

1 [Agreement - Potrero Neighborhood Collective, LLC - Potrero Yard Infrastructure Facility
2 Design-Build-Finance-Operate-Maintain Agreement - 2500 Mariposa Street - Not to Exceed
3 \$275,500,000]

4 **Resolution conditionally approving an Infrastructure Facility Design-Build-Finance-**
5 **Operate-Maintain Agreement for the San Francisco Municipal Transportation Agency**
6 **(SFMTA) Potrero Yard Modernization Project, subject to final pricing; delegating**
7 **authority under Charter, Section 9.118(b) for the SFMTA Board of Directors to approve**
8 **the final pricing within the following not to exceed pricing limits: 1) an initial milestone**
9 **payment of up to \$75,000,000 at financial close, 2) a relocation payment of up to**
10 **\$500,000 within 60 days of completing temporary relocation of Potrero Yard operations,**
11 **3) a milestone payment of up to \$200,000,000 by no later than 2033, and 4) an initial**
12 **maximum annual availability payment of up to \$42,200,000 (in Fiscal Year 2030 dollars)**
13 **over a maintenance term not to exceed 30 years after the scheduled substantial**
14 **completion date, anticipated in 2029, subject to interest rate and credit spread**
15 **fluctuations between commercial close and financial close and annual Consumer Price**
16 **Index adjustments, with the part of the payment covering capital costs increasing 1%**
17 **per year and sculpted to align with the SFMTA's existing debt service obligations;**
18 **authorizing the Director of Transportation to execute the Form Project Agreement, as**
19 **modified with the final pricing and to substantially include the terms of a Draft Small**
20 **Business Enterprise/Disadvantaged Business Enterprise Plan, with Potrero**
21 **Neighborhood Collective, LLC or its affiliate; and to authorize the Director of**
22 **Transportation to enter into amendments or modifications to the Final Project**
23 **Agreement that do not materially increase the obligations or liabilities to the City and**
24 **are necessary to effectuate the purposes of the Agreement or this Resolution; and**
25 **making environmental findings under the California Environmental Quality Act.**

1 WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) has
2 determined it is critical to replace its outdated Potrero Yard facility at 2500 Mariposa Street in
3 the Mission District to provide the best quality transit service for all of San Francisco, one of
4 the most important tools we have to fight climate change; and

5 WHEREAS, The SFMTA's Potrero Yard Modernization Project (Project) includes the
6 joint development of a modern bus storage and maintenance facility (Bus Yard Component),
7 affordable and moderate-income housing with limited commercial space if financially feasible
8 (Housing Component), and shared infrastructure supporting both the Bus Yard and Housing
9 Components (Common Infrastructure), with a potential paratransit facility as an alternative if
10 constructing housing above the Bus Yard Component is not feasible; and

11 WHEREAS, The Bus Yard Component and Common Infrastructure are, collectively,
12 the Infrastructure Facility; and

13 WHEREAS, The Bus Yard Component will dramatically improve efficiency of Muni
14 operations and maintenance by providing adequate space and operational flow for bus
15 maintenance, parking, and circulation of the electric trolley bus fleet; and

16 WHEREAS, By improving the work environment for SFMTA frontline operations and
17 maintenance staff, who currently work in a 109-year-old facility that is significantly outdated
18 and undersized, buses can be repaired faster for more reliable Muni service; and

19 WHEREAS, The Project would be the nation's first known joint development of a bus
20 storage and maintenance transit facility with housing, and if feasible, would address a critical
21 housing need with up to 465 affordable rental units proposed for low and moderate income
22 households; and

23 WHEREAS, On April 7, 2020, by Resolution 200407-035, a copy of which is on file with
24 the Clerk of the Board of Supervisors in File No. 240136, the SFMTA Board of Directors
25

1 authorized the SFMTA to use a joint development procurement method to deliver the Project
2 and seek approval from the Board of Supervisors for that method; and

