

FILE NO. 070315

RESOLUTION NO.

1 [Trans Bay Cable Project Non-Exclusive Licenses]

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3 **Resolution approving (1) Port Commission License No. 14324, a non-exclusive license**  
4 **for the use of property consisting of approximately 9.4 miles of submerged lands, a**  
5 **small portion of shoreline along 23rd Street, and a portion of 23rd Street to install a 400**  
6 **MW high voltage transmission line, with a term of four years and consideration**  
7 **including license payments to the Port in excess of \$1.26 million and payments to the**  
8 **San Francisco Public Utilities Commission equaling \$3.5 million, and (2) Port**  
9 **Commission License No. 14325, a non-exclusive license for use of the property for**  
10 **operation of the transmission line with a term of thirty years and consideration**  
11 **including license payments to the Port in excess of \$1.2 million dollars annually, public**  
12 **benefit payments to Port equaling \$5.5 million and payments to the San Francisco**  
13 **Public Utilities Commission in excess of \$20 million to implement, advance, promote or**  
14 **enhance policies and projects consistent with City Energy Policies, both between**  
15 **Trans Bay Cable LLC and the City and County of San Francisco acting by and through**  
16 **the San Francisco Port Commission and the Mayor's Office of Economic and**  
17 **Workforce Development.**

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19 WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San  
20 Francisco Charter Section B3.581 empower the San Francisco Port Commission with the  
21 power and duty to use, conduct, operate, maintain, manage, regulate and control the lands  
22 within Port Commission jurisdiction; and

23 WHEREAS, Trans Bay Cable LLC ("Licensee") proposes to install, operate and  
24 maintain approximately 53 miles of high voltage direct current ("HVDC") PLUS transmission  
25 cable bundle of approximately ten (10) inches in diameter (referred to herein as the "cable")

1 running from the City of Pittsburg to the City and County of San Francisco ("City").  
2 Approximately 9.4 miles of the cable are in submerged lands, a small portion of shoreline  
3 along 23rd Street, and on a portion of 23rd Street that are under Port Commission jurisdiction  
4 (the "License Area"). The HVDC PLUS transmission cable would transmit power from a  
5 converter station in the City of Pittsburg (connected to the Pittsburg Pacific Gas and Electric  
6 (PG&E) Substation) to a converter station in the City which will then convert the DC power to  
7 AC power for delivery to the PG&E Potrero Substation and distribution to City consumers (the  
8 "Trans Bay Cable Project"); and

9 WHEREAS, The Trans Bay Cable Project (1) will augment the electrical transmission  
10 system serving the City to improve reliability and increase capacity, (2) received approval from  
11 the Federal Energy Regulatory Commission of its rate principals in July 2005, and  
12 (3) received approval from the California Independent Systems Operator ("CAISO") as the  
13 long-term reliability and load serving solution that will provide much needed power to the City  
14 to meet its requirements for years to come in September 2005; and

15 WHEREAS, On November 6, 2006, the City of Pittsburg, as lead agency, certified the  
16 Final Environmental Impact Report ("FEIR") for the Trans Bay Cable Project by Resolution  
17 No. 06-10661. The FEIR was supplemented by an addendum published by the City of  
18 Pittsburg on December 26, 2006 ("Addendum"); and

19 WHEREAS, Licensee has applied for an Encroachment Permit from the City and  
20 County of San Francisco Department of Public Works ("DPW Encroachment Permit") to install  
21 portions of the Trans Bay Cable Project within the portions of the City-streets; and

22 WHEREAS, The Port Commission's jurisdiction includes lands granted to the City and  
23 County of San Francisco ("City") by the Burton Act, subject to the trust grant, that underlie the  
24 License Area; and

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1           WHEREAS, CAISO approved the Project as the preferred long-term transmission  
2 alternative to address the identified electric reliability concerns in San Francisco and northern  
3 San Mateo County beginning in 2012 and supports an earlier operation date of 2010. CAISO  
4 expects the Trans Bay Cable Project to be the major new transmission system upgrade  
5 serving the City through 2018 (and perhaps longer); and

