

1 [Approving a ground lease in connection with the construction and operation of an
2 underground parking facility and amending the designation of the jurisdiction of the Golden
Gate Park Concourse Authority.]

3 **Resolution approving and authorizing the execution and delivery of a ground lease**
4 **between the City and Music Concourse Community Partnership relating to the Golden**
5 **Gate Park Music Concourse underground parking facility project and amending the**
6 **designation of the jurisdiction of the Golden Gate Park Concourse Authority.**

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8 WHEREAS, At the June 2, 1998, special election the voters of the City and County of
9 San Francisco (the "City") approved Proposition J, now codified in Appendix 41 of the City's
10 Administrative Code ("Proposition J"); and

11 WHEREAS, Proposition J is an initiative measure which, among other things,
12 authorized the creation of the Golden Gate Park Concourse Authority (the "Authority") and the
13 construction, by or on behalf of the Authority, of an underground parking facility (the "Facility")
14 containing approximately 800 parking spaces in Golden Gate Park (the "Project"); and

15 WHEREAS, Proposition J also authorized the City's Board of Supervisors (the "Board
16 of Supervisors") to grant administrative jurisdiction over certain lands in or near the area of the
17 Golden Gate Park Music Concourse (the "Concourse") to the Authority to facilitate the Project;
18 and

19 WHEREAS, In its Resolution No. 715-98, the Board of Supervisors designated certain
20 real property in or near the area of the Concourse to be under the administrative jurisdiction of
21 the Authority, and that such designation may be amended by the Board of Supervisors, by
22 resolution; and

23 WHEREAS, The Board of Supervisors now wishes to amend such designation to
24 reflect the actual plan of construction of the Facility; and

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1 WHEREAS, Music Concourse Community Partnership (“MCCP”), is a nonprofit public
2 benefit corporation organized and existing under the laws of the State of California, formed
3 and existing for the primary purpose of funding, designing, constructing and operating the
4 Facility; and

5 WHEREAS, Representatives from the Authority and the Recreation and Park
6 Department and other City staff have participated in the drafting and negotiation of a ground
7 lease (the “Lease”) between MCCP, as tenant, and the City, acting through the Authority and
8 the Recreation and Park Commission (the “Commission”), as landlord, which governs the
9 relationship between the parties with respect to the construction and operation of the Facility;
10 and

11 WHEREAS, Under the terms of the Lease, MCCP is granted a long-term leasehold
12 interest in lands beneath the Concourse and the right to construct the Facility at its own
13 expense, and as such shall be deemed the owner of the physical improvements constituting
14 the Facility until expiration or termination of the Lease, at which time title to such
15 improvements shall be transferred to the City at no cost; and

16 WHEREAS, Under the terms of the Lease, MCCP is permitted to apply the revenues of
17 the Facility to help finance the costs of constructing the Facility pursuant to the Bonds (as
18 defined below); and

19 WHEREAS, The Lease also provides that MCCP shall have the authority, subject to
20 certain budgetary approvals of the City, to further apply the revenues of the Facility (i) to pay
21 expenses relating to the ongoing operation and maintenance of the Facility, (ii) to pay
22 expenses relating to repair or replacement of the Facility and (iii) to fund certain reserves, all
23 as more particularly described in the Lease; and,

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1 WHEREAS, The Lease provides that the revenues of the Facility received in any fiscal
2 year in excess of the amounts required to satisfy the requirements enumerated above (“Net
3 Revenues”) shall be transferred to the City and applied as required under Proposition J; and

4 WHEREAS, Pursuant to the terms of Proposition J and Section 2.109 of the City
5 Charter, the Lease requires that the Board of Supervisors shall set the schedule of parking
6 rates and charges by ordinance; and

7 WHEREAS, Concurrently with the submission of this Resolution, an ordinance setting
8 the initial schedule of rates and charges for the Facility has been submitted to the Clerk of the
9 Board of Supervisors (the “Clerk of the Board”) in File No. _____; and

10 WHEREAS, The Lease contains a covenant on the part of the City to set the parking
11 rates and charges at levels necessary to allow MCCP to make the payments it is obligated to
12 make in connection with the repayment of the Bonds and the operation of the Facility, as such
13 obligations are more particularly described in the Lease; and

14 WHEREAS, MCCP has initiated and executed a campaign to raise philanthropic
15 donations to finance the construction of the Facility and under such campaign has received
16 pledges in the approximate amount of \$36,000,000 (the “Pledges”); and

