

PORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 12-37

WHEREAS, The Port Commission wishes to fund capital projects that are critical to the implementation of the 34th America's Cup, Phase I of the Cruise Terminal Project, and the installation of shoreside power at Pier 70 for a total project cost of no more than \$48.2 million; and

WHEREAS, The Port Commission desires to use available unspent tax exempt proceeds from the 2010 Series A revenue debt prior to issuance of new tax-exempt debt, to utilize unspent taxable proceeds from the 2010 Series B revenue debt allocated for the Backlands project for the Piers 30-32 project which is a more immediate need, to fund demolition and dredging costs with a reallocation of operating capital sources, and to finance the remainder of the projects which have benefits that will accrue from between 20 and 30 years with debt; and

WHEREAS, City Certificates of Participation may improve pricing and protect the Port's revenue bond debt service coverage levels which will allow for more bonding capacity when the Port's revenue streams improve; and

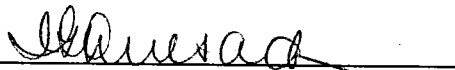
WHEREAS, Assuming \$17 million in net Port revenues, a 6% interest rate, and 2.0 debt service coverage, the Port can support the issuance of approximately \$74 million of debt over the next five year period (2012-2017); and

WHEREAS, The Port Commission wishes to enter into a memorandum of understanding between the City and the Port (the "MOU") that governs the terms of repayment of the City's Certificates of Participation; and

WHEREAS, The City Certificates of Participation are the most efficient manner to structure the financing in order to achieve the Port's objectives; 2) the Certificates will not be executed or delivered without the Port's acknowledgement and agreement that the Port will submit for approval by the Board and the Mayor a budget for each fiscal year that includes funding for all costs of lease payments, additional rent, and other obligations due in connection with the Certificates; and 3) the Port's obligations under the MOU are and will be expressly subordinate to any Port revenue bonds; and

- WHEREAS, The following Port projects (collectively, the "Projects") will meet the Port's Maritime and Public Access missions: Cruise Terminal at Pier 27, Piers 30-32 improvements, Pier 23 Electrical Repairs, Public Access for Piers 19 or 23, and Shoreside Power at Pier 70, all of which constitute the public necessity; and
- WHEREAS, The Port Commission has determined that it would be inefficient to fund these Projects through annual allocations in the Port's capital budget; and
- WHEREAS, The Port Commission has not identified another source of funds for these Projects; now, therefore, be it
- RESOLVED, The Port Commission recommends the City's issuance of Certificates of Participation in an amount not to exceed \$45 million; and be it further
- RESOLVED, The Port Commission authorizes the attached Memorandum of Understanding with the City that will govern the terms of repayment of the City's Certificates; and, be it further
- RESOLVED, The Port Commission recommends a supplemental appropriation ordinance with allocates the Certificates in an amount not to exceed \$45 million, reallocates 2010 Port Revenue Bonds of \$9.2 million and Port Capital Funds of \$4.5 million, for a total amount of \$58.7 million, to the Pier 27 Cruise Terminal Project, America's Cup infrastructure requirements, and permit and mitigation requirements of the Project, financing issuance costs and reserve.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 24, 2012.



Secretary

ATTACHMENT 1

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this "MOU"), dated for reference purposes only as of May __, 2012, is entered into by and among the San Francisco Port Commission (the "Port"), a commission duly constituted under the Charter of the City and County of San Francisco (the "City"), and the San Francisco Controller (the "Controller"), acting through the City's Director of Public Finance or her designee (the "Director").

RECITALS

A. The Port desires to finance the acquisition, construction and installation of certain improvements to Piers 19, 23, 27, 29, 30-32 and 70 and other Port property that will be used as venues for the 34th America's Cup events (collectively, the "Project").

B. The Director and the Port wish to document their mutual understanding with respect to the execution of a lease agreement (the "Project Lease") by and between the City and a corporate trustee and the execution and delivery of certificates of participation ("COPs") in connection therewith, all for the purpose of financing a portion of the Project (the "Financing").

C. The COPs will evidence the obligation of the City under the Project Lease to make certain lease payments (the "Base Rental") from its General Fund. The City will also be obligated under the Project Lease to pay "Additional Rental" (together, Base Rental and Additional Rental constitute "Rental Payments" under the Project Lease). The Director and the Port agree that the Financing described above will be the most efficient way to finance the Project.