6           WHEREAS, Alternatives to the Trans Bay Cable Project that would facilitate the  
7 expanded use of renewable energy, promote local control of critical energy infrastructure,  
8 provide greater reliability benefits, and provide economic benefits to the City have been  
9 identified, but CAISO believes the alternatives will not be developed in the same time frame  
10 as the Trans Bay Cable Project; and

11           WHEREAS, One of the alternatives identified in public hearings is a City-owned  
12 transmission project from the Newark area to San Francisco ("Newark-San Francisco  
13 Project"). A Newark-San Francisco Project would connect the City's existing facilities in  
14 Newark with San Francisco, enabling the City to transmit electric power from Hetch Hetchy  
15 directly to San Francisco. A Newark-San Francisco Project would also improve reliability for  
16 the Bay Area, provide economic benefits to the City, and enhance the City's ability to access  
17 renewable energy resources; and

18           WHEREAS, CAISO believes that the Trans Bay Cable Project will improve the  
19 reliability of the City's electric system, but CAISO has acknowledged that the Trans Bay Cable  
20 Project does not improve the reliability of the existing 230 kilovolt (kV) system that serves the  
21 City's downtown area. Under the criteria used by CAISO to establish the need for the Trans  
22 Bay Cable Project, the 230kV system serving the City's downtown area is not capable of  
23 reliably serving the City even at current levels of electricity demand; and

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1           WHEREAS, CAISO and PG&E have suggested that the reliability problem with the  
2 230kV system could be addressed by building a transmission project that would connect the  
3 230kV and 115kV systems in the City; and

4           WHEREAS, City participation in the study and development of a transmission project to  
5 connect the 230kV and the 115kV systems (a "Potrero-Embarcadero Project") would help  
6 ensure that this problem is addressed expeditiously and that the economic and reliability  
7 benefits of such a project accrue to the City; and

8           WHEREAS, The Trans Bay Cable Project sponsors can assist the City in the  
9 development of a Potrero-Embarcadero Project by, among other things, providing space at  
10 the San Francisco converter station for transformer or other facilities at no cost to the City if  
11 such space is available; and

12           WHEREAS, In order to mitigate the potential adverse impact of the Trans Bay Cable  
13 Project on the use and development of renewable energy, the Trans Bay Cable Project  
14 sponsors have agreed to make available to the City for purchase up to 25 megawatts of wind  
15 energy at terms advantageous to the City, as reasonably determined by the San Francisco  
16 Public Utilities Commission ("SFPUC") in negotiation with the Trans Bay Cable Project  
17 sponsors; and

18           WHEREAS, In-City energy-efficiency, load management and distributed renewable  
19 energy generation projects are the most effective methods of extending the ability of the  
20 electrical transmission grid serving the City (as augmented by the Trans Bay Cable Project)  
21 and are recognized as the preferred policies of the City pursuant to the San Francisco Master  
22 Plan - Energy Element (1981), the San Francisco Electricity Resource Plan (2002), and the  
23 San Francisco Climate Action Plan (2004) (collectively, "City Energy Policies"); and

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1           WHEREAS, It is established City policy to impose development exactions and  
2 negotiated public benefits associated with major development projects to further City policies;  
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4           WHEREAS, Each of the development exactions and public benefits imposed in the  
5 Construction License and Operational License is necessary in order to further accomplish the  
6 City Energy Policies; and

7           WHEREAS, The Port Commission staff in close consultation with the Mayor's Office of  
8 Economic and Workforce Development has negotiated two non-exclusive licenses with  
9 Licensee for use of the License Area during (1) Licensee's construction of the Trans Bay  
10 Cable Project (the "Construction License"), a copy of which is on file with the Clerk of the  
11 Board of Supervisors in File No. 070315 , which is hereby declared to be a part of this  
12 resolution as if set forth fully herein, and (2) the operational period of the Trans Bay Cable  
13 Project immediately following completion of the construction of the Trans Bay Cable Project  
14 (the "Operational License"; together with the Construction License, the "Licenses"), a copy of  
15 which is on file with the Clerk of the Board of Supervisors in File No. 070315 , which is  
16 hereby declared to be a part of this resolution as if set forth fully herein; and

