Qualified Electors

Board Approval of Resolution Declaring Results of Election and 1st vote on Ordinance

Board Approval of Ordinance

January 25

March 8

March 8

March 21

March 22

April 5

*Please note that dates are preliminary and may change.

Current Actions

13

- Request CPC recommend the Board of Supervisors approve the following resolutions:
 - Resolution of Intention to Incur Bonded Indebtedness
 - Resolution of Intention to Establish a Special Tax District



Questions?

**RECORDING REQUESTED BY AND
AFTER RECORDATION RETURN TO:**

Clerk of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Affected APNs:	Affected Addresses:
4175-017	1201 Illinois Street
4232-006	420 23rd Street

NOTICE OF SPECIAL TAX LIEN

**IMPROVEMENT AREA NO. 1 OF THE
CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)**

Pursuant to the requirements of Section 3114.5 of the California Streets and Highways Code of California and Section 53328.3 of the California Government Code, the undersigned Clerk of the Board of Supervisors of the City and County of San Francisco, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the Board of Supervisors of the City and County of San Francisco. The special tax secured by this lien is authorized to be levied for the purpose of (i) financing directly the acquisition and construction of all or a portion of the facilities described in Exhibit A attached hereto (the "Facilities"), (ii) financing the contingent services described in Exhibit A attached hereto (the "Contingent Services"), (iii) paying principal and interest on bonds (and other debt as defined in the Mello-Roos Act), the proceeds of which are being used to finance the acquisition and construction of all or a portion of the Facilities, and (iv) to pay the cost of administering the Improvement Area and the Special Tax District (defined below).

The special tax is authorized to be levied within "Improvement Area No. 1 of the City and County of San Francisco Special Tax District No. 2022-1 (Power Station)" (the "Improvement Area") which has now been officially formed under the San Francisco Special Tax Financing Law (Admin. Code ch. 43, art. X), which incorporates the Mello-Roos Community Facilities Act of 1982 (Cal. Gov't Code Section 53311 et seq.), and the lien of the special tax is a continuing lien which shall secure each annual levy of the special tax and which shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the California Government Code.

The rate, method of apportionment, and manner of collection of the authorized special tax for the Improvement Area is as set forth in Exhibit B attached hereto and hereby made a part hereof. Conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled are as set forth in Exhibit B attached hereto and hereby made a part hereof.

Notice is further given that upon the recording of this notice in the Office of the Assessor-Recorder for the City and County of San Francisco, State of California the obligation to pay the

special tax levy shall become a lien upon all nonexempt real property within the Improvement Area in accordance with Section 3115.5 of the California Streets and Highways Code.

The name(s) of the owner(s) and the assessor's tax parcel numbers of the real property included within the area of the Improvement Area and not exempt from the special tax are as set forth in Exhibit C attached hereto and hereby made a part hereof.

Reference is made to the boundary map of the Improvement Area recorded on February 10, 2022 at 2:39 p.m. in Book 1 of Maps of Assessment and Community Facilities Districts at Pages 187-195 as Document No. 2022014965 in the Office of the Assessor-Recorder for the City and County of San Francisco, State of California, which map is now the final boundary map of the Improvement Area.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the Director of the Office of Public Finance, City and County of San Francisco, 1 Dr. Carlton B. Goodlett Place, San Francisco, California 94102; Telephone: (415) 554-5956.

Dated: As of _____, 2022

By: _____
Clerk of the Board of Supervisors,
City and County of San Francisco

EXHIBIT A

NOTICE OF SPECIAL TAX LIEN

IMPROVEMENT AREA NO. 1 OF THE CITY AND COUNTY OF SAN FRANCISCO Special Tax District No. 2022-1 (Power Station)

DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED BY THE SPECIAL TAX DISTRICT AND IMPROVEMENT AREA NO. 1 THEREIN

FACILITIES

The Special Tax District and Improvement Area No. 1 are authorized to finance all or a portion of the costs of the acquisition, construction and improvement of any of the following types of facilities:

The Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) shall be authorized to finance all or a portion of the costs of the acquisition, construction, improvement, maintenance, repair or replacement of improvements authorized by Chapter 43, Article X of the San Francisco Administrative Code (as it may be amended from time to time, "Code"), which Code incorporates by reference the Mello-Roos Community Facilities Act of 1982, as amended ("Mello-Roos Act"), including, but not limited to, the improvements described below that are either owned by the City and County of San Francisco (including through its Port Commission or other City agencies, collectively, "City") or privately-owned and privately-maintained but dedicated to public access and use. Capitalized terms used herein but not defined herein have the meanings given them in the Development Agreement by and between the City and California Barrel Company LLC, dated September 22, 2020, relating to the Potrero Power Station development project, as amended from time to time (including all exhibits thereto, "Development Agreement").

