

1 [Pledge Agreement - City and County of San Francisco Infrastructure Financing District No. 2
2 (Port of San Francisco) Sub-Project Areas I-1 through I-13 - Special Tax Bonds - CCSF
3 Special Tax District No. 2020-1 (Mission Rock Facilities and Services)]

4 **Resolution supplementing Resolution No. 37-18, approving a pledge agreement by City**
5 **and County of San Francisco Infrastructure Financing District No. 2 (Port of San**
6 **Francisco) with respect to Sub-Project Areas I-1 through I-13 in connection with the**
7 **issuance of special tax bonds for City and County of San Francisco (CCSF) Special Tax**
8 **District No. 2020-1 (Mission Rock Facilities and Services); and determining other**
9 **matters in connection therewith, as defined herein.**

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11 WHEREAS, California Statutes of 1968, Chapter 1333 (“Burton Act”) and San
12 Francisco Charter, Section 4.114 and Appendix B, beginning at Section B3.581, empower the
13 City and County of San Francisco (“City”), acting through the San Francisco Port Commission
14 (“Port” or “Port Commission”), with the power and duty to use, conduct, operate, maintain,
15 manage, regulate, and control the lands within Port jurisdiction; and

16 WHEREAS, Seawall Lot 337 Associates, LLC, a Delaware limited liability company
17 (“Master Developer”) and the City, acting by and through the Port, are parties to a Disposition
18 and Development Agreement (as amended from time to time, “DDA”), including a Financing
19 Plan (as amended from time to time, “Financing Plan”), that governs the disposition and
20 development of certain parcels in the jurisdiction of the Port, including Seawall Lot 337, 3.53
21 acres located at Terry A. Francois Boulevard from Third Street to Mission Rock Street, China
22 Basin Park and ½ acre to the east of Terry A. Francois Boulevard between Pier 48 and Pier
23 50 (“Project Site”), and also provides for development of Pier 48, which DDA was approved by
24 the Board of Supervisors of the City (“Board of Supervisors” or “Board”) by Resolution No. 42-

1 18, adopted on February 13, 2018, signed by the Mayor on February 23, 2018, and a copy of
2 which is in Board File No. 180092 (“Mission Rock Project Resolution”); and

3 WHEREAS, The Port collaborated with the State Lands Commission and the
4 Legislature, resulting in an amendment of the Burton Act to lift or suspend its statutory trust
5 use restrictions that impede the Port’s ability to realize the development potential of Port
6 lands; under Senate Bill 815 (Stats. 2007, ch. 660, as amended by Stats. 2016, ch. 529) (“SB
7 815”), the Port is authorized to lease certain seawall lots south of Market Street, including the
8 Project Site, for nontrust purposes, providing revenues for rehabilitation of historic wharves
9 and piers and other trust uses; SB 815 allows long-term nontrust uses that are otherwise not
10 permissible under the Burton Act as a primary mechanism to generate Port revenues for trust
11 purposes, including the construction of infrastructure needed for development; and

12 WHEREAS, On November 3, 2015, San Francisco voters approved the Mission Rock
13 Affordable Housing, Parks, Jobs and Historic Preservation Initiative (“Proposition D”), which
14 authorized increased height limits on the Project Site, subject to environmental review, and
15 established a City policy to encourage development of the Project Site; Proposition D
16 specifically provides that it is intended to encourage and implement the lease and
17 development of the Project Site as described in SB 815 to support the purposes of the Burton
18 Act, especially the preservation of historic piers and historic structures and construction of
19 waterfront plazas and open space; and

20 WHEREAS, The proposed development of the Project Site, which is commonly
21 referred to as the Mission Rock project (“Project”), will be a new mixed-use neighborhood that
22 is proposed to include a mix of commercial/office, retail, parking, and market rate and
23 affordable residential uses and approximately eight acres of new and expanded parks and
24 shoreline access; and

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1 WHEREAS, Under the DDA, (i) the Master Developer is responsible for master
2 development of the Project Site, including construction of public infrastructure, (ii) the Port and
3 Master Developer will enter into a master lease for all of the Project Site, (iii) the Port will
4 convey development parcels to vertical developers and those parcels will be released from
5 the master lease, and (iv) the Port may enter into a separate lease with the Master Developer
6 (or an affiliate of Master Developer) for development of Pier 48; and

