

1 [CEQA Findings for Cruise Terminal Mixed-Use Project.]

2
3 **Resolution adopting findings pursuant to the California Environmental Quality Act**
4 **(CEQA) and the State CEQA Guidelines, including a statement of overriding**
5 **considerations, in connection with the proposed mixed-use Cruise Terminal Project,**
6 **located on Pier 30-32, a condominium tower on a portion of Seawall Lot 330, and a**
7 **public open space project in the location of Pier 34 and 36, in the Port of San**
8 **Francisco, City and County of San Francisco.**

9 WHEREAS, The San Francisco Cruise Terminal Mixed-Use Project is proposed to be
10 constructed on Piers 30-32 and Seawall Lot 330, and the Brannan Street Wharf Project is
11 proposed to be located in the vicinity of Pier 34 and Pier 36; and

12 WHEREAS, The City and County of San Francisco, acting through the Planning
13 Department ("Department"), fulfilled all procedural requirements of the California
14 Environmental Quality Act (Cal. Pub. Res. Code Sections 21000 et seq.;"CEQA"), the State
15 CEQA Guidelines (Cal. Admin. Code Title 14, Sections 15000 et. seq., ("CEQA Guidelines")
16 and Chapter 31 of the San Francisco Administrative Code ("Chapter 31") including:

17 a. The Department determined that a supplement to the Waterfront Land Use Plan
18 Final Environmental Impact Report ("Waterfront Plan FEIR"), case no. 94.155E (hereinafter
19 "SEIR") was required for the Cruise Terminal Mixed-Use Project and the Brannan Street
20 Wharf Project and provided public notice of that determination by publication in a newspaper
21 of general circulation on June 9, 2001; and

22 b. On November 17, 2001, the Department published the Draft Supplemental
23 Environmental Impact Report ("DSEIR") and provided public notice in a newspaper of general
24 circulation of the availability of the DSEIR for public review and comment and of the date and
25 time of the San Francisco Planning Commission ("Planning Commission") public hearing on

1 the DSEIR; this notice was mailed to the Department's list of persons requesting such notice;
2 and

3 c. Notices of availability of the DSEIR and of the date and time of the public
4 hearing were posted near the project site by Department staff on November 19, 2001; and

5 d. On November 17, 2001, copies of the DSEIR were mailed or otherwise
6 delivered to the list of persons requesting it, to those noted on the distribution list in the
7 DSEIR, to adjacent property owners, and to government agencies, the latter both directly and
8 through the State Clearinghouse; and

9 e. Notice of Completion of the DSEIR (SCH# 1994123007) was filed with the State
10 Secretary of Resources via the State Clearinghouse on November 19, 2001; and

11 WHEREAS, The Planning Commission held a duly advertised public hearing on the
12 DSEIR on December 20, 2001, at which opportunity for public comment was given, and public
13 comment was received on the DSEIR. The public review period for acceptance of written
14 comments was extended to January 16, 2002, for a total of 60 days; and

15 WHEREAS, The Department prepared responses to comments on environmental
16 issues received at the public hearing and in writing during the 60-day public review period for
17 the DSEIR, prepared revisions to the text of the DSEIR in response to comments received or
18 based on additional information that became available during the public review period, and
19 corrected errors in the DSEIR. This material was presented in a "Draft Summary of
20 Comments and Responses," published on April 30, 2002, was distributed to the Planning
21 Commission and to all parties who commented on the DSEIR, and was available to others
22 upon request at Department offices; and

23 WHEREAS, The Department prepared a Final Supplemental Environmental Impact
24 Report ("Initial FSEIR"), consisting of the DSEIR, any consultations and comments received
25 during the review process, any additional information that became available, and the Draft

1 Summary of Comments and Responses, all as required by law. The Initial FSEIR also relied
2 upon and included information from the Waterfront Plan FEIR. The Planning Commission
3 found that the information in the Draft Summary of Comments and Responses and any
4 additional information that became available did not require recirculation under CEQA
5 Guidelines Section 15088.5. On May 9, 2002, the Planning Commission reviewed and
6 considered the Initial FSEIR and, by Motion No. 16404, found that the Department had fulfilled
7 all of the requirements of CEQA, the CEQA Guidelines and Chapter 31; and

8 WHEREAS, By letter to the Clerk of the Board of Supervisors dated May 28, 2002,
9 Bluewater Network filed a timely appeal of the Planning Commission's certification of the
10 Initial FSEIR to the Board of Supervisors ("Board") pursuant to Chapter 31, Section 31.16(a);
11 and