D. The Port acknowledges and agrees that the City would not agree to execute the Project Lease or to cause execution and delivery of the COPs without the undertaking by the Port to budget such amounts as necessary to offset the costs of the COPs on the City's General Fund, as further described in this MOU.

E. Section B7.320 of the City's Charter authorizes the Mayor to submit to the Board of Supervisors (the "Board") for approval a memorandum of understanding between the Port and another department of the City, approved by the Port by resolution, that requires the department to expend funds or requires the Port to transfer funds to the department.

F. Because the Project is a Port undertaking, the Director and the Port now wish to enter into this MOU to establish their mutual expectation that the Port will undertake to budget for each fiscal year such amounts as are necessary to pay the costs of the Financing over the life of the Project Lease and the COPs, including amounts to offset Rental Payments under the Project Lease, and any other costs of financing or refinancing the Project.

NOW, THEREFORE, IN CONSIDERATION of the foregoing, the Port and the Director hereby agree as follows:

AGREEMENT

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Payment of COP Payments.** The Port hereby acknowledges and agrees that it will submit a budget for each fiscal year for approval by the Board and Mayor of the City that includes amounts for direct payments by the Port or reimbursement by the Port of the City for "COP Payments," which term is defined to include all obligations incurred by the City under the Project Lease, including the Rental Payments, and all other expenses incurred by the City in connection with the Financing or a refinancing of the COPs.

The Director hereby acknowledges that the Port is not pledging any revenues as security for its obligations under this MOU, and any payments by the Port under this MOU shall be made from any source of legally available funds of the Port in any fiscal year after it has satisfied its obligations to pay debt service on any Port revenue bonds in that fiscal year, whether the revenue bonds are outstanding as of the date of this MOU or issued after the date of this MOU. The Director and the Port acknowledge and agree that the Port's obligations under this MOU are and will be expressly subordinate to any Port revenue bonds currently or hereafter outstanding.

3. **Term.** The term of this MOU will begin on the date the resolution of the Board approving it becomes effective and end on the upon the payment of all costs related to the Financing, including all Rental Payments and the costs of retiring the COPs or any obligations incurred by the City to refinance the COPs.

4. **COP Expectations.** The parties agree that the City will execute and deliver the Project Lease and cause execution and delivery of the COPs in an amount sufficient to pay not only the costs of constructing the Project but, as applicable, other costs relating to the Financing, including capitalized interest, costs of issuance, reimbursement of eligible pre-issuance costs and other contingencies. The initial principal amount of the COPs will be the greater of (i) \$45,000,000 and (ii) any greater amount agreed upon by the Director and the Port, if approved by the Port Commission and the Board. The initial principal amount of any obligations incurred by the City to refinance the COPs will be the greater of (i) the amount required to defease the outstanding COPs (or any obligations issued to refinance the COPs), fund a debt service reserve for the obligations and pay the costs of issuing the obligations and (ii) such greater amount agreed upon by the Director and the Port, if approved by the Port Commission and the Board.

5. **Obligations with Respect to Project.** The Port shall be responsible for all operations, maintenance, insurance and other issues relating to the ongoing use of the Project, subject to any obligations of the City under the Project Lease.

6. **Obligations with Respect to the Financing.** The Director, as the designee of the Controller, shall collaborate with the Port with respect to the ongoing management of the Project Lease and the COPs, in terms of approvals, refunding opportunities, or other aspects of the transaction that could result in a change in the nature or the amount of the COPs Payments. Because the Financing relies on Lease Payments to be made by the City from its General Fund, subject to the Port's reimbursement obligation under this MOU, the Controller has final authority

with respect to managing the Financing. The authority of the Controller to manage the Financing shall also extend to all refinancings of the COPs that are payable from or secured by the City's General Fund or any City assets not under Port jurisdiction.

7. Port Obligations Relating to Leased Property.

a. The Port shall provide Port assets to serve as "Leased Property" under the Project Lease. The Port hereby authorizes the City to include Pier 27 and such other property designated by the Director and the Executive Director of the Port as "Leased Property" under the Project Lease and the related Property Lease. The Controller may, in its discretion, provide additional City assets to serve as Leased Property during the construction of the Pier 27 portion of the Project. The Port acknowledges that any City assets will be released from the Project Lease upon completion of construction of the Pier 27 portion of the Project.

b. For as long as any Port properties constitute "Leased Property" under the Project Lease, the Port will use the proceeds of any insurance proceeds related to the damage or destruction of any Port property that constitutes Leased Property to rebuild or replace such Port property as soon as it commercially reasonable to do so.

