

1 [Trustee Agreement - Retroactive - The Bank of New York Mellon Trust Company, N.A. - San
2 Francisco International Airport Revenue Bonds - Not to Exceed \$3,800,000]

3 **Resolution 1) approving Modification No. 6 to Airport Contract No. 9186 with The Bank**
4 **of New York Mellon Trust Company, N.A., for bond trustee services, to increase the**
5 **contract amount by \$1,050,000, for a new total not to exceed amount of \$3,800,000, to**
6 **commence following approval by the Board of Supervisors; 2) retroactively approving**
7 **Airport Contract No. 9186 with a contract amount of \$260,000, with a term date of**
8 **November 4, 1991, to an indefinite term; 3) retroactively from December 4, 2001,**
9 **approving Modification No. 1 to increase the contract amount by \$600,000 for a total**
10 **not to exceed amount of \$860,000; 4) retroactively from February 6, 2006, approving**
11 **Modification No. 2 to increase the contract amount by \$900,000 for a total not to exceed**
12 **amount of \$1,760,000; 5) retroactively from April 1, 2012, approving Modification No. 3**
13 **to increase the contract amount by \$800,000 for a total not to exceed amount of**
14 **\$2,560,000; 6) retroactively from April 1, 2017, approving Modification No. 4 to increase**
15 **the contract amount by \$190,000 for a total not to exceed amount of \$2,750,000; and 7)**
16 **retroactively from June 1, 2018, approving Modification No. 5 to update the Trustee fee**
17 **payment schedule, with no changes to the contract amount.**

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19 WHEREAS, By its Resolution No. 91-0210 (as supplemented and amended, the
20 "Master Bond Resolution"), the Airport Commission of the City and County of San Francisco
21 (the "Commission") duly authorized the issuance of San Francisco International Airport
22 Second Series Revenue Bonds (the "Bonds") for any lawful purpose of the Commission; and

23 WHEREAS, The Master Bond Resolution sets forth the rights and obligations of the
24 Commission, the holders of the Bonds, and the Bond trustee, in connection with the issuance
25 and repayment of the Bonds; and

1 WHEREAS, A bond trustee serves as the fiduciary for the bondholders and is required
2 to, among other things, maintain bond-related funds and accounts and make timely principal
3 and interest payments to bondholders so long as any bonds are outstanding; and

4 WHEREAS, The Commission has issued and plans to issue revenue bonds and other
5 debt instruments that will require the services of a bond trustee; and

6 WHEREAS, The Master Bond Resolution identifies the bond trustee, which serves as
7 the fiduciary for the bondholders of the Bonds and sets forth the provisions of the
8 Commission’s agreement with the trustee, by defining the “Trustee” as “First Interstate Bank,
9 Ltd. or any successor to its duties hereunder;” and

10 WHEREAS, The Master Bond Resolution also sets forth the Trustee’s duties and
11 certain terms and conditions applicable to the Trustee, providing that the Trustee will serve in
12 its role until it shall have been replaced due to its resignation or removal, and providing that
13 the Commission agrees to pay fees to and expenses of the Trustee for its services under the
14 Master Bond Resolution as agreed to by the Commission and the Trustee pursuant to the
15 terms of a separate agreement; and

16 WHEREAS, On November 4, 1991, the Commission adopted Resolution No. 91-0197,
17 authorizing award of a contract with First Interstate Bank, Ltd., to provide bond trustee and
18 paying agent services under the Master Bond Resolution in the amount of \$260,000; and

19 WHEREAS, The Board of Supervisors (the “Board”) by its Resolution No. 34-92
20 approved the Master Bond Resolution and the issuance of the first issue of the Bonds; and

21 WHEREAS, The Commission and First Interstate Bank, Ltd., entered into Contract No.
22 9186, dated March 1992 (the “Trustee Agreement”) for First Interstate Bank, Ltd., to provide
23 trustee services for the Bonds with a maximum amount of \$260,000; and

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1 WHEREAS, The Trustee Agreement is the “separate agreement” setting forth the
2 terms of payment of the Trustee’s fees and expenses for its services referenced in the Master
3 Bond Resolution; and

4 WHEREAS, The Trustee Agreement does not have a stated expiration date and
5 continues until it is terminated in accordance with the Master Bond Resolution, which also
6 does not state an end date for the services of the Trustee and requires a replacement trustee
7 to be in place before the Trustee can resign or be removed; and