12 WHEREAS, The Board held a duly-noticed public hearing on June 24, 2002 to
13 consider the appeal of the Initial FSEIR, at which time the Board disapproved the certification
14 of the Initial FSEIR by the Planning Commission and directed the Clerk to make findings and,
15 in Motion No. M02-100, on file with the Clerk of the Board in File No. 021164, remanded the
16 Initial FSEIR to the Planning Commission and directed the Planning Commission to revise the
17 Initial FSEIR as specified in Board Motion No. M02-100; and

18 WHEREAS, The Planning Department revised the Initial FSEIR in accordance with the
19 Board's Motion No. M02-100. The revisions were included in the Revisions to the Final
20 Supplemental Environmental Impact Report ("Revisions to the FSEIR"), published and made
21 available to the Board, the Planning Commission, and the public on October 11, 2002; and

22 WHEREAS, The Planning Commission held a duly-noticed public hearing on
23 November 21, 2002 to consider certification of the FSEIR, as revised by the Revisions to the
24 FSEIR (collectively the "Revised FSEIR"). The Planning Commission, by Motion No. 16480,
25 on file with the Clerk of the Board in File No. 022021 and hereby declared to be a part of this

1 motion as if set forth fully herein, made findings and certified the completion of the Revised
2 FSEIR in compliance with CEQA, the CEQA Guidelines and Chapter 31; and

3 WHEREAS, By letter to the Clerk of the Board dated December 11, 2002, San
4 Franciscans for a Healthy Waterfront filed a timely appeal of the Planning Commission's
5 certification of the Revised FSEIR to the Board pursuant to Chapter 31, Section 31.16(a); and

6 WHEREAS, The Board held a duly-noticed public hearing on January 13, 2003, to
7 consider the appeal of the Planning Commission's certification of the Revised FSEIR; and

8 WHEREAS, By Motion No. M03-8, on file with the Clerk of the Board in File No.
9 022021 and hereby declared to be a part of this motion as if set forth fully herein, the Board
10 adopted findings relating to the Revised FSEIR and found that the Revised FSEIR reflected
11 the independent judgment and analysis of the City and County of San Francisco, was
12 adequate, accurate and objective, and that the Draft Summary of Comments and Responses
13 and the Revisions to the FSEIR contained no significant revisions to the FSEIR that would
14 require recirculation under CEQA Guidelines Section 15088.5, and affirmed the Planning
15 Commission's certification of the Revised FSEIR; and

16 WHEREAS, Alternative 5, the Reduced Building Height Alternative described in the
17 Revised FSEIR, was proposed in response to comments received on the DSEIR and was
18 identified as the Project Sponsors' (the Port and San Francisco Cruise Terminal LLC's
19 ("SFCT")) preferred alternative (the "Preferred Alternative") for the San Francisco Cruise
20 Terminal Mixed-Use Project; and

21 WHEREAS, In response to Port concerns regarding alienation of its property on
22 Seawall Lot 330 and for other reasons, the Port and SFCT now propose to enter into an
23 agreement for the purchase and sale (the "Sale Agreement") of an approximately ½ acre
24 (22,000 square feet) portion of Seawall Lot 330 (the "Condo Site") and development thereon
25 of the residential condominium tower identified in the FSEIR as the West Tower, located at

1 the intersection of Bryant and Beale Streets, with the Port retaining ownership of the
2 remainder of Seawall Lot 330 for future development of the balance of the site; and

3 WHEREAS, The Port Commission, acting at a duly-noticed public hearing on March
4 25, 2003, adopted Resolution Nos. 03-27 and 03-28, both on file with the Clerk of the Board of
5 Supervisors in File No. , which are hereby declared to be a part of this resolution as if set
6 forth fully herein, adopting CEQA Findings and a Mitigation Monitoring and Reporting
7 Program, and approving the following actions in connection with the lease and development of
8 the Bryant Street Pier (Pier 30-32), development of the Brannan Street Wharf and the sale
9 and development of the Condo Site (collectively referred to herein as the "Current Projects"):

10 a. Lease Disposition and Development Agreement between the City,
11 through the Port Commission, and SFCT governing delivery of a lease of Pier 30-32
12 and setting forth terms and conditions for the development of the James R. Herman
13 International Cruise Terminal and a mixed-use retail, entertainment, office and public
14 open space project at Pier 30-32 and construction of a public open space at the
15 Brannan Street Wharf;

16 b. Adopting findings authorizing the lifting of the public trust from the Condo
17 Site, subject to approval of the State Lands Commission;

18 c. Purchase and Sale Agreement between the City, through the Port
19 Commission, and SFCT for the sale of a portion of Seawall Lot 330 and for the
20 development of residential condominiums on such portion; and

21 d. Declaration of Policy regarding timing of construction of Brannan Street
22 Wharf; and. Declaration of Policy regarding future development of the remainder of
23 Seawall Lot 330.

