

1 [Agreement to Sell Approximately 22,0600 square feet of unimproved real property located at
2 Beale and Bryant Streets and to Lease Piers 30-32 to San Francisco Cruise Terminal, LLC]

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4 **Resolution Approving and Authorizing an Agreement with San Francisco Cruise**
5 **Terminal, LLC for the Sale of approximately 22,0600 square feet of real property located**
6 **at the corner of Beale and Bryant Streets on Seawall Lot 330; approving and**
7 **authorizing a 66-year Lease with San Francisco Cruise Terminal, LLC for Piers 30-32;**
8 **adopting findings that the Sale conveyance is consistent with the City's General Plan**
9 **and eight Priority Policies of City Planning Code Section 101.1; authorizing expenditure**
10 **of proceeds received under the Sale Agreement towards costs of the Brannan Street**
11 **Wharf and Piers 30-32 Cruise Terminal Project; and authorizing the Port's Executive**
12 **Director and the City's Director of Property to execute documents, make certain**
13 **modifications and take certain actions in furtherance of this Resolution.**

14 WHEREAS, in 1997 the San Francisco Port Commission ("Port Commission") adopted
15 the Waterfront Land Use Plan, including the Design and Access Element ("Waterfront Plan"),
16 after an intensive seven year planning process that culminated in the Board of Supervisors
17 and Planning Commission adopting conforming amendments to the City's General Plan and
18 Planning Code; and

19 WHEREAS, the Waterfront Plan allows for a mix of uses within the South Beach/China
20 Basin Subarea, including a signature passenger terminal, neighborhood and visitor-serving
21 retail, maritime and general office, and public access uses, activities that would attract
22 residents of the City and the region, businesses that would cater to nearby residents and
23 workers, embarking and debarking cruise passengers, and cruise ship crewmembers, while
24 providing significantly expanded open space bayward of The Embarcadero, and residential
25 development on seawall lots; and

1 WHEREAS, On May 25, 1999 the Port Commission approved Resolution No. 99-36,
2 authorizing Port staff to issue a Request for Qualifications and Proposals ("RFQ/P) for a
3 mixed use cruise terminal project on Pier 30-32 and SWL 330, in order to assess the
4 availability of private investment to achieve its development objectives and determine the level
5 of interest in the private sector; and

6 WHEREAS, The RFQ/P identified the following goals and objectives for a mixed use
7 cruise terminal project on Pier 30-32 and SWL 330: (1) provide a signature mixed use
8 waterfront project that achieves a high level of year-round public use and support; (2) include
9 development of a state-of-the-art Cruise Terminal that enhances the Port's international
10 reputation as a first class cruise destination and preserves and creates new maritime jobs on
11 this site and throughout San Francisco's waterfront; (3) achieve a use and
12 design program that respects and complements the existing South Beach neighborhood;
13 and (4) provide for the enhancement of the Port's financial position over the term of the
14 leasehold; and

15 WHEREAS, The Port received qualifications from four major development teams
16 ("Respondents") and with the assistance of an independent real estate economics consultant
17 invited three teams to submit proposals, one of whom subsequently decided to withdraw from
18 the process; and

19 WHEREAS, The Port received proposals from two Respondents, whose proposals
20 were reviewed and analyzed by Port staff and an independent real estate economics
21 consultant; and

22 WHEREAS, The Port Commission reviewed and evaluated the Respondents, reviewed
23 and evaluated their responses, including the requested additional information, their interviews
24 with Port staff, the analyses of design and planning, economic and land use parameters
25 prepared both by Port staff and by the Port's independent real estate economics consultants,

1 and reviewed and evaluated the Port staff recommendation, and determined that San
2 Francisco Cruise Terminal LLC ("SFCT") best met the qualification requirements for the
3 development of a mixed use cruise terminal project on Pier 30-32 and SWL 330; and

4 WHEREAS, As originally proposed by SFCT, the project included a two-berth cruise
5 terminal, commercial retail, office, parking and open space on Piers 30-32 and a 400-room
6 hotel and 11 time share units on Seawall Lot (SWL) 330; and

7 WHEREAS, On January 11, 2000 the Port Commission approved Resolution No. 00-
8 03, awarding SFCT the opportunity to enter into an Exclusive Right to Negotiate agreement;
9 and

10 WHEREAS, During the course of negotiations, SFCT proposed revisions to its project
11 to address requirements of State legislation, to offset increased construction costs and to
12 respond to market, neighborhood, and public trust concerns, which revisions included the
13 development of residential condominiums as an alternative to the hotel and time-share units
14 on approximately 22,0600 square feet of land located on Seawall Lot 330 at the corner of
15 Beale and Bryant Streets (the "Condo Site"); and