8. **Notice.** Any notice given under this MOU shall be effective only if in writing and given by delivering the notice in person or by sending it first-class mail or certified mail with a return receipt requested or by overnight courier return receipt requested, with postage prepaid, at the following addresses, or at such other addresses as either the Port or the Director may designate by notice as its new address:

Address for Port:

Port of San Francisco
Pier One
San Francisco, CA 94111
Attn: Monique Moyer, Executive Director
Email: monique.moyer@sfgov.org
Telephone No.: (415) 274-0401
Fax No.: (415) 274-0578

Address for Controller:

Office of the Controller, Director of Public
Finance
City Hall Room 336
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Nadia Sesay, Director
Email: nadia.sesay@sfgov.org
Telephone No.: (415) 554-7500
Fax No.: (415) 554-4864

For convenience of the parties, courtesy notices may also be given by email, facsimile, or telephone to the address or numbers set forth above or such other address or number as may be provided from time to time; however, neither the Port nor the Director may give official or binding notice by email, telephone, or facsimile.

9. **Miscellaneous Provisions.**

a. **California Law.** This MOU shall be construed and interpreted in accordance with the laws of the State of California and the City's Charter.

b. **Entire Agreement.** Subject to any subsequent agreements authorized pursuant to this MOU, this MOU contains all of the representations and the entire agreement between the parties with respect to the subject matter of the MOU. Any prior correspondence, memoranda, agreements, warranties, or written or oral representations relating to such subject matter are superseded in total by this MOU. No prior drafts of this MOU or changes from those drafts to the executed version of the MOU shall be introduced as evidence in any litigation or other dispute resolution proceeding by any party or other person, and no court or other body should consider those drafts as in interpreting this MOU.

c. **Amendments.** No amendment of this MOU or any part thereof shall be valid unless it is in writing and signed by all of the parties hereto.

d. **Severability.** Except as is otherwise specifically provided for this MOU, invalidation of any provision of this MOU, or of its application to any person, by judgment or court order, shall not affect any other provision of this MOU or its application to any other person or circumstance, and the remaining portions of this MOU shall continue in full force and effect, unless enforcement of this MOU as partially invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purpose of this MOU.

e. **No Party Drafter; Captions.** The provisions of this MOU shall be construed as a whole according to their common meaning and not strictly for or against any party in order to achieve the objectives and purposes of the parties. Any caption preceding the text of any section, paragraph or subsection is included only for convenience of reference and shall be disregarded in the construction and interpretation of the MOU.

f. **Singular, Plural, Gender.** Whenever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine gender, and vice versa.

g. **Successors.** The terms, covenants, agreements and conditions set forth in the MOU shall bind and inure to the benefit of the Port and the Controller and, except as otherwise provided herein, their contractors, agents, personal representatives, successors, and assigns.

h. **Waiver.** No failure by either party to insist upon the strict performance of any obligation of the other party under this MOU or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, and no acceptance of full or partial MOU consideration during the continuance of any such breach shall constitute a waiver of such breach or of the right to demand strict compliance with such term, covenant, or condition. A party's consent to or approval of any act by the other party requiring consent or approval shall not be deemed to waive or render unnecessary consent to or approval of

any subsequent act. Any waiver of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of the MOU.

i. Further Assurances. The parties hereto agree to execute and acknowledge such other and further documents as may be necessary or reasonably required to carry out the mutual intent of the parties as expressed in this MOU.

j. Application. The parties intend for this MOU to establish their shared understanding as to the budgeting of certain costs and as such this document shall not confer any rights on any other person to mandate or enjoin any action by the parties hereto.

10. Approval Contingency. This MOU shall not be effective without authorization from the Port Commission and the Board, each in its sole and absolute discretion.

[No further text this page]

IN WITNESS WHEREOF, the parties have caused this MOU to be executed as of the date first written above.