8 WHEREAS, The Trustee Agreement provides that the entire agreement between the
9 City and the Trustee includes both the Trustee Agreement and Article VIII of the Master Bond
10 Resolution, and it states that the Master Bond Resolution is the governing document, and all
11 provisions contained in the Trustee Agreement are subject to and subordinate to the Master
12 Bond Resolution; and

13 WHEREAS, On December 4, 2001, the Commission adopted Resolution No. 01-0360,
14 which authorized a first modification to the Trustee Agreement to increase the contract
15 amount by \$600,000 for a new total not to exceed amount of \$860,000, which the parties
16 executed on the same date; and

17 WHEREAS, On February 6, 2007, the Commission adopted Resolution No. 07-0035,
18 which authorized a second modification to the Trustee Agreement, to increase the contract
19 amount by \$900,000 for a new total not to exceed amount of \$1,760,000, which the parties
20 executed on the same date; and

21 WHEREAS, In 2008, The Bank of New York Mellon Trust Company, N.A. (“BNY
22 Mellon”), succeeded to the duties of Trustee under the Trustee Agreement and the role of
23 Trustee under the Master Bond Resolution; and

24 WHEREAS, On November 15, 2011, the Commission adopted Resolution No. 11-
25 0251, which authorized a third modification to the Trustee Agreement, dated as of April 1,

1 2012, to increase the contract amount by \$800,000 for a new total not to exceed amount of
2 \$2,560,000, which the parties executed on April 1, 2012; and

3 WHEREAS, On February 7, 2017, the Commission adopted Resolution No. 17-0022,
4 which authorized a fourth modification to the Trustee Agreement, to increase the contract
5 amount by \$190,000 for a new total not to exceed amount of \$2,750,000, which the parties
6 executed on April 1, 2017; and

7 WHEREAS, The Commission and the Trustee entered into a fifth modification to the
8 Trustee Agreement, dated as of June 1, 2018, to modify the original agreement to update the
9 Trustee fee payment schedule, without increasing the not to exceed compensation amount;
10 and

11 WHEREAS, On December 7, 2021, by its Resolution No. 21-0229, the Commission
12 approved Modification No. 6 to the Trustee Agreement (“Modification No. 6”) with BNY Mellon,
13 to increase the contract amount by \$1,050,000, for a new total not to exceed amount of
14 \$3,800,000; and

15 WHEREAS, The Trustee Agreement, as previously modified, Commission Resolution
16 No. 21-0229, and Modification No. 6 are on file with the Clerk of the Board of Supervisors in
17 File No. 220076; and

18 WHEREAS, Charter, Section 9.118(b), provides that agreements entered into by a
19 department, board, or commission requiring anticipated expenditures by the City and County
20 of San Francisco of ten million dollars or more shall be subject to approval by the Board of
21 Supervisors by Resolution; and

22 WHEREAS, The Trustee Agreement has a term in excess of ten years, and
23 Modification No. 6 is in excess of \$500,000, requiring the approval of this Board under
24 Charter, Section 9.118; and

1 WHEREAS, This Board approved the issuance of Bonds under the Master Bond
2 Resolution on January 6, 1992, by Resolution No. 34-92, and with several other subsequent
3 Board Resolutions, and confirmed the retention of The Bank of New York Trust Company,
4 N.A., as Trustee on May 1, 2007, by Resolution No. 235-07, but the Trustee Agreement and
5 the previous modifications have not been presented to the Board for stand-alone approvals;
6 and

7 WHEREAS, In order to resolve any uncertainty about whether further Board approval is
8 required, the Commission has requested Board approval under Charter, Section 9.118 for
9 Modification No. 6, as well as retroactive Board approval of the Trustee Agreement, as
10 modified by the previous modifications; now, therefore, be it

11 RESOLVED, That Modification No. 6 in the form presented and on file with the Clerk of
12 the Board is hereby approved, and that the Airport Director is hereby authorized to execute
13 and deliver Modification No. 6; and, be it

14 FURTHER RESOLVED, That within thirty (30) days of Modification No. 6 being
15 executed by all parties, the Airport Director shall provide copies of the executed document to
16 the Clerk of the Board for inclusion into the official file; and, be it

17 FURTHER RESOLVED, That the Trustee Agreement, as previously modified, in the
18 form presented and on file with the Clerk of the Board is hereby approved, and all actions of
19 staff relating thereto are hereby ratified and confirmed.

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