

1 [Infrastructure Financing Plan and Related Documents and Actions - San Francisco Enhanced
2 Infrastructure Financing District No. 1 (Power Station)]

3 **Resolution approving the Infrastructure Financing Plan for the San Francisco**
4 **Enhanced Infrastructure Financing District No. 1 (Power Station), including the division**
5 **of taxes set forth therein, an Acquisition and Financing Agreement, and documents**
6 **and actions related thereto, as defined herein; and authorizing the filing of a judicial**
7 **validation action.**

8

9 WHEREAS, California Barrel Company LLC, a Delaware limited liability company
10 ("Developer"), and its affiliates own approximately 21.0 acres of developed and undeveloped
11 land located in the City and County of San Francisco ("City"), generally bound by 22nd Street
12 to the north, the San Francisco Bay to the east, 23rd Street to the south and Illinois Street to
13 the west ("Developer Property"); and

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

16 WHEREAS, Pacific Gas & Electric Company, a California corporation ("PG&E"), owns
17 approximately 8.8 acres of land located in the City that is adjacent to the Developer Property
18 ("PG&E Sub-Area"); and

19 WHEREAS, Harrigan, Weidenmuller Co. owns approximately 10.9 acres of land to the
20 south of the Developer Property and is improved with warehouses and ancillary improvements
21 ("Weidenmuller Property"); and

22 WHEREAS, The Developer Property, the PG&E Sub-Area, and the Weidenmuller
23 Property are referred to herein as the "Subject Property"; and

24 WHEREAS, The Developer and the City executed a Development Agreement dated
25 (for reference purposes only) as of September 22, 2020 (as it may be amended from time to

1 time, "Development Agreement"), relating to the proposed development of a project known as
2 the Potrero Power Station ("Project"), which was approved by the Board of Supervisors of the
3 City ("Board of Supervisors") pursuant to Ordinance No. 62-20, which was adopted by the
4 Board of Supervisors on April 21, 2020, and signed by the Mayor on April 24, 2020, and a
5 copy of which is in File No. 200040; and

6 WHEREAS, The Board of Supervisors is concurrently considering the adoption of an
7 ordinance (Board of Supervisors File No. 231274) to amend the Development Agreement and
8 the Financing Plan (Exhibit C to the Development Agreement) to allow for the establishment
9 of the EIFD and further the matters described in this Resolution; and

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

12 WHEREAS, On January 30, 2020, by Motion No. 20635, the Planning Commission
13 certified as adequate, accurate and complete the Final Environmental Impact Report ("FEIR")
14 for the Project pursuant to the California Environmental Quality Act (California Public
15 Resources Code Section 21000 et seq.) ("CEQA"); a copy of Planning Commission Motion
16 No. 20635 is on file with the Clerk of the Board of Supervisors in File No. 200040; also, on
17 January 30, 2020, by Motion No. 20636, the Planning Commission adopted findings, including
18 a rejection of alternatives and a statement of overriding considerations ("CEQA Findings") and
19 a Mitigation Monitoring and Reporting Program ("MMRP"); these motions are on file with the
20 Clerk of the Board of Supervisors in File No. 200040; in Ordinance No. 62-20, the Board of
21 Supervisors adopted as its own and incorporated by reference as though fully set forth therein
22 the CEQA Findings, including the statement of overriding considerations, and the MMRP; and

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

3 WHEREAS, Pursuant to Resolution No. 66-11, which was adopted by the Board of
4 Supervisors on February 8, 2011, and signed by the Mayor on February 18, 2011, and a copy
5 of which is in File No. 110036, the Board of Supervisors adopted Final Board of Supervisors
6 Guidelines for the Establishment and Use of Infrastructure Financing Districts in San
7 Francisco (“Guidelines”) that describe minimum threshold criteria and strategic criteria for the
8 City to consider when evaluating the proposed formation of an infrastructure financing district;
9 and

10 WHEREAS, On February 27, 2023, the Capital Planning Committee adopted an
11 interpretative supplement to the Guidelines (“Interpretive Supplement”) to provide guidance to
12 City staff and the development community about application of the Guidelines; and