3 WHEREAS, On March 16, 2021, by Ordinance 38-21, a copy of which is on file with the
4 Clerk of the Board of Supervisors in File No. 240136, the Board of Supervisors approved a
5 joint development delivery method and a best-value selection of the developer for the Project
6 and exempted various Project agreements from certain San Francisco Administrative Code
7 requirements that are inconsistent with the joint development delivery method, with the
8 Ordinance being signed by the Mayor and effective on April 25, 2021; and

9 WHEREAS, On November 1, 2022, after a competitive solicitation process, by
10 Resolution No. 221101-105, the SFMTA Board of Directors authorized the Director of
11 Transportation to execute the Predevelopment Agreement for the Project with Potrero
12 Neighborhood Collective LLC (“Lead Developer”), wholly owned by Plenary Americas US
13 Holdings, a leading long-term investor, developer, and manager of public infrastructure; and

14 WHEREAS, The Predevelopment Agreement was fully executed as of November 2,
15 2022, and it was subsequently amended by a First Amendment to the Predevelopment
16 Agreement that was fully executed as of May 29, 2024, a copy of which is on file with the
17 Clerk of the Board of Supervisors in File No. 240937, and a Second Amendment to
18 Predevelopment Agreement dated as of October 1, 2024, a copy of which is on file with the
19 Clerk of the Board of Supervisors in File No. 240937, and which was approved by the Board
20 of Supervisors under Resolution No. 534-24; and

21 WHEREAS, Under the Predevelopment Agreement, the Lead Developer is responsible
22 for conducting predevelopment work and negotiating with the SFMTA specific transaction
23 documents to deliver the Project, including the Infrastructure Facility Design-Build-Finance-
24 Operate-Maintain Agreement (Project Agreement) for the Infrastructure Facility and housing
25 agreements for the Housing Component; and

1 WHEREAS, Construction of the Infrastructure Facility would commence before
2 construction of the Housing Component, and the SFMTA expects to submit forms of housing
3 agreements for the Housing Component to the SFMTA Board of Directors and the Board of
4 Supervisors in spring 2025; and

5 WHEREAS, The Project Agreement would serve as the primary contract between the
6 City, acting through the SFMTA, and a to-be-established entity (“Principal Project Company”)
7 that would be an affiliate of the Lead Developer, covering the design, construction, and
8 financing of the Infrastructure Facility, and the operation and maintenance of certain elements
9 over a 30-year period after the scheduled substantial completion date; and

10 WHEREAS, The SFMTA and the Lead Developer have negotiated the form of the
11 Project Agreement (“Form Project Agreement”), a copy of which is on file with the Clerk of the
12 Board of Supervisors in File No. 241136, which requires the SFMTA to pay any possessory
13 interest tax assessed on the Principal Project Company’s interest under the Form Project
14 Agreement, and will be modified to substantially incorporate a Draft Small Business
15 Enterprise/Disadvantaged Business Enterprise Plan (SBE/DBE), a copy of which is on file
16 with the Clerk of the Board of Supervisors in File No. 241136; and

17 WHEREAS, The Form Project Agreement includes risk allocation, technical, regulatory,
18 and insurance requirements, performance standards, and a payment mechanism; and

19 WHEREAS, Under this payment mechanism, the SFMTA would make milestone
20 payments at various times up to no later than 2033, and annual availability payments, paid on
21 a quarterly basis, during the 30-year maintenance term; the availability payments would be
22 structured as single, combined payments covering project debt, performance, and equity
23 return, subject to deductions for non-compliance with specified performance standards; and

24 WHEREAS, Finalizing the pricing for the Form Project Agreement depends on the
25 Lead Developer’s selection of a design-build contractor, completion of operations and

1 maintenance pricing, and completion of the structure, terms, and pricing of the Project's debt
2 financing, all of which require additional time and coordination; and