16 WHEREAS, Consistent with the Exclusive Right to Negotiate and the revised proposal,
17 the Port and SFCT negotiated (1) a Lease Disposition and Development Agreement ("LDDA")
18 and a 66-year Lease governing development and operation of a mixed-use Cruise Terminal
19 project at Piers 30-32 (the "Cruise Terminal Project") and the construction of an adjacent
20 public open space called the "Brannan Street Wharf", (2) a Purchase and Sale Agreement
21 (the "Sale Agreement") for the sale of the Condo Site and construction of an approximately
22 22-story condominium tower thereon (the "Condo Project"), and (3) related exhibits and
23 attachments to the LDDA, Lease and Sale Agreement (all of the foregoing, collectively,
24 referred to as the "Project Documents"), all on the material terms and conditions set forth in
25 the Memorandum to Port Commissioners, dated March 19 for Agenda Item No. 8B for the

1 Port Commission's March 25, 2003 meeting (the "Port Commission Memorandum"), which
2 Project Documents and Port Commission Memorandum are on file with the Clerk of the Board
3 of Supervisors in File No. 030371, and is hereby declared to be a part of this resolution as
4 if set forth fully herein; and

5 WHEREAS, At its regular public meeting of March 25, 2003, the Port Commission
6 reviewed and considered the Waterfront Land Use Plan Final Environmental Impact Report
7 ("Waterfront Plan FEIR") and the San Francisco Cruise Terminal Mixed-Use Project and
8 Brannan Street Wharf Project Final Supplemental Environmental Impact Report certified by
9 the Planning Commission on November 21, 2002 by Motion No. 16480 ("FSEIR"), and
10 adopted a Mitigation Monitoring and Reporting Program, all by Resolution No. 03-27, a copy
11 of which is on file with the Clerk of the Board of Supervisors in File No. 030371,
12 which is hereby declared to be a part of this resolution as if set forth fully herein; and

13 WHEREAS, At its regular public meeting of March 25, 2003, the Port Commission
14 approved the Project Documents, adopted findings regarding lifting the public trust from the
15 Condo Site, and took other related actions by Resolution No. 03-28, a copy of which is on file
16 with the Clerk of the Board of Supervisors in File No. 030371, which is hereby
17 declared to be a part of this resolution as if set forth fully herein; and

18 WHEREAS, Under the terms of the Sale Agreement, SFCT has agreed to pay the Port
19 Commission the amount of \$9,324,000 for the Condo Site, with \$9 Million payable upon close
20 of escrow and the balance to be paid from the sales of condominium units developed on the
21 Condo Site; and

22 WHEREAS, Under the terms of the Sale Agreement, SFCT has agreed to pay the Port
23 Commission participation in the proceeds from sales of condominium units constructed on the
24 Condo Site, which funds will be held by the Port in a segregated account to be used towards
25 development of the Brannan Street Wharf project and certain development costs for the

1 Cruise Terminal Project, all as more particularly described in the Port Commission
2 Memorandum; and

3 WHEREAS, The City's Director of Property has determined, based on an independent
4 MAI appraisal, that the purchase price for the Condo Site of \$9,324,000 reflects the fair
5 market value of the Condo Site; and

6 WHEREAS, As a condition precedent to sale of the Condo Site, the public trust and
7 Burton Act trust must be removed from the Condo Site, which shall be accomplished through
8 a trust exchange approved by the Port Commission, the Board of Supervisors, and the State
9 Lands Commission; and

10 WHEREAS, The Project Documents conform to all applicable local laws and
11 regulations and are not prohibited by the Charter; and

12 WHEREAS, The Director of Planning, by letter dated May 7, _____, 2003
13 found that the Sale Agreement and Lease are is in conformity consistent with the City's
14 General Plan and with the Eight Priority Policies of City Planning Code Section 101.1, which
15 letter is on file with the Clerk of the Board of Supervisors under File No. 030371, and
16 which letter is incorporated herein by this reference; and

17 WHEREAS, Charter Section 9.118(c) requires Board of Supervisors approval of leases
18 having a term of ten or more years or anticipated revenues of one million dollars or more, and
19 of sales of City-owned real property; now, therefore, be it

20 RESOLVED, That the Board of Supervisors has reviewed and considered the
21 information contained in the Waterfront Land Use Plan FEIR and the FSEIR, and for purposes
22 of compliance with CEQA, the Project Documents and all other matters and actions approved
23 by this Resolution are within the scope of the Projects examined in the FSEIR for which the
24 Board of Supervisors by Resolution No. 030371 has adopted findings with respect to the
25 FSEIR as required by CEQA, including a Mitigation Monitoring and Reporting Program, which