24 WHEREAS, This Resolution is adopted in connection with proposed actions by the
25 Board of Supervisors relating to the Current Projects including: approving and authorizing the

1 Sale Agreement; approving and authorizing a 66-year Lease with San Francisco Cruise
2 Terminal, LLC for Piers 30-32; adopting findings that the conveyance is consistent with the
3 City's General Plan and eight Priority Policies of City Planning Code Section 101.1;
4 authorizing expenditure of proceeds received under the Sale Agreement towards costs of the
5 Brannan Street Wharf and Piers 30-32 Cruise Terminal Project; and authorizing the Port's
6 Executive Director and the City's Director of Property to execute documents, make certain
7 modifications and take certain actions in furtherance of this Resolution (collectively "Board
8 Actions"). Said Board Actions are more particularly described in a companion Resolution, a
9 copy of which is in the Clerk of the Board file no. ____.

10 WHEREAS, The environmental review files for the San Francisco Cruise Terminal
11 Mixed-Use Project and the Brannan Street Wharf Project, the Waterfront Plan SEIR, and all
12 correspondence and other documents have been made available for review by the Board of
13 Supervisors and the public. These files are available for public review at the Planning
14 Department offices at 1660 Mission Street and at the Port offices at Pier 1, and are made part
15 of the record before the Board of Supervisors by this reference herein; and

16 WHEREAS, The Board of Supervisors has prepared proposed San Francisco Cruise
17 Terminal Mixed-Use Project and Brannan Street Wharf Project California Environmental
18 Quality Act Findings ("CEQA Findings"), as required by CEQA, regarding the alternatives,
19 mitigation measures and significant environmental impacts analyzed in the Revised FSEIR, a
20 statement of overriding considerations for the Board Actions in connection with the Current
21 Projects, and a proposed mitigation monitoring and reporting program, which material was
22 made available to the public and the Board of Supervisors for the Board's review,
23 consideration and actions; now, therefore, be it

24 RESOLVED, The Preferred Alternative and Brannan Street Wharf Project, including the
25 Current Projects, have been thoroughly analyzed in the Revised FSEIR and, since the

1 Planning Commission's certification of the Revised FSEIR, there are no changed
2 circumstances or other factors present that would trigger the need or requirement for
3 additional environmental review under CEQA, the CEQA Guidelines, or Chapter 31.
4 Specifically, the Board finds that (1) any modifications incorporated into the Current Projects
5 and Board Actions will not require major revisions to the FSEIR due to the involvement of new
6 significant environmental effects or a substantial increase in the severity of previously
7 identified significant effects; (2) no substantial changes have occurred with respect to the
8 circumstances under which the Current Projects or the Board Actions are undertaken which
9 would require major revisions to the FSEIR due to the involvement of new significant
10 environmental effects, or a substantial increase in the severity of effects identified in the
11 FSEIR; and (3) no new information of substantial importance has become available which
12 would indicate (a) the Current Projects or the Board Actions will have significant effects not
13 discussed in the FSEIR, (b) significant environmental effects will be substantially more severe,
14 (c) mitigation measures or alternatives found not feasible which would substantially reduce
15 one or more significant effects have become feasible but the Project Sponsors decline to
16 adopt the measure or alternative, or (d) mitigation measures or alternatives which are
17 considerably different from those in the FSEIR would substantially reduce one or more
18 significant effects on the environment but the Project Sponsors decline to adopt the measure
19 or alternative; and be it

20 FURTHER RESOLVED, That the Board of Supervisors has reviewed and considered
21 the Revised FSEIR and the Waterfront Plan FEIR and hereby adopts the CEQA Findings
22 attached hereto as Attachment A, including a statement of overriding considerations, and its
23 Exhibits 1 and 2, and incorporates the CEQA Findings herein by this reference.

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