AGREED TO AS WRITTEN
ABOVE:

CITY AND COUNTY OF SAN
FRANCISCO, a municipal
corporation operating by and
through SAN FRANCISCO PORT
COMMISSION

By: _____
MONIQUE MOYER
Port Executive Director

Date:
Resolution No.:

REVIEWED:

Dennis J. Herrera, City Attorney

By: _____
Deputy City Attorney

AGREED TO AS WRITTEN
ABOVE:

SAN FRANCISCO CONTROLLER,
acting through the City's Director of
Public Finance

By: _____
NADIA SESAY
Director of Public Finance

REVIEWED:

Dennis J. Herrera, City Attorney

By: _____
Deputy City Attorney



CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

ATTACHMENT 2

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

Nadia Sesay
Director
Office of Public Finance

DRAFT MEMORANDUM

TO: Honorable Members, Board of Supervisors

FROM: Nadia Sesay, Director of Public Finance

SUBJECT: Resolution Authorizing the Execution and Delivery of Certificates of Participation in an Amount Not to Exceed \$45,000,000 to Finance Certain Capital Improvements to Properties of the Port of San Francisco

DATE: April 17, 2012

The Office of Public Finance respectfully requests consideration of the Resolution by the Budget and Finance Committee on Wednesday, April 25, 2012.

Background:

The City and County of San Francisco Port Commission (the "Port") seeks to finance the costs of various facilities and improvements under the jurisdiction of the Port, including facilities expected to be used as venues for the 34th America's Cup events. To that end, the City expects to issue City and County of San Francisco Certificates of Participation Tax-Exempt Series 2012A (Non-AMT), Tax-Exempt Series 2012B (AMT)¹, and Taxable Series 2012C to finance the acquisition, construction and installation of certain capital improvements to properties of the Port, on the Port's behalf (the "Project"). Specifically, the Port has identified the following improvements to certain Port properties²:

- Repairs to the south apron for public access on Pier 19;
- Construction of a primary cruise terminal at Pier 27 to replace the existing primary terminal at Pier 35;
- Installation of a handrail on Pier 23 for public safety;
- Various improvements to Piers 30-32, including repairs to the marginal wharf, emergency vehicle access improvements, and various other improvements extending the useful life of portions of the facility from ten to 30 years; and

¹ Generally, governmental entities such as the City issue obligations financing public facilities that are characterized by the Internal Revenue Code as publicly available. Interest received by owners of such obligations is excluded from gross income for federal income tax purposes. Enterprise departments such as the Airport issue obligations that finance facilities that are identified as not publicly available and are characterized as private activity bonds. The interest on such private bonds may not be exempt from federal income taxation and may be subject to the alternative minimum tax or AMT. The City consults with bond and tax counsel on the proper characterization of its obligations.

² Source: the Port.

- Installation of a shoreside power project consisting of the construction of a 12 megawatt power system to serve ships berthing in the drydock at Pier 70.

Pursuant to a memorandum of understanding between the City and the Port (the "MOU"), the City and the Port agree that 1) the Certificates are the most efficient manner to structure the financing in order to achieve the Port's objectives; 2) the Certificates will not be executed or delivered without the Port's acknowledgement and agreement that the Port will submit for approval by the Board and the Mayor a budget for each fiscal year that includes funding for all costs of lease payments, additional rent, and other obligations due in connection with the Certificates; and 3) the Port's obligations under the MOU are and will be expressly subordinate to any Port revenue bonds³. A form of the MOU has been submitted with the legislation.

Please note that a separate memorandum from Elaine Forbes, Deputy Director of the Port, provides additional background on the overall Project and plan of finance (the "Project Memorandum") and is being submitted in support of this legislative package.

The Certificates:

Under the proposed Resolution, the City will structure the Certificates as an abatable asset-transfer lease by and between the City and a third-party trustee pursuant to a property lease, project lease and trust agreement.

Pursuant to the property lease, the City leases a City-owned property to a third party trustee for a nominal amount while the Certificates remain outstanding. Pursuant to the project lease, the City leases the leased property from the third party trustee in consideration for annual base rental payments due from the City to holders of the Certificates that are equal to the amounts required to amortize the repayment obligations on the Certificates. The City general fund secures the City's repayment obligations for the life of the Certificates.

