

1 [Approval of Lease for Pier 15 and a portion of Pier 17, a related Parking Agreement and
Licenses.]

2 **Resolution approving and authorizing a 66-year Lease of Pier 15 and a portion of**
3 **Pier 17 and a related Parking Agreement at Seawall Lot 321, two Curb Indent Licenses**
4 **in front of Piers 15 and 17 and a Curb Space License at Green Street between the**
5 **Exploratorium and the City and County of San Francisco acting by and through the San**
6 **Francisco Port Commission.**

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8 WHEREAS, The Port of San Francisco's Waterfront Land Use Plan ("Waterfront Plan")
9 includes Piers 15 and 17, which piers are within the Northeast Waterfront Subarea and the
10 San Francisco Embarcadero National Register Historic District ("Historic District"); and

11 WHEREAS, Objectives established in the Waterfront Plan and the Historic District are
12 to: (1) preserve and restore historic structures in accordance with the Secretary of Interior
13 Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings
14 ("Secretary's Standards"); (2) maximize opportunities for the retention of maritime operations;
15 (3) provide an array of uses which establish a daytime and nighttime presence, but are not
16 primarily tourist-oriented; (4) highlight the location of the area as a gateway to the North
17 Beach and Chinatown neighborhoods to the west, and Fisherman's Wharf to the north; and
18 (5) provide new public access amenities which highlight newly created points of interest; and

19 WHEREAS, The existing Piers 15 and 17 facilities are critically in need of rehabilitation
20 and the Exploratorium estimates the cost of the piers substructure repair and related work
21 total approximating \$65 million for Pier 15 and \$35 million for Pier 17; and

22 WHEREAS, The Exploratorium is a world-renowned museum and educational center,
23 providing access to, and information about, science, nature, art, and technology, and serves
24 more than 480,000 visitors annually, including teachers and children on field trips; and
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1 WHEREAS, The Exploratorium has been housed since its inception in 1969 at the
2 Palace of Fine Arts and over the past few years, with the support of the City, has been
3 engaged in an extensive search for a new site that will better meet its need to be located in a
4 more visible, accessible, transit-friendly location with sufficient capacity to meet its expanding
5 program and constituency and house its accessory functions such as exhibit development and
6 fabrication, administrative space, and ancillary restaurant and retail space; and

7 WHEREAS, The Exploratorium desires to lease Pier 15 and a portion of Pier 17 on the
8 San Francisco waterfront under a long-term lease of sixty-six years ("Lease") from the San
9 Francisco Port Commission ("Port") for the Exploratorium's museum and ancillary operations
10 at Pier 15 and portions of Pier 17, with the possibility of expanding the museum into Pier 17 in
11 the future and to initially repair and restore Pier 15 in accordance with the Secretary's
12 Standards and if it expands the museum into Pier 17 in the future, repair and restore Pier 17
13 at that time, in accordance with the Secretary's Standards ("Exploratorium Project"); and

14 WHEREAS, On June 21, 2005, by Resolution No. 477-05, the Exploratorium obtained
15 a waiver from the Board of Supervisors exempting the potential Lease of Pier 15, the
16 Connector Building and the Valley between Piers 15 and 17 and portions of the Pier 17
17 marginal wharf area ("Original Project") from the competitive bidding policy set forth in San
18 Francisco Administrative Code Section 2.6-1; and

19 WHEREAS, On February 28, 2006, by Resolution No. 06-13, the Port Commission
20 approved an Exclusive Negotiation Agreement between the Exploratorium and the Port for the
21 Original Project and a term sheet for the Lease ("Original Term Sheet"), which included an
22 option to expand the leased premises into Pier 17 in the 17th year of the proposed Lease; and

23 WHEREAS, On July 25, 2006, by Resolution No. 446-06, the Board of Supervisors
24 found that the Original Project was fiscally feasible and responsible pursuant to San Francisco
25 Administrative Code Chapter 29 and endorsed the Original Term Sheet; and

1 WHEREAS, On August 12, 2008, by Resolution No. 08-51, the Port Commission
2 approved an Amended and Restated Exclusive Negotiation Agreement and a revised term
3 sheet ("Amended Term Sheet"), which included the addition of portions of Pier 17 to the initial
4 premises for the term of the proposed Lease (the "Revised Project"); and