13 WHEREAS, The Project will provide a significant number of new housing units in San
14 Francisco, 30% of which will be affordable to persons of low and moderate income, and
15 significant community benefits including public open spaces and community facility areas, but
16 the Project has significant public infrastructure obligations that must be completed before the
17 Project’s residential units and community benefits can be constructed; and

18 WHEREAS, Pursuant to Resolution No. 83-22, which the Board of Supervisors
19 adopted on March 8, 2022, and the Mayor signed on March 14, 2022, the Board of
20 Supervisors previously established a special tax district related to the Project under Chapter
21 43, Article X of the San Francisco Administrative Code (as it may be amended from time to
22 time, "Code"), which Code incorporates by reference the Mello-Roos Community Facilities Act
23 of 1982, as amended ("Mello-Roos Act"), and approved the execution and delivery of an
24 Acquisition and Reimbursement Agreement (“CFD Acquisition and Reimbursement
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1 Agreement”) between the City and the Developer, which CFD Acquisition and Reimbursement
2 Agreement remains unexecuted; and

3 WHEREAS, Pursuant to Chapter 2.99 of Part 1 of Division 2 of Title 5 of the California
4 Government Code (commencing with section 53398.50) (“EIFD Law”), the Board of
5 Supervisors is authorized to initiate the process to establish an enhanced infrastructure
6 financing district (including project areas therein) and approve an infrastructure financing plan
7 allocating tax revenues to such enhanced infrastructure financing district; and

8 WHEREAS, The Project is eligible for financial assistance from an infrastructure
9 financing district under the Guidelines; and

10 WHEREAS, The California Legislature (see California Government Code Section
11 53398.74) has determined that the allocation and payment to an enhanced infrastructure
12 financing district of the portion of property tax revenues for the purpose of paying principal of,
13 or interest on, loans, advances, or indebtedness incurred by the district pursuant to this
14 chapter, shall not be deemed the receipt by a district of proceeds of taxes levied by or on
15 behalf of the district within the meaning or for the purposes of Article XIII B of the California
16 Constitution, nor shall that portion of taxes be deemed receipt of proceeds of taxes by, or an
17 appropriation subject to limitation of, any other public body within the meaning or for purposes
18 of Article XIII B of the California Constitution or any statutory provision enacted in
19 implementation of Article XIII B of the California Constitution; and

20 WHEREAS, Pursuant to the EIFD Law, the Board of Supervisors adopted Resolution
21 No. 133-23 (“Resolution of Intention”) on March 21, 2023, which resolution was signed by the
22 Mayor on March 28, 2023, pursuant to which the Board of Supervisors, among other things, (i)
23 declared that the Board of Supervisors proposed and intended to cause the establishment of
24 an enhanced infrastructure district to be known as “San Francisco Enhanced Infrastructure
25 Financing District No. 1 (Power Station)” (“Power Station EIFD”) over the Subject Property to

1 finance public capital facilities and projects of communitywide significance related to the
2 Project, (ii) declared that the Board of Supervisors proposed and intended that the Power
3 Station EIFD would include project areas (each, “Project Area”; collectively, “Project Areas”),
4 which shall be referred to as “Project Area ___ of the San Francisco Enhanced Infrastructure
5 Financing District No. 1 (Power Station)” and (iii) declared that, pursuant to the EIFD Law, if
6 the Power Station EIFD is approved by the EIFD Public Financing Authority No. 1 (defined
7 below) in accordance with the EIFD Law, and if the Power Station IFP (defined below) is
8 approved by resolution of the Board of Supervisors pursuant to Government Code Section
9 53398.68, in each case after any public hearings required by the EIFD Law, the incremental
10 property tax revenue that is allocated by the City to the proposed Power Station EIFD (but not
11 by any other affected taxing entity) may be used to finance public capital facilities and projects
12 of communitywide significance related to the Project and other authorized costs and to pay
13 debt service on bonds and other debt of the Power Station EIFD; and

