

1 [Lease Agreement - Historic Buildings at 400-600 20th Street - Orton Development, Inc. -
2 Historic Pier 70, LLC]

3 **Resolution approving and authorizing a lease for the historic buildings having an**
4 **address at 400-600 20th Street east of Illinois Streets at Pier 70 between the Port**
5 **Commission and Orton Development, Inc., or its affiliate, Historic Pier 70, LLC, a**
6 **California limited liability company, for a term of 66 years to commence following**
7 **Board approval.**

8
9 WHEREAS, The City and County of San Francisco, acting by and through the San
10 Francisco Port Commission ("Port" or "Port Commission"), owns a cluster of several historic
11 buildings in need of substantial rehabilitation (the "20th Street Historic Buildings"), having an
12 address at 400-600 20th Street, at and east of Illinois Street which buildings are generally
13 known as the "Historic Core" and form a part of the area generally referred to as Pier 70; and

14 WHEREAS, Pier 70 is the most intact 19th century industrial complex west of the
15 Mississippi River, containing a rich collection of resources, and provides a physical record
16 expressing continuity with past trends in industrial architecture and design; and

17 WHEREAS, The Union Iron Works Historic District (which encompasses all of Pier 70
18 including the 20th Street Historic Buildings) has been listed in the National Register of Historic
19 Places in April 2014; and

20 WHEREAS, Two of the 20th Street Historic Buildings, the Bethlehem Steel Main Office
21 Building (Building 101) and Powerhouse (Building 102), both designed by two renowned San
22 Francisco architects, Frederick H. Meyer and Charles Peter Weeks during World War I, create
23 a grand formal entrance to the shipyard at the corner of 20th and Illinois Streets; and these two
24 buildings, along with the Union Iron Works Administration (Building 104) and the Union Iron
25

1 Works Machine Shop and Foundry (Buildings 113/114) along 20th Street form the core of the
2 proposed Pier 70 Historic District, and

3 WHEREAS, The 20th Street Historic Buildings are in poor condition, the Union Iron
4 Works Administration (Building 104) and the Union Iron Works Machine Shop and Foundry
5 (Buildings 113/114) are condemned, and all are deteriorating, and will be lost if they are not
6 rehabilitated; and

7 WHEREAS, On February 28, 2012, by Resolution 12-18, the Port Commission
8 awarded Orton Development, Inc. ("Orton") an exclusive right to negotiate with Port for the
9 development, rehabilitation, and lease of the 20th Street Historic Buildings (the "Project")
10 pursuant to a validly authorized and conducted RFP process; and

11 WHEREAS, On October 9, 2012, by Resolution No. 12-78, the Port Commission
12 endorsed the term sheet for the Project ("Term Sheet") and on December 4, 2012, by
13 Resolution No. 121045, the Board of Supervisors ("Board") endorsed the Term Sheet; and

14 WHEREAS, Port staff and Orton have negotiated the terms of the (1) Lease Disposition
15 and Development Agreement ("LDDA"), (2) form of Lease No. L-15814 ("Lease"), and
16 (3) such other documents related to the Project as contemplated in the foregoing documents
17 (collectively, the "Transaction Documents"), described in the Memorandum for Agenda Item
18 12A for the Port Commission meeting of May 13, 2014, a copy of the Memorandum and
19 Lease are on file with the Clerk of the Board in File No. _____; and

20 WHEREAS, The Lease will require Orton to comply with the Secretary of the Interior's
21 Standards for the Treatment of Historic Properties in connection with rehabilitation of the 20th
22 Street Historic Buildings; and

23 WHEREAS, City and Port staff and consultants have conducted substantial analysis of
24 the Project's costs and economic impacts and benefits on the Port and City; and
25

1 WHEREAS, The Project will generate significant public benefits for the Port and the
2 City, including: (i) the rehabilitation and reuse of historic buildings that are currently vacant
3 and dilapidated; (ii) the creation of new public access areas within historic buildings; (iii) the
4 creation of significant new jobs and economic development; and (iv) both minimum rent and
5 ongoing participation rent to Port to help the Port continue to promote public trust uses and
6 purposes; and

