

1 [Lease for Real Property - China Basin Ballpark Company, LLC. - Seawall Lot 337]

2

3 **Resolution approving Port Commission Lease No. L-14980 with China Basin Ballpark**
4 **Company, LLC. (CBBC), for certain real property located at Seawall Lot 337 (“SWL**
5 **337”), including a license for certain areas of Pier 48 Shed A, Shed C, the Pier 48 Valley**
6 **and access to SWL 337 from surrounding public rights of way in the City and County**
7 **of San Francisco for a term of five years.**

8

9 WHEREAS, California Statutes of 1968, Chapter 1333 (the “Burton Act”) and the San
10 Francisco Charter Section 4.114 and B3.581 empower the San Francisco Port Commission
11 with the power and duty to use, conduct, operate, maintain, manage, regulate and control the
12 lands within Port Commission jurisdiction; and,

13 WHEREAS, Since September 9, 1997, China Basin Ballpark Company, LLC. (“CBBC”)
14 has been a tenant of the Port of San Francisco at SWL 337 ("1997 Lease") with premises
15 comprised of undeveloped land on which Tenant developed and operates a surface parking
16 lot in connection with its operation of AT&T Park; and,

17 WHEREAS, the 1997 Lease authorized commuter parking and special events and
18 special event parking as a permissible use at SWL 337; and,

19 WHEREAS, Use of Port property for surface parking generates a significant revenue
20 stream to the Port; and,

21 WHEREAS, the 1997 Lease expired on November 15, 2009 and has been on a month-
22 to-month holdover status since; and,

23 WHEREAS, Port staff and CBBC have negotiated terms for a new, interim five-year
24 lease for SWL 337 including a license to use Pier 48 Sheds A, C and Valley for special events
25 and parking; and,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WHEREAS, CBBC is a Tenant in Good Standing pursuant to Port Commission policy;
and,

WHEREAS, On September 9, 1997, the Port Commission approved CEQA findings supporting the use at SWL 337 which are relied upon for the pending new lease; and,

WHEREAS, On October 25, 2011, the Port Commission approved Resolution No. 11-68, approving Lease No. L-14980 with CBBC for surface parking, special events and signage for SWL 337, including a license for surrounding rights of way, and Pier 48 Shed A, Shed C and the Pier 48 Valley for the same general purposes; and,

WHEREAS, Lease No. L-14980 includes high season base rent to the Port of \$355,000 per month from April 1st through September 30th and low season rent to the Port of \$45,000 per month from October through March, subject to annual fixed three percent increases; and,

WHEREAS, Lease No. L-14980 also includes payment of percentage rent for parking operations equal to sixty six percent of CBBC's monthly gross parking revenues including parking revenues from special event parking and after deduction of City parking taxes and certain extraordinary expenses in connection with ballpark events; and,

WHEREAS, Lease No. L-14980 also includes fixed fees for special events of less than fourteen days duration; fees for special events at SWL 337 of fourteen days or more are subject to negotiation and approval by Executive Director of the Port not to be less than the current market rate for the use of such space; and,

WHEREAS, CBBC shall also pay the Port fifty percent of all gross revenue attributable to approved promotional signage on the Premises; and,

1 WHEREAS, A copy of the form of lease is on file with the Clerk of the Board of
2 Supervisors in File No. 120200 and is hereby declared to be part of this Resolution as is fully
3 set forth herein (the "Lease"); and,

4 WHEREAS, San Francisco Charter Section 9.118 requires Board of Supervisors
5 approval of leases having a term of ten (10) or more years or having anticipated revenue to
6 the City of One Million Dollars (\$1,000,000.00) or more; and,

7 WHEREAS, This Lease is likely to meet the One Million Dollar (\$1,000,000.00)
8 threshold; and,

9 WHEREAS, The lease term will be five years commencing upon Board of Supervisor
10 approval and upon full execution by the Port; and,

11 WHEREAS, The Port Commission found that the new lease should be directly
12 negotiated with CBBC as a competitive bid would be impractical or impossible due to
13 uncertainties presented by the development rights for the premises pursuant to the May 25,
14 2010, Port Commission approved Exclusive Negotiation Agreement ("ENA") with Seawall Lot
15 337 Associates, LLC., to negotiate terms for the development and lease of SWL 337 and Pier
16 48; now, therefore, be it

17 RESOLVED, That the Board of Supervisors approves the Lease; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors hereby finds that competitive
19 bidding for the rights granted pursuant to Lease No. L-14980 is impractical; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
21 Director of the Port (the "Executive Director") or her designee to execute the Lease in a form
22 approved by the City Attorney and in substantially the form of the lease on file; and, be it

23
24
25

1 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
2 Director to enter into any additions, amendments or other modifications to the Lease
3 (including, without limitation, preparation and attachment of, or changes to, any or all of the
4 exhibits and ancillary agreements) that the Executive Director, in consultation with
5 the City Attorney, determines is in the best interest of the Port, do not alter the rent or
6 the Port's projected income from the Lease, do not materially increase the obligations or
7 liabilities of the Port or City or materially decrease the public benefits accruing to the Port, and
8 are necessary or advisable to complete the transactions contemplate and
9 effectuate the purpose and intent of this Resolution, such determination to be conclusively
10 evidenced by the execution and delivery by the Executive Director of any such documents.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25