7 WHEREAS, The City anticipates that, in addition to the infrastructure and private
8 development described above, future improvements will be necessary to ensure that the
9 shoreline, public facilities, and public access improvements will be protected should sea level
10 rise in the vicinity of the Project Site, and the Board of Supervisors desires to provide a
11 mechanism to pay for the costs of such improvements; and

12 WHEREAS, At its hearing on October 5, 2017, and prior to recommending proposed
13 Planning Code amendments for approval, by Motion No. M-20017, the Planning Commission
14 certified a Final Environmental Impact Report (“FEIR”) for the Project pursuant to the
15 California Environmental Quality Act (“CEQA”) (California Public Resources Code, Section
16 21000 et seq.), the CEQA Guidelines (14 Cal. Code Reg., Section 15000 et seq.), and
17 Administrative Code, Chapter 31; a copy of said Motion is on file with the Clerk of the Board in
18 File No. 171117, and is incorporated herein by reference; and

19 WHEREAS, In recommending proposed Planning Code amendments for approval by
20 the Board at its hearing on October 5, 2017, by Motion No. M-20018, the Planning
21 Commission also adopted findings under CEQA, including a statement of overriding
22 consideration, and a Mitigation Monitoring and Reporting Program (“MMRP”), and copies of
23 said Motion and MMRP are on file with the Clerk of the Board in File No. 171117, and are
24 incorporated herein by reference; and

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1 WHEREAS, Under Chapter 43, Article X of the San Francisco Administrative Code (as
2 it may be amended from time to time, “Code”), which Code incorporates by reference the
3 Mello-Roos Community Facilities Act of 1982, as amended (“Mello-Roos Act”), the Board is
4 authorized to establish a special tax district and to act as the legislative body for a special tax
5 district; and

6 WHEREAS, The Board has conducted proceedings under and pursuant to the Code to
7 form “City and County of San Francisco Special Tax District No. 2020-1 (Mission Rock
8 Facilities and Services)” (“Special Tax District”), to authorize the levy of special taxes upon the
9 land within the Special Tax District and to authorize the issuance of bonds and other debt (as
10 defined in the Mello-Roos Act) secured by said special taxes for the purpose of financing
11 certain improvements (“Authorized Facilities”) and incidental expenses (“incidental
12 expenses”), all as described in those proceedings; and

13 WHEREAS, Pursuant to Resolution No. 196-20, which was adopted on May 5, 2020,
14 and signed by Mayor London Breed on May 15, 2020 (“Original Special Tax Bond
15 Resolution”), the Board of Supervisors authorized the issuance of up to \$3,700,000,000 of
16 bonded indebtedness and other debt on behalf of the Special Tax District and directed staff to
17 prepare documentation for such bonded indebtedness and other debt and return to the Board
18 of Supervisors for approval of such documentation; and

19 WHEREAS, Section 43.10.15.2 of the Code authorizes the City, on behalf of the
20 Special Tax District, to enter into an agreement with any third party that pledges to the Special
21 Tax District funds that will be used to pay for facilities or services that the Special Tax District
22 is authorized to finance or to pay debt service on bonds or debt issued by or for the Special
23 Tax District; and

24 WHEREAS, Under California Government Code Sections 53395 et seq. (“IFD Law”),
25 the Board of Supervisors is authorized to establish an infrastructure financing district and to

1 act as the legislative body for such an infrastructure financing district; more specifically, the
2 Board of Supervisors is authorized to establish “waterfront districts” under IFD Law Section
3 53395.8, including one or more waterfront districts; and

4 WHEREAS, By Ordinance No. 27-16, which the Board of Supervisors adopted on
5 March 1, 2016, and which was signed by Mayor Edwin Lee on March 11, 2016 (“Ordinance
6 Establishing IFD”), the Board of Supervisors, among other things, declared “City and County
7 of San Francisco Infrastructure Financing District No. 2 (Port of San Francisco)” (“IFD”) to be
8 fully formed and established, approved an infrastructure financing plan for the IFD (“IFD
9 Infrastructure Financing Plan”), and designated initial proposed project areas within the IFD;
10 and

