

1 [Behested Payment Waiver - Embarcadero Plaza and Sue Bierman Park]

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3 **Resolution authorizing the Mayor, officers and employees of the Office of the Mayor,**
4 **and officers and employees of the Recreation and Park Department to solicit donations**
5 **for the renovation of Embarcadero Plaza and Sue Bierman parks from individuals,**
6 **nonprofits, private organizations, grantmakers, and foundations for six months,**
7 **effective upon approval of this Resolution, notwithstanding the Behested Payment**
8 **Ordinance.**
9

10 WHEREAS, The Recreation and Park Department (RPD) operates and maintains
11 certain real property owned by the City that are commonly referred to as Embarcadero Plaza
12 and Sue Bierman Park (collectively, the “Park”), located on the western side along the
13 Embarcadero between Washington Street and Market Street, and seeks to activate the public
14 spaces it manages for the well-being of everyone in San Francisco’s diverse community; and

15 WHEREAS, The Office of Economic and Workforce Development (OEWD) strives to
16 create a thriving and resilient economy, where barriers to economic and workforce
17 opportunities are removed, and prosperity is shared equitably by all; and

18 WHEREAS, BXP Embarcadero Plaza LP (“BXPE”) is an affiliate of the entities that own
19 certain commercial office buildings adjacent to the Park, which are commonly known as One
20 Embarcadero Center, Two Embarcadero Center, Three Embarcadero Center, and Four
21 Embarcadero Center, consisting of approximately 3.3 million square feet of commercial office
22 and retail space in the aggregate; and

23 WHEREAS, The Downtown Community Benefit District, also known as the Downtown
24 San Francisco Partnership (“DSFP”), is a nonprofit community benefit district working to
25 enhance San Francisco’s Downtown Core; and

1 WHEREAS, RPD and OEWD intend to partner with BXPE and DSFP on a project to
2 renovate the Parks that is expected to cost approximately \$32,000,000, and are separately
3 seeking authorization from the Board of Supervisors to for RPD to accept cash and in-kind
4 grants of approximately \$12,500,000 for the project (approximately \$10,000,000 from DSFP
5 for construction, \$200,000 from BXPE to cover RPD project management, and an additional
6 \$2,300,000 from BXPE in the form of professional design services), all pursuant to the terms
7 of the agreement which is on file with the Clerk of the Board of Supervisors and which is
8 incorporated herein by reference (Board of Supervisors File No. 241095); and

9 WHEREAS, Among other things, the agreement requires BXPE and DFSP to comply
10 with disclosure requirements regarding sources of outside funding and donor financial interest
11 information as set forth in Administrative Code, Section 67.29-6, ensuring a high level of
12 transparency in the funding efforts; and

13 WHEREAS, As part of the agreement DSFP will endeavor to raise approximately
14 \$10,000,000 in third-party philanthropic donations for the Project, and is likely to require
15 assistance from RPD and BXPE; and

16 WHEREAS, RPD and the Office of the Mayor partner with numerous individuals
17 nonprofit organizations, private entities, grantmakers and foundations, often through contracts
18 or permits; and

19 WHEREAS, RPD, the Recreation and Park Commission, the Mayor, and the Office of
20 the Mayor seek a waiver of the City's Behested Payment Ordinance (Campaign and
21 Governmental Conduct Code, Section 3.600 et seq.) to the extent it prohibits solicitations of
22 financial support for the Initiative from persons or entities who would qualify as interested
23 parties under the Behested Payments Ordinance; now, therefore, be it
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1 RESOLVED, That under Section 3.620(f) of the Campaign and Governmental
2 ConductCode, the Board of Supervisors hereby waives application of the Behested Payment
3 Ordinance for six months from the effective date of this Resolution to fundraising from
4 nonprofits, private organizations, grantmakers and foundations to support the Initiative; and be
5 it

6 FURTHER RESOLVED, That granting this waiver under Section 3.620(f) serves the
7 public interest by bringing private funding to a project that is critical to the economic
8 revitalization of the city; and, be it

9 FURTHER RESOLVED, That granting this waiver under Section 3.620(f) does not
10 create an appearance of impropriety.

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13 Recommended:

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15 /s/ _____

16 Phil Ginsburg,
17 General Manager, Recreation and Park Department