5 WHEREAS, By Resolution No. 477-05, the Board of Supervisors exempted the
6 potential Lease for the Original Project from the competitive bidding policy set forth in San
7 Francisco Administrative Code Section 2.6-1 for the reasons set forth therein and by
8 Resolution No. 521-08 also applied the exemption to the Revised Project for the reasons set
9 forth in said Resolution No. 521-08; and

10 WHEREAS, By Resolution No. 466-06, the Board of Supervisors endorsed the Term
11 Sheet for the Original Project and found the Original Project to be fiscally feasible and
12 responsible after considering the Project's general description, general purpose and other
13 information; and by Resolution No. 521-08 found that Resolution No. 446-06 continued to
14 apply to the Revised Project for the reasons set forth therein and endorsed the Amended
15 Term Sheet; and

16 WHEREAS, The Port and the Exploratorium have negotiated a Lease Disposition and
17 Development Agreement ("LDDA"), Lease, Parking Agreement at Seawall Lot 321 (whose
18 term commences on the date the museum opens to the general public and expires on the day
19 before the 16th anniversary date of the Lease commencement date), and related documents
20 (including a Curb Indent License for each of Pier 15 and Pier 17 for passenger drop-off and
21 pick-up and Curb Space License along Green Street at the Embarcadero for temporary bus-
22 overflow parking (collectively, the "Licenses")) and exhibits thereto, governing the
23 rehabilitation and operation of the Exploratorium Project; and

24 WHEREAS, On September 8, 2009, the Port Commission, by Resolution No. 09-46,
25 adopted findings and a Mitigation Monitoring and Reporting Program ("MMRP"), as required

1 by the California Environmental Quality Act, regarding the Final Environmental Impact Report
2 (“FEIR”), alternatives and variants, mitigation measures and significant environmental impacts
3 analyzed in the FEIR, associated actions; and

4 WHEREAS, On September 8, 2009, the Port Commission by Resolution No. 09-47
5 approved the LDDA, the Lease, the Parking Agreement and related documents (including the
6 Licenses) and exhibits thereto; and

7 WHEREAS, The Exploratorium Project is consistent with the San Francisco General
8 Plan's Northeastern Waterfront Plan objectives and policies designed to contribute to the
9 waterfront's environmental quality, enhance the economic vitality of the Port and the City,
10 preserve the unique maritime character, provide open space and other public attractions that
11 invite the public onto the pier areas, provide access to the Bay, provide for the retention and
12 improvement of existing maritime uses, result in the historic rehabilitation and adaptive reuse
13 of Piers 15 and 17 in accordance with the Secretary's Standards as presented and for the
14 reasons more particularly set forth in the FEIR; and

15 WHEREAS, In connection with the development of the Exploratorium Project, staff of
16 the San Francisco Bay Conservation and Development Commission ("BCDC") has proposed
17 an amendment to the BCDC *San Francisco Waterfront Special Area Plan* ("SAP") to require
18 that fill that is not removed from Piers 15 and 17 as currently required under the SAP be offset
19 by the removal of fill from locations other than at Piers 15 and 17 (the "Off-Site Fill"); and

20 WHEREAS, Section 9.11 of the Lease sets forth the obligations of both the Port and
21 the Exploratorium as they relate to the funding and removal of the Off-Site Fill; and

22 WHEREAS, A copy of the proposed Lease, Licenses, and the Parking Agreement are
23 on file with the Clerk of the Board of Supervisors in File No. 091178, which is hereby declared
24 to be a part of this resolution as if set forth fully herein; and

1 WHEREAS, Charter Section 9.118(c) requires the Board of Supervisors approval of
2 leases having a term of ten or more years or anticipated revenues of one million dollars or
3 more; and

4 WHEREAS, Charter Section 9.118(b) requires the Board of Supervisors approval of
5 non-construction related contracts or agreements having a term of ten or more years; and

6 WHEREAS, On October 28, 2009, the Board of Supervisors Budget & Finance
7 Committee required that prior to the close of escrow on the Lease, the Port submit to the
8 Board of Supervisors a written report showing adequate evidence that the Exploratorium has
9 secured sufficient funding to complete construction of the improvements as required by the
10 LDDA; and

