

1 [Port Agreement with the National Park Service and Lease with the Golden Gate
2 National Parks Conservancy - Alcatraz Island Embarkation at Piers 31-33]

3 **Resolution approving a General Agreement between the Port and the National Park**
4 **Service for a 30-year term with two ten-year options allowing ferry concessioners to**
5 **use Port Piers 31-33 on The Embarcadero at Bay Street (Site) under lease from the Port**
6 **as the embarkation to Alcatraz Island and other Golden Gate National Recreation Area**
7 **sites, and a Lease Agreement with the Golden Gate National Parks Conservancy to**
8 **develop and operate visitor amenities at the Site for a 30-year term with two ten-year**
9 **options, to commence upon approval by the Board of Supervisors; affirming the Port**
10 **Commission’s Public Trust findings; and making findings under the California**
11 **Environmental Quality Act, and adopting the Mitigation Monitoring and Reporting**
12 **Program for the Alcatraz Ferry Embarkation Project located at Piers 31-33 on The**
13 **Embarcadero at Bay Street.**

14
15 WHEREAS, The Golden Gate National Recreation Area (“GGNRA”), established as a
16 unit of the National Park Service (“NPS”) in 1972, encompasses more than 80,000 acres of
17 coastal lands in Marin, San Mateo and San Francisco counties; and

18 WHEREAS, One of GGNRA’s most prominent sites is Alcatraz Island which is
19 historically significant as part of early coastal fortification systems and later as a federal
20 prison; and

21 WHEREAS, Since 1972, the Port of San Francisco has served as the embarkation
22 point for tourists and local residents visiting Alcatraz Island; and

23 WHEREAS, NPS is empowered by the federal government to issue a bid prospectus
24 and to select a ferry concessioner through a competitive process; and

25 WHEREAS, The Port has periodically negotiated leases with ferry concessioners for

1 locations for embarkation to Alcatraz Island, with the embarkation point moving from Pier 41
2 to Pier 31½ as different ferry companies with leaseholds along Port property have been
3 selected through the NPS ferry-bid process; and

4 WHEREAS, The Port and NPS share a common goal of enhancing the Alcatraz visitor
5 experience through significant investments in landside and waterside capital improvements –
6 to improve the ease of movement of the more than 1.5 million visitors each year – and
7 interpretative installations and site amenities including food, retail, and restrooms; and

8 WHEREAS, Alcatraz Island, access to which is controlled by NPS, is a one-of-a-kind
9 visitor destination, attracting thousands of people each day to the waterfront and providing
10 revenues roughly double the amount the Port would expect for a similar use not associated
11 with Alcatraz Island; and

12 WHEREAS, NPS determined that a long-term embarkation site is desirable to improve
13 the quality of the visitor experience and in 2008, the Port and GGNRA began discussions
14 about NPS selecting a permanent embarkation point at the Port and entering a direct
15 agreement with the Port that governs the terms by which the embarkation point would be
16 leased to NPS’s concessionaires; and

17 WHEREAS, By entering such a direct agreement for the use of a set embarkation
18 point, NPS, the Port and the public could be spared the disruption of moving the service each
19 time a new concessioner is selected; and

20 WHEREAS, Port staff, based on site criteria developed in conjunction with NPS staff,
21 identified the following five potential Port properties for a permanent Alcatraz embarkation
22 location: Piers 19½, 29 ½, 31½, 41, and 45 Shed A, as detailed in a December 3, 2009,
23 informational presentation to the Port Commission; and

24 WHEREAS, NPS completed an Environmental Impact Study under the National
25 Environmental Policy Act which considered the following possible alternative locations: Fort

1 Mason, Pier 31½, Pier 41 and Pier 43½ and Port staff in coordination with NPS staff identified
2 Pier 31½ as the preferred Alcatraz embarkation site; and

3 WHEREAS, Pier 31½ is part of the Northeast Waterfront area, where retail, food and
4 beverage, and ferry service are allowed uses in such area under the Port’s Waterfront Land
5 Use Plan; and

