

1 [Potrero-Hunters Point 115 kV Cable Project Property License]

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3 **Resolution approving Port License No. 13873, a non-exclusive sixty-six (66) year**
4 **license between the Port and Pacific Gas and Electric Company (PG&E) for the use of**
5 **Port property along the route for the Potrero-Hunters Point 115 kV Cable Project, in the**
6 **vicinity of Illinois Street, 23rd Street, Tennessee Street, Marin Street and Evans Avenue,**
7 **between Selby and Third Street.**

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9 WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San
10 Francisco Charter Section B3.581 empower the Port Commission with the authority and duty
11 to use, conduct, operate, maintain, manage, regulate and control the lands within the Port
12 jurisdiction; and

13 WHEREAS, The Port Commission jurisdiction includes lands granted to the City and
14 County of San Francisco (City) by the Burton Act, subject to the trust grant, that underlie the
15 former and/or paper street areas known as Davidson, Ingalls, Custer, India and Evans Street,
16 and shoreline areas in the vicinity (the Plant property); and

17 WHEREAS, Pacific Gas and Electric Company (PG&E) has used the Plant property for
18 the Hunter's Point Power Plant, intake and outfall structures, supporting facilities and public
19 access that it dedicated to BCDC as a condition of permit issuance, without first obtaining all
20 necessary authorizations; and

21 WHEREAS, In April 2001, PG&E filed a voluntary petition for relief under Chapter 11 of
22 the U.S. Bankruptcy Code and became a debtor in possession, and in October 2001, the City
23 filed a claim asserting multiple debts and liabilities, including an encroachment claim with
24 respect to the Plant property, which, as amended, claimed that PG&E encroached on 91,949
25 square feet of public trust property for which the Port was entitled to payment; and

1 WHEREAS, On September 13, 2004 PG&E filed a Motion for Partial Summary
2 Judgment or Adjudication (Limited to Hunter's Point Encroachment Claim) on Objection to
3 City and County of San Francisco's Prepetition Claim [NO.12640] and First through Fifth
4 Administrative /claims [Docket Nos. 11078, 12137, 14290, 14476, and 14903] (the "Summary
5 Judgment Motion"), and the City filed a Motion to Amend; and

6 WHEREAS, The Encroachment Claim, the Motion to Amend and the Summary
7 Judgment Motion are pending in U.S. Bankruptcy Court, N.D. Cal., Case No. 01-30923 DM,
8 however, the Port and PG&E desire to resolve the dispute with respect to the Plant property
9 and thereby facilitate the closure of the Hunter's Point Power Plant and to reach agreement
10 on the land rights required for the construction of the Potrero-Hunters Point 115 kV Cable
11 Project crossing Port property; and

12 WHEREAS, Pursuant to Charter Section B3.585, the City Attorney, with the approval of
13 the Port Commission, may compromise, settle or dismiss any litigation or legal proceeding,
14 pending for or on behalf of the Commission relative to any matter under its jurisdiction; and

15 WHEREAS, The Port is the State trust grantee of that certain real property located
16 along a route extending from Illinois Street, 23rd Street, Tennessee Street, Marin Street and
17 Evans Avenue, between Selby Street and Third Street, within which PG&E desires to install,
18 operate and maintain a single-circuit, 115-kV solid dielectric underground circuit consisting of
19 three cables between the Potrero and Hunters Point switchyards ("Potrero-Hunters Point 115
20 kV Cable Project" or "Project"); and

21 WHEREAS, The permitted right of way for the Potrero-Hunters Point 115 kV Cable
22 Project is approximately 9132 sq. ft. in area, and shall include two power vaults
23 (approximately 480 sq. ft.) and two communication vaults (approximately 45 sq. ft.); and

24 WHEREAS, The Potrero-Hunters Point 115 kV Cable Project will provide necessary
25 upgrades to the electrical transmission system serving the City to improve reliability and

1 increase capacity, as well as to provide a critical component needed to meet the goal of
2 closing PG&E's Hunters Point Power Plant; and

3 WHEREAS, On November 10, 2004, the California Independent System Operator
4 Board of Governors approved an action plan consisting of nine (9) transmission system
5 upgrades necessary to remove "must-run" status from the Hunters Point Power Plant; and

6 WHEREAS, After conducting environmental review, the California Public Utilities
7 Commission (CPUC) issued PG&E a Permit to Construct on December 2, 2004 that
8 authorizes PG&E to construct the Potrero-Hunters Point 115 kV Cable Project subject to
9 compliance with mitigation conditions listed in the CPUC's Final Mitigated Negative
10 Declaration; and

11 WHEREAS, As required by the CPUC, PG&E and the CPUC published public
12 notifications in the San Francisco Chronicle of the application to construct the Potrero-Hunters
13 Point 115 KV Cable Project on January 9 and 16 of 2004 and PG&E posted notices and
14 mailed notices to addresses within three hundred (300) feet of the proposed route pursuant to
15 the CPUC's General Order 131-D; and

16 WHEREAS, On July 7, 2004, the CPUC mailed letters to numerous agencies,
17 organizations, and individuals providing notice of an informational meeting that was held by
18 the CPUC on July 22, 2004 at 1800 Oakdale Avenue in San Francisco regarding the Potrero-
19 Hunters Point 115 kV Cable Project and on August 3, 2004 mailed a second letter to the same
20 mailing list announcing that the Draft Initial Study was available for public review; and

21 WHEREAS, The CPUC established an information and comment telephone line, e-mail
22 address and web site to enable the public to ask questions, provide comments and obtain
23 additional information on the proposed Potrero-Hunters Point 115 kV Cable Project; and