17           WHEREAS, Due to the broader energy and electric reliability implications of the Trans  
18 Bay Cable Project, the Mayor's Office of Economic and Workforce Development (MOEWD)  
19 will be a co-signatory to the Licenses, acting on behalf of the City and the SFPUC; and

20           WHEREAS, The Construction License shall be for a term of four (4) years, subject to  
21 terms and conditions described in the Construction License and the Operational License shall  
22 be for a term of thirty (30) years, subject to terms and conditions described in the Operational  
23 License;

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1           WHEREAS, In addition to annual license payments to the Port Commission, Licensee  
2 shall pay to Port Five Million Five Hundred Thousand Dollars (\$5,500,000), which payment  
3 will be paid in ten (10) separate installments commencing thirty (30) days following the day  
4 after the Trans Bay Cable Project commences commercial operation as designated by CAISO  
5 (the "Commercial Operating Date") and on or before each of the next nine (9) consecutive  
6 anniversary dates of the Commercial Operating Date, each equaling Five Hundred Fifty  
7 Thousand Dollars (\$550,000.00) (the "Public Trust Public Benefit Payments");

8           WHEREAS, A portion of the Public Trust Public Benefit Payments (such portion to be  
9 determined by the Port Commission in its sole and absolute discretion) shall be used by the  
10 Port Commission to implement, advance, promote or enhance access along the waterfront,  
11 one of the foundation points to the Waterfront Land Use Plan (and accompanying Waterfront  
12 Design & Access Element), the Port Commission's comprehensive policy document that  
13 guides its balanced management and improvement of its lands. Specifically, a portion of the  
14 Public Trust Public Benefit Payments shall be used to maintain open space for shoreline  
15 areas from Pier 70 to the southern boundary of Port Commission jurisdiction to (i) provide  
16 opportunities for the protection of wildlife and for passive and active recreational uses, (ii)  
17 enhance the public's appreciation of the waterfront by providing greater opportunities for  
18 public access in a manner which does not compromise the efficiency of maritime operations;  
19 and (iii) offset the less-than-significant impact on open space and waterfront access of a new,  
20 long-term industrial use in the vicinity of 23<sup>rd</sup> Street; and

21           WHEREAS, A remaining portion of the Public Trust Public Benefit Payments (such  
22 portion to be determined by the Port Commission in its sole and absolute discretion) shall be  
23 used by the Port Commission to implement, advance, promote or enhance energy efficiency  
24 and renewable energy policies and projects on Port Commission property consistent with City  
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1 Energy Policies and Mayor Gavin Newsom’s Executive Directive 05-104 on Energy  
2 Conservation; and

3 WHEREAS, Under the provisions of the Construction License, Licensee is required to  
4 pay Three Million Five Hundred Thousand Dollars (\$3,500,000.00) to the SFPUC (the  
5 "Renewable Energy, Transmission and Grid Reliability Payment"), to be paid in thirty-six (36)  
6 separate installments, each equaling Ninety-Seven Thousand Two Hundred Twenty-Two  
7 Dollars and 22/100 (\$97,222.22), commencing thirty days from the close of construction  
8 financing and monthly thereafter; and

9 WHEREAS, Under the provisions of the Operational License, Licensee is required to  
10 pay Two Million Dollars (\$2,000,000.00) annually subject to increases in the Consumer Price  
11 Index (Base Year: 2010) (the “SF Electric Reliability Payment”) to the SFPUC, to be paid in  
12 ten (10) separate installments, commencing thirty (30) days following the Commercial  
13 Operating Date and on or before each of the next nine (9) consecutive anniversary dates of  
14 the Commercial Operating Date; and