6 WHEREAS, NPS has developed an implementable vision for the project (the “Project”)
7 for Alcatraz ferry service and amenities within the bulkheads and portions of the sheds of
8 Piers 31 and 33 and the Pier 31 ½ marginal wharf (the “Site”); and

9 WHEREAS, The Site is currently operated for ferry service to Alcatraz Island with
10 supporting food and beverage, and the Project would expand existing uses to include a visitor
11 contact station and ancillary retail uses; and

12 WHEREAS, NPS has partnered with the Golden Gate National Parks Conservancy
13 (“Conservancy”), a local nonprofit dedicated to conservation of GGNRA lands through public
14 education, historic interpretation, public access, and capital improvements, as part of its long-
15 term plan for an Alcatraz embarkation site; and

16 WHEREAS, The Conservancy has a proven track-record of developing and operating
17 memorable and stimulating visitor experiences in nationally- and internationally-renowned
18 destinations including Alcatraz Island cell house tours and Museum Store, Golden Gate
19 Bridge Welcome Center, Crissy Field Center, and Lands End Visitor Center, among others;
20 and

21 WHEREAS, The shared vision of a unified visitor experience - from site entrance and
22 orientation, to ferry embarkation, to Alcatraz Island and jailhouse – requires specialized
23 knowledge of and experience in historic interpretation and education; and

24 WHEREAS, As set forth in Administrative Code, Section 2.6-1, the Board of
25 Supervisors’ policy is to approve only such proposed leases involving City property or facilities

1 that departments have awarded to the highest responsible bidder under competitive bidding
2 procedures, except where competitive bidding is impractical or impossible; and

3 WHEREAS, Development of an embarkation site with a visitor contact station and retail
4 and food and beverage amenities presents an important opportunity to provide public-serving,
5 cultural, historic and other significant public benefits to the people of the City, the entire Bay
6 Area region and beyond, including an opportunity for a significantly improved one-of-a-kind
7 waterfront destination that will achieve public access objectives for the Site while adding an
8 attractive mix of uses and destinations along the waterfront; and

9 WHEREAS, The achievement of the Port's goal of retaining the Alcatraz embarkation
10 site and the benefits noted above on Port property requires negotiating directly with NPS and
11 NPS's selected partner, the Conservancy; and

12 WHEREAS, NPS and Port staff negotiated, on a sole source basis, a Term Sheet
13 dated July 7, 2016 (the "Term Sheet"), which sets forth the essential terms upon which the
14 Port and NPS would negotiate in good faith to reach agreement (the General Agreement or
15 GA) on the terms for working together to establish the Site as the Alcatraz embarkation site,
16 including the business terms of two leases for Site operation attached to the GA: a form lease
17 to be executed by Port and the NPS-selected concessioner for ferry service and a lease with
18 the Conservancy for a visitor contact station, retail, and food and beverage uses; and

19 WHEREAS, On July 12, 2016, the Port Commission approved Resolution No. 16-30
20 endorsing the Term Sheet and authorizing the Executive Director of the Port, to present the
21 Term Sheet to the Board of Supervisors for its endorsement and a determination that the
22 proposed GA and the initial term of the Conservancy Lease are exempt from competitive
23 bidding policy set forth in Administrative Code, Section 2.6-1; and

24 WHEREAS, On November 29, 2016, the Board of Supervisors adopted Resolution
25 No.497-16 endorsing the Term Sheet and exempting the Project from the competitive bidding

