

1 [Memorandum of Understanding - 34<sup>th</sup> America's Cup]

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3 **Resolution approving a Memorandum of Understanding between the City Controller**  
4 **and the Port Commission regarding the 34<sup>th</sup> America's Cup under Charter**  
5 **Section B7.320.**

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7 WHEREAS, The Board of Supervisors finds as follows:

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

10 (b) The Team, as Defenders of the America's Cup, has the right and duty to organize  
11 the 34<sup>th</sup> America's Cup (the "Event"), and has created an Event Authority for purposes of  
12 organizing the Event; and,

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

16 (d) Hosting the 34<sup>th</sup> America's Cup in San Francisco would generate significant public  
17 benefits for the City including: (i) the repair, improvement and productive reuse of certain City  
18 piers along the City's central and southern waterfront that are currently in a state of disrepair;  
19 (ii) the generation of significant new jobs and economic development in a very short period of  
20 time, including over 9,000 jobs and more than \$1.4 billion of new economic activity, as  
21 projected in an economic impact analysis completed by the Bay Area Council Economic  
22 Institute and Beacon Economics; and (iii) substantially increased public access to the  
23 waterfront, new opportunities for people to view and enjoy the San Francisco Bay and an  
24 extraordinary showcase for the Bay to the world; and,

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

6 (f) On October 5, 2010, by Resolution 465-10 (File No. 101254) the Board of  
7 Supervisors approved a Term Sheet that outlined the basis for the City, the ACOC and the  
8 Event Authority to negotiate a Host City and Venue Agreement for the 34<sup>th</sup> America's Cup;  
9 and,

10 (g) On December 14, 2010, the Board of Supervisors approved a Host City and Venue  
11 Agreement among the City, the ACOC (the "Host Agreement") by Resolution No. 585-10  
12 (File No. 101259) under which the City will provide the Event Authority with venues for  
13 34<sup>th</sup> America’s Cup facilities on property under the jurisdiction of the Port Commission rent-  
14 free and perform certain infrastructure improvements to prepare the Port properties for the  
15 34<sup>th</sup> America’s Cup, which creates race-related, net short-term rent reductions to the Port and  
16 reductions in the Port's revenue bond capacity; and,

17 (h) By Resolution No. \_\_\_\_\_, the Board of Supervisors also found the plan to  
18 undertake and implement the Event, including using San Francisco Charter Section B7.320 to  
19 provide for: (i) the use of funds other than the Port’s Harbor Fund to pay for a portion of the  
20 Port’s race-related costs, not including any tenant relocation or related legal costs or the  
21 Port’s staff costs; and (ii) City “gap” financing for the Port’s cruise terminal project, subject to  
22 the review and approval, as applicable, of the Capital Planning Committee, the Mayor and the  
23 San Francisco Board of Supervisors to be fiscally feasible and responsible under San  
24 Francisco Administrative Code Chapter 29; and,

1 (i) The City Controller and the Port Commission have negotiated terms of a proposed  
2 Memorandum of Understanding, a copy of which is on file with the Clerk of the Board in File  
3 No.101564 and incorporated as if set forth in full in this Resolution, that provides the process  
4 by which the City will offset the Port's lost rent and reduced revenue bond capacity if the City  
5 enters into the Host Agreement and the Port incurs race-related costs in connection with the  
6 Host Agreement; and,

7 (j) Under San Francisco Charter Section B7.320, the Mayor may submit to the Board of  
8 Supervisors a memorandum of understanding between the Port Commission between the  
9 Port Commission and another department of the City, approved by the Port Commission by  
10 resolution, that requires the department to transfer funds to the Port Commission; and,

11 RESOLVED, That the City will conduct environmental review of the 34<sup>th</sup> America's Cup  
12 under the California Environmental Quality Act ("CEQA") and nothing in this Resolution  
13 implements any approvals or facilities for the Event, or grants any entitlements to the Event  
14 Authority, nor does adoption of this Resolution foreclose the possibility of considering  
15 alternatives to the proposal, mitigation measures or deciding not to grant entitlement or  
16 approve or implement any actions to construct necessary amenities for the Event after  
17 conducting appropriate environmental review under CEQA, and while the Memorandum of  
18 Understanding implements certain obligations if the City enters into the Host Agreement, it  
19 does not approve or finalize all of the material terms and conditions of the project; and, be it

20 FURTHER RESOLVED, That Board of Supervisors hereby approves and authorizes  
21 the City Controller to enter into the Memorandum of Understanding with the Port Commission  
22 regarding the 34<sup>th</sup> America's Cup and, if the City enters into the Host Agreement and the Port  
23 incurs race-related costs in connection with the Host Agreement, to transfer funds on the  
24 terms provided in the Memorandum of Understanding; and, be it  
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1           FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and urges  
2 the Mayor, Director of the Office of Economic and Workforce Development, and other City  
3 Officials with jurisdiction over the specific contractual and leasing subject matter, including the  
4 City Controller and the Executive Director of the Port over Port matters, to take such steps  
5 and enter into any additions, amendments or other modifications to the Memorandum of  
6 Understanding as they, in consultation with the City Attorney, determine are in the best  
7 interests of the City, do not materially increase the obligations or liabilities of the City and are  
8 necessary or advisable to effectuate the purpose and intent of this Resolution, and further  
9 ratifies such actions that the Mayor, Director of the Office of Economic and Workforce  
10 Development, City Controller, Port Director or other City Official may undertake within the  
11 scope of this authority before final adoption of this Resolution.

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