17 WHEREAS, MCCP plans to issue a series of tax-exempt bonds (the “Bonds”) to assist
18 it in leveraging the Pledges to finance the construction of the Facility (the “Project”); and

19 WHEREAS, The Bonds would be issued on a conduit basis by the Association of Bay
20 Area Governments (or other conduit issuer) (the “Issuer”) pursuant to an indenture and are to
21 be secured by the obligations of MCCP to make payments under a loan agreement between
22 MCCP and the Issuer, such payments to be made from the Pledges, combined with interest
23 thereon, and the parking revenues resulting from MCCP’s ownership and operation of the
24 improvements constituting the Facility; and

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1 WHEREAS, Copies of the current draft of the indenture and loan agreement relating to
2 the Bonds are on file with the Clerk of the Board in File No. _____; and

3 WHEREAS, in Resolution No. _____-03, this Board of Supervisors affirmed the
4 Planning Commission's certification of the Final Environmental Impact Report for the Project
5 as adequate and complete. A copy of said resolution is on file with the Clerk of the Board in
6 File No. _____; and

7 WHEREAS, In said resolution, this Board of Supervisors adopted findings in
8 connection with its consideration of this Resolution authorizing and approving the execution
9 and delivery of the Lease under California Environmental Quality Act ("CEQA") (California
10 Public Resources Code Section 21000 et seq.), the State CEQA Guidelines (California Code
11 of Regulations Title 14 Sections 15000 et seq.), and Chapter 31 of the San Francisco
12 Administrative Code and adopted a mitigation monitoring program, which findings and
13 program are hereby incorporated by reference herein; and

14 WHEREAS, In said resolution, this Board of Supervisors also adopted findings of
15 consistency with the General Plan, Planning Code Section 101.1 and the Golden Gate Park
16 Master Plan which findings are hereby incorporated by reference herein; now, therefore, be it

17 RESOLVED, By the Board of Supervisors of the City and County of San Francisco, that
18 the Board of Supervisors hereby approves the Lease and authorizes the Executive Director of
19 the Authority and the General Manager of the Department of Recreation and Parks to execute
20 and deliver the Lease on the City's behalf, in substantially the form hereby approved, with
21 such changes as may be made pursuant to the terms of this Resolution; and, be it

22 FURTHER RESOLVED, That the Executive Director of the Authority, the General
23 Manager of the Recreation and Parks Department and the City's Director of Public Finance,
24 upon consultation with the City Attorney, are hereby authorized to make such modifications to
25 the Lease that hereafter become necessary or desirable in the interests of the City, which

1 modifications do not materially affect the substance of the Lease, or materially increase the
2 obligations of the City, including without limitation the attachment to the Lease of such items,
3 exhibits and documents as required by the terms of the Lease, with approval of such
4 modifications to be conclusively evidenced by the execution of such Lease by the parties
5 thereto; and, be it

6 FURTHER RESOLVED, That the property, which includes the surface area of the
7 Concourse, designated as the “Golden Gate Park Concourse Authority Area of Jurisdiction”
8 on the map which is on file with the Clerk of the Board in File No. _____, shall be set
9 aside and under the administrative jurisdiction of the Authority, without the payment of
10 consideration for such property, pursuant to Section 3 of Proposition J, that such designation
11 shall supercede any and all previous designations of such jurisdiction, and that such
12 designation of real property may be amended by the Board of Supervisors, by resolution; and
13 be it

14 FURTHER RESOLVED, That within a reasonable period of time after the passage of
15 this Resolution, the Director of Property shall prepare or cause to be prepared a legal
16 description of the Golden Gate Park Concourse Authority Area of Jurisdiction consistent with
17 the map on file with the Clerk of the Board and file a copy of such legal description with the
18 Board of Supervisors; and be it

19 FURTHER RESOLVED, That the Executive Director of the Authority, the General
20 Manager of the Recreation and Parks Department, the City Controller, the City’s Director of
21 Public Finance and the City Attorney are hereby authorized and directed in the name and on
22 behalf of the City to take any and all steps and to issue and deliver any and all certificates,
23 agreements, notices, consents, memorandum, opinions and other documents which they or
24 any of them might deem necessary or appropriate in order to consummate the execution and
25 delivery of the Lease and the transaction contemplated thereby.