

1 [Amendment to Maintenance and Management Agreement between the San Francisco Port
2 Commission and the San Francisco Redevelopment Agency for Rincon Park.]

3 **Resolution authorizing and directing the Port Executive Director to execute the Third**
4 **Amendment to the Maintenance and Management Agreement between the City and**
5 **County of San Francisco and the Redevelopment Agency of the City and County of San**
6 **Francisco for the maintenance and management of Rincon Park by the Port, extending**
7 **the term of the Agreement from June 30, 2010 to June 30, 2013.**

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9 WHEREAS, Charter Section 3.581 empowers the San Francisco Port Commission
10 (“Port” or “Port Commission”) with the power and duty to use, conduct, operate, maintain,
11 manage, regulate and control the Port area of San Francisco; and

12 WHEREAS, The Port owns certain land located between the Embarcadero Promenade
13 to the east and Steuart Street and The Embarcadero to the west, which lands are designated
14 under the Rincon Point/South Beach Redevelopment Plan for use as a public park ("Site");
15 and

16 WHEREAS, On September 7, 2001, the Port and the Redevelopment Agency of the
17 City and County of San Francisco (“Redevelopment Agency”) entered into a Lease for a 65
18 year term for the construction and operation of a public park on the Site referred to as the
19 “Rincon Park”; and

20 WHEREAS, Rincon Park opened to the public in February 2003; and

21 WHEREAS, The Port has provided professional maintenance and management
22 services to the Redevelopment Agency for Rincon Park pursuant to the Rincon Park
23 Maintenance and Management Agreement dated January 2, 2003, (“Management
24 Agreement”); and

1 WHEREAS, On February 14, 2006, per Resolution No. 06-11, the Port Commission
2 approved, authorized and directed the Executive Director to enter into the First Amendment
3 between the Port and the Redevelopment Agency extending the duration of the agreement by
4 one year to June 30, 2007; and

5 WHEREAS, On April 20, 2007, per Resolution No. 07-28, the Port Commission
6 approved, authorized and directed the Executive Director to enter into the Second
7 Amendment between the Port and the Redevelopment Agency extending the duration of the
8 agreement by three years to June 30, 2010; and

9 WHEREAS, The respective staff of the Port and the Redevelopment Agency have
10 negotiated the terms of an amendment to the Management Agreement that extends the term
11 to June 30, 2013 all of which terms are documented in the form of the Third Amendment to
12 the Maintenance and Management Agreement (the "Third Amendment") attached to the Staff
13 Memorandum for Port Commission Agenda Item 8D on file with the Port Commission
14 Secretary and the Clerk of the Board of Supervisors of the City and County of San Francisco
15 ("Board of Supervisors"); and

16 WHEREAS, The Third Amendment, since it extends the term of the Management
17 Agreement in excess of ten years, is subject to the Board of Supervisors' approval under
18 Charter Section 9.118; and

19 WHEREAS, On May 11, 2010, subject to approval by the Board of Supervisors and the
20 Mayor, by Port Commission Resolution 10-25, the Port Commission authorized and directed
21 the Port Executive Director to execute the Third Amendment on substantially the same terms
22 and conditions of the amendment on file with the Port Commission Secretary and further
23 authorized the Port Executive Director to enter into any additions, amendments or other
24 modifications to the Third Amendment that the Executive Director determines, in consultation
25 with the City Attorney, are in the best interest of the Port, and do not materially increase the

1 obligations or liabilities of the Port, and are necessary or advisable to complete the
2 amendments contemplated in the Third Amendment and effectuate the purpose of Port
3 Commission Resolution 10-25, such determination to be conclusively evidenced by the
4 execution and delivery by the Executive Director of the Third Amendment and any changes
5 thereto; and

6 WHEREAS, On May 4, 2010, subject to approval by the Port Commission, the Board of
7 Supervisors and the Mayor, the San Francisco Redevelopment Agency Commission
8 approved a three-year extension of the Management Agreement by Resolution 44-2010; and

9 WHEREAS, A Copy of the Management Agreement, and the First, Second, and Third
10 Amendments are on File with the Clerk of the Board in File No. 100860; now, therefore, be it

11 RESOLVED, That the Board of Supervisors ratifies, confirms and approves the
12 Management Agreement, including the First and Second Amendments, and all actions taken
13 by the officials, employees and agents of the Port Commission or the City and County with
14 respect to the agreement; and, be it further

15 RESOLVED, That the Board of Supervisors hereby approves the Third Amendment
16 and authorizes and directs the Port Executive Director to execute the Third Amendment on
17 substantially the same terms and conditions of the amendment on file with the Clerk of the
18 Board of Supervisors; and, be it further

19 RESOLVED, That the Board of Supervisors authorizes the Port Executive Director to
20 enter into any additions, amendments or other modifications to the Third Amendment that the
21 Executive Director determines, in consultation with the City Attorney, are in the best interest of
22 the Port, and do not materially increase the obligations or liabilities of the Port, and are
23 necessary or advisable to complete the amendments contemplated in the Third Amendment
24 and effectuate the purpose of this resolution, such determination to be conclusively evidenced
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1 by the execution and delivery by the Executive Director of the Third Amendment and any
2 changes thereto.

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