

1 [Lease of Property - Bauer Intelligent Transportation, Inc. - Pier 50]

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3 **Resolution approving CEQA Findings and Mitigation Monitoring and Reporting**
4 **Program, and Port Commission Lease No. L-15004 with Bauer Intelligent**
5 **Transportation, Inc., a California Corporation, for certain real property located at**
6 **Pier 50, Sheds A and C, in the City and County of San Francisco, for a term of ten**
7 **years.**

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

13 WHEREAS, Since August 15, 1999, Bauer Intelligent Transportation, Inc. (Bauer)
14 through its predecessor entity, Bauer California Coach Sales and Service, Inc., has
15 been a tenant of the Port of San Francisco at Pier 27 with premises comprised of shed,
16 office and exterior paved space directly related to the operation, maintenance and
17 storage of motor coach services for private, corporate and governmental use; and

18 WHEREAS, Since 1999, Bauer has been a tenant of the Port under a series of
19 leases, the latest of which expired on September 30, 2004 and has been on a mutual
20 month-to-month basis since; and,

21 WHEREAS, Pier 27 is currently occupied by a variety of maritime, office and
22 industrial tenants with often conflicting uses; and

23 WHEREAS, Due to its ability to berth large Cruise ships, Pier 27 has
24 experienced a significant increase in cruise calls in the last several years and in 2010,
25 there were over 40 scheduled visits; and

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1 WHEREAS, To accommodate passenger boarding, provisioning and security
2 mandates, significant portions of the shed and exterior yard at Pier 27 are required to be
3 vacated for an extended period; and

4 WHEREAS, Cruise ship operations have significantly impacted Bauer's
5 operations; and

6 WHEREAS, Bauer has been working closely with the Port for a suitable location
7 to accommodate their expanding operations, maintenance, storage and parking needs
8 in a way that is not possible at Pier 27 due to existing maritime uses; and

9 WHEREAS, Pier 50 was selected by both Bauer and the Port due to its large
10 contiguous shed space, central location to major highways and less traffic congestion
11 than in the Northern waterfront; and

12 WHEREAS, Bauer is a Tenant in Good Standing pursuant to Port Commission
13 policy; and

14 WHEREAS, On December 15, the Planning Commission held a public hearing
15 and, by Motion No. 18514 certified the Final EIR as accurate, adequate, and complete
16 by a unanimous vote of those Commissioners present , which EIR analyzed the 34th
17 America's Cup project, and James R. Herman Cruise Terminal and Northeast Wharf
18 Plaza at Pier 27-29 ("Cruise Terminal Project"), including evaluation of the
19 environmental effects associated with relocation of Bauer from its existing location at
20 Pier 27-29 to Pier 50; and

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22 WHEREAS, On December 16, 2011, the Port Commission approved Resolution
23 Nos. 11-75, 11-76, 11-77, 11-78, 11-81 and 11-83, which adopted CEQA findings,
24 including a Statement of Overriding Considerations and a Mitigation Monitoring and
25 Reporting Program (MMRP) for the Cruise Terminal Project, various contracts
associated with approving implementation of the Cruise Terminal Project, a James R.
Herman and Northeast Wharf Plaza Tenant Relocation Plan, and Lease No. L-15004
Supervisor Chiu

1 with Bauer for 4,370 square feet of office space in Pier 50 Shed A, approximately
2 68,777 square feet of shed space in Pier 50 Shed C and approximately 50,347 square
3 feet of exterior paved fenced yard and dock space adjacent to Pier 50 Shed C; and

4 WHEREAS, A copy of the form of lease is on file with the Clerk of the Board of
5 Supervisors in File No. 111317 and is hereby declared to be part of this Resolution as is
6 fully set forth herein (the "Lease"); and

7 ~~WHEREAS, The environmental impacts of actions contemplated in the Lease~~
8 ~~were analyzed in a Final Environmental Impact Report ("Final EIR"), which the Planning~~
9 ~~Commission certified on December 15, 2011, by its Motion No. 18514, which~~
10 ~~certification action is now on appeal before the Board of Supervisors, and a copy of the~~

11 Final EIR is contained in Board File No. 111358; and,

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

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

17 WHEREAS, The lease term will be ten years commencing upon Board of
18 Supervisor approval and upon full execution by the Port; and

19 WHEREAS, The lease will provide for an initial seven month rent abatement
20 period to construct tenant improvements and up to \$515,000 in rent credits for core and
21 shell improvements to Shed A and C to be deducted from the monthly rent starting in
22 the eighth month; and

23 WHEREAS, The first year's total annual rent is approximately \$610,000 and will
24 escalate incrementally on an annual basis to approximately \$1,198,000 in the tenth
25 lease year for total rent over the term of the lease of approximately \$9,000,000 inclusive
of rent abatement but not rent credits; and

1 WHEREAS, On December 19, 2011 and January 4, 2012, two separate appeals
2 of the Final EIR were filed with the Clerk of the Board of Supervisors; and

3 WHEREAS, the Planning Department prepared and presented responses to the
4 issues raised in both appeal letters and public comments presented at a public hearing
5 held by the Board of the Supervisors on the appeal of the Final EIR on January 24,
6 2012; and

7 WHEREAS, [On January 24, 2012, the Board of Supervisors by a vote of _____
8 upheld the certification of the Final EIR] in its Motion No. _____; and

9 WHEREAS, Port Resolution No. 11-75, the CEQA Findings and MMRP for the
10 Cruise Terminal Project is on file with the Clerk of the Board in File No. _____; now,
11 therefore, be it

12 RESOLVED, That this Board has reviewed the Final EIR and finds that the
13 actions contemplated by this Resolution are within the scope of the Final EIR and were
14 fully analyzed therein, and that no changes have occurred in the project or in the
15 circumstances surrounding the project, nor has any new information regarding the
16 project or its circumstances come to light, that would require changes or additions to the
17 Final EIR; and be it

18 FURTHER RESOLVED, That the Board of Supervisors adopts the CEQA
19 Findings, including the statement of overriding considerations and MMRP set forth in
20 Port Commission Resolution No. 11-75 and incorporates those findings in this approval
21 action as though fully set forth herein; and be it

22 FURTHER RESOLVED, That the Board of Supervisors approves the Lease; and,
23 be it

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

and, be it

Supervisor Chiu

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
4 the 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
8 Port, and are necessary or advisable to complete the transactions contemplate and
9 effectuate the purpose and intent of this Resolution, such determination to be
10 conclusively evidenced by the execution and delivery by the Executive Director of any
11 such documents.

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