

1 [Memorandum of Understanding Regarding Interagency Cooperation - Pier 70 Project]

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3 **Resolution approving the Memorandum of Understanding between the Port and other**  
4 **City Agencies regarding Interagency Cooperation; and adopting findings under the**  
5 **California Environmental Quality Act.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
9 **Board amendment additions** are in double-underlined Arial font.  
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
11 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections  
12 or parts of tables.

10 WHEREAS, California Statutes of 1968, Chapter 1333 (“Burton Act”) and Charter,  
11 Sections 4.114 and B3.581, empower the City and County of San Francisco, acting through  
12 the San Francisco Port Commission (“Port”), with the power and duty to use, conduct,  
13 operate, maintain, manage, regulate and control the lands within Port Commission jurisdiction;  
14 and

15 WHEREAS, The Port owns an approximately 28-acre area at Pier 70 known as the  
16 “28-Acre Site,” bounded generally by Illinois Street on the west, 22nd Street on the south,  
17 20th Street on the north and San Francisco Bay on the east; and

18 WHEREAS, From 2007 to 2010, the Port conducted a community process that  
19 evaluated the unique site conditions and opportunities at Pier 70 and built a public consensus  
20 for Pier 70's future that nested within the policies established for the Eastern Neighborhoods-  
21 Central Waterfront; and

22 WHEREAS, This process culminated in the Pier 70 Preferred Master Plan, which was  
23 endorsed by the Port Commission in May 2010, and the proposed mixed-use development at  
24 Pier 70 (the “Pier 70 Mixed Use Development Project”); and

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1           WHEREAS, In April 2011, by Resolution No. 11-21, the Port Commission awarded to  
2 Forest City Development California, Inc. (“Forest City”), through a competitive process, the  
3 opportunity to negotiate for the development of the 28-Acre Site as a mixed-use development  
4 and historic preservation project (the “28-Acre Site Project”); and

5           WHEREAS, In May 2013, by Resolution No. 13-20, the Port Commission endorsed the  
6 Term Sheet for the 28-Acre Site Project; and

7           WHEREAS, Subsequently, in June 2013, by Resolution No. 201-13, the Board of  
8 Supervisors found the 28-Acre Site Project fiscally feasible under Administrative Code,  
9 Chapter 29 and endorsed the Term Sheet for the 28-Acre Site Project; and

10           WHEREAS, Port and City staff and FC Pier 70, LLC, an affiliate of Forest City  
11 (“Developer”), have negotiated the terms of the Disposition and Development Agreement  
12 (“DDA”) and related transaction documents that are incorporated into the DDA which provide  
13 the overall road map for development of the 28-Acre Site Project, including a Financing Plan,  
14 an Infrastructure Plan, an Affordable Housing Plan, a Transportation Plan that includes a  
15 Transportation Demand Management Program, a Workforce Development Plan, an arts  
16 program for the use of the arts building on Parcel E4 (including replacement studio space for  
17 the artist community in the Noonan building), and forms of an interim Master Lease, Vertical  
18 Disposition and Development Agreement and Parcel Lease (including applicable lease terms  
19 for Historic Buildings 2, 12 and 21); and

20           WHEREAS, Depending on the uses proposed, the 28-Acre Site Project would include  
21 between 1,100 and 2,150 residential units, a maximum of between 1 million and 2 million  
22 gross square feet (“gsf”) of commercial-office use, and up to 500,000 gsf of retail-light  
23 industrial-arts use, construction of transportation and circulation improvements, new and  
24 upgraded utilities and infrastructure, geotechnical and shoreline improvements, and nine  
25 acres of publicly-owned open space; and

1           WHEREAS, On May 23, 2017, Port staff presented to the Port Commission the  
2 proposed Streetscape Master Plan, Transportation Plan, and Infrastructure Plan providing the  
3 vision, intent, and guidelines for infrastructure and public facilities, known as horizontal  
4 improvements, that will serve and physically transform the Pier 70 Special Use District (“Pier  
5 70 SUD”) over the 28-Acre Site and the adjacent Illinois Street Parcels into a new, vibrant  
6 neighborhood; and

7           WHEREAS, In order to promote development in accordance with the objectives and  
8 purposes of the DDA, it is contemplated that the City will undertake and complete certain  
9 proceedings and actions necessary to be carried out by the City to assist in the  
10 implementation of the DDA, including entering into a Memorandum of Understanding between  
11 the Port and other City agencies regarding Interagency Cooperation (the “ICA”), a copy of  
12 which is in Board File No. 170988, that sets out cooperative procedures for administering  
13 horizontal improvement plans submitted in accordance with the Subdivision Code and design,  
14 development, construction, and inspection of horizontal improvements; and

15           WHEREAS, The ICA also establishes procedures relating to approvals by the San  
16 Francisco Fire Department, San Francisco Public Utilities Commission, San Francisco Public  
17 Works, and San Francisco Municipal Transportation Agency; and

