

FILE NO. 101259

RESOLUTION NO.

[34th America's Cup Host City Agreement and Finding of Fiscal Feasibility]

1
2 **Resolution approving a Host City and Venue Agreement among the City, the America's**
3 **Cup Event Authority and the San Francisco America's Cup Organizing Committee;**
4 **authorizing the Mayor or his designee and the Port to execute the Host City and Venue**
5 **Agreement; authorizing and urging the Mayor, Office of Economic and Workforce**
6 **Development, Port and such other City Officials as appropriate to take such steps and**
7 **execute such additional agreements as are consistent with the Host City and Venue**
8 **Agreement and this Resolution to bring the 34th America's Cup to the San Francisco**
9 **Bay; and finding that the proposed Event is fiscally feasible as set forth in**
10 **Administrative Code Chapter 29.**

11
12 WHEREAS, The Board of Supervisors finds as follows:

13 (a) In February 2010, BMW Oracle Racing, sailing for the Golden Gate Yacht Club
14 (together, the "Team"), won the 33rd America's Cup in Valencia, Spain; and,

15 (b) The Team, as Defenders of the America's Cup, has the right and duty to organize
16 the 34th America's Cup (the "Event"), and has created an Event Authority for purposes of
17 organizing the Event; and,

18 (c) The Team had selected three potential venues for hosting the Event, including
19 San Francisco, the only United States city under consideration, and two European venues,
20 and the Team will make the final selection by December 31, 2010; and,

21 (d) Hosting the 34th America's Cup in San Francisco would generate significant public
22 benefits for the City including: (i) the repair, improvement and productive reuse of certain City
23 piers along the City's central and southern waterfront that are currently in a state of disrepair;
24 (ii) the generation of significant new jobs and economic development in a very short period of

25 Mayor Newsom, Supervisors Chiu, Mirkarimi, Alioto-Pier, Chu, Dufty, Maxwell
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1 time, including over 9,000 jobs and more than \$1.4 billion of new economic activity, as
2 projected in an economic impact analysis completed by the Bay Area Council Economic
3 Institute and Beacon Economics; and (iii) substantially increased public access to the
4 waterfront, new opportunities for people to view and enjoy the San Francisco Bay and an
5 extraordinary showcase for the Bay to the world; and,

6 (e) An America's Cup Organizing Committee (the "ACOC"), an independent not-for-
7 profit corporation, has been established and includes civic and corporate leaders from
8 throughout the Bay Area, California and the nation, as well as a bipartisan honorary
9 committee including elected and appointed representatives from our local, state and federal
10 governments; and,

11 (f) On October 5, 2010, by Resolution 465-10 (File No. 101254) the Board of
12 Supervisors approved a Term Sheet that outlined the basis for the City, the ACOC and the
13 Event Authority to negotiate a Host City and Venue Agreement for the 34th America's Cup;
14 and,

15 (g) Consistent with the Term Sheet, City staff has negotiated a Host City and Venue
16 Agreement with the ACOC and the Event Authority and has presented the agreement to the
17 Board for approval; and a copy of the agreement is on file with the Clerk of the Board in
18 File No. 101259 which is hereby declared to be a part of this Resolution as if set forth fully
19 herein (the "Host Agreement"); and,

20 (h) On November 30, 2010, the Port Commission, by Resolution No. 10-73 forwarded
21 the Host Agreement and a Northern Waterfront Alternative to the Host Agreement (Northern
22 Waterfront Host Agreement), a copy of the agreement is on file with the Clerk of the Board in
23 File No. 101259 which is hereby declared to be a part of this Resolution as if set forth fully
24 herein, under which the potential fiscal impacts to the City are reduced recommended that this
25 Board approve either the Host Agreement or the Northern Waterfront Host Agreement; and,

1 (i) The Host Agreement contemplates sole source negotiations with the Event Authority
2 for venue leases and other agreements for environmental review and to use City property
3 needed for the Event. Also, the Host Agreement requires the Event Authority to make an
4 estimated \$150 million in substructure and infrastructure improvements to Port facilities for the
5 Event, subject to City verification; and in exchange, the City agrees, subject to the terms and
6 conditions of the Host Agreement, including environmental review under CEQA and future
7 approvals by the Port and Board of Supervisors, to grant the long-term development rights to
8 Piers 30-32 and 50 and Seawall Lot 330 on a sole source basis to the Event Authority,
9 together with proceeds of property tax increment financing from the future development of
10 such sites, to help reimburse the Event Authority for the cost of the infrastructure repairs and
11 improvements. The sole source negotiations contemplated by the Host Agreement are
12 required for the City to host the Event, make competitive bidding impractical and infeasible
13 and are in the City's best interests; and,

