

1 [Board Response - Civil Grand Jury Report - The Port of San Francisco, Caught Between
2 Public Trust and Private Dollars]

3 **Resolution responding to the Presiding Judge of the Superior Court on the findings**
4 **and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled**
5 **“The Port of San Francisco, Caught Between Public Trust and Private Dollars;” and**
6 **urging the Mayor to cause the implementation of accepted findings and**
7 **recommendations through his/her department heads and through the development of**
8 **the annual budget.**

9
10 WHEREAS, Under California Penal Code, Section 933 et seq., the Board of
11 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
12 Court on the findings and recommendations contained in Civil Grand Jury Reports; and

13 WHEREAS, In accordance with California Penal Code, Section 933.05(c), if a finding or
14 recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a
15 county agency or a department headed by an elected officer, the agency or department head
16 and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the
17 response of the Board of Supervisors shall address only budgetary or personnel matters over
18 which it has some decision making authority; and

19 WHEREAS, The 2013-2014 Civil Grand Jury Report, entitled “The Port of San
20 Francisco, Caught Between Public Trust and Private Dollars” is on file with the Clerk of the
21 Board of Supervisors in File No. 140939, which is hereby declared to be a part of this
22 resolution as if set forth fully herein; and

23 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond
24 to Finding Nos. 1, 4, 6, 8, and 11, as well as Recommendation Nos. 1, 4b, 6, 8a, 8b, and 11
25 contained in the subject Civil Grand Jury report; and

1 WHEREAS, Finding No. 1 states: "Recent activities at the Port have been strongly
2 influenced by the Mayor's office. These included the promotion of the 8 Washington Street
3 project, most aspects of the 34th America's Cup races, a "legacy project" at Pier 30-32, and
4 an underutilized cruise ship terminal at Pier 27. The Port Commission readily gave approvals
5 with minimal public input. All other commissions dealing with land use decisions, including
6 Planning, Building Inspection, and Board of Permit Appeals, are not appointed solely by the
7 mayor. Section 12 of the Burton Act specifies that all five Harbor Commissioners be appointed
8 by the Mayor and confirmed by the Board;" and

9 WHEREAS, Finding No. 4 states: "The priority of the Port for development is to create
10 an income stream for capital improvements rather than a determination of how best to
11 enhance the quality of life for the residents of the City. Port revitalization has been enhanced
12 in the past by adherence to the Waterfront Land Use Plan. Developments have provided local
13 business opportunities, mixed housing where appropriate, stronger public transit options,
14 maintenance of height and bulk limits, and preservation of view corridors. Some uses,
15 however, both current and proposed, of Port land do not conform to the Waterfront Land Use
16 Plan. Zoning and height limits have been changed by the Planning Department and the
17 Mayor's Office. There is a lack of transparency in development proposals, particularly in
18 regard to input from the Mayor's Office and active involvement of former Mayoral staff
19 advocating on behalf of developers, giving rise to concerns that an agreement had been
20 reached prior to public input.;" and

21 WHEREAS, Finding No. 6 states: "When it becomes operational, the Cruise Ship
22 Terminal at Pier 27 is projected to be severely underutilized. This is because federal law,
23 namely the Passenger Vessel Services Act of 1886, prohibits foreign-flagged passenger ships
24 from calling on two U.S. ports without an intervening foreign port. This Act greatly restricts the
25 use of the newly built Cruise Ship Terminal. The Port estimates that the use of the terminal

1 would increase from the current 50 visits per year to 150 visits if the Passenger Vessel
2 Services Act of 1886 were amended or the Port were granted an exemption for a pilot
3 program. It is also estimated that there is between \$750,000 and \$1 million economic benefit
4 to the City from each docking. This includes ship provisioning, tourism, berthing fees and
5 tugboats;" and

6 WHEREAS, Finding No. 8 states: "The 34th America's Cup was a major monetary loss
7 to the City's taxpayers to the tune of about \$6 million and a major loss to the Port of about
8 \$5.5 million in unreimbursed Port expenditures. The City and the Port subsidized the
9 America's Cup at taxpayers' expense. The City received no direct revenue from the 34th
10 America's Cup event in the form of revenue sharing or venue rent. In negotiating event and/or
11 development agreements at the waterfront, the City and Port does not seek to make a profit
12 from the deal but is simply looking to recover its costs and break even;" and