1 findings are on file with the Clerk of the Board of Supervisors under File No. 030371 and
2 which findings are incorporated herein by this reference; and be it

3 FURTHER RESOLVED, That the Board of Supervisors hereby finds that the Sale
4 Agreement ~~is and Lease are~~ consistent with the General Plan, and with the eight Priority
5 Policies of Planning Code Section 101.1 for the same reasons as set forth in the letter of the
6 Director of Planning, dated _____, May 7, 2003, which letter and findings are on file
7 with the Clerk of the Board of Supervisors under File No. 030371 and which letter and
8 findings are incorporated by reference as though fully set forth in this resolution; and be it

9 FURTHER RESOLVED, That SFCT was selected to develop the Condo Site pursuant
10 to a validly authorized and conducted RFQ/P process, and that the sale of the Condo Site is
11 within the scope of Section V of the RFQ/P (General Terms and Conditions) that allows the
12 Port during negotiation, to expand or contract the scope of the proposed project, including
13 adding or subtracting land parcels or otherwise altering the project concept from that which
14 was initially proposed in order to respond to new information, community or environmental
15 issues, or opportunities to improve the financial return to the Port from the project or enhance
16 public or maritime amenities; and be it

17 FURTHER RESOLVED, That it is in the City's and Port's best interest to convey the
18 Condo Site to SFCT, and that the public interest or necessity demands, or will not be
19 inconvenienced by, the sale of the Condo Site to SFCT pursuant to the Sale Agreement; and
20 be it

21 FURTHER RESOLVED, That the Board of Supervisors hereby approves the Lease
22 and all exhibits thereto (and the terms of the LDDA to the extent incorporated or referenced in
23 the Lease) and authorizes and directs the Executive Director of the Port (the "Executive
24 Director") to execute the Lease upon satisfaction or waiver of the conditions precedent set
25 forth in the LDDA in substantially the form presented to this Board, and in such final form as is

1 approved by the Executive Director in consultation with the City Attorney; and be it

2 FURTHER RESOLVED, That the Board of Supervisors hereby approves the Sale
3 Agreement and all attachments thereto, and authorizes and directs the Executive Director and
4 the City's Director of Property to execute the Sale Agreement in the name and on behalf of
5 the City and its Port, in substantially the form of such agreement presented to this Board, and
6 in such final form as is approved by the Executive Director and Director of Property in
7 consultation with the City Attorney; and be it

8 FURTHER RESOLVED, That the City's Director of Property and the Port's Executive
9 Director are hereby authorized and urged, in the name and on behalf of the City and County
10 and the Port, to execute and deliver the deed to the Condo Site to SFCT upon the closing in
11 accordance with the terms and conditions of the Sale Agreement, and to take any and all
12 steps (including, but not limited to, the execution and delivery of any and all certificates,
13 agreements, notices, consents, escrow instructions, closing documents and other instruments
14 or documents) as they deem necessary or appropriate in order to consummate the
15 conveyance of the Condo Site as a separate parcel pursuant to the Sale Agreement, or to
16 otherwise effectuate the purpose and intent of this resolution, such determination to be
17 conclusively evidenced by the execution and delivery by the Director of Property and
18 Executive Director of any such documents; and be it

19 FURTHER RESOLVED, That the Executive Director shall determine satisfaction of the
20 conditions precedent under the LDDA to the conveyance of the leasehold estate in the Cruise
21 Terminal Project site, such determination to be conclusively evidenced by the execution and
22 delivery by the Executive Director of the Lease; and be it

23 FURTHER RESOLVED, That the Executive Director shall determine satisfaction of the
24 conditions precedent under the Sale Agreement to the conveyance of the fee simple estate in
25

1 the Condo Site, such determination to be conclusively evidenced by the execution and
2 delivery by the Executive Director and the City's Director of Property of a grant deed; and be it

3 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
4 Director and, as to the Sale Agreement, the Executive Director and the City's Director of
5 Property, to enter into any additions, amendments or other modifications to the LDDA, the
6 Lease and the Sale Agreement (including, without limitation, preparation and attachment of, or
7 changes to, any or all of the exhibits, and preparation and execution of financing documents,
8 including without limitation, intercreditor agreements) that the Executive Director (and Director
9 of Property with respect to the Sale Agreement), in consultation with the City Attorney,
10 determine are in the best interests of the City, do not decrease the rent, decrease the sale
11 price, and otherwise do not increase materially the obligations or liabilities of the Port or City
12 or decrease materially the public benefits accruing to Port or City, and are necessary or
13 advisable to complete the transactions which the LDDA, Lease and Sale Agreement
14 contemplate and effectuate the purpose and intent of this resolution, such determination to be
15 conclusively evidenced by the execution and delivery by the Executive Director of the LDDA
16 and the Lease, the execution and delivery by the Executive Director and Director of Real
17 Property of the Sale Agreement, and any amendments to the Project Documents; and be it