Pursuant to the trust agreement between the City and a third party trustee acting on behalf and for the benefit of Certificates holders, the trustee administers and disburses Certificate payments and enforces the covenants and remedies in the event of a default by the City. The trust agreement provides for the terms of the Certificates, the base rental payment schedule, redemption provisions, events of default, remedies in the event of default, and other related administrative provisions. The trustee holds proceeds derived from the sale of the Certificates and disburses payments for the costs incurred for the Project, as directed by authorized City representatives. The Resolution delegates selection of the third party trustee to the Director of Public Finance, and the trustee will be selected based on the lowest fees and other considerations via a competitive request for proposal.

³ On February 3, 2010, the Port issued \$36,650,000 in Revenue Bonds to finance the design, construction, reconstruction, repair and/or improvements to various facilities of the Port. In connection with the delivery of the Port's revenue bonds, the Port Commission covenanted that it will maintain rentals, rates, fees and charges so that net revenue in each fiscal year will be at least equal to 130% of annual debt service on the revenue bonds for such fiscal year.

Tax Equity and Fiscal Responsibility Act (TEFRA): Before the Certificates may be issued on a tax-exempt basis, federal tax law requires that the governing body of the jurisdiction in which the Project is located approve the financing after providing the opportunity for a duly-noticed public hearing. To facilitate the tax exemption of interest on one or more series of the Certificates, the City is required to conduct a duly noticed public hearing and approve the financing referenced herein. The Office of Public Finance expects to hold such hearing on Wednesday, April 25, notice of which was published in the *San Francisco Chronicle* on April 11, 2012. Any comments received from the TEFRA public hearing will be submitted to the Clerk of the Board of Supervisors for inclusion in the proposed Resolution Board File.

The Leased Property:

The leased property securing the Certificates is expected to have a fair market value equal to approximately 125 percent of the initial principal amount with respect to the Certificates. To facilitate the financing, the Controller's Office of Public Finance and the Port propose to encumber Pier 27 James R. Herman Cruise terminal and a portion of the Laguna Honda Hospital known as the South Residence located at 375 Laguna Honda Boulevard (the "Leased Property"). Pending ongoing analysis by the Real Estate Department and the Port, it is anticipated that the Leased Property will serve as the leased assets for the Certificates to secure the City's covenants and obligations under the leases. There is no remedy under the Certificates for the purchasers thereof to take possession of the Leased Property

The Office of Public Finance anticipates structuring the Certificates with base rental payments due from the City on each February 26 and August 26 during the life of the Certificates, commencing on February 26, 2013 and semi-annually thereafter, in an amount sufficient to pay total lease payments. The trust agreement requires that the rental payments be deposited in the debt service fund maintained by the trustee. On March 1 and September 1 of each year, commencing March 1, 2013 and semi-annually thereafter, the trustee will apply such amounts as is necessary to make rental payments with respect to the Certificates.

The Plan of Finance:

The Resolution authorizes the issuance of not to exceed par amount of \$45,000,000, however, the Controller's Office of Public Finance expects to issue approximately \$38,460,000 under current market conditions. The additional authorized amount above the expected issuance amount allows for fluctuations in market interest rates from the date of authorization by the Board to the time of the sale of the Certificates.

The Project cost is expected to total approximately \$54.74 million, with construction to commence in May 2012 and substantial completion of the final Project component in March 2013. When issued, the Certificates are anticipated to contribute approximately \$34.61 million or 63% of the total component sources of funds of the Project⁴. Other available sources of funds of the Port totaling \$20.13 million or 37% of the total component sources for the Project comprise the balance of sources. Table 1 below outlines anticipated sources and uses for the Certificates.

⁴ The expected total Project cost of \$54.74 million includes \$6.5 million which is subject to future appropriation.

Table 1: Anticipated Sources and Uses from the Issuance of the Certificates.

Sources	Series A (Non-AMT)	Series B (AMT)	Aggregate
<u>Par Amount</u>	<u>\$ 4,510,000</u>	<u>\$ 33,950,000</u>	<u>\$ 38,460,000</u>
Total Sources	4,510,000	33,950,000	38,460,000
Uses			
Project Fund			
AC34 Projects	-	3,803,644	\$ 3,803,644
AC34 Pier 19/23	4,056,900	-	4,056,900
Cruise Terminal	-	21,048,760	21,048,760
<u>Shoreside Power</u>	<u>-</u>	<u>5,700,000</u>	<u>5,700,000</u>
Subtotal - Project Fund	4,056,900	30,552,404	34,609,304
Debt Service Reserve	340,813	2,565,547	2,906,360
Delivery Date Expenses			
Other Cost of Issuance	78,462	577,424	655,886
<u>Other Underwriter's Discount</u>	<u>33,825</u>	<u>254,625</u>	<u>288,450</u>
Subtotal - Delivery Date Expenses	112,287	832,049	944,336
Total Uses	\$ 4,510,000	\$ 33,950,000	\$ 38,460,000

The Project Memorandum describes the aggregate sources and uses for the Project, including the sources and uses of the Certificates.