14 WHEREAS, Pursuant to Ordinance No. 044-23, which was finally passed by the Board
15 of Supervisors on April 4, 2023, and signed by the Mayor on April 7, 2023, the Board of
16 Supervisors established the “Enhanced Infrastructure Financing District Public Financing
17 Authority No. 1” (“EIFD Public Financing Authority No. 1”), as the governing board of the
18 proposed Power Station EIFD, to be responsible for directing the preparation and
19 implementation of the infrastructure financing plan for the Power Station EIFD (“Power Station
20 IFP”); and

21 WHEREAS, On July 17, 2023, pursuant to Resolution No. 2023-01, the EIFD Public
22 Financing Authority No. 1 directed the Executive Director of the EIFD Public Financing
23 Authority No. 1 to work with the necessary City staff and professionals to prepare a draft of
24 the Power Station IFP and make such Power Station IFP available to interested parties as
25 required by the EIFD Law; and

1 WHEREAS, On November 1, 2023, the EIFD Public Financing Authority No. 1 held a
2 public meeting at which the draft Power Station IFP was presented; and

3 WHEREAS, On December 6, 2023, the EIFD Public Financing Authority No. 1 held its
4 first public hearing on the draft Power Station IFP; and

5 WHEREAS, On February 21, 2024, the EIFD Public Financing Authority No. 1 held its
6 second public hearing on the draft Power Station IFP; and

7 WHEREAS, The Power Station IFP, which is included as Exhibit A to this Resolution
8 and is incorporated herein in its entirety by this reference, has been presented to the Board of
9 Supervisors for its review and approval; and

10 WHEREAS, Among other things, the Power Station IFP provides that the proposed
11 Power Station EIFD will consist of 9 original project areas and, upon subdivision of certain
12 properties within the Subject Property, will consist of 13 Project Areas, and that the creation of
13 the new Project Areas and the replacement of two existing Project Areas shall occur
14 automatically without any public hearing and without further approval by the EIFD Public
15 Financing Authority No. 1 or the Board of Supervisors; and

16 WHEREAS, The Power Station IFP further provides for changes to the boundaries of
17 one or more Project Areas in the future in order to conform such Project Areas to the final
18 development parcels established by the recordation of one or more final subdivision maps for
19 the Subject Property so that the California State Board of Equalization can assign tax rate
20 areas to all of the development parcels comprising the Project, which changes will not require
21 the approval of the Board of Supervisors; and

22 WHEREAS, In accordance with the Resolution of Intention, the Clerk of the Board (i)
23 published a notice of public hearing in the San Francisco Examiner and (ii) mailed a copy of
24 such notice to (A) each owner of land (as defined in the EIFD Law) within the proposed EIFD,
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1 (B) each affected taxing entity (as defined in the EIFD Law), if any, and (C) the EIFD Public
2 Financing Authority No. 1; and

3 WHEREAS, The Board of Supervisors has held a noticed public hearing relative to the
4 Power Station IFP; and

5 WHEREAS, At the hearing all interested persons desiring to be heard on all matters
6 pertaining to the Power Station IFP were heard and a full and fair hearing was held; and

7 WHEREAS, In accordance with Section 53398.68 of the EIFD Law, the Board of
8 Supervisors desires to approve the Power Station IFP pursuant to which incremental property
9 tax revenue from the City within the boundary of the Power Station EIFD (including the initial
10 Project Areas and the successor Project Areas as described in the Power Station IFP) will be
11 used to finance the activities of the Power Station EIFD, subject to, and in accordance with,
12 the terms and conditions of the Power Station IFP ; and

13 WHEREAS, The Power Station IFP provides that the Power Station EIFD's sole
14 purpose is to provide financing for the public capital facilities and other projects (whether
15 publicly- or privately-owned) of communitywide significance, including affordable housing,
16 described in Exhibit C thereto ("Facilities"), and that the financing purpose will be documented
17 in an EIFD Acquisition and Financing Agreement ("EIFD Acquisition and Financing
18 Agreement") among the City, the Developer and the Power Station EIFD to be executed
19 simultaneously with the formation of the Power Station EIFD; and