18 FURTHER RESOLVED, That the Board of Supervisors authorizes and urges the
19 Executive Director, the Director of Property, and any other appropriate officers, agents or
20 employees of the City to take any and all steps (including, but not limited to, the execution and
21 delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing
22 documents and other instruments or documents, the filing and pursuit of appropriate title or
23 validating actions, the filing and pursuit of appropriate land use entitlements, and the
24 establishment of separate segregated accounts dedicated to proceeds received by Port from
25 the sale of the Condo Site and the sale of condominium units thereon) as they or any of them

1 deems necessary or appropriate, in consultation with the City Attorney, in order to
2 consummate the transactions under the LDDA, the Lease and the Sale Agreement in
3 accordance with this resolution, or to otherwise effectuate the purpose and intent of this
4 resolution, such determination to be conclusively evidenced by the execution and delivery by
5 any such person or persons of any such documents; and be it

6 FURTHER RESOLVED, That the Board of Supervisors authorizes and urges the
7 Executive Director to negotiate and take any and all necessary steps to accomplish the trust
8 exchange contemplated by the Sale Agreement, including, without limitation, reaching an
9 agreement with the State Lands Commission to transfer the public trust to such property as is
10 acceptable to the Port and the State Lands Commission; and be it

11 ~~FURTHER RESOLVED, That the Board of Supervisors authorizes and urges the~~
12 ~~Executive Director, the City's Controller, and any other appropriate officers, agents or~~
13 ~~employees of the City to take any and all steps necessary to accept and expend all proceeds~~
14 ~~payable to the Port from SFCT under the terms of the Sale Agreement and its exhibits~~
15 ~~(including the Condo Sale Proceeds and Residual Condo Proceeds as those terms are~~
16 ~~defined in the Sale Agreement) towards the development of the Brannan Street Wharf and the~~
17 ~~Pier 30-32 Cruise Terminal Project, subject to the further terms and conditions of the Sale~~
18 ~~Agreement and LDDA, including without limitation, establishing a segregated account to hold~~
19 ~~such proceeds and other Port and grant funds designated for Brannan Street Wharf costs and~~
20 ~~Pier 30-32 costs; and be it~~

21 FURTHER RESOLVED, That the Board of Supervisors authorizes and urges the
22 Executive Director, and any other appropriate officers, agents or employees of the Port and
23 City to take any and all steps necessary to apply for grant funding for purposes of
24 development and construction of the Brannan Street Wharf, subject to City requirements for
25 the acceptance and expenditure of such funds; and be it

1 FURTHER RESOLVED, That the Board approves, confirms and ratifies all prior actions taken
2 by the officials, employees and agents of the Port Commission or the City with respect to the
3 LDDA, the Lease and the Sale Agreement.

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Resolution

File Number: 030371

Date Passed:

Resolution approving and authorizing an Agreement with San Francisco Cruise Terminal, LLC for the Sale of approximately 22,000 square feet of real property located at the corner of Beale and Bryant Streets on Seawall Lot 330; approving and authorizing a 66-year Lease with San Francisco Cruise Terminal, LLC for Piers 30-32; adopting findings that the conveyance is consistent with the City's General Plan and eight Priority Policies of City Planning Code Section 101.1; authorizing expenditure of proceeds received under the Sale Agreement towards costs of the Brannan Street Wharf and Piers 30-32 Cruise Terminal Project; and authorizing the Port's Executive Director and the City's Director of Property to execute documents, make certain modifications and take certain actions in furtherance of this Resolution.

July 15, 2003 Board of Supervisors — ADOPTED

Ayes: 11 - Ammiano, Daly, Dufty, Gonzalez, Hall, Ma, Maxwell, McGoldrick,
Newsom, Peskin, Sandoval

File No. 030371

I hereby certify that the foregoing Resolution was ADOPTED on July 15, 2003 by the Board of Supervisors of the City and County of San Francisco.

JUL 25 2003

Date Approved

Kay Lullengas

for Gloria L. Young
Clerk of the Board

Willie L. Brown Jr.

Mayor Willie L. Brown Jr.