

1 [Lease of Real Property - Golden Bear Restaurant Company III, dba Mission Rock Resort -
2 817 Terry A. Francois Boulevard]

3 **Resolution approving Port Commission Lease No. L-15108 with Golden Bear**
4 **Restaurant Company III, dba Mission Rock Resort, for restaurant building, deck, and**
5 **land of approximately 7,924 square feet located at 817 Terry A. Francois Boulevard in**
6 **the Central Waterfront with a 15 year term and one five year option.**

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8 WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San
9 Francisco Charter Section 4.114 and B3.581 empower the San Francisco Port Commission
10 ("Port Commission") with the power and duty to use, conduct, operate, maintain, manage,
11 regulate and control the lands within Port Commission jurisdiction; and

12 WHEREAS, In December 2011, Golden Bear Restaurant Company III, dba Mission
13 Rock Resort, ("GBRCIII") purchased the existing lease for the restaurant in a bankruptcy
14 auction from the prior tenant Kelly's Mission Rock, LLC; and

15 WHEREAS, GBRCIII wishes to make substantial tenant improvements of about One
16 Million Dollars (\$1,000,000.00) that will benefit the Port, but cannot be amortized over the
17 remainder of the term of the existing lease; and

18 WHEREAS, GBRCIII is a tenant in good standing; and

19 WHEREAS, for these and other reasons, the Port Commission approved direct
20 negotiations with GBRCIII on February 28, 2012 Port Commission Resolution 12-20 pursuant
21 to the Port's Retail Leasing Policy; and

22 WHEREAS, Proposed Lease L-15108 has an initial monthly rent of the higher of:
23 \$15,820.00 or 7% of all gross sales; and

24 WHEREAS, The proposed lease includes an unreimbursed increase in minimum base
25 rent, requires an investment in tenant improvements to the premises of at least \$1,000,000,

1 incorporates all City requirements and requires GBRC III to perform certain maintenance
2 activities and to make an investment in the adjacent park in the amount of \$25,000; and
3 provides an extension of approximately nine years over the existing term for purposes of
4 amortization; and

5 WHEREAS, San Francisco Charter Section 9.118 requires Board of Supervisors
6 approval of real property leases with terms of ten (10) or more years, including extension
7 options, or having anticipated revenue to the City of One Million Dollars (\$1,000,000.00) or
8 more; and

9 WHEREAS, This Lease may have a lease term of ten (10) years and the revenue is
10 expected to exceed One Million Dollars (\$1,000,000.00); now, therefore, be it

11 RESOLVED, That the Board of Supervisors approves the Lease; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
13 Director of the Port (the "Executive Director") to execute the Lease in a form approved by the
14 City Attorney and in substantially the form of the lease on file with the Clerk of the Board of
15 Supervisors; and, be it

16 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
17 Director to enter into any additions, amendments or other modifications to the Lease
18 (including, without limitation, preparation and attachment of, or changes to, any or all of the
19 exhibits and ancillary agreements) that the Executive Director, in consultation with the City
20 Attorney, determines, when taken as a whole, are in the best interest of the Port, , do not
21 materially increase the obligations or liabilities of the Port or City or materially decrease the
22 public benefits accruing to the Port, and are necessary or advisable to complete the
23 transactions contemplated and effectuate the purpose and intent of this Resolution, such
24 determination to be conclusively evidenced by the execution and delivery by the Executive
25 Director of any such documents; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors approves, and ratifies all prior
2 actions taken by the officials, employees and agents of the Port Commission, or the City with
3 respect to the Lease.

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