

1 [Lease - San Francisco Forty Niners Candlestick Park Stadium]

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3 **Resolution authorizing the City Attorney to toll the statute of limitations relating to the**  
4 **Forty Niners' claim under the stadium lease regarding the maintenance and repair of**  
5 **Candlestick Park Stadium for up to 120 days to continue to attempt to negotiate a**  
6 **settlement agreement and lease amendment subject to approval of the those**  
7 **agreements by the Recreation and Park Commission and Board of Supervisors.**  
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9 WHEREAS, The City and County of San Francisco (the "City") owns a stadium located  
10 at Candlestick Point commonly referred to as Candlestick Park (the "Stadium"); and,

11 WHEREAS, The City and the San Francisco Forty Niners Ltd (the "Forty Niners") have  
12 entered into a Lease dated December 3, 1969, as amended (the "Lease"), under which the  
13 Forty Niners uses and occupies the Stadium for the exhibition of its home professional football  
14 games. The Lease currently expires on May 31, 2013, subject to the option of the Forty  
15 Niners to extend the term of the Lease for up to two additional successive five year periods,  
16 through May 31, 2023; and,

17 WHEREAS, The City and the Forty Niners have a long-standing dispute over the City's  
18 maintenance of the Stadium under the Lease; in past efforts addressing this dispute, the  
19 parties entered into a tolling agreement in 1998 (as amended, the "Tolling Agreement") and a  
20 series of six rent credit agreements (No. 1 dated as of March 31, 2004, No. 2 dated as of May  
21 19, 2006, No. 3 dated as of April 1, 2007, No. 4 dated as of July 28, 2008, No. 5 dated as of  
22 September 3, 2009, and No. 6 dated as of August 19, 2010; collectively, the "Rent Credit  
23 Agreements"). Under the Tolling Agreement, the parties extended the deadline for  
24 commencement and completion of arbitration of the Forty Niners' claims relating to the  
25 condition of the Stadium and amended the Lease. Under the Rent Credit Agreements, the

Supervisors Chiu, Farrell

1 Forty Niners performed specified work at the Stadium and the City gave the Forty Niners  
2 credits against rent based on the cost of the work performed by the Forty Niners; and,

3 WHEREAS, The Forty Niners continues to allege that the City has failed to fulfill its  
4 obligations to maintain the Stadium as required by the Lease, and the City continues to deny  
5 this allegation. On June 18, 2010, the Forty Niners filed a claim against the City (Claim No.  
6 10-03538, the "Forty Niners' Claim"), and on August 2, 2010, the City denied the Forty Niners'  
7 Claim; and,

8 WHEREAS, In May 2009 the City's Controller's Office released a report finding that the  
9 Forty Niners underpaid rent relating to certain parking revenues at the Stadium (the "City's  
10 Claim"). The Forty Niners' deny the City's Claim; and,

11 WHEREAS, The Office of Economic and Workforce Development, working with the  
12 Recreation and Park Department, is negotiating an agreement with the Forty Niners to settle,  
13 compromise, and resolve the Forty Niners' Claim and the City's Claim (collectively, the  
14 "Disputes"); now, therefore, be it

15 RESOLVED, That the Board authorizes the Recreation and Park Department and the  
16 City Attorney to toll the statute of limitations relating to the Forty Niners Claim, for up to 120  
17 days, while the City and the Forty Niners negotiate a potential settlement of the Disputes; and,  
18 be it

19 FURTHER RESOLVED, That any settlement agreement and Lease amendment to  
20 resolve the Disputes shall be subject to the approval by the Recreation and Park Commission  
21 and the Board of Supervisors, each in their sole discretion.