15 WHEREAS, The Renewable Energy, Transmission and Grid Reliability Payment and  
16 the SF Electricity Reliability Payment shall be used by the SFPUC to implement, advance,  
17 promote or enhance policies and projects consistent with City Energy Policies; and

18 WHEREAS, The Port Commission on March 13, 2007, by Resolution 07-22, acting as  
19 responsible agency under CEQA, considered the environmental effects of the Trans Bay  
20 Cable Project, as identified by the FEIR and Addendum, that relate to the Port Commission's  
21 discretionary actions. The Port Commission made findings on the Trans Bay Cable Project  
22 and its Alternatives and adopted a mitigation monitoring and reporting program; and

23 WHEREAS, The Port Commission on March 13, 2007, by Resolution 07-23, approved  
24 the terms and conditions of the Licenses; and

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1           WHEREAS, San Francisco Charter Section 9.118 requires Board of Supervisors  
2 approval of agreements having a term of ten (10) or more years or having anticipated revenue  
3 to the City of One Million Dollars (\$1,000,000.00) or more; and

4           WHEREAS, The policy of the Board of Supervisors, as set forth in Administrative Code  
5 Section 2.6-1, is to approve only proposed leases involving property or facilities of the City  
6 that have been awarded to the highest responsible bidders in accordance with the competitive  
7 bidding procedures, except where impractical or impossible; and

8           WHEREAS, The Trans Bay Cable Project will provide power to the City to meet its  
9 requirements for years to come, the terms set forth in the Licenses offer substantial economic  
10 benefits to the Port Commission, and the terms set forth in the Licenses offer substantial  
11 economic means to the Port Commission and the City to implement existing Port Commission  
12 and City policies and directives relating to energy and open space; and

13           WHEREAS, The Trans Bay Cable Project is the only project evaluated by CAISO that  
14 has obtained the regulatory approvals, permits and licenses necessary to construct a  
15 transmission facility to the City and County of San Francisco using Port property and,  
16 therefore, a public competitive bidding process at this time is impractical for a lease  
17 opportunity of this type predominantly for use of the Bay floor; and

18           WHEREAS, The Board of Supervisors on \_\_\_\_\_, 2007, by Resolution 070314  
19 adopted CEQA findings on the Trans Bay Cable Project and a mitigation monitoring and  
20 reporting program, as further described in said resolution; now, therefore, be it

21           RESOLVED, The Trans Bay Cable Project is the only project evaluated by CAISO that  
22 has obtained the regulatory approvals, permits and licenses necessary to construct a  
23 transmission facility to the City and County of San Francisco using Port property and,  
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1 therefore, a public competitive bidding process at this time is impractical for a lease  
2 opportunity of this type for use of the Bay floor; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors hereby finds that competitive  
4 bidding for the rights granted under the Licenses is impractical; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors approves the Construction  
6 License (Port Commission License No. 14324) with Trans Bay Cable LLC, a non-exclusive  
7 license for the use of property consisting of approximately 9.4 miles of submerged lands, a  
8 small portion of shoreline along 23rd Street, and a portion of 23rd Street to install a 400 MW  
9 high voltage transmission line, with a term of four years and consideration including license  
10 payments to the Port in excess of \$1.26 million and payments to the San Francisco Public  
11 Utilities Commission equaling \$3.5 million; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors approves the Operation  
13 License (Port Commission License No. 14325) with Trans Bay Cable LLC, a non-exclusive  
14 license for use of the property for operation of the transmission line with a term of thirty years  
15 and consideration including license payments to the Port in excess of \$1.2 million dollars  
16 annually, public benefit payments to Port equaling \$5.5 million and payments to the San  
17 Francisco Public Utilities Commission in excess of \$20 million to implement, advance,  
18 promote or enhance policies and projects consistent with City Energy Policies; and, be it

19 FURTHER RESOLVED, That the funds identified for payment to the SFPUC (the  
20 Renewable Energy, Transmission and Grid Reliability Payment and the SF Electricity  
21 Reliability Payment) shall be held on reserve by the Board of Supervisors; and, be it