7 WHEREAS, The Lease is structured to provide financial incentives to Orton to control
8 costs including a cap of \$14 million in recoverable developer equity, a cashflow bonus of 20%
9 of revenues above pro forma projections for 20 years as well as project cost controls including
10 a Guaranteed Maximum Price Contract reviewed by the Port prior to Lease execution; Orton
11 providing monthly statement of costs as well as ongoing construction oversight from City and
12 Port; and

13 WHEREAS, Based on third party analysis, the rehabilitation of the 20th Street Historic
14 Buildings consistent with the Secretary Standards is not feasible with only public trust uses;
15 and

16 WHEREAS, In addition to commitments of over \$35 million of construction loan
17 proceeds from an institutional lender and Orton equity in excess of \$5 million, Port and Orton
18 have identified public financing mechanisms, as potential additional funding sources for the
19 Project including: (1) up to \$[26,000,000] of loan proceeds from the City's Seismic Safety
20 Loan Program to fund some or all of the seismic work for the unreinforced masonry
21 Buildings 113/114 and 104 conditioned on the Board's approval, pursuant to Board Resolution
22 No. ____, a copy of which, along with supporting documents for such resolution are on file
23 with the Clerk of the Board in File No. ____, of the issuance and sale of general obligation
24 bonds not to exceed the principal amount of \$[26,000,000] [in one or more series to be
25 designated as "City and County of San Francisco Taxable General Obligation Bonds (Seismic

1 Safety Loan Program, 1992), Series 2014”] for the purposes set forth in Proposition A
2 approved by the voters on November 3, 1992, which Proposition A authorized the issuance of
3 \$350,000,000 aggregate principal amount of general obligation bonds to provide funds for
4 loans to finance the seismic strengthening of unreinforced masonry buildings within the City],
5 and (2) tax increment from the leasehold, conditioned on the Board's creation of a Port
6 Infrastructure Financing District and approval of an Infrastructure Financing Plan for public
7 realm improvements within and adjacent to the leasehold, phase 2 of Crane Cove Park, and
8 Crane Cove waterfront remediation; and

9 WHEREAS, The Project is within the Eastern Neighborhoods Community Plan Area,
10 for which the San Francisco Planning Commission certified the Eastern Neighborhoods
11 Rezoning and Area Plans Final EIR (“EN FEIR”) (Planning Department Case
12 No. 2004.0160E); and

13 WHEREAS, The Planning Department reviewed the Project and determined that a
14 community plan exemption under California Environmental Quality Act (“CEQA”) Guidelines
15 Section 15183 would be appropriate because the Project is within the scope of the EN FEIR
16 and would not have any additional or significant adverse effects that were not examined in the
17 EN FEIR, nor has any new or additional information come to light that will alter the
18 conclusions of the EN FEIR and the proposed Project will not have any new effects on the
19 environment that were not previously identified in the EN FEIR, nor will any environmental
20 impacts be substantially greater than described in the EN FEIR and no mitigation measures
21 previously found infeasible have been determined to be feasible, nor have any new mitigation
22 measures or alternatives been identified but rejected by the project sponsors and this Board
23 affirms and adopts these findings; and

24 WHEREAS, The San Francisco Planning Department prepared a Community Plan
25 Exemption for the proposed Project, which exemption was approved on May 7, 2014; and

1 WHEREAS, A copy of the Community Plan Exemption is on file with the Clerk of the
2 Board in File No. ____; and

3 WHEREAS, All applicable mitigation measures from the EN FEIR have been
4 incorporated into the proposed Project and the Port Commission has imposed them as
5 conditions of approval through the adoption of the Mitigation Monitoring and Reporting
6 Program ("MMRP") on file with the Clerk of the Board in File No. ____; now, therefore, be it

7 RESOLVED, That the Board adopts and incorporates by reference as though fully set
8 forth herein the MMRP on file with the Clerk of the Board in File No. ____; and, be it

