

1 [Union Pacific Railroad track lease for Third St. and Cargo Way for the Third Street  
2 LRT Project.]

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4 **Resolution authorizing the Director of Transportation to execute a track lease**  
5 **with the Union Pacific (UP) and Burlington Northern Santa Fe (BNSF) Railroads**  
6 **that leases approximately three hundred ten (310) feet of UP's spur track at the**  
7 **intersection of Third Street and Cargo Way for a term of 25 years, rent of \$10 per**  
8 **year, and a one-time administrative fee of \$500 for a total cost of \$750, and**  
9 **requires the City to repair and maintain the track and const and maintain a**  
10 **railroad crossing signal system.**

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13 WHEREAS, The City and County of San Francisco through its Municipal  
14 Transportation Agency desires to construct a new light rail line along Third Street (Third  
15 Street Light Rail Project); and,

16 WHEREAS, As part of the Third Street Light Rail Project new light rail line, the  
17 Muni desires to construct light rail track across existing freight railroad lead tracks at  
18 Third Street and Cargo Way; and,

19 WHEREAS, The track crossing will be constructed on railroad tracks that are  
20 owned and operated jointly by the Union Pacific Railroad (UP) and the Burlington  
21 Northern Santa Fe Railroad (BNSF); and,

22 WHEREAS, Muni desires to maintain the track crossing and train control signals  
23 with its own forces in order to better control the light rail operation on Third Street; and,

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1           WHEREAS, The California Public Utilities Commission has approved the  
2 installation of Muni's tracks across UP and BNSF's tracks through CPUC Decision 03-  
3 10-050 and requires evidence that UP and BNSF agrees to the crossing; and,

4           WHEREAS, The UP and BNSF has required that the City lease and maintain a  
5 portion of its tracks at the intersection as a condition of consent; and,

6           WHEREAS, Muni, UP and BNSF have negotiated a twenty five year lease (that  
7 is automatically extended year-to-year after the 25 year term) that leases  
8 approximately three hundred ten (310) feet of UP and BNSF track at Third and Cargo  
9 Way to the City for an annual rent of \$10 per year, with a one-time administrative fee of  
10 \$500, and requires Muni to maintain and repair the track, and construct and maintain  
11 the railroad crossing signal system; and,

12           WHEREAS, The San Francisco Municipal Railway's Short Range Transit Plan  
13 Update reflects the currently projected cost requirements for funding Third Street revenue  
14 operations, which includes Muni's portion of maintenance and construction obligations  
15 under this agreement; and,

16           WHEREAS, The Lease requires Muni to indemnify UP and BNSF against any  
17 harm to UP or BNSF arising from Muni's construction activity; and,

18           WHEREAS, The Lease requires each party to be responsible for personal injury  
19 or property damage to its employees, invitees (e.g. passengers), or its own equipment  
20 during the operation of the track crossing unless the other party runs a stop signal, or if  
21 a third party obtains punitive damages against the party causing injury or damage or the  
22 party acted intentionally or with willful or conscious disregard of the rights and safety of  
23 others; now, therefore, be it

24           RESOLVED, That the Municipal Transportation Agency Board of Directors  
25 hereby approves the lease agreement with the Union Pacific Railroad and the

1 Burlington Northern Santa Fe Railroad for approximately 310 feet of track at Third  
2 Street and Cargo Way for a term of 25 years, for \$10 per year, and a one-time  
3 administrative fee of \$500, for a total cost of \$750, and requires the City to maintain  
4 and repair the track and construct and maintain a railroad crossing signal system; and  
5 be it further

6           RESOLVED, That the Municipal Transportation Agency Board of Directors urges  
7 the Board of Supervisors to approve the lease agreement and authorizes the Director  
8 of Transportation to execute all related documents for the lease with the Union Pacific  
9 Railroad.

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