14 (j) The Northern Waterfront Host Agreement contemplates sole source negotiations
15 with the Event Authority for venue leases and other agreements for environmental review and
16 to use City property needed for the Event. Also, the Northern Waterfront Host Agreement
17 requires the Event Authority to make an estimated \$55 million in substructure and
18 infrastructure improvements to Port facilities for the Event, subject to City verification; and in
19 exchange, the City agrees, subject to the terms and conditions of the Host Agreement,
20 including environmental review under CEQA and future approvals by the Port and Board of
21 Supervisors, to grant the long-term development rights to Piers 30-32 and Seawall Lot 330 on
22 a sole source basis to the Event Authority, together with proceeds of property tax increment
23 financing from the future development of such sites, to help reimburse the Event Authority for
24 the cost of the infrastructure repairs and improvements. The sole source negotiations
25 contemplated by the Northern Waterfront Host Agreement are required for the City to host the

1 Event, make competitive bidding impractical and infeasible and are in the City's best interests;
2 and,

3 (k) The Host Agreement and the Northern Waterfront Host Agreement requires the City
4 to provide certain indemnity obligations in favor of the Event Authority and the ACOC, permits
5 specific performance as a remedy, and provides for certain waivers of remedies and
6 limitations on liability, all on the terms and conditions more particularly set forth in the Host
7 Agreement and the Northern Waterfront Host Agreement; and,

8 (l) The City has identified potential financial impacts to the Port of hosting the
9 34th America's Cup and a range of potential solutions, including using Charter Section B7.320
10 to offset race-related, net short-term rent reductions to the Port, financing certain City costs to
11 prepare venues for the Event with City certificates of participation, and City financing for
12 waterfront improvements to offset reductions in the Port's revenue bond capacity, subject to
13 the review and approval of the Capital Planning Committee, the Mayor and the San Francisco
14 Board of Supervisors, as applicable; and,

15 (m) Under the Host Agreement and the Northern Waterfront Host Agreement, the
16 Team and Event Authority will continue to assess and analyze information to determine the
17 final type and placement of facilities and infrastructure necessary to host the 34th America's
18 Cup, and will work collaboratively with the City to further refine the plans for the 34th America's
19 Cup that do not materially increase the obligations or liabilities of the City and are necessary
20 to accomplish the Event contemplated by the Host Agreement and the Northern Waterfront
21 Host Agreement; and,

22 (n) The Team and Event Authority currently are evaluating Piers 19-29 in combination
23 with Piers 30-32 as an alternative Event location that may be preferred by the City, as further
24 described in a letter dated November 8, 2010 from Stephen Barclay on behalf of the
25 America's Cup Committee, Golden Gate Yacht Club, a copy of which is on file with the Clerk

1 of the Board in File No. 101259 and which is hereby declared to be a part of this Resolution
2 as if set forth fully herein and in the Northern Waterfront Host Agreement; and,

3 (o) The City will undertake environmental review under CEQA of the 34th America's
4 Cup event and facilities and will work with the Team as well as experts and the public to
5 develop a thorough environmental analysis that will inform both the design and placement of
6 the 34th America's Cup events and facilities, and the City and the Team intend the
7 34th America's Cup event and facilities to be models of green, sustainable technology and
8 event planning; and,

9 (p) Chapter 29 of the Administrative Code requires the Board of Supervisors to
10 determine whether certain projects proposed by a City department or other entity are fiscally
11 feasible and responsible prior to initiating environmental review under the California
12 Environmental Quality Act ("CEQA"); and,

13 (q) The Office of Economic and Workforce Development has submitted to the Board of
14 Supervisors a report on the proposed Project ("the "Fiscal Feasibility Report") containing the
15 information required by Administrative Code Section 29.3, which Report is on file with the
16 Clerk of the Board of Supervisors in File No. 101259, and is hereby incorporated by this
17 reference as part of the Resolution as if fully set forth herein; and,