13 WHEREAS, Finding No. 11 states: "Although State Law does not require voter
14 approval for the issuance of Port IFD Bonds, voter approval yields greater public awareness
15 of the costs of proposed Port developments;" and

16 WHEREAS, Recommendation No. 1 states: "The Port Commission should be
17 restructured to reflect more public interest. The Jury recommends that the Board of
18 Supervisors seek necessary changes in state law to allow a charter amendment to be
19 submitted to the public for revision of the current five-member Port Commission appointed by
20 the Mayor to a Port Commission with three mayoral appointees and two by the Board of
21 Supervisors. We recommend that this change be put before the voters in 2015;" and

22 WHEREAS, Recommendation No. 4b states: "The Port should ensure that changes or
23 variances to the existing Waterfront Land Use Plan or the City's General Plan should have
24 extensive public input before implementation;" and

1 WHEREAS, Recommendation No. 6 states: "SFMTA should incorporate current and
2 future transit needs, taking into consideration not only increased capacity requirements from
3 individual projects, but the cumulative effect of multiple projects added to existing passenger
4 loads. SFMTA must address reliability and increased capacity that will be required for all
5 modes of transportation, especially the T-Line and motor coach lines connecting to the Pier 70
6 site. The VETAG system should be maintained to operate at maximum efficiency;" and

7 WHEREAS, Recommendation No. 8a states: "All major events at the Port, like the
8 America's Cup, must be approved by the Port Commission and the Board of Supervisors;"
9 and

10 WHEREAS, Recommendation No. 8b states: "Prior to approval, the City should
11 require a validated cost proposal using fair market rental rates, revenue sharing with the Port,
12 marquee billing for the City, full post-event accounting, and posting of all event financials on
13 the Port website within one month after completion of the event. Said report shall include an
14 itemization of: 1) The amount and source of all revenue generated by the event; 2) The
15 amount, payor, and payee of each cost incurred for the event; and 3) The name of each event
16 cancelled, if any, as a result of the approval of the event and the amount of revenue lost as a
17 result of the cancellation;" and

18 WHEREAS, Recommendation No. 11 states: "The Jury recommends that the Port
19 Commission work with the Board of Supervisors to place a referendum before the voters that
20 asks for approval to issue IFD Bonds. Such a referendum should specifically state the total
21 amount of bonded indebtedness that the Port seeks to incur through IFD Bonds, the specific
22 sources of funds for IFD Bond repayment, and the length of time required to discharge any
23 IFD Bond debt;" and

24 WHEREAS, In accordance with California Penal Code, Section 933.05(c), the Board of
25 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior

1 Court on Finding Nos. 1, 4, 6, 8, and 11, as well as Recommendation Nos. 1, 4b, 6, 8a, 8b,
2 and 11 contained in the subject Civil Grand Jury report; now, therefore, be it

3 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the
4 Superior Court that _____ with Finding No. 1 for reasons as follows: _____; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors reports that _____ with
6 Finding No. 4 for reasons as follows: _____; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors reports that _____ with
8 Finding No. 6 for reasons as follows: _____; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors reports that _____ with
10 Finding No. 8 for reasons as follows: _____; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors reports that _____ with
12 Finding No. 11 for reasons as follows: _____; and, be it

13 FURTHER RESOLVED, That the Board of Supervisors reports that _____ with
14 Recommendation No. 1 for reasons as follows: _____; and, be it

15 Recommendation No. 4b for reasons as follows: _____; and, be it

16 FURTHER RESOLVED, That the Board of Supervisors reports that _____ with
17 Recommendation No. 6 for reasons as follows: _____; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors reports that _____ with
19 Recommendation No. 8a for reasons as follows: _____; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors reports that _____ with
21 Recommendation No. 8b for reasons as follows: _____; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors reports that _____ with
23 Recommendation No. 11 for reasons as follows: _____; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the
2 implementation of the accepted findings and recommendations through his/her department
3 heads and through the development of the annual budget.