

1 [Section 559 Reimbursable Services Agreement - Retroactive - United States Customs and
2 Border Protection at San Francisco International Airport]

3 **Resolution retroactively approving the Section 559 Reimbursable Services Agreement,**
4 **Contract No. 50020, between United States Customs and Border Protection and the**
5 **City and County of San Francisco, acting by and through its Airport Commission, with**
6 **a commencement date of November 25, 2014, for an indefinite term, terminable upon**
7 **either party by 90 days’ written notice.**

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9 WHEREAS, On January 3, 2013, the United States of America implemented the
10 Section 559 Reimbursable Services Program (Program) to enhance security and service
11 levels at airports and ports through expanded staffing by the United States Customs and
12 Border Protection (CBP); and

13 WHEREAS, On August 19, 2014, by Resolution No. 14-0167, the Airport Commission
14 (Commission) authorized the Airport Director to enter into a Section 559 Reimbursable
15 Services Agreement with CBP (Agreement) to implement the Program at San Francisco
16 International Airport (Airport) by authorizing reimbursement of as-needed overtime pay for
17 CBP staff providing federal inspection services at the International Terminal; and

18 WHEREAS, As the Agreement had no defined term, no specified funding, and is
19 terminable by either party upon 90 days’ notice, the approval provided for a five-year
20 authorization period, with a projected not to exceed amount of \$1,480,000 for Fiscal Year (FY)
21 2014-2015, with Staff returning to the Commission annually for each fiscal year’s funding; and

22 WHEREAS, On June 14, 2019, by Resolution No. 19-0146, the Commission approved
23 an additional four-year authorization period for the Agreement with additional funding of up to
24 \$4,500,000 for the corresponding period, which period expired on December 31, 2023; and

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1 WHEREAS, Since the start of the Agreement to date, reimbursements to CBP have
2 totaled approximately \$5,700,000; and

3 WHEREAS, Staff sees a continued need for the Program due to anticipated increases
4 in international flight activity for the busy summer travel season, and anticipates that the
5 required funding for the Agreement for FY2024-2025 will total approximately \$750,000; and

6 WHEREAS, The Agreement is not being modified, but Staff is now seeking renewed
7 approval for the Agreement given its indefinite term, with the Agreement remaining in effect
8 until terminated by either party with 90 days' written notice, and

9 WHEREAS, Staff will seek approval for the funding of the reimbursements to CBP
10 under the Agreement as part of the Airport's annual budget approval process going forward;
11 and

12 WHEREAS, On June 4, 2024, by Resolution No. 24-0126, the Commission renewed its
13 approval of the Agreement with CBP for an indefinite term, terminable upon either party by 90
14 days' written notice, and directed the Commission Secretary to request retroactive approval of
15 the Agreement from the Board of Supervisors (Board) under Charter, Section 9.118; and

16 WHEREAS, Charter, Section 9.118(b), of the provides that agreements entered into by
17 a department, board, or commission having a term in excess of 10 years shall be subject to
18 approval by the Board by Resolution; and

19 WHEREAS, At the time of the initial approval in 2014 and at the renewed approval in
20 2019, Airport staff, in consultation with the City Attorney's Office, structured the Commission
21 approvals of the Agreement as approvals of separate limited duration authorization periods,
22 not anticipating that the term of the Agreement would exceed 10 years, and considered the
23 Agreement to be under the thresholds, which would require Board approval under Charter,
24 Section 9.118, and the Agreement was not presented to the Board for approval; and

1 WHEREAS, As the Agreement has no defined term, and now that the Agreement is
2 anticipated to exceed 10 years in duration later this year, in order to resolve any uncertainty
3 about whether Board approval is required due to the indefinite term, the Commission has
4 requested retroactive Board approval of the Agreement under Charter, Section 9.118, back to
5 2014; and

6 WHEREAS, Copies of the fully executed Agreement are on file with the Clerk of the
7 Board of Supervisors in File No. 240672; now, therefore, be it

8 RESOLVED, That the Board of Supervisors hereby retroactively approves the Section
9 559 Reimbursable Services Agreement, Contract No. 50020, with the United States Customs
10 and Border Control for an indefinite term, terminable upon either party by 90 days' written
11 notice.

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