24 WHEREAS, The environmental effects of the proposed project were analyzed in a
25 Final Mitigated Negative Declaration (MND), prepared for and approved on November 19,

1 2004 by the California Public Utilities Commission (CPUC), the lead agency for the Project,
2 pursuant to all applicable requirements under the California Environmental Quality Act
3 (CEQA) and the State CEQA Guidelines; and

4 WHEREAS, The MND includes mitigation measures which were approved and
5 required by the CPUC as conditions of the Project, which would reduce environmental
6 impacts to a less than significant level; and

7 WHEREAS, In addition to the MND, Port staff reviewed the Port of San Francisco Final
8 Supplemental Environmental Impact Report (SEIR) to determine whether any mitigation
9 measures from that document also were applicable to this project, and found that the
10 mitigation measures in the MND were consistent with or exceeded those applicable in the
11 SEIR, and concurs with the analysis and conclusions presented in the Final MND; and.

12 WHEREAS, Pursuant to CEQA Guideline Section 15162, the Port staff has determined
13 that no new information of substantial importance has become available, no modification to
14 the project has occurred that would require important revisions to the MND, and no substantial
15 changes have occurred with respect to the circumstances under which the project is
16 undertaken, since the CPUC approved the MND; therefore, there is no need to conduct
17 additional environmental review; and

18 WHEREAS, The Port Commission received and reviewed the information presented in
19 the Final MND, including the CPUC-required mitigation measures presented on pages 1-23 to
20 1-44 of the MND; and

21 WHEREAS, The Project, if approved, will allow closure of the Hunters Point Power
22 Plant, thus ending that facility's reliance on San Francisco Bay water to cool the facility; and

23 WHEREAS, Closure of the Hunters Point Power Plant will enable the City to positively
24 respond to an environmental justice issue of major concern, particularly within the Bayview
25 Hunters Point community; and

1 WHEREAS, The Project will be restricted to public rights of way, within which public
2 utility installations are an appropriate use; and

3 WHEREAS, Efforts to improve the stability and capacity of the electric utility system
4 serving San Francisco also benefit Port property and the public trust; and

5 WHEREAS, PG&E has obtained Utility Excavation Permits from the City and County of
6 San Francisco Department of Public Works to install facilities within the portions of the City
7 streets along the proposed route; and

8 WHEREAS, On April 25, 2005, PG&E submitted a Port Building Permit Application
9 Number 7039 to install facilities within the streets that are under Port's jurisdiction in
10 conjunction with Potrero-Hunters Point 115 KV Cable Project; and

11 WHEREAS, On May 25, 2005, PG&E made an informational presentation to the
12 Southern Waterfront Advisory Committee about the proposed Project; and

13 WHEREAS, By its Resolution No. 05-37, adopted June 14, 2005, the Port Commission
14 found that the Final MND it is adequate, accurate, and objective, there is no need to prepare
15 additional environmental review, and that there is no substantial evidence that the Project will
16 have a significant effect on the environment, and thereby adopted the Final MND; and

17 WHEREAS, The Port Commission found that the Potrero-Hunters Point 115 KV Cable
18 Project is a use that is consistent with the public trust; and

19 WHEREAS, The Port Commission adopted and required the inclusion and
20 implementation of the mitigation measures set forth in the MND as conditions of approval of
21 this project; and

22 WHEREAS, The Port Commission approved the proposed settlement agreement
23 recommended by the City Attorney dated June 14, 2005 between the City and County of San
24 Francisco and Pacific Gas and Electric Company ("Settlement Agreement") on file with the
25 Clerk of the Board of Supervisors; and

1 WHEREAS, As part of the settlement agreement, the Port Commission approved two
2 non-exclusive Licenses (“License No. 13872 and License No. 13873”) between the Port and
3 Pacific Gas and Electric Company (PG&E) for the use of Port property along the route for the
4 Potrero-Hunters Point 115 kV Cable Project, in the vicinity of Illinois Street, 23rd Street,
5 Tennessee Street, Marin Street and Evans Avenue, between Selby and Third Street, on file
6 with the Clerk of the Board of Supervisors, and authorized the Executive Director to execute
7 License No. 13872, and forward License No. 13873 to the Board of Supervisors for its review
8 and approval pursuant to Charter Section 9.118, and if approved, to execute License II; and

9 WHEREAS, On June 14, 2006, the Board of Supervisors of the City and County of San
10 Francisco adopted Resolution 465-05 urging the Port to facilitate PG&E's construction of the
11 Potrero-Hunters Point 115KV Cable Project and PG&E to obtain tenancy in good standing
12 with the Port; now, therefore, be it

13 RESOLVED, That the Board of Supervisors hereby approves License No. 13873, a
14 non-exclusive license agreement between the Port and Pacific Gas and Electric Company
15 (PG&E) with a maximum term of sixty-six (66) years for the use of Port property along the
16 route for the Potrero-Hunters Point 115 kV Cable Project, in the vicinity of Illinois Street, 23rd
17 Street, Tennessee Street, Marin Street and Evans Avenue, between Selby and Third Street;
18 and be it

19 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
20 Director of the Port (“Executive Director”) to execute such License No. 13873 in substantially
21 the form of such license on file with the Clerk of the Board of Supervisors in File
22 No._____, in such final form as is approved by the Executive Director in consultation with
23 the City Attorney; and be it

24 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
25 Director and other appropriate officers, agents or employees of the City to take any and all

1 actions as they deem necessary or appropriate, in consultation with the City Attorney, in order
2 to consummate the transactions under License No. 13873, in accordance with this resolution,
3 or to otherwise effectuate the intent of this resolution.

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