

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 241203-140

WHEREAS, On November 1, 2022, the SFMTA Board of Directors adopted Resolution No. 221101-105, authorizing the Director of Transportation to execute the Predevelopment Agreement for the Potrero Yard Modernization Project (Project) with Potrero Neighborhood Collective LLC (Lead Developer), wholly owned by Plenary Americas US Holdings (Plenary), a leading long-term investor, developer, and manager of public infrastructure; the Predevelopment Agreement was so executed on November 2, 2022; and,

WHEREAS, The Project involves the joint development of a modern bus storage and maintenance facility (Bus Yard Component), affordable and moderate-income housing with limited commercial space, if financially feasible (Housing Component), and shared infrastructure supporting both the Bus Yard and Housing Components (Common Infrastructure), with a potential paratransit facility as an alternative if constructing housing above the Bus Yard Component is not financially feasible; together, the Bus Yard Component and Common Infrastructure are referred to as the Infrastructure Facility; and,

WHEREAS, The SFMTA plans to deliver the Infrastructure Facility through its Building Progress Program, and facilitate the Housing Component, as feasible, under the citywide Public Land for Housing initiative; and,

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

WHEREAS, Construction of the Infrastructure Facility would commence before construction of the Housing Component, and the SFMTA anticipates submitting forms of housing agreements for the Housing Component to the SFMTA Board of Directors and the Board of Supervisors in spring 2025; and,

WHEREAS, The Project Agreement would serve as the primary contract between the City, acting through the SFMTA, and a to-be-established entity (“Principal Project Company”) that would be an affiliate of the Lead Developer, covering the design, construction, and financing of the Infrastructure Facility, as well as the operation and maintenance of certain elements for a 30-year period following the scheduled substantial completion date, anticipated in 2029; and,

WHEREAS, The SFMTA and the Lead Developer have negotiated the form of the Project Agreement (“Form Project Agreement”), which will be modified to include final pricing, including related milestones, and substantially incorporate the Draft Small Business Enterprise/Disadvantaged Business Enterprise Plan (SBE/DBE) Plan; and,

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

WHEREAS, Under this payment mechanism, the SFMTA would make a milestone payment and annual availability payments, paid on a quarterly basis, during the 30-year maintenance term; the availability payments would be structured as single, combined payments covering project debt, performance, and equity return, subject to deductions for non-compliance with specified performance standards; and,

WHEREAS, Finalizing the pricing for the Form Project Agreement depends on the Lead Developer's selection of a design-build contractor, completion of operations and maintenance pricing, and completion of the structure, terms, and pricing of the Project's debt financing, all of which require additional time and coordination; and,

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

WHEREAS, In accordance with Charter Section 9.118(b), which requires Board of Supervisors approval for agreements involving anticipated expenditures of \$10 million or more or a term of 10 years or more, the SFMTA would request that the Board of Supervisors: (1) conditionally approve the Form Project Agreement, subject to final pricing; (2) delegate authority under Charter Section 9.118(b) for the SFMTA Board of Directors to approve the final pricing for the Form Project Agreement, provided final pricing falls within the following not-to-exceed limits: (i) an initial milestone payment of up to \$75,000,000 at financial close, (ii) a relocation payment of up to \$500,000 within 60 days of completing temporary relocation of Potrero Yard operations, (iii) a milestone payment of \$200,000,000 by no later than 2033, and (iv) an initial maximum annual availability payment of up to \$42,200,000 (in Fiscal Year 2030 dollars) over a maintenance term not to exceed 30 years after the scheduled substantial completion date, anticipated in 2029, subject to interest rate and credit spread fluctuations between commercial close and financial close and annual CPI adjustments, with the part of the payment covering capital costs increasing 1% per year and sculpted to align with SFMTA's existing debt service obligations; and (3) authorize the Director of Transportation to execute the Form Project Agreement, as modified with the final pricing and to substantially include the terms of a Draft Small Business Enterprise/Disadvantaged Business Enterprise Plan, with Potrero Neighborhood Collective, LLC or its affiliate; and,

WHEREAS, On January 11, 2024, the San Francisco Planning Commission certified the Project's Final Environmental Impact Report (FEIR) in Motion No. 21482 and adopted findings under CEQA, the CEQA Guidelines, and Chapter 31 of the Administrative Code and a Mitigation Monitoring and Reporting Program (MMRP) in Motion No. 21483; a subsequent Note to File (NTF) for the FEIR was completed on October 25, 2024; and,

WHEREAS, Authorizing the Director of Transportation to request that the Board of Supervisors conditionally approve the Form Project Agreement subject to final pricing, delegate authority under Charter Section 9.118(b) for the SFMTA Board of Directors to approve the final pricing within the not-to-exceed limits described herein, and authorize the Director of Transportation to execute the Form Project Agreement as described herein would not result in a direct or reasonably foreseeable indirect physical change to the environment beyond the scope analyzed in the FEIR and NTF; and,

WHEREAS, The National Environmental Policy Act (NEPA) process for the Project is currently in progress and anticipated to be completed November 2024; authorizing the Director of Transportation to request that the Board of Supervisors conditionally approve the Form Project Agreement subject to final pricing, delegate authority under Charter Section 9.118(b) for the SFMTA Board of Directors to approve the final pricing within the not-to-exceed limits described herein, and authorize the Director of Transportation to execute the Form Project Agreement as described herein does not commit the City to any proposed project or any project alternative, modification, or mitigation regarding the Potrero Yard Modernization Project until, unless and before NEPA approval is obtained and City approves the Project, alternative, modification or mitigation; and,

WHEREAS, Copies of the CEQA determinations are on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference; now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Supervisors authorizes the Director of Transportation to request from the Board of Supervisors conditional approval of an Infrastructure Facility Design-Build-Finance-Operate-Maintain Agreement for the SFMTA Potrero Yard Modernization Project, subject to final pricing; delegation of authority under Charter Section 9.118(b) for the SFMTA Board of Directors to approve the final pricing within the following not-to-exceed pricing limits: (1) an initial milestone payment of up to \$75,000,000 at financial close, (2) a relocation payment of up to \$500,000 within 60 days of completing temporary relocation of Potrero Yard operations, (3) a milestone payment of \$200,000,000 by no later than 2033, and (4) an initial maximum annual availability payment of up to \$42,200,000 (in Fiscal Year 2030 dollars) over a maintenance term not to exceed 30 years after the scheduled substantial completion date, anticipated in 2029, subject to interest rate and credit spread fluctuations between commercial close and financial close and annual CPI adjustments, with the part of the payment covering capital costs increasing 1% per year and sculpted to align with SFMTA's existing debt service obligations; and authorization for the Director of Transportation to execute the Form Project Agreement, as modified with the final pricing and to substantially include the terms of a Draft Small Business Enterprise/Disadvantaged Business Enterprise Plan, with Potrero Neighborhood Collective, LLC or its affiliate.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of December 3, 2024.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency