

1 [Lease Amendment - Union Square Garage - 333 Post Street]

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3 **Resolution: 1) approving and authorizing an amendment to the Lease of the Union**
4 **Square Garage at 333 Post Street with the City of San Francisco Uptown Parking**
5 **Corporation to continue the term of the Lease on a month-to-month basis following the**
6 **retirement of certain parking revenue bonds until the City and the Corporation either**
7 **execute a new lease to replace the existing Lease, or complete an agreement to**
8 **terminate the Lease and create a new advisory body in place of the Corporation; and 2)**
9 **ratifying prior acts.**

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11 WHEREAS, The City and County of San Francisco ("the City") owns certain real
12 property located at 333 Post Street in San Francisco, California ("the Premises"), which is
13 used as an off-street parking facility commonly referenced as the "Union Square Garage,"
14 which is under the jurisdiction of the City's Recreation and Park Department and managed by
15 the San Francisco Municipal Transportation Authority ("SFMTA"); and

16 WHEREAS, The City of San Francisco Uptown Parking Corporation ("the
17 Corporation"), a non-profit public benefit corporation whose sole shareholder is the City, was
18 formed on February 24, 1956 for the purpose of assisting the City in acquiring, financing and
19 managing off-street parking facilities; and

20 WHEREAS, The City has leased the Premises to the Corporation under a lease
21 agreement dated May 1, 1999, and recorded on April 30, 1999 ("the Lease"); and

22 WHEREAS, On or about April 1, 2001, the Corporation issued certain parking revenue
23 bonds ("the Bonds") to refinance existing bonds issued by the Corporation to finance or
24 refinance the construction and improvement of the Premises; and

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1 WHEREAS, The Lease currently provides that the City has "Buyback" rights by which
2 the City may payoff and retire the Bonds, and that the Lease shall terminate upon the
3 payment of the Bonds; and

4 WHEREAS, The City, acting by and through the SFMTA, desires to redeem and/or
5 defease the Bonds to facilitate the SFMTA's directly issuing new bonds (the "New Bonds")
6 that will be secured in part by revenues of the Premises; and

7 WHEREAS, Following redemption and/or defeasance retirement of the Bonds, the City
8 and the Corporation desire to continue the term of the Lease for an interim period on a month-
9 to-month basis pending the parties' entry to a new lease (the "New Lease"), or in the
10 alternative, entry into an agreement terminating the Lease and wrapping up the business of
11 the Corporation, and creating an advisory body to replace the Corporation; and

12 WHEREAS, The scheduling of the issuance of the New Bonds does not allow sufficient
13 time to obtain necessary approvals for the New Lease, or in the alternative, to assign
14 subleases and vendor agreements, wind-up the affairs of the Corporation, and determine the
15 structure and role of a new advisory body; and

16 WHEREAS, The City and the Corporation have negotiated a proposed amendment of
17 the Lease (the "Lease Amendment") in substantially the form on file with the Clerk of the
18 Board in File No. _____, which includes, among other provisions, the
19 following significant terms:

20 (1) Upon payment and retirement of the Bonds, the term of the Lease shall continue
21 on a month-to-month basis unless and until terminated, or replaced by approval and execution
22 of a New Lease;

23 (2) The parties agree to work cooperatively and expeditiously following redemption
24 and/or defeasance of the Bonds to either effect the New Lease or to terminate the existing
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1 Lease and create a new advisory body to replace the Corporation within 180 days of the
2 effective date of the Lease Amendment;

3 (3) Upon the City's payment of the Bonds, the Corporation shall transfer all revenues
4 derived from the Premises, including but not limited to rent and garage parking fees, to the
5 City, on a monthly basis; and

6 WHEREAS, At its public meeting on June 21, 2012, the Recreation and Park
7 Commission voted to recommend that the Board of Supervisors approve the Lease
8 Amendment, and a copy of Commission Resolution No. 1206-015 is on file with the Clerk of
9 the Board of Supervisors in File No. _____, and is incorporated herein by
10 reference; and

11 WHEREAS, The City's Planning Department has found that the Lease Amendment is
12 not subject to the California Environmental Quality Act (a copy of this finding is on file with the
13 Clerk of the Board of Supervisors in File No. _____, and is incorporated
14 herein by reference); now, therefore, be it

15 RESOLVED, That the Board of Supervisors hereby approves and authorizes the
16 execution, delivery and performance by the City of the Lease Amendment; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors authorizes the Recreation and
18 Park General Manager to execute and deliver the Lease Amendment in substantially the form
19 filed with the Clerk of the Board in File No. _____, and to take any and all steps
20 necessary or appropriate to effectuate the execution, delivery and performance of the Lease
21 Amendment. The Recreation and Park General Manager, at his or her discretion and in
22 consultation with the City Attorney and the City's Controller, is authorized to enter into any
23 additions, amendments, or other modifications to the Lease Amendment that the Recreation
24 and Park General Manager determines are in the best interests of the City and do not
25 materially increase the obligations or liabilities of the City or materially decrease the payments

1 or other benefits to the City, and are necessary or advisable to effectuate the purpose and
2 intent of this Resolution; and, be it

3 FURTHER RESOLVED, That any and all actions heretofore taken by City employees
4 or officials with respect to the Lease Amendment are hereby approved, confirmed and ratified.

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