1 policy set forth in Administrative Code, Section 2.6-1; and

2 WHEREAS, The Port and NPS have negotiated a final GA regarding the Project and its
3 associated lease attachments; and

4 WHEREAS, The GA between the Port and NPS includes the following material terms
5 as further described in this Resolution and the June 8, 2018, Memorandum to the Port
6 Commission which is on file with the Clerk of the Board of Supervisors in File No. 180809, and
7 incorporated herein by this reference (the "Memorandum"); (i) a term of up to 50 years (30
8 years plus two 10-year options to extend) for the Alcatraz Island ferry embarkation site on
9 Piers 31, 31½, and 33; (ii) designates the Site as the long-term sole visitor contact station
10 and ferry embarkation for public access to Alcatraz Island and outlines independent and joint
11 obligations; (iii) describes capital obligations of the ferry concessioner, the Conservancy, and
12 the Port, and provides for clarity, cooperation and coordination throughout the term
13 (iv) provides that NPS is solely responsible for selection of and contracting with operators for
14 the ferry concession (the "Ferry Concession Contract") and Port has no role in the selection,
15 solicitation, and/or award of a contract to a selected operator (a "Ferry Concessioner"); (v)
16 requires each NPS prospectus for a Ferry Concession Contract to include a form lease (a
17 "Ferry Concessioner Lease") prepared and approved by the Port that the Ferry Concessioner
18 will be required to sign; and (vi) requires Port to enter into a Ferry Concessioner Lease
19 substantially in the form of the lease attached to the GA with no changes other than (A)
20 changes agreed to by the Port and NPS in the sole discretion of each; and (B) to add new
21 Laws and City Requirements effective as of the commencement date of the Ferry
22 Concessioner Lease that do not conflict with federal law; and

23 WHEREAS, On January 18, 2018, the National Park Service (NPS) released a
24 prospectus (the "Prospectus") soliciting proposals to operate Alcatraz passenger ferry service
25 and associated services within the GGNRA; and

1 WHEREAS, As set forth in the Prospectus, the term of the new Ferry Concession
2 Contract will be for fifteen (15) years and proposals are due in summer 2018; and

3 WHEREAS, With input from Port, the International Organization of Masters, Mates,
4 and Pilots (MM&P) and the Inlandboatmen’s Union (IBU), the Department of Labor issued a
5 supplemental wage determination for common labor classifications for a San Francisco
6 passenger ferry operation (e.g. Master Captain, Senior Deckhand/Mate, Deckhand and Able-
7 Bodied Seaman) (the “Supplemental Wage Determination”) to establish minimum wages for
8 employees of the prospective Ferry Concessioner and NPS incorporated the Supplemental
9 Wage Determination into the Prospectus on May 21, 2018; and

10 WHEREAS, Each Ferry Concessioner will be required to pay monthly Base Rent for its
11 premises, escalated annually; and

12 WHEREAS, In addition to Base Rent, the Ferry Concessioner shall pay monthly
13 Percentage Rent on the difference between the Gross Revenue minus the NPS Concession
14 Franchise Fee, but only to the extent that such amount exceeds Base Rent; and

15 WHEREAS, The NPS-selected Initial Ferry Concessioner must complete the following
16 no later than the 5th anniversary date of the Ferry Concessioner Lease: waterside
17 improvements, including new ferry barges, docks and associated infrastructure; Pier 31½
18 Marginal Wharf deck surface and visitor amenities; Pier 33 Shed visitor restrooms; Pier 31
19 bulkhead restrooms; interior improvements in the Pier 31 and Pier 33 Sheds; Pier 33 South
20 Bulkhead Building ticketing area improvements; and demolition of a portion of the 2nd floor of
21 the Pier 33 South Bulkhead Building and construction of a mezzanine area (together, the
22 “Embarkation Site Improvements”); and

23 WHEREAS, Upon completion of the Embarkation Site Improvements the Initial Ferry
24 Concessioner shall be entitled to a rent credit in a maximum amount of \$2,520,000 for the
25 Embarkation Site Improvements; and

1 WHEREAS, Once the Embarkation Site Improvements are completed, certain portions
2 of the property will be turned over to the Conservancy; and

3 WHEREAS, In addition to excursions to Alcatraz Island, the Initial Ferry Concessioner
4 Lease allows the Initial Ferry Concessioner to conduct “interpretive park cruises” with the
5 following limits: 45,000 passengers in years 1 and 2; 46,125 passengers in year 3; 47,278
6 passengers in year 4; 48,460 passengers in year 5; and 90,000 passengers annually in year 6
7 through lease expiration after year 15; any violation of these limits is a material default of the
8 initial Ferry Concessioner Lease and will result in an equivalent reduction of the interpretive
9 cruise passenger limit in the following year; and