20 WHEREAS, The Power Station IFP further provides that the EIFD Acquisition and
21 Financing Agreement will describe 1) the conditions under which the City will acquire
22 Acquisition Facilities (as defined in the EIFD Acquisition and Financing Agreement) or
23 reimburse the Actual Costs (as defined in the EIFD Acquisition and Financing Agreement) of
24 the Developer for construction of the Privately-Owned Facilities (as defined in the EIFD
25 Acquisition and Financing Agreement), 2) the circumstances in which the Power Station EIFD

1 may finance Privately-Owned Facilities at the request of the Developer, including issuing
2 bonds to finance construction of Privately-Owned Facilities constructed by parties other than
3 the Developer and 3) the Power Station EIFD's use of bond proceeds, Allocated Tax Revenue
4 (as defined in the Power Station IFP), and Conditional Tax Revenue (as defined in the Power
5 Station IFP) to finance the City's payment obligations and other authorized purposes; and

6 WHEREAS, A form of the EIFD Acquisition and Financing Agreement is on file with the
7 Clerk of the Board of Supervisors, and the Board of Supervisors wishes to approve the form of
8 such EIFD Acquisition and Financing Agreement and to authorize the execution and delivery
9 of such EIFD Acquisition and Financing Agreement; and

10 WHEREAS, The Board of Supervisors desires, to the maximum extent possible under
11 the Code and the EIFD Law, that the EIFD Acquisition and Financing Agreement and the CFD
12 Acquisition and Reimbursement Agreement establish uniform procedures to finance
13 authorized improvements under the Code and the EIFD Law; and

14 WHEREAS, In accordance with Section 53398.57 of the EIFD Law, the EIFD Public
15 Financing Authority No. 1 and/or the City may file an action in the Superior Court of the City
16 and County of San Francisco to determine the validity of the creation of the Power Station
17 EIFD and the Project Areas (including the initial Project Areas and any successor Project
18 Areas, as described in the Power Station IFP), the adoption of the Power Station IFP,
19 including the division of taxes thereunder, and related matters; and

20 WHEREAS, In accordance with Section 53398.58 of the EIFD Law, the EIFD Public
21 Financing Authority No. 1 and/or the City may file an action in the Superior Court of the City
22 and County of San Francisco to determine the validity of bonds issued pursuant to the EIFD
23 Law; now, therefore, be it

24 RESOLVED, That the Board of Supervisors hereby finds that the recitals are true and
25 correct; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors hereby ratifies the Interpretive
2 Supplement; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors further finds and determines
4 that all prior proceedings taken by EIFD Public Financing Authority No. 1 and the City with
5 respect to the proposed establishment of the Power Station EIFD and the Project Areas
6 (including the initial Project Areas and the successor Project Areas, as described in the Power
7 Station IFP) and adoption of the Power Station IFP are valid and in conformity with applicable
8 law; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors hereby approves the Power
10 Station IFP in the form attached hereto as Exhibit A and incorporated herein, and hereby finds
11 that the proposed Power Station EIFD and the Project Areas (including the initial Project
12 Areas and the successor Project Areas, as described in the Power Station IFP), including the
13 properties included therein, and the Power Station IFP including the division of taxes
14 thereunder, are consistent with the Guidelines and Interpretive Supplement; and, be it

15 FURTHER RESOLVED, That pursuant to the Power Station IFP, incremental property
16 tax revenue from the City within the boundary of the Power Station EIFD (including the Project
17 Areas) will be used to finance the activities of the Power Station EIFD, subject to, and in
18 accordance with, the terms and conditions of the Power Station IFP; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes an
20 Authorized Officer to make such changes to the Power Station IFP in the form attached hereto
21 as Exhibit A as such Authorized Officer determines are consistent with and furthers the
22 purposes of the Power Station EIFD and the Power Station IFP and does not materially
23 increase the City's liability under the Power Station IFP or otherwise change the core
24 purposes of the Power Station EIFD; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors hereby approves the execution
2 and delivery of the EIFD Acquisition and Financing Agreement, among the City, the Power
3 Station EIFD and the Developer in substantially the form on file with the Clerk of the Board of
4 Supervisors; each of the Mayor, the Controller, the Director of Public Works and the Director
5 of the Office of Public Finance, or such other official of the City as may be designated by such
6 officials (each, an “Authorized Officer”), is hereby authorized and directed to execute and
7 deliver, and the Clerk of the Board of Supervisors is hereby authorized and directed to attest
8 to, the EIFD Acquisition and Financing Agreement, together with such additions or changes
9 that do not increase the financial liability of the City as are approved by such Authorized
10 Officer upon consultation with the City Attorney; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes an
12 Authorized Officer to make changes to the form of the CFD Acquisition and Reimbursement
13 previously approved by the Board of Supervisors to ensure that, to the maximum extent
14 possible under the Code and the EIFD Law, the CFD Acquisition and Reimbursement
15 Agreement and the EIFD Acquisition and Financing Agreement establish uniform procedures
16 to finance authorized improvements under the Code and the EIFD Law; and, be it