11 WHEREAS, The Board of Supervisors, in companion Resolution No. _____,
12 adopted environmental findings pursuant to the California Environmental Quality Act, State
13 guidelines and Administrative Code Chapter 31 for Board Actions in connection with the
14 Exploratorium Relocation Project and adopted a MMRP, which Resolution No. _____
15 is hereby incorporated herein as if fully set forth; now, therefore, be it

16 RESOLVED, That the Board of Supervisors hereby approves the Lease, the Parking
17 Agreement, and the Licenses (collectively, "Board Actions") and finds that there are sufficient
18 conditions requiring the Exploratorium to provide evidence of financing prior to
19 commencement of the Lease to satisfy the requirements of the endorsement of the Amended
20 Term Sheet by the Board of Supervisors in Resolution No. 521-08 to ensure that the
21 Exploratorium will secure sufficient funding to complete the Exploratorium Project; and be it

22 FURTHER RESOLVED, That the Board of Supervisors authorizes and directs the
23 Executive Director of the Port (the "Executive Director") to execute the Lease, the Parking
24 Agreement and the Licenses in such final form as is approved by the Executive Director in
25 consultation with the City Attorney; and be it

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, the
3 Parking Agreement, and/or the Licenses (including, without limitation, preparation and
4 attachment of, or changes to, any or all of the exhibits or related documents) that the
5 Executive Director, in consultation with the City Attorney, determine are in the best interests of
6 the City, and otherwise do not materially increase the obligations or liabilities of the Port or the
7 City or materially decrease the public benefits accruing to the Port or the City, and are
8 necessary or advisable to complete the transactions which the Lease, the Parking Agreement
9 and the Licenses contemplate and to effectuate the purpose and intent of this resolution, such
10 determination to be conclusively evidenced by the execution and delivery by the Executive
11 Director of the Lease, the Parking Agreement and the Licenses and any amendments to such
12 documents; and be it

13 FURTHER RESOLVED, That the Board of Supervisors urges the Port to include in the
14 Port's ten (10) year capital plan, the Port's funding strategy for accomplishing the Off-Site Fill
15 removal obligations described in Section 9.11 of the Lease and the proposed amendment to
16 the SAP; and be it

17 FURTHER RESOLVED, That if the Port and the Exploratorium are unable to secure
18 non-Port public funds to pay for the cost of removing the Off-Site Fill within five (5) years
19 following issuance of a certificate of occupancy for a major development at Pier 15, the Board
20 of Supervisors urges the Port and the Mayor to establish an account in the Port's annual
21 operating budget where funds (including funds from the Port's Harbor Fund and funds from
22 other sources) will be deposited on an annual basis to pay for the cost of removing the Off-
23 Site Fill by the time required under the proposed amendment to the SAP (10 years after the
24 issuance of a certificate of occupancy for a major development at Pier 15); and be it

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1 FURTHER RESOLVED, That the Board of Supervisors requires that prior to the close
2 of escrow on the Lease, the Port submit to the Board of Supervisors a written report showing
3 adequate evidence that the Exploratorium has secured sufficient funding to complete
4 construction of the improvements as required by the LDDA; and be it

5 FURTHER RESOLVED, That the Board of Supervisors authorizes and urges the
6 Executive Director, and any other appropriate officers, agents or employees of the City to take
7 any and all steps (including, but not limited to, the execution and delivery of any and all
8 certificates, agreements, notices, consents and other instruments or documents), as they or
9 any of them deems necessary or appropriate, in consultation with the City Attorney, in order to
10 consummate the transaction under the Lease, the Parking Agreement and the Licenses in
11 accordance with this resolution, or to otherwise effectuate the purpose and intent of this
12 resolution, such determination to be conclusively evidenced by the execution and delivery by
13 any such person or persons of any such documents; and be it

14 FURTHER RESOLVED, That the Board of Supervisors approves, confirms and ratifies
15 all prior actions taken by the officials, employees and agents of the Port Commission or the
16 City with respect to the Lease, the Parking Agreement and the Licenses.