18 (r) The Board of Supervisors has reviewed and considered the general description of
19 the Event, the general purpose of the Event, the fiscal plan and other information submitted to
20 it and has considered the direct and indirect financial benefits of the Event to the City, as set
21 forth in the Fiscal Feasibility Report; and,

22 (s) The Venue Leases (and licenses) and Disposition and Development Agreements
23 ("DDAs"), Legacy Leases and Transfer Agreement contemplated in the Host Agreement and
24 the Northern Waterfront Host Agreement will be subject to later discretionary approvals by the
25 Board of Supervisors and Port, following completion of environmental review of the Event

1 under CEQA. A proposed schedule of major approvals is on file with the Clerk of the Board in
2 File No. 101259 which is hereby declared to be a part of this Resolution as if set forth fully
3 herein; and,

4 (t) Under Section 1 of the Host Agreement and the Northern Waterfront Host
5 Agreement, the agreement will terminate if the City is not selected as host city for the 34th
6 America's Cup; and under Section 2 of the Host Agreement and the Northern Waterfront Host
7 Agreement, the agreement will terminate without liability to any Party if the Parties otherwise
8 are unable to reach agreement on a variety of contingencies, including but not limited to if
9 environmental review under CEQA would require unacceptable modifications to the Event or
10 other terms of the Host Agreement or the Northern Waterfront Host Agreement; and,

11 (u) The obligations of the City and the ACOC owed to the Event Authority under the
12 Host Agreement or the Northern Waterfront Host Agreement shall be secured by a surety
13 bond in the amount of \$32 million provided by the ACOC.

14 Now, therefore, be it

15 RESOLVED, That the Board of Supervisors finds that the plan to undertake and
16 implement the Event is fiscally feasible and responsible under San Francisco Administrative
17 Code Chapter 29; and, be it

18 FURTHER RESOLVED, That under San Francisco Administrative Code Chapter 29,
19 the environmental application may now be filed with the Planning Department and the
20 Planning Department may now undertake environmental review of the Event as required by
21 Administrative Code Chapter 31 and CEQA; and, be it

22 FURTHER RESOLVED, That the City will conduct environmental review of the
23 34th America's Cup under the California Environmental Quality Act ("CEQA") and nothing in
24 this Resolution implements any approvals or facilities for the Event, or grants any entitlements
25 to the Event Authority, nor does adoption of this Resolution foreclose the possibility of

1 considering alternatives to the proposal, mitigation measures or deciding not to grant
2 entitlement or approve or implement any actions to construct necessary amenities for the
3 Event after conducting appropriate environmental review under CEQA, and while the Host
4 Agreement and the Northern Waterfront Host Agreement identify many of the essential terms
5 of a proposed transaction between the Event Authority and the City, it does not approve or
6 finalize all of the material terms and conditions of the project, including the Venue Leases and
7 DDAs, Legacy Leases and Transfer Agreement; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors hereby approves the Northern
9 Waterfront Host Agreement and authorizes the Mayor and City Officials with jurisdiction of
10 over the specific contractual and leasing agreement subject matter, including the Executive
11 Director of the Port over Port matters, to enter into and perform the City's obligations under
12 the Northern Waterfront Host Agreement; and, be it

13 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and urges
14 the Mayor, Director of the Office of Economic and Workforce Development, and other City
15 Officials with jurisdiction over the specific contractual and leasing subject matter, including the
16 Executive Director of the Port over Port matters, to take such steps and enter into any
17 additions, amendments or other modifications to the Host Agreement and/or the Northern
18 Waterfront Host Agreement, as applicable, as they, in consultation with the City Attorney,
19 determine are in the best interests of the City, do not materially increase the obligations or
20 liabilities of the City and are necessary or advisable to bring the 34th America's Cup to San
21 Francisco Bay and effectuate the purpose and intent of this Resolution, and further ratifies
22 such actions that the Mayor, Director of the Office of Economic and Workforce Development,
23 Port Director or other City Official may undertake within the scope of this authority before final
24 adoption of this Resolution, except for the Venue Leases and the DDAs, Legacy Leases and
25 Transfer Agreement contemplated in the Host Agreement and/or the Northern Waterfront Host

1 Agreement, as applicable, which all will be subject to later discretionary approvals by the
2 Board of Supervisors and Port, as applicable, following CEQA review of the Event.