18           WHEREAS, As authorized under the ICA, staff intends to negotiate a memorandum of  
19 understanding among City departments setting out permitting, maintenance, liability, and  
20 ownership responsibilities for the streets and other infrastructure and public facilities in the  
21 Pier 70 SUD; and

22           WHEREAS, Under San Francisco Charter Section B7.320, the Mayor may submit to  
23 the Board of Supervisors a memorandum of understanding between the Port Commission and  
24 another department of the City, approved by the Port Commission by resolution; and  
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1           WHEREAS, On August 24, 2017, the Planning Commission (1) reviewed and  
2 considered the Final Environmental Impact Report for the Pier 70 Mixed Use Project (“FEIR”)  
3 (Case No. 2014-001272ENV); (2) found the FEIR to be adequate, accurate and objective,  
4 thus reflecting the independent analysis and judgment of the Planning Department and the  
5 Planning Commission; and (3) by Motion No. 19976, certified the FEIR as accurate, complete  
6 and in compliance with the California Environmental Quality Act (“CEQA”), the CEQA  
7 Guidelines, and Chapter 31 of the San Francisco Administrative Code; and

8           WHEREAS, At the same hearing, the Planning Commission approved the Pier 70  
9 Mixed Use Project and in so doing, adopted approval findings under CEQA by Motion No.  
10 19977, including a Statement of Overriding Considerations (the “Pier 70 CEQA Findings”),  
11 and adopted a Mitigation Monitoring and Reporting Program (“MMRP”); and

12           WHEREAS, A copy of the Planning Commission Motions, the Pier 70 CEQA Findings,  
13 and the MMRP are on file in Board File No. 170930 and may be found in the records of the  
14 Planning Department at 1650 Mission Street, San Francisco, CA, and are incorporated in this  
15 resolution by reference as if fully set forth herein; and

16           WHEREAS, On September 5, 2017, by Resolution 170905-112, the Board of Directors  
17 of the San Francisco Municipal Transportation consented to the ICA; and

18           WHEREAS, On September 26, 2017, by Resolution 17-48, the San Francisco Port  
19 Commission approved and authorized the Executive Director of the Port, or her designee, to  
20 execute the ICA and recommended its approval to the other consenting City departments; and

21           WHEREAS, On September 26, 2017, by Resolution 17-209, the San Francisco Public  
22 Utilities Commission consented to the ICA; and

23           WHEREAS, The Board of Supervisors has reviewed the FEIR, the MMRP and the  
24 CEQA Findings, and finds that the approvals before the Board of Supervisors are within the  
25 scope of the FEIR and that no substantial changes in the Pier 70 Mixed Use Project or the

1 circumstances surrounding the Pier 70 Mixed Use Project have occurred and no new  
2 information that could not have been known previously showing new significant impacts or an  
3 increase in severity in impacts has been discovered since the FEIR was certified; now,  
4 therefore be it

5           RESOLVED, That the Board of Supervisors adopts the Pier 70 CEQA Findings as its  
6 own and adopts the MMRP and imposes its requirements as a condition to this approval  
7 action; and be it

8           FURTHER RESOLVED, That the Board of Supervisors determines that the 28-Acre  
9 Site Project is furthered by the ICA, is in the best interests of the Port, the City, and the health,  
10 safety, morals and welfare of its residents, and is in accordance with the public purposes and  
11 provisions of applicable federal, state and local laws and requirements; and be it

12           FURTHER RESOLVED, That the Board of Supervisors approves the ICA under  
13 Charter Section B7.320 and authorizes the Executive Director of the Port, the Chief of the San  
14 Francisco Fire Department, the General Manager of the San Francisco Public Utilities  
15 Commission, the Director of San Francisco Public Works, and the Director of Transportation  
16 of the San Francisco Municipal Transportation Agency, or their designees, to execute and  
17 implement the ICA; and be it

18           FURTHER RESOLVED, That the Board of Supervisors authorizes and delegates to the  
19 Executive Director of the Port, the Chief of the San Francisco Fire Department, the General  
20 Manager of the San Francisco Public Utilities Commission, the Director of San Francisco  
21 Public Works, and the Director of Transportation of the San Francisco Municipal  
22 Transportation Agency, or their designees, the authority to make changes to the ICA and take  
23 any and all steps, including but not limited to, the attachment of exhibits and the making of  
24 corrections, as the they determine, in consultation with the City Attorney, are necessary or  
25 appropriate to consummate the ICA in accordance with this Resolution, including entering into

1 subsequent interagency memoranda of understanding regarding permitting, maintenance,  
2 liability, and ownership responsibilities for the streets and other infrastructure and public  
3 facilities in the Pier 70 SUD; provided, however, that such changes and steps do not  
4 materially decrease the benefits to or materially increase the obligations or liabilities of the  
5 City, and are in compliance with all applicable laws.

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