Resolution approving the terms and conditions of the First Amendment to the Secured Carry-Back Promissory Note and the First Amendment to the Deed of Trust securing payment of the Balboa Reservoir purchase price of $11,400,000.

WHEREAS, On December 20, 2022, pursuant to a Purchase and Sale Agreement (PSA) approved by this Board of Supervisors in Resolution No. 373-20, the SFPUC sold the approximately 16-acre Balboa Reservoir (Property) located near Ocean Avenue and Frida Kahlo Way in San Francisco to BHC Balboa Builders, LLC, a California limited liability company (BHC), for the sales price of $11,400,000 (Purchase Price); and

WHEREAS, BHC purchased the Property to develop approximately 1,100 units of much-needed housing including 50%, or 550 homes, as affordable housing units; and

WHEREAS, The development project (the Project) includes approximately 1,000 units of multi-family rental residential housing, approximately 100 for-sale residential units, ground-floor community space, approximately four acres of publicly accessible open space, parking garages, and a child-care facility; and

WHEREAS, The Project includes affordable housing exceeding the Planning Code requirements for inclusionary affordable housing and extensive investments in public infrastructure, including new water distribution, auxiliary water supply facilities, stormwater management improvements, sanitary sewer systems, and street lighting that the City will accept, at no cost to the City, upon completion; and

WHEREAS, Under the PSA, BHC elected to have the SFPUC provide carryback financing in the principal sum of $11,006,965 (Loan) to BHC; and
WHEREAS, The Loan is evidenced by a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing recorded against the Property as Document No. 2022112690 in the Official Records of the City and County of San Francisco (Original Deed of Trust), and a Secured Carry-Back Promissory Note (Original Note) made by BHC; and

WHEREAS, The Original Deed of Trust and the Original Note are together referred to as the Original Loan Documents and require BHC to pay to the SFPUC post-closing annual Original Note payments until December 31, 2028, a partial balloon payment in 2026, and annual interest at the rate of three percent on the unpaid balance of the Original Note until the Maturity Date of December 31, 2028; the Original Loan Documents provide that once BHC pays the principal balance of the Original Note down to $5,700,000, the City will release the lien of the Original Deed of Trust from the Phase 1 portion of the Property and will retain the lien of the Original Deed of Trust on the Phase 2 portion of the Property; and

WHEREAS, Infrastructure costs for the Project will be considerable and must be substantially installed prior to construction of any housing; BHC reports that its development partners have spent over $24 million in predevelopment costs to advance the Project to date; and

WHEREAS, Due to the disruptions to the housing market since 2020, the economics of market rate housing have been substantially eroded and the construction start date for the market rate components of the Project has been delayed; BHC is actively pursuing adjustments to the Project phasing whereby it will jumpstart construction of the Project with two affordable housing buildings including 290 units of affordable housing first; and

WHEREAS, This Phase 1 affordable housing construction will occur before the construction of the first market-rate rental housing and before the sale of the market-rate townhome parcels to a home builder; most of the Phase 1 infrastructure costs must still be incurred in order to construct the first two affordable housing buildings; and
WHEREAS, BHC has secured $26 million in state infrastructure funds, in addition to $29 million in state Affordable Housing and Sustainable Communities Funds (AHSC), a portion of which will be used for the construction of infrastructure; on April 4, 2023, BHC applied for an additional $45 million in state AHSC funds to use for the construction of infrastructure and two affordable housing buildings; and

WHEREAS, BHC is currently working with the Mayor's Office of Housing and Community Development to adjust the timing of previously committed predevelopment funds to assist with the design and construction costs of Phase 1 of the Project; and

WHEREAS, Due to the Project's revised development schedule and change in market conditions, BHC and the SFPUC desire to amend certain provisions in the Original Loan Documents to revise the payment schedule to align with the proposed Project phasing, allow BHC to use available funding for the implementation of Phase 1, and allow for earlier prepayment and release of the Original Deed of Trust on a more flexible parcel-by-parcel basis; and

WHEREAS, On May 9, 2023, by Resolution No. 23-0099, the SFPUC Commission approved the terms and conditions of the First Amendment to the Secured Carry-Back Promissory Note and the First Amendment to the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (together, the “Amended Loan Documents”) and, subject to the approval of this Board of Supervisors, authorized the General Manager of the SFPUC to execute the Amended Loan Documents; now, therefore, be it

RESOLVED, That this Board of Supervisors hereby approves the Amended Loan Documents and authorizes the General Manager of the SFPUC to execute the Amended Loan Documents to secure payment of the Balboa Reservoir purchase price; and, be it

FURTHER RESOLVED, That this Board of Supervisors hereby authorizes the General Manager of the SFPUC to enter into any amendments or modifications to each of the
Amended Loan Documents, including without limitation, the exhibits to such documents, that the SFPUC’s General Manager determines, in consultation with the City Attorney, are in the best interest of City; do not materially reduce the City’s benefits or increase the obligations or liabilities of the City; are necessary or advisable to effectuate the purposes and intent of each of the documents or this Resolution; and are in compliance with all applicable laws, including the City’s Charter; and, be it

FURTHER RESOLVED, That within thirty (30) days of the execution of the Amended Loan Documents the General Manager of the SFPUC shall provide the signed documents to the Clerk of the Board for inclusion in the official file.
Resolution approving the terms and conditions of the First Amendment to the Secured Carry-Back Promissory Note and the First Amendment to the Deed of Trust securing payment of the Balboa Reservoir purchase price of $11,400,000.

June 09, 2023 Budget and Finance Committee - RECOMMENDED

June 27, 2023 Board of Supervisors - ADOPTED
   Ayes: 11 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

I hereby certify that the foregoing Resolution was ADOPTED on 6/27/2023 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved
6/29/23