Based upon conservative estimates, the Office of Public Finance estimates that fiscal year net base rental payments on the Certificates average approximately \$2,374,000. The total estimated par amount of \$38,460,000 is estimated to result in approximately \$32,752,000 in net interest payments over the life of the Certificates. The net base rental payments over the life of the Certificates total approximately \$71,212,000.

Commercial Paper: The current plan of finance anticipates utilization of the City's commercial paper program launched by the City in June 2010 (Reso No. 85-09 and Reso No. 136-10) to finance certain interim costs of the Project, including preliminary design, planning, and permitting costs.

Commercial paper is an alternative form of short-term (or interim) financing for capital projects that permits the City to pay project costs as project expenditures are incurred. Commercial paper notes are issued and short-term debt is incurred only when needed to pay project costs as they are incurred. Commercial paper has a fixed maturity date from one to 270 days, compared with a final maturity of 20- to 30-years for the City's typical long-term obligation. On the maturity date, the commercial paper note may be "rolled" (or refinanced) with the re-issuance of commercial paper notes for additional periods of up to 270 days or finally retired with the issuance of long-term obligations once the project is complete and the final project cost is established.

As of April 10, 2012, the City has issued and outstanding \$60.65 million in aggregate par amount of commercial paper notes providing interim financing of project costs for street improvements, Moscone Convention Center improvements, HOPE SF, War Memorial Veterans Building improvements, and capital equipment acquisitions. The average interest cost on the City's outstanding commercial paper is 0.17% and approximately \$72,000 in interest has accrued

from City's first commercial paper notes issued on June 23, 2010 to April 3, 2012, the date of the City's most recent commercial paper note.

Method of Sale and Purchase Contract: The Certificates are anticipated to be sold on a competitive basis at an interest rate not to exceed 12 percent per year and will have a final maturity of March 1, 2042, or 30 years. Based upon conservative estimates given current market conditions, OPF estimates that the overall effective interest rate would be approximately 5.53%.

Nonetheless, the proposed Resolution delegates to the Director of Public Finance the authority to sell the Certificates by either a competitive or negotiated sale, subject to the Director of Public Finance's determination that a negotiated sale will result in the lowest borrowing cost to the City. If a negotiated sale method is pursued, one or more firms from the City's underwriter pool will be selected to serve as underwriter(s) for the Certificates pursuant to a Purchase Contract that establishes the terms and conditions for the purchase of the Certificates.

Certificates of Participation Policy: In November 2011, the Board adopted Ordinance No. 221-11 (the "Policy") that, among other matters, amends the City's Administrative Code to adopt a binding financial policy governing the authorization of lease financing debt payable and secured by the City's general fund, requires the identification of specific revenue sources as internal repayment sources for certificates of participation, and limits annual debt service cost of lease financing debt to 3.25 percent of discretionary revenue. In addition, the Policy exempts lease financed projects meeting certain criteria, including lease-financing obligations payable from non-General Fund revenue sources. The Certificates are excluded from the Policy because the Port acknowledges and agrees that the Port will submit for approval by the Board and Mayor a budget for each fiscal year that includes funding for all costs of lease payments, additional rent, and other obligations due in connection with the Certificates from non-General Fund revenue sources.

Financing Timeline:

The sale of the Certificates is tentatively scheduled for the week of July 25, 2012. Schedule milestones in connection with the financing may be summarized as follows:

<u>Milestone</u>	<u>Date*</u>
Consideration by the Capital Planning Committee	April 16, 2012
Introduction of Resolution to the Board	April 17
Port Commission approval of MOU	April 24
Competitive sale of Certificates	July 25
Closing & delivery of Certificates	August 8

*Please note that dates are estimated unless otherwise noted.