11 WHEREAS, In accordance with the DDA, by Ordinance No. 34-18, which the Board of
12 Supervisors adopted on February 27, 2018, and which was signed by the Mayor on March 6,
13 2018 (“Ordinance Establishing Project Area I and Sub-Project Areas I-1 through I-13”), the
14 Board of Supervisors, among other things, declared the following project area (“Project Area
15 I”) and sub-project areas (collectively, “Sub-Project Areas”) within the Project Site to be fully
16 formed and established and approved Appendix I to the IFD Infrastructure Financing Plan: (i)
17 “Project Area I (Mission Rock),” (ii) “Sub-Project Area I-1 (Mission Rock),” (iii) “Sub-Project
18 Area I-2 (Mission Rock),” (iv) “Sub-Project Area I-3 (Mission Rock),” (v) “Sub-Project Area I-4
19 (Mission Rock),” (vi) “Sub-Project Area I-5 (Mission Rock),” (vii) “Sub-Project Area I-6 (Mission
20 Rock),” (viii) “Sub-Project Area I-7 (Mission Rock),” (ix) “Sub-Project Area I-8 (Mission Rock),”
21 (x) “Sub-Project Area I-9 (Mission Rock),” (xi) “Sub-Project Area I-10 (Mission Rock),” (xii)
22 “Sub-Project Area I-11 (Mission Rock),” (xiii) “Sub-Project Area I-12 (Mission Rock),” and (xiv)
23 “Sub-Project Area I-13 (Mission Rock)”; and

24 WHEREAS, Under Section 53395.2 of the IFD Law, the IFD is authorized to pledge
25 revenues available from the Sub-Project Areas and allocated to it pursuant to Article 3 of the

1 IFD Law (commencing with Section 53396) to pay the principal of, and interest on, bonds
2 issued pursuant to the Mello-Roos Act, the proceeds of which have been or will be used
3 entirely for allowable purposes of the IFD; and

4 WHEREAS, By Resolution No. 37-18, which the Board of Supervisors adopted on
5 February 13, 2018, and which was signed by Mayor Mark Farrell on February 23, 2018
6 (“Original Pledge Agreement Resolution”), the Board of Supervisors, acting as the legislative
7 body of the IFD, authorized execution of one or more pledge agreements by the IFD that
8 provides, among other things, for the pledge of tax increment revenues allocated to the IFD
9 with respect to all or any of the Sub-Project Areas (“Tax Increment”), as applicable, to bonds
10 issued for a special tax district that is formed by the Board of Supervisors to finance all or any
11 of the facilities that can be financed by the IFD with Tax Increment; and

12 WHEREAS, A default judgment was entered on October 17, 2019, by the Superior
13 Court of the County of San Francisco in a judicial validation action related to, among other
14 things, the IFD, the Sub-Project Areas and such pledge agreements (Case No. CGC-18-
15 565561) (“Validation Judgment”); and

16 WHEREAS, The Board of Supervisors is concurrently considering a resolution
17 supplementing the Original Special Tax Bond Resolution to provide for the issuance of one or
18 more series of special tax bonds for the Special Tax District (“2021 Bonds”); and

19 WHEREAS, In accordance with the DDA, Appendix I to the IFD Infrastructure
20 Financing Plan and the IFD Law, the IFD and the City, on behalf of the Special Tax District,
21 wish to enter into a pledge agreement (“Pledge Agreement”) to memorialize a pledge by the
22 IFD of certain Tax Increment to pay, among other things, debt service on the 2021 Bonds; and

23 WHEREAS, On October 27, 2020, staff provided an update on the Project and plan of
24 finance, including the proposed issuance of the 2021 Bonds, and by Resolution No. 20-48, the
25 Port Commission recommended that the Board of Supervisors, as the legislative body of the

1 IFD, approve the form of Pledge Agreement and related documents and actions; and
2 authorized the Executive Director of the Port to cause the documents described herein to be
3 submitted to the Board of Supervisors for its consideration; and

4 WHEREAS, A copy of Port Commission Resolution No. 20-48 is in Board File No.
5 201302, and is incorporated in this resolution by reference; and

