

1 [Lease Agreement - City of San Francisco Uptown Parking Corporation - Union Square Public
2 Parking Garage Lease and Café - Anticipated Revenue of More Than \$1,000,000]

3 **Resolution approving and authorizing the General Manager of the Recreation and Park**
4 **Department to execute a lease agreement with the City of San Francisco Uptown**
5 **Parking Corporation for the Union Square Public Parking Garage and portions of Union**
6 **Square Plaza for the operation of a café, for a ten-year term to commence upon Board**
7 **approval, and two five-year options to extend, with all revenue in excess of operating**
8 **costs to be transferred to the Recreation and Park Department, with anticipated**
9 **revenue to the City of more than \$1,000,000.**

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11 WHEREAS, The City owns the public plaza bordered by Geary, Powell, Post and
12 Stockton Streets in downtown San Francisco, commonly known as Union Square Plaza, and
13 the plaza is under the jurisdiction of the San Francisco Recreation and Park Commission
14 (Commission) and is operated by the San Francisco Recreation and Park Department
15 (Department); and

16 WHEREAS, The Union Square Parking Garage is a municipal parking garage, located
17 beneath Union Square Plaza; and

18 WHEREAS, The City of San Francisco Uptown Parking Corporation (Uptown) is a non-
19 profit entity created for the purpose of assisting the City in financing and managing the Union
20 Square Parking Garage; and

21 WHEREAS, Uptown has operated the Union Square Parking Garage since May 5,
22 1959; and

23 WHEREAS, On May 1, 1999, the City and County of San Francisco, on behalf of the
24 Department, entered into a garage lease agreement with Uptown for the purpose of issuing
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1 debt in the amount of \$19 million to fund the renovation of Union Square Plaza and Parking
2 Garage; and

3 WHEREAS, Pursuant to section 49 of the 1999 garage lease agreement, the lease
4 would be terminated 90 days after repayment of said debt; and

5 WHEREAS, In the summer of 2012, the Department and Uptown negotiated a short
6 term extension of the garage lease, which was approved by the Commission and Board of
7 Supervisors, to continue operation of Union Square Parking Garage while a new lease was
8 negotiated and finalized; and

9 WHEREAS, In addition to the Union Square Parking Garage lease, City, as landlord,
10 and Uptown, as tenant, are parties to a separate lease under which Uptown manages certain
11 café premises in Union Square Plaza, with the expectation that the Uptown will sublease the
12 café premises to a café operator subtenant (the Café Lease); and

13 WHEREAS, The term of the existing Uptown Café Lease has expired and is presently
14 continuing on a month to month basis; and

15 WHEREAS, Pursuant to a Supplemental Maintenance Agreement, dated August 15,
16 2002, as amended, between the Commission and Uptown, Uptown provides certain
17 supplemental maintenance and services to Union Square Plaza in addition to maintenance
18 services provided by City, and Uptown has entered into a subcontract with MJM Management
19 Group, Inc. ("MJM") for such services; and

20 WHEREAS, By its terms, the supplemental maintenance agreement terminates on the
21 expiration or termination of the 1999 garage lease agreement; and

22 WHEREAS, The Department and Uptown desire to consolidate into one agreement the
23 lease of the garage, the lease of the café premises, and the agreement for supplemental
24 services for Union Square Plaza; and

1 WHEREAS, With the negotiations for the new combined lease now complete, the
2 Department desires to execute a ten-year lease agreement with Uptown for the Union Square
3 Garage premises and the café premises more particularly described in the lease, in
4 substantially the form on file with the Clerk of the Board of Supervisors under File No. 160502
5 (Lease); and