10 WHEREAS, The GA prohibits interpretive park cruises from any subsequent Ferry
11 Concessioner Lease without the prior consent of both the Port and NPS, in each such party’s
12 sole discretion; and

13 WHEREAS, In acknowledgement of the concerns raised by the City of Sausalito as to
14 a future Fort Baker ferry service, the GA provides that all required environmental and
15 regulatory reviews and approvals will be obtained when a more detailed project description
16 including improvements to the vessel landing facilities at Fort Baker is proposed; and

17 WHEREAS, Port and NPS agree that, in order to enhance the visitor experience, NPS
18 selected the Conservancy to provide the interpretive retail and food and beverage services
19 and other public amenities at the Site and as described above; and

20 WHEREAS, Port has negotiated a lease with the Conservancy requiring initial site
21 improvements and the operation of visitor amenities including a visitor contact station and
22 café consistent with the GA for a 30-year term with two 10-year options; and

23 WHEREAS, The current exemption from the City’s competitive bidding policy under
24 Board of Supervisors Resolution No. 497-16 covers only the initial thirty (30) year term of the
25 Conservancy Lease, and Port proposes to extend the exemption for the proposed two 10-year

1 option periods because it will provide for continuing capital improvements to and will continue
2 to provide a cohesive visitor experience to the Site; and

3 WHEREAS, Under the Conservancy Lease, the Conservancy will be required to pay
4 monthly Base Rent, escalated annually, and in addition to Base Rent, the Conservancy shall
5 pay monthly Percentage Rent on the amount by which Gross Revenues exceed Base Rent
6 with other material business terms are set forth in the Memorandum; and

7 WHEREAS, The Conservancy shall construct improvements including the build-out of
8 the Pier 31 bulkhead cafe and in a later phase the Pier 33 visitor contact station/interpretive
9 retail center (together, the “Conservancy’s Initial Tenant Improvements”); and

10 WHEREAS, The Conservancy must complete the Conservancy’s Initial Tenant
11 Improvements no later than the first anniversary of each of the two phases, and upon
12 completion the Conservancy shall be entitled to a rent credit of \$554,000 for the Initial Tenant
13 Improvements as further described in the Memorandum; and

14 WHEREAS, The entire Site is subject to the common law public trust for commerce,
15 navigation and fisheries and the Burton Act statutory trust (collectively, the “Public Trust”); and

16 WHEREAS, Use of Public Trust lands is generally limited to maritime commerce,
17 navigation, fisheries, water-oriented recreation, including commercial facilities that must be
18 located on or adjacent to water, and environmental stewardship and recreation, such as
19 natural resource protection, wildlife habitat and study, and facilities for fishing, swimming, and
20 boating; and

21 WHEREAS, Ancillary or incidental uses that promote Public Trust uses or
22 accommodate public enjoyment of Public Trust lands such as hotels, restaurants, and visitor-
23 serving retail are also permitted on Public Trust lands; and

24 WHEREAS, The Project has been planned and designed to provide multiple Public
25 Trust benefits delivered via development and use of the Site as a long-term home for Alcatraz

1 ferry and other maritime excursions, with various visitor-serving amenities including public
2 access space and uses, an interpretive retail center and a restaurant/café serving Alcatraz
3 ferry passengers as well as the general public; and

4 WHEREAS, A Preliminary Mitigated Negative Declaration (PMND) for the Project was
5 prepared and published for public review on December 6, 2017; and

6 WHEREAS, On December 27, 2017, an appeal of the decision to issue the Final
7 Mitigated Negative Declaration (FMND) was filed by the City of Sausalito within the 30-day
8 public review period; and