3 WHEREAS, The SFMTA has determined that obtaining approval of the Form Project
4 Agreement from the Board of Supervisors before finalizing pricing is necessary to
5 demonstrate the City's commitment to the Project, strengthen the ability to secure favorable
6 financing terms, and avoid delays that could increase costs or disrupt the project schedule;
7 and

8 WHEREAS, In accordance with Charter, Section 9.118(b), which requires Board of
9 Supervisors approval for agreements involving anticipated expenditures of \$10 million or more
10 or a term of 10 years or more, the SFMTA requests the Board of Supervisors to:

11 1) conditionally approve the Form Project Agreement, subject to final pricing; 2) delegate
12 authority under Charter, Section 9.118(b) for the SFMTA Board of Directors to approve the
13 final pricing for the Form Project Agreement, provided final pricing falls within the following not
14 to exceed limits: (i) an initial milestone payment of up to \$75,000,000 at financial close; (ii) a
15 relocation payment of up to \$500,000 within 60 days of completing temporary relocation of
16 Potrero Yard operations; (iii) a milestone payment of up to \$200,000,000 by no later than
17 2033; and (iv) an initial maximum annual availability payment of up to \$42,200,000 (in Fiscal
18 Year 2030 dollars) over a maintenance term not to exceed 30 years after the scheduled
19 substantial completion date, anticipated in 2029, subject to interest rate and credit spread
20 fluctuations between commercial close and financial close, and annual Consumer Price Index
21 (CPI) adjustments, with the part of the availability payment covering capital costs increasing
22 1% per year and sculpted to align with SFMTA's existing debt service obligations, and 3)
23 authorize the Director of Transportation to execute the Form Project Agreement, as modified
24 to include the final pricing approved by the SFMTA Board of Directors and to substantially
25 incorporate the terms of the Draft SBE/DBE Plan; and

1 WHEREAS, On December 3, 2024, the SFMTA Board of Directors approved
2 Resolution No. 241203-140, a copy of which is on file with the Clerk of the Board of
3 Supervisors in File No. 241136, authorizing the Director of Transportation to request from the
4 Board of Supervisors 1) conditional approval of the Form Project Agreement subject to final
5 pricing, 2) delegation of authority under Charter, Section 9.118(b) for the SFMTA Board of
6 Directors to approve the final pricing for the Form Project Agreement within the not to exceed
7 pricing limits described in this Resolution, and 3) authorization for the Director of
8 Transportation to execute the Form Project Agreement, as modified to include the final pricing
9 approved by the SFMTA Board of Directors and to substantially include the terms of the Draft
10 SBE/DBE Plan, with the Principal Project Company, and

11 WHEREAS, The National Environmental Policy Act (NEPA) process is currently in
12 underway for the Project and anticipated to be completed in November 2024; the actions
13 contemplated in this Resolution do not commit the City to any proposed project or any project
14 alternative, modification, or mitigation regarding the Project until, unless, and before the NEPA
15 Approval is obtained and City approves the Project, alternative, modification or mitigation; and

16 WHEREAS, On January 11, 2024, by Motion No. 21482, a copy of which is on file with
17 the Clerk of the Board of Supervisors in File No. 231256, the Planning Commission certified
18 as adequate, accurate, and complete the Environmental Impact Report for the Project
19 (Final EIR) pursuant to the California Environmental Quality Act (Pub. Resources Code,
20 Sections 21000 et seq., "CEQA"), the CEQA Guidelines (Cal. Code Reg. tit. 14,
21 Sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code; and

22 WHEREAS, On January 11, 2024, by Motion No. 21483, a copy of which is on file with
23 the Clerk of the Board of Supervisors in File No. 231256, the Planning Commission, based on
24 substantial evidence in the entire record of proceedings, made certain findings regarding the
25 environmental impacts of the Project analyzed in the FEIR, rejected alternatives as infeasible,

1 adopted the proposed mitigation monitoring and reporting program (“MMRP”), and set forth a
2 Statement of Overriding Considerations explaining why the benefits of the Project outweigh
3 the unavoidable adverse environmental effects identified in the FEIR and that those adverse
4 environmental effects are therefore acceptable; and