- Shoreline Improvements: Maintenance, repair, and replacement of improvements in the Shoreline Area undertaken following Completion of the initial Improvements to that area required under the Development Agreement
- Future Sea Level Rise Improvements: Future improvements deemed necessary or appropriate by the City to ensure that the shoreline, related public or publicly accessible facilities (located on public or private property), and public access improvements will be protected should sea level rise at or near the Project Site.
- Additional Community Facilities: (i) Public facilities (located on public or private property) that serve the Project Site, including maintenance, restoration, rehabilitation, reconstruction or replacement of facilities previously financed under the Financing Plan of the Development Agreement, (ii) Future Sea Level Rise Improvements and (iii) Shoreline Improvements.
- Infrastructure: Infrastructure to be constructed by Developer as described in the Infrastructure Plan attached as Exhibit G to the Development Agreement.

- Parks and Open Space: All of the publicly-accessible open spaces developed in accordance with the Design for Development attached as Exhibit E to the Development Agreement.
- Public Improvements: The facilities, both on- and off-site, to be improved, constructed and dedicated by Developer and, upon Completion in accordance with the Development Agreement, accepted by the City. Public Improvements include the streets within the Project Site shown on Exhibit N of the Development Agreement, and all Infrastructure and public utilities within such streets (such as electricity, water and sewer lines but excluding any non-municipal utilities), including sidewalks, landscaping, bicycle lanes, bus boarding island, street furniture, and paths and intersection improvements (such as curbs, medians, signaling, traffic controls devices, signage, and striping). The Public Improvements also include the SFPUC Infrastructure, and the SFMTA Infrastructure. The Public Improvements do not include Privately-Owned Community Improvements or, if any, privately owned facilities or improvements in the public right of way.
- Privately-Owned Community Improvements: Those facilities and services that are privately-owned and privately-maintained, at no cost to the City (other than any public financing set forth in the Financing Plan), for the public benefit and not dedicated to the City, including any Infrastructure that is not a Public Improvement. The Privately-Owned Community Improvements are shown generally on Exhibit L-1 of the Development Agreement and further described in the Design for Development. Privately-Owned Community Improvements include certain pedestrian paths, alleys (such as Craig Lane) storm drainage facilities, open spaces, SFMTA employee restroom, Muni bus shelter, and community or recreation facilities to be built on land owned by Developer, or on land owned by the City if the Privately-Owned Community Improvements thereon are subject to an encroachment permit or other permit allowing their installation on such land.

SERVICES

Special taxes collected in the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) may finance, in whole or in part, the following services (“services” shall have the meaning given that term in the Code). Capitalized terms used herein but not defined herein have the meanings given them in the Development Agreement.

- Maintenance, repair, replacement and operation of the following (i) Privately-Owned Community Improvements, (ii) Infrastructure, (iii) Parks and Open Space and (iv) Public Improvements, in each case, developed by Developer or the Port Property Maintenance Party on the Port Lease Property
- Maintenance, repair, replacement and operation of Craig Lane

OTHER

The Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) may also finance any of the following:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.

2. Administrative fees of the City and the bond trustee or fiscal agent related to the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) and the Bonds.

Reimbursement of costs related to the formation of the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) advanced by the City, the landowner(s) in the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area), or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City, the landowner(s) in the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area) or any party related to any of the foregoing, for facilities, fees or other purposes or costs of the Special Tax District (and each Improvement Area therein, as originally designated and as designated in the future in conjunction with the annexation of the Future Annexation Area

EXHIBIT B

NOTICE OF SPECIAL TAX LIEN

**IMPROVEMENT AREA NO. 1 OF THE
CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT C

NOTICE OF SPECIAL TAX LIEN

**IMPROVEMENT AREA NO. 1 OF THE
CITY AND COUNTY OF SAN FRANCISCO
Special Tax District No. 2022-1
(Power Station)**

**ASSESSOR'S PARCEL NUMBERS AND OWNERS OF LAND
WITHIN IMPROVEMENT AREA NO. 1**

Assessor's Parcel Nos.

Names of Property Owners

4175-017
4232-006

California Barrel Company LLC
California Barrel Company LLC

From: [Conine-Nakano, Susanna \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#); [Gee, Natalie \(BOS\)](#); [BLAKE, MARK \(CAT\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [Pereira Tully, Marisa \(CON\)](#)
Subject: Mayor -- Resolution -- Calling Special Election
Date: Tuesday, January 25, 2022 4:03:26 PM
Attachments: [Mayor -- Resolution -- Calling Special Election.zip](#)

Hello Clerks,

Attached for introduction to the Board of Supervisors is a resolution calling special election in Improvement Area No. 1 of the City and County of San Francisco Special Tax District No. 2022-1 (Power Station), and determining other matters in connection therewith.

[@BLAKE, MARK \(CAT\)](#), can you please reply-all to confirm your approval? Thanks!

I am copying [@Gee, Natalie \(BOS\)](#) from Supervisor Walton's office to confirm co-sponsoring.

Please let me know if you have any questions.

Sincerely,
Susanna

Susanna Conine-Nakano
Office of Mayor London N. Breed
City & County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102
415-554-6147