9 WHEREAS, The Planning Department prepared responses to Sausalito’s
10 comments, made minor revisions to the PMND and on February 22, 2018, the Planning
11 Commission held a public hearing on the PMND and after consideration of the points raised
12 by the appellant, both in writing and at the February 22, 2018, hearing, found that the contents
13 of the PMND and the procedures through which the PMND was prepared, publicized, and
14 reviewed complied with the California Environmental Quality Act (California Public Resources
15 Code, Sections 21000 et seq.) (CEQA), 14 California Code of Regulations, Sections 15000 et
16 seq. (the “CEQA Guidelines”) and Chapter 31 of the San Francisco Administrative Code
17 (“Chapter 31”) and finalized the PMND (the Final MND); and

18 WHEREAS, The Planning Commission found the Final MND was adequate, accurate
19 and objective, reflected the independent analysis and judgment of the Department of City
20 Planning and the Planning Commission, and reaffirmed its conclusion that the Project could
21 not have a significant effect upon the environment; and

22 WHEREAS, On February 23, 2018, the Environmental Review Officer signed the Final
23 MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31; and

24 WHEREAS, The Planning Commission Secretary, Jonas Ionin, is the custodian of
25 records at 1650 Mission Street, Fourth Floor, San Francisco, California; and

1 WHEREAS, The Final MND and the Mitigation Monitoring and Reporting Program
2 (MMRP) prepared by Port staff has been made available to the public, the Port Commission
3 and the Board of Supervisors for their review and action and which is on file with the Clerk of
4 the Board of Supervisors in File No. 180809, and incorporated herein by this reference; and

5 WHEREAS, On June 25, 2018, the Port Commission, by Resolution No. 18-39, found
6 that the Final MND is adequate for its use as the decision-making body for the Project, that
7 there is no substantial evidence that the Project could have a significant effect on the
8 environment with the adoption of the measures contained in the MMRP to avoid potentially
9 significant environmental effects associated with the Project, adopted the Final MND and the
10 MMRP and found that all required mitigation measures identified in the Final MND and
11 contained in the MMRP will be included in the Port's Leases; now, therefore, be it

12 RESOLVED, That the Board of Supervisors has reviewed and considered the Final
13 MND and the record as a whole, finds that the Final MND is adequate for its use as the
14 decision-making body for the Project, that there is no substantial evidence that the Project
15 could have a significant effect on the environment with the adoption of the measures
16 contained in the MMRP to avoid potentially significant environmental effects associated with
17 the Project; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors hereby adopts the MMRP on
19 file with the Clerk of the Board of Supervisors in File No. 180809 and finds that all required
20 mitigation measures identified in the Final MND and contained in the MMRP will be included
21 as conditions to the lease between the Port and each successive Ferry Concessioner and the
22 Port and the Conservancy; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors hereby adopts the Port
24 Commission's Public Trust findings as its own, and finds that this Resolution is consistent with
25 the common law public trust doctrine and the Burton Act; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors approves the General
2 Agreement with the National Park Service and the Conservancy Lease and exempts the
3 entire term of the Conservancy Lease from the competitive bidding policy set forth in
4 Administrative Code, Section 2.6-1; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
6 Director of the Port or her designed (the “Executive Director”) to execute the General
7 Agreement and the Conservancy Lease in a form approved by the City Attorney and
8 substantially in the form on file with the Clerk of the Board of Supervisors in File No. 180809;
9 and, be it

10 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
11 Director to enter into any additions, amendments, or other modifications to the General
12 Agreement or Conservancy Lease (including, without limitation, preparation and attachment
13 of, or changes to, any or all of the exhibits and ancillary agreements) that the Executive
14 Director, in consultation with the City Attorney, determines, when taken as whole, to be in the
15 best interest of the Port, do not materially increase obligations or liabilities of the City or Port,
16 and are necessary or advisable to complete the transactions which the General Agreement
17 and Conservancy Lease contemplate and effectuate the purpose and intent of this Resolution,
18 such determination to be conclusively evidenced by the execution and delivery by the
19 Executive Director of any such amendments; and, be it

20 FURTHER RESOLVED, That within thirty (30) days of the General Agreement and
21 Conservancy Lease being fully executed by all parties the Port shall provide copies of the
22 General Agreement and Conservancy Lease to the Clerk of the Board for inclusion into the
23 official file.

24
25