22 FURTHER RESOLVED, That the Renewable Energy, Transmission and Grid Reliability  
23 Payment (totaling \$3.5 million) shall be used by the SFPUC for study and development of the  
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1 two City-owned transmission projects identified herein, the Newark-San Francisco Project and  
2 the Potrero-Embarcadero Project; and, be it

3 FURTHER RESOLVED, That the SFPUC shall consult with the Department of the  
4 Environment, the Department of Public Health, and community members, including the Power  
5 Plant Task Force, in developing its proposals to the Board of Supervisors for how to spend the  
6 SF Electricity Reliability Payment, and shall consider specifically renewable energy,  
7 conservation, and environmental health programs which benefit low income, at-risk, and  
8 environmentally disadvantaged communities; and, be it

9 FURTHER RESOLVED, That \$2 million of the SF Electricity Reliability Payment shall  
10 be used by MOEWD on green jobs training and placement programs which benefit low  
11 income, at-risk, and environmentally disadvantaged communities. In developing its proposals  
12 to the Board of Supervisors for how to spend these funds, MOEWD shall work with the  
13 community and other City departments; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors accepts as a condition of the  
15 approval of the Licenses, the offer of the Trans Bay Cable Project sponsors to make available  
16 to the City for purchase up to 25 megawatts of wind energy at terms advantageous to the City  
17 and directs the SFPUC to finalize the terms of the purchase on terms it deems to be  
18 reasonable to the extent SFPUC finds such purchase beneficial to the City; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors accepts as a condition of its  
20 approval of the Licenses, the assistance of the Trans Bay Cable Project sponsors with the  
21 City's development of a Newark-San Francisco Project and a Potrero-Embarcadero Project,  
22 by, among other things, providing space at the Trans Bay Cable Project San Francisco  
23 converter station for transformers or other facilities at no cost to the City if such space is  
24 available; and, be it

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1           FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive  
2 Director of the Port (the "Executive Director") and the director of the Mayor's Office of  
3 Economic and Workforce Development (the "Director") to execute the Licenses in  
4 substantially the form presented to this Board and in such final form as is approved by the  
5 Executive Director and the Director in consultation with the City Attorney; and, be it

6           FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive  
7 Director to enter into any additions, amendments or other modifications to the Licenses that  
8 the Executive Director, in consultation with the City Attorney, determines is in the best  
9 interests of the Port, do not materially increase the obligations or liabilities of the Port or the  
10 City or materially decrease the rent and/or public benefits accruing to the Port and the City,  
11 and are necessary or advisable to complete the transactions which the Licenses contemplate  
12 and effectuate the purpose and intent of this resolution, such determination to be conclusively  
13 evidenced by the execution and delivery by the Executive Director of the Licenses and any  
14 such amendments to any such Licenses; and, be it

15           FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive  
16 Director and the General Manager of the SFPUC to execute and enter into any additional  
17 documents as he or she deems necessary or appropriate, in consultation with the City  
18 Attorney, to consummate the transactions contemplated hereby or to otherwise effectuate the  
19 purpose and intent of this resolution, such determination to be conclusively evidenced by the  
20 execution and delivery by the Executive Director of any such documents; and, be it

21           FURTHER RESOLVED, That the Port shall report back to the Board of Supervisors  
22 three months after the effective date of the Construction License as to the status of the  
23 community outreach plan set forth in the Construction License, including estimated minimum  
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1 expenditures for such a plan and expected deliverables, and Trans Bay Cable LLC's  
2 compliance with those provision of the License; and, be it

3 FURTHER RESOLVED, That the Port shall report back to the Board of Supervisors  
4 with updated cost estimates for the Trans Bay Cable Project and estimated impacts to  
5 California electricity rate payers; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors approves, confirms, and ratifies  
7 all prior actions taken by the officials, employees and agents of the Port Commission, Mayor's  
8 Office of Economic and Workforce Development, or the City with respect to the Licenses.

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