6 WHEREAS, In the Ordinance Establishing Project Area I and Sub-Project Areas I-1
7 through I-13, the Board of Supervisors appointed the Port Commission to act as the agent of
8 the IFD with respect to Project Area I and the Sub-Project Areas (which is referred to as the
9 IFD Agent in the DDA), which under the DDA includes the authority to determine in
10 collaboration with the Office of Public Finance whether and in what amounts the IFD will issue
11 or incur indebtedness for the purposes specified in Appendix I to the Infrastructure Financing
12 Plan and enter into agreements related to such indebtedness; and

13 WHEREAS, In its capacity as legislative body of the IFD, the Board of Supervisors now
14 wishes to supplement the Original Pledge Agreement Resolution to provide for the execution
15 and delivery of the Pledge Agreement; and

16 WHEREAS, All conditions, things and acts required to exist, to have happened and to
17 have been performed precedent to the execution and delivery of the Pledge Agreement as
18 contemplated by this Resolution and the documents referred to herein exist, have happened
19 and have been performed in due time, form and manner as required by applicable law,
20 including the IFD Law; now therefore be it

21 RESOLVED, That the foregoing recitals are all true and correct; and, be it

22 FURTHER RESOLVED, That pursuant to the IFD Law, the Original Pledge Agreement
23 Resolution, and this Resolution, the Board of Supervisors hereby approves the Pledge
24 Agreement, in substantially the form on file with the Clerk of the Board of Supervisors,
25 together with such additions or changes as are approved by an Authorized Officer (as defined

1 below); the approval of such additions or changes shall be conclusively evidenced by the
2 execution and delivery by an Authorized Officer of the Pledge Agreement; and, be it

3 FURTHER RESOLVED, That the Mayor, the Controller, and the Director of the Office
4 of Public Finance, or such other official of the City as may be designated by such officials
5 (each, an “Authorized Officer”) is hereby authorized and directed to execute and deliver the
6 Pledge Agreement on behalf of the IFD; and, be it

7 FURTHER RESOLVED, The Board of Supervisors previously approved the levy on the
8 secured roll of ad valorem taxes on possessory interests in Project Area I pursuant to
9 Resolution No. 200-20, which was adopted by the Board of Supervisors on May 5, 2020, and
10 approved by the Mayor on May 15, 2020, and the Board of Supervisors agrees to continue
11 such levy on the secured roll as long as the obligation under the Pledge Agreement remains
12 in effect; and, be it

13 FURTHER RESOLVED, That all actions heretofore taken by the officers and agents of
14 the City (including, but not limited to the IFD Agent in accordance with the DDA and the
15 Ordinance Establishing Project Area I and Sub-Project Areas I-1 through I-13) with respect to
16 the establishment of the IFD, Project Area I and the Sub-Project Areas, the approval of the
17 IFD Infrastructure Financing Plan and Appendix I, and the execution and delivery of the
18 Pledge Agreement are hereby approved, confirmed and ratified, and the appropriate officers
19 of the City (including, but not limited to the IFD Agent in accordance with the DDA and the
20 Ordinance Establishing Project Area I and Sub-Project Areas I-1 through I-13) are hereby
21 authorized and directed to do any and all things and take any and all actions and execute any
22 and all certificates, agreements and other documents on behalf of the IFD, which they, or any
23 of them, may deem necessary or advisable in order to consummate the execution and
24 delivery of the Pledge Agreement in accordance with this Resolution, including but not limited
25 to any actions required in connection with issuance of ratings or a municipal bond insurance

1 policy with respect to the 2021 Bonds, and any certificate, agreement, and other document
2 described in the documents herein approved; all actions to be taken by an Authorized Officer,
3 as defined herein, may be taken by such Authorized Officer or any designee, with the same
4 force and effect as if taken by the Authorized Officer; and, be it

5 FURTHER RESOLVED, That this Resolution shall take effect from and after its
6 adoption; the provisions of any previous resolutions in any way inconsistent with the
7 provisions hereof in and for the execution and delivery of the Pledge Agreement as herein
8 described are hereby repealed.

9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: /s/ Mark D. Blake
12 MARK D. BLAKE
13 Deputy City Attorney

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