6 WHEREAS, The proposed Lease includes the following key terms and conditions:

- 7 (a) Premises. Union Square Parking Garage and the premises presently covered by
8 the Café Lease.
- 9 (b) Term. Ten (10) years.
- 10 (c) Option Term. City has two (2) five-year options to extend the term of the Lease with
11 respect to (i) the entire premises and supplemental services, or (ii) the garage
12 premises and the supplemental services, or (iii) only the garage premises.
- 13 (d) Termination for Convenience. City and Uptown each have the right to terminate
14 early for convenience with respect to (i) the entire premises and supplemental
15 services, or (ii) the garage premises and the supplemental services, or (iii) only the
16 garage premises, on the terms described in the Lease.
- 17 (e) Rent. Rent for the garage is all revenue in excess of Uptown’s operating costs for
18 the garage operations and certain approved expenses incurred in connection with
19 the café premises and the supplemental park maintenance services; rent for the
20 café premises is all revenues collected or generated by Uptown in connection with
21 the café (including revenue collected by Uptown under a sublease of the café
22 premises), less café sublease management expenses described in the Lease.
- 23 (f) Maintenance Fund. Beginning the first (1st) year of the Term, Uptown is required to
24 establish a Garage Capital Account. Each month, Uptown is obligated to transfer
25 Twenty Thousand Eight Hundred Thirty-Three Dollars (\$20,833) into the Garage

1 Capital Account, provided the balance transferred to the Garage Capital Account
2 will not exceed Two Hundred Fifty Thousand Dollars (\$250,000), and in no event,
3 will the total balance of the Garage Capital Account exceed Seven Hundred Fifty
4 Thousand Dollars (\$750,000). In the event of a surplus in the Garage Capital
5 Account, such excess will be transferred to City.

6 (g) Supplemental Maintenance. In order to ensure the highest level of use and
7 enjoyment of Union Square Plaza, and preserve Union Square Plaza in a first class
8 condition, the Lease requires Uptown to provide certain supplemental maintenance
9 services and other services such as security and event management to Union
10 Square Plaza. Such supplemental maintenance services will be in addition to
11 maintenance services currently performed by City; and

12 WHEREAS, In order to provide sufficient time for Uptown to enter into a new sublease
13 of the café premises and a new subcontract for the supplemental services contemplated by
14 the Lease, the Department requested that the Commission approve (i) an initial month-to-
15 month café sublease on the terms of the existing café sublease, revised to be subject to the
16 new Lease, for a term not to exceed twenty four (24) months, as provided in in the Lease (the
17 “Initial Short Term Café Sublease”), and (ii) a subcontract between Uptown and MJM in the
18 form of the existing supplemental services subcontract, with an expiration not later than
19 August 15, 2017 (the “Initial Short Term Supplemental Park Services Agreement”); and

20 WHEREAS, The City Charter, Article IX, Section 9.118, requires Board of Supervisors
21 approval of leases with terms of ten years or more or anticipated revenue to the City of more
22 than \$1,000,000; and

23 WHEREAS, The Lease has a term of ten years or more and anticipated revenue to the
24 City of more than \$1,000,000 and therefore requires Board of Supervisors approval; and
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1 WHEREAS, On February 18, 2016, by Resolution No. 1602-006, which is on file with
2 the Clerk of the Board of Supervisors in File No 160502 the Commission recommended that
3 the Board of Supervisors approve and authorize the General Manager of the Recreation and
4 Park Department to execute a lease in the form of the proposed Lease; now, therefore, be it

5 RESOLVED, That in accordance with the recommendation of the Commission the
6 Board approves the Lease in substantially the form in the Board's File and authorizes the
7 General Manager of the Department to execute and deliver the Lease; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors authorizes the Recreation and
9 Park Department General Manager to enter into additions, amendments, or other
10 modifications to the Lease (including, without limitation, preparation and attachment of, or
11 charges to, any or all of the exhibits) that the General Manager, in consultation with the City
12 Attorney, determines are in the best interest of the City, do not materially decrease the
13 benefits of the Lease to the City, do not materially increase the obligations or liabilities of the
14 City, do not authorize the performance of any activities without pursuing all required regulatory
15 and environmental review and approvals, and are necessary or advisable to complete the
16 transactions which the Lease contemplates and effectuate the purpose and interest of this
17 resolution, such determination to be conclusively evidenced by the executions and delivery by
18 the General Manager of the Lease and any such additions, amendments, or other
19 modifications to that document; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors approves, confirms, and ratifies
21 all prior actions taken by the officials, employees, and agents of the City with respect to the
22 Lease; and, be it

23 FURTHER RESOLVED, That within thirty (30) days of the lease being fully executed
24 by all parties the Recreation and Park Department shall provide the final contract to the Clerk
25 of the Board for inclusion into the official file.