Additional Information:

The Resolution will be introduced at the Board of Supervisors meeting on Tuesday, April 17, 2012. The related financing documents—including the Trust Agreement, Property Lease, Project Lease, Memorandum of Understanding, Official Notice of Sale, Notice of Intention to Sell, Purchase Contract, Preliminary Official Statement, and Continuing Disclosure Certificate—have also been submitted. The supplemental appropriations ordinance appropriating the Certificates

proceeds is also expected to be introduced on Tuesday, April 17, 2012, along with the Project Memorandum.

Official Notice of Sale and Notice of Intention to Sell: The Notice of Intention to Sell provides legal notice to prospective bidders of the Certificates, should the City pursue a competitive sale. Such Notice of Intention to Sell will be published once in "The Bond Buyer" or another financial publication generally circulated throughout the State of California.

The Official Notices of Sale announces the date and time of the competitive sale for the Certificates, including the terms relating to the Certificates; the terms of sale, form of bids, and delivery of bids; and closing procedures and documents. Exhibit A to the Official Notice of Sale is the form of the official bid for the purchase of the Certificates. Pursuant to the Resolution, the Controller is authorized to award the Certificates to the bidder whose bid represents the lowest true interest cost to the City in accordance with the procedures described in the Official Notice of Sale.

Official Statement and Appendix A: The Official Statement provides information for prospective bidders and investors in connection with the public offering by the City of the Certificates. The Official Statement describes the Certificates, including sources and uses of funds; security for the Certificates; risk factors; and tax and other legal matters, among other information. The Official Statement also includes the City's Appendix A, the most recent Comprehensive Annual Financial Report of the City, the City's Investment Policy, and other forms of legal documents for the benefit of investors, holders and owners of the Certificates. If sold by competitive sale, a *Preliminary Official Statement* is distributed to prospective bidders prior to the sale of the Certificates and within seven days of the public offering of the Certificates, the *Final Official Statement* (adding certain sale results including the offering prices, interest rates, selling compensation, principal amounts, and aggregate principal amounts) is distributed to the initial purchasers of the Certificates.

The Board of Supervisors and the Mayor, in adopting and approving the Resolution, approve the form of the Official Statement, and authorize the use and distribution of the Official Statement by the co-financial advisors with respect to the Certificates. The Official Statement must include all facts that would be material to an investor in the Certificates. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the Certificates. For purposes of the Securities and Exchange Act of 1934, the Controller will certify, on behalf of the City, that the Preliminary and Final Official Statements are final as of their dates.

The City prepares the Appendix A: "City and County of San Francisco—Organization and Finances" (the "Appendix A") for inclusion in the Official Statement. The Appendix A describes the City's government and organization, the budget, property taxation, other City tax revenues and other revenue sources, general fund programs and expenditures, employment costs and post-retirement obligations, investment of City funds, capital financing and bonds, major economic development projects, constitutional and statutory limitations on taxes and expenditures, and litigation and risk management. Pursuant to the Resolution, City staff will revise the Official

Statement, including the Appendix A, to conform to the City's most recent Comprehensive Annual Financial Report before printing of the Preliminary and final Official Statement.

The attached Preliminary Official Statement has been reviewed and approved for transmittal to the Board of Supervisors by staff and the financing team. Members of the Board of Supervisors may review the Preliminary Official Statement and/or question staff and members of the financing team to make sure they feel comfortable that it includes all material facts.

Continuing Disclosure Certificate: The City covenants to provide certain financial information and operating data relating to the City (the "Annual Report") not later than 270 days after the end of the fiscal year and to provide notices of the occurrence of certain enumerated events. The Continuing Disclosure Certificate describes the nature of the information to be contained in the Annual Report or the notices of enumerated events. These covenants have been made in order to assist initial purchasers of the Certificates in complying with the Securities and Exchange Commission Rule 15c2-12(b)(5).

Your consideration of this request is greatly appreciated. Please contact me at 554-5956 if you have any questions. Thank you.

cc: Angela Calvillo, Clerk of the Board of Supervisors
Jason Elliott, Mayor's Office
Elaine Forbes, Deputy Director, Port of San Francisco
Kate Howard, Mayor's Budget Director
Monique Moyer, Director, Port of San Francisco
Harvey Rose, Budget Analyst
Ben Rosenfield, Controller
Mark Blake, Deputy City Attorney
Kenneth Roux, Deputy City Attorney