17 FURTHER RESOLVED, That an Authorized Officer and the City Attorney, in
18 consultation with Jones Hall, A Professional Law Corporation, as bond counsel, are hereby
19 authorized and directed to initiate a judicial validation action with respect to the creation of the
20 Power Station EIFD and the Project Areas, the adoption of the Power Station IFP, the
21 allocation of incremental property tax revenue from the City within the boundary of the Power
22 Station EIFD (including the Project Areas) to the Power Station EIFD for the purpose of
23 financing the activities of the Power Station EIFD, the validity of the issuance of bonds
24 pursuant to the EIFD Law and all the proceedings relating thereto, and such other matters as
25 the City Attorney and bond counsel deem appropriate in order to carry out the purposes of the

1 Power Station IFP, pursuant to Sections 53398.57 and 53398.58 of the EIFD Law and section
2 860 et seq. of Code of Civil Procedure; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors has reviewed and considered
4 the FEIR and FEIR Addendum, and finds that the FEIR and Addendum are adequate for their
5 use for the actions taken by this resolution and incorporates the FEIR and the CEQA findings
6 contained in Ordinance No. 62-20 and the FEIR Addendum by this reference and further finds
7 that, pursuant to CEQA Guidelines Section 15162, no additional environmental review is
8 required because there are no substantial changes to the Project analyzed in the FEIR and
9 the FEIR Addendum, no change in circumstances under which the Project is being
10 undertaken, and no new information that was not known and could not have been known
11 shows that new significant impacts would occur, that the impacts identified in the FEIR and
12 the FEIR Addendum as significant impacts would be substantially more severe, or that
13 mitigation or alternatives previously found infeasible are now feasible; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors found the Development
15 Agreement to conform with the General Plan, and the eight priority policies of Planning Code,
16 Section 101.1, by the findings set forth in subsection (a) of Ordinance 64-20 (File No.
17 200174), and the Board of Supervisors incorporates the foregoing findings and determines
18 that such findings are adequate for the actions taken by this Resolution; and, be it

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

3 FURTHER RESOLVED, That the Mayor, the Controller, the Director of the Office of
4 Public Finance, the Clerk of the Board of Supervisors and any and all other officers of the City
5 are hereby authorized, for and in the name of and on behalf of the City, to do any and all
6 things and take any and all actions, including execution and delivery of any and all
7 documents, assignments, certificates, requisitions, agreements, notices, consents,
8 instruments of conveyance, warrants and documents, which they, or any of them, may deem
9 necessary or advisable in order to effectuate the purposes of this Resolution; provided
10 however that any such actions be solely intended to further the purposes of this Resolution,
11 and are subject in all respects to the terms of the Resolution; and, be it

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

15 FURTHER RESOLVED, That this Resolution shall take effect upon its enactment;
16 enactment occurs when the Mayor signs the resolution, the Mayor returns the resolution
17 unsigned or does not sign the resolution within ten days of receiving it, or the Board of
18 Supervisors overrides the Mayor's veto of the resolution.

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20 APPROVED AS TO FORM:
21 DAVID CHIU, City Attorney

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23 By: /s/ Mark D. Blake
24 Mark D. Blake
Deputy City Attorney

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EXHIBIT A
Infrastructure Financing Plan