9 FURTHER RESOLVED, That Orton was selected to rehabilitate the 20th Street Historic
10 Buildings pursuant to a validly authorized and conducted RFP process; and, be it

11 FURTHER RESOLVED, That the Lease will require Orton to comply with the Secretary
12 of the Interior's Standards for the Treatment of Historic Properties in connection with
13 rehabilitation of the 20th Street Historic Buildings; and, be it

14 FURTHER RESOLVED, That this Board has reviewed and is satisfied with the
15 Project's (1) revised cost estimates, project financing, and pro forma financial analysis; and
16 (2) Port's procedures to control and verify project costs; and, be it

17 FURTHER RESOLVED, That this Board approves the form and the substance of the
18 Lease pursuant to its authority under Charter Section 9.118, including all attachments and
19 exhibits thereto, and the transactions and other agreements which such Transaction
20 Documents contemplate, incorporating the material business terms set forth in the
21 Memorandum for Agenda Item 12A for the Port Commission meeting on May 13, 2014, a
22 copy of which is on file with the Clerk of the Board in File No. ____; and, be it

23 FURTHER RESOLVED, That this Board authorizes and directs the Executive Director
24 of the Port ("Executive Director") to execute the Lease upon satisfaction or waiver of the
25 conditions precedent set forth in the LDDA, in substantially the form on file with the Clerk of

1 the Board in File No. _____, and in such final form as is approved by the Executive Director in
2 consultation with the City Attorney; and, be it

3 FURTHER RESOLVED, That this Board authorizes the Executive Director to enter into
4 other agreements, encroachment permits, easement agreements, and other related
5 covenants and property documents necessary to implement the transactions contemplated by
6 the Transaction Documents, and to enter into any additions, amendments or other
7 modifications to the Lease, including preparation and attachment of, or changes to, any or all
8 of the attachments and exhibits that the Executive Director, in consultation with the City
9 Attorney, determines are in the best interests of the City or Port, do not materially decrease
10 the benefits or otherwise materially increase the obligations or liabilities of the City or Port,
11 and are necessary or advisable to complete the transactions that the Transaction Documents
12 contemplate and effectuate the purpose and intent of this resolution, such determination to be
13 conclusively evidenced by the execution and delivery by the Executive Director of such other
14 agreements, easement agreements and other related covenants and property documents,
15 and/or additions, amendments or other modifications to the Lease; and, be it

16 FURTHER RESOLVED, That this Board authorizes the Executive Director and any
17 other appropriate officers, agents or employees of the City to take any and all steps (including
18 the execution and delivery of any and all certificates, agreements, notices, consents, escrow
19 instructions, closing documents and other instruments or documents) as they or any of them
20 deems necessary or appropriate, in consultation with the City Attorney, in order to
21 consummate the transactions contemplated under the Transaction Documents, in accordance
22 with this resolution, or to otherwise effectuate the purpose and intent of this resolution, such
23 determination to be conclusively evidenced by the execution and delivery by any such person
24 or persons of any such documents; and, be it

1 FURTHER RESOLVED, That any change to the financial terms of the Lease that
2 materially decrease the benefits or otherwise materially increase the obligations or liabilities of
3 the City or Port is subject to the prior approval of the Board of Supervisors; and, be it

4 FURTHER RESOLVED, That this Board directs Port staff to seek Board adoption of an
5 ordinance to create the Port Infrastructure Financing District and approval of an Infrastructure
6 Financing Plan for public realm improvements within and adjacent to the leasehold,
7 installation of new electrical service to service the Pier 70 Shipyard and removal of old
8 transformers from Building 102, and Phase 2 of Crane Cove Park including sediment
9 remediation following completion of any necessary environmental documentation prepared in
10 compliance with CEQA with respect to the foregoing improvements; and, be it

11 FURTHER RESOLVED, That this Board approves, confirms and ratifies all prior
12 actions taken by the officials, employees and agents of the Port Commission or the City with
13 respect to the Transaction Documents.