

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 with their successors, the "Team"), won the 33<sup>rd</sup> America's Cup in Valencia, Spain;  
10 and,

11 (b) The Team, as Defender of the America's Cup, has the right and duty to organize  
12 the 34<sup>th</sup> America's Cup (the "Event"), and has formed the 34<sup>th</sup> America's Cup Event Authority,  
13 LLC (the "Event Authority") to organize the Event; and,

14 (c) The Team selected San Francisco as the host city for the Event on December 31,  
15 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  
18 City piers along the City's central waterfront that are currently in a state of disrepair; (ii) the  
19 generation of significant new jobs and economic development in a very short period of time,  
20 including over 9,000 jobs and more than \$1.4 billion of new economic activity, as projected in  
21 an economic impact analysis completed by the Bay Area Council Economic Institute and  
22 Beacon Economics; and (iii) substantially increased public access to the waterfront, new  
23 opportunities for people to view and enjoy the San Francisco Bay, and an extraordinary  
24 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 December 14, 2010, the Board of Supervisors approved a Host City and Venue  
7 Agreement, which the Event Authority executed and returned to the City on January 4, 2011  
8 (the "Host Agreement"), by Resolution 585-10 (File No. 101259) under which the City will  
9 provide the Event Authority with venues for 34<sup>th</sup> America's Cup facilities on property under the  
10 jurisdiction of the Port Commission rent-free and perform certain infrastructure improvements  
11 to prepare the Port properties for the 34<sup>th</sup> America's Cup, which creates race-related, net  
12 short-term rent reductions to the Port and reductions in the Port's revenue bond capacity; and,

13 (h) By Resolution 585-10, the Board of Supervisors also acknowledged financial  
14 impacts to the Port of hosting the 34<sup>th</sup> America's Cup and found a range of potential solutions,  
15 including using San Francisco Charter Section B7.320 to offset race-related, net short-term  
16 rent reductions to the Port, the Mayor and the San Francisco Board of Supervisors found the  
17 34<sup>th</sup> America's Cup project to be fiscally feasible and responsible under San Francisco  
18 Administrative Code Chapter 29; and,

19 (i) The City Controller and the Port Commission have negotiated terms of a proposed  
20 Memorandum of Understanding, a copy of which is on file with the Clerk of the Board in File  
21 No. \_\_\_\_\_ and incorporated as if set forth in full in this Resolution, that provides the  
22 process by which the City will offset the Port's lost rent and incurred race-related costs in  
23 connection with the Host Agreement; and,

24 (j) Under San Francisco Charter Section B7.320, the Mayor may submit to the Board of  
25 Supervisors a memorandum of understanding between the Port Commission between the

1 Port Commission and another department of the City, approved by the Port Commission by  
2 resolution, that requires the department to transfer funds to the Port Commission; and,

3 RESOLVED, That the City has begun environmental review of the 34<sup>th</sup> America's Cup  
4 under the California Environmental Quality Act ("CEQA") and nothing in this Resolution  
5 implements any approvals or facilities for the Event, or grants any entitlements to the Event  
6 Authority, nor does adoption of this Resolution foreclose the possibility of considering  
7 alternatives to the proposal, mitigation measures or deciding not to grant entitlement or  
8 approve or implement any actions to construct necessary amenities for the Event after  
9 appropriate environmental review under CEQA is complete, and while the Memorandum of  
10 Understanding implements certain obligations of the City under the Host Agreement, it does  
11 not approve or finalize all of the material terms and conditions of the project; and, be it

12 FURTHER RESOLVED, That Board of Supervisors hereby approves and authorizes  
13 the City Controller to enter into the Memorandum of Understanding with the Port Commission  
14 regarding the 34<sup>th</sup> America's Cup and, if the Port incurs race-related costs in connection with  
15 the Host Agreement, to transfer funds on the terms provided in the Memorandum of  
16 Understanding; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and urges  
18 the Mayor, Director of the Office of Economic and Workforce Development, and other City  
19 officials with jurisdiction over the specific contractual and leasing subject matter, including the  
20 City Controller and the Executive Director of the Port over Port matters, to take such steps  
21 and enter into any additions, amendments or other modifications to the Memorandum of  
22 Understanding as they, in consultation with the City Attorney, determine are in the best  
23 interests of the City, do not materially increase the obligations or liabilities of the City and are  
24 necessary or advisable to effectuate the purpose and intent of this Resolution, and further  
25 ratifies such actions that the Mayor, Director of the Office of Economic and Workforce

1 Development, City Controller, Port Director, or other City official may undertake within the  
2 scope of this authority before final adoption of this Resolution.

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