

1 [Property Lease - State of California Department of Transportation - Selby & Palou Mini
2 Park - Annual Base Rent of \$2,000]

3 **Resolution authorizing a lease with the State of California, acting by and through**
4 **its Department of Transportation, for the Recreation and Park Department to**
5 **operate a property commonly known as Assessor’s Parcel Block No. 5331, Lot No.**
6 **056, located under Highway 280 along Selby Street between Quesada Avenue and**
7 **Palou Avenue, for an initial term of 10 years with three five-year options and base**
8 **rent of \$2,000 per year with four percent yearly adjustments; adopting**
9 **environmental findings and other findings that the actions set forth in this**
10 **Resolution are consistent with the General Plan, and the eight priority policies of**
11 **Planning Code, Section 101.1; and authorizing other actions in furtherance of this**
12 **Resolution, as defined herein.**

13
14 WHEREAS, Selby & Palou Mini Park is an existing approximately 12,500-square-
15 foot neighborhood park, located in the Bayview, in Supervisorial District 10 and partially
16 beneath the elevated Highway 280 along Selby Street between Quesada Avenue and
17 Palou Street; and

18 WHEREAS, Selby & Palou Mini Park is composed of three lots occupying the
19 west end of the block including two City-owned lots (Block No. 5331, Lot No. 055 and Lot
20 No. 057) and one State of California, Department of Transportation (“State”) owned lot
21 (Block No. 5331, Lot No. 056) located beneath the elevated Highway 280; and

22 WHEREAS, Under the existing lease from 1970 between the Recreation and Park
23 Department (“RPD”) and the State for the State-owned lot (“Property”), RPD has used
24 the Property for the sole purpose of recreational park space; and

1 WHEREAS, In the Summer of 2020, the State requested to update the existing
2 lease to conform to the State’s updated Marler-Johnson standard lease language and
3 rates to allow the continued lease and use of the Property as park space without
4 interruption; and

5 WHEREAS, In collaboration with State, RPD prepared an updated lease (“Lease”) with
6 mutually-agreeable terms and provisions that would supersede the existing 1970 lease; and

7 WHEREAS, The new lease will have an initial 10-year term and a total base rent of
8 \$2,000 per year with annual four percent rental adjustments thereafter; and

9 WHEREAS, The Lease grants RPD three five-year options to extend the term of the
10 Lease with four percent annual rental adjustments; and

11 WHEREAS, RPD will use the Property for a recreational purpose, the Property will be
12 subject to the terms of the Lease and the impacts of being directly below Highway 280, and the
13 Board’s approval of the Lease is not intended to convert the Property into park property for
14 purposes of the City Charter, or into a significant “park” or “recreational area” as those terms
15 are used in 23 United States Code, Section 138 and 49 United States Code, Section 303; and

16 WHEREAS, The City’s Planning Department issued a General Plan Referral (Case No.
17 2022-011364GPR) on December 20, 2022, which found the Lease to be consistent with the
18 eight priority policies of Planning Code, Section 101.1 and, on balance, in conformity with the
19 General Plan; and

20 WHEREAS, The General Plan Referral determined that the Lease is not a project under
21 the California Environmental Quality Act Guidelines, Sections 15378 and 15060(c) because it
22 would not result in a direct or indirect physical change to the environment; now, therefore, be it

23 RESOLVED, That in accordance with the recommendation of the Director of Property
24 and General Manager of the Recreation and Park Department, after consulting with the City
25 Attorney, the Director of Property is hereby authorized to take all actions, on behalf of the City,

1 as Tenant, to execute the Lease with the State, as Landlord, for Block No. 5331, Lot No. 056,
2 in San Francisco, California, substantially in the form on file with the Clerk of the Board of
3 Supervisors in File No. 230573; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors approves that the Lease may
5 include a clause with City indemnifying, holding harmless, and defending the State and its
6 officers, employees, and agents from and against any and all claims, suits, actions, injury,
7 damage, and liability incurred as a result of any acts or omissions by City in the performance of
8 its obligations under the lease or any allegedly dangerous condition of public property based
9 upon the condition of the property, excluding those incurred as a result of the highway structure
10 above the property or the use of or activities on the property by the State or its officers,
11 employees, or agents; and, be it

12 FURTHER RESOLVED, That the Lease is for an initial 10-year term, with three five-year
13 options to extend, at the same annual rental rate of \$2,000, as more particularly described in
14 the Lease; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
16 Property to enter into any amendments or modifications to the lease (including, without
17 limitation, the exhibits) that the Director of Property, in consultation with the RPD General
18 Manager and the City Attorney, determines are in the best interest of the City, do not materially
19 increase the obligations of the City or materially decrease the benefits of the City, are necessary
20 or advisable to consummate the performance of the purposes and intent of this Resolution, and
21 comply with all applicable laws, including the City's charter, including any modifications or
22 amendments to the lease; and, be it

23 FURTHER RESOLVED, That within thirty (30) days of the Lease being fully executed by
24 all parties, RED shall provide the agreement to the Clerk of the Board for inclusion in the official
25 file; and, be it