5 WHEREAS, The Planning Department has evaluated the revisions to the Project
6 contemplated in the Project Agreement, as conditionally approved by this Resolution and
7 determined based on the requirements of CEQA, that no additional environmental review is
8 necessary; said determination is on file with the Clerk of the Board of Supervisors in File No.
9 231256 and is incorporated herein by reference; and

10 WHEREAS, The Board affirms the CEQA determination for the Project and based on
11 substantial evidence in the entire record of these proceedings, further affirms that there are no
12 substantial changes proposed for the Project, or the circumstances under which it will be
13 undertaken, that would require major revisions of the FEIR due to new significant
14 environmental effects or a substantial increase in the severity or previously identified
15 significant effects, and further, no new information of substantial importance that shows the
16 Project will have significant effects not discussed in the FEIR, substantially more severe
17 significant effects than discussed in the FEIR, or mitigation measures or alternatives that the
18 Project sponsor has declined to adopt; and

19 WHEREAS, On January 11, 2024, by Motion No. 21487, which is on file with the Clerk
20 of the Board of Supervisors in File No. 240136, the Planning Commission approved the
21 conditional use authorization for the Project and determined that the Project is consistent with
22 the General Plan, and the Board of Supervisors affirms that determination; and

23 WHEREAS, On January 11, 2024, by Resolution No. 21484, the Planning Commission
24 recommended approval to the Board of Supervisors of the General Plan amendments
25 ordinance necessary to facilitate the Project (“General Plan Ordinance”), and by Resolution

1 No. 21485, recommended approval to the Board of Supervisors of the Planning Code and
2 Zoning Map amendments ordinance creating the Special Use District necessary to facilitate
3 the Project ("Special Use District Ordinance"), which are on file with the Clerk of the Board of
4 Supervisors in File Nos. 231256 and 240047, and are incorporated herein by reference; now,
5 therefore, be it

6 RESOLVED, That the Board of Supervisors 1) conditionally approves the Form Project
7 Agreement, as modified to include final pricing approved by the SFMTA Board of Directors
8 and to substantially incorporate the terms of the Draft SBE/DBE Plan (as modified, the "Final
9 Project Agreement"), 2) delegates authority under Charter, Section 9.118(b) for the SFMTA
10 Board of Directors to approve the final pricing for the Form Project Agreement within the not to
11 exceed pricing limits of (i) an initial milestone payment of up to \$75,000,000 at financial close,
12 (ii) a relocation payment of up to \$500,000 within 60 days of completing temporary relocation
13 of Potrero Yard operations, (iii) a milestone payment of up to \$200,000,000 by no later than
14 2033, and (iv) an initial maximum annual availability payment of up to \$42,200,000 (in Fiscal
15 Year 2030 dollars) over a maintenance term not to exceed 30 years after the scheduled
16 substantial completion date, anticipated in 2029, subject to interest rate and credit spread
17 fluctuations between commercial close and financial close and annual CPI adjustments, with
18 the part of the payment covering capital costs increasing 1% per year and sculpted to align
19 with SFMTA's existing debt service obligations, and 3) authorizes the Director of
20 Transportation to execute the Final Project Agreement with the Principal Project Company;
21 and, be it

22 FURTHER RESOLVED, That as required by Administrative Code, Section 23.38, the
23 Board of Supervisors authorizes and approves the Form Project Agreement requirement that
24 the SFMTA pay any possessory interest tax assessed on the Principal Project Company's
25 interest under the Final Project Agreement; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
2 Transportation to make any additions, amendments, or other modifications to the Final Project
3 Agreement that the Director determines are in the best interests of the City furthers the
4 purposes of this Resolution, provided such changes do not materially increase the obligations
5 or liabilities to the City or materially decrease the benefits to the City from those in the Form
6 Project Agreement.

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