

1 [Cooperative Agreement - San Francisco Bay Area Rapid Transit District]

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3 **Resolution approving a Cooperative Agreement between the City and County of San**  
4 **Francisco and the San Francisco Bay Area Rapid Transit District (BART), through its**  
5 **Port Commission, authorizing BART to install, use, and maintain security barriers on**  
6 **and under the Ferry Plaza Platform, on the east side of the Ferry Building along the**  
7 **Embarcadero, for a term of 66 years, subject to BART's right to request an extension**  
8 **before the end of the 64<sup>th</sup> year of the term.**

9  
10 WHEREAS, The San Francisco Bay Area Rapid Transit District ("BART") proposes to  
11 construct within the boundaries of the San Francisco Bay and on and under the Ferry Plaza  
12 Platform enhanced security barriers around the BART transit facilities to protect its continuing  
13 use and restrict access in the proximity of the facilities;

14 WHEREAS, The Port of San Francisco and BART have negotiated a cooperative  
15 agreement authorizing BART to install, use and maintain the security barriers on and under  
16 the Ferry Plaza Platform, on the east side of the Ferry Building along The Embarcadero, for a  
17 term of 66 years (the "Cooperative Agreement"); and

18 WHEREAS, The Cooperative Agreement grants BART the right to request an  
19 extension of the term of the agreement before the end of the 64<sup>th</sup> year of the term and  
20 obligates the Port to negotiate the extension in good faith with BART; and

21 WHEREAS, The Cooperative Agreement does not require BART to pay the Port a fee  
22 for the use of Port property; however, the barriers will benefit the trust and the City by  
23 protecting the public and BART's public transit system, assuring public transit to the waterfront  
24 and the City; and

1           WHEREAS, The BART barriers will not require the expenditure of Port harbor trust or  
2 other City revenues; and

3           WHEREAS, In addition to granting BART the right to install the barriers, the  
4 Cooperative Agreement requires BART to obtain building permits from the Port for  
5 construction of the barriers, be responsible for any and all damages caused by the  
6 construction, installation, use, maintenance, repair or relocation of the barriers, and indemnify  
7 the City for BART's activities under the Cooperative Agreement; and  
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9           WHEREAS, On October 26, 2010, the Port Commission, by Port Resolution No. 10-71  
10 approved the Cooperative Agreement, subject to approval by the Board of Supervisors; and

11           WHEREAS, BART has authority to make its own California Environmental Quality Act  
12 (CEQA) determinations, and has determined that the proposed surface barriers are  
13 categorically exempt from CEQA under Class 15301(f), and the Port and the City Planning  
14 Department's Major Environmental Analysis Division ("MEA"), have determined that this  
15 determination is adequate for the proposed surface barriers on the Ferry Plaza Platform; and  
16

17           WHEREAS, Before the Port issues building permits for BART's marine barriers, the  
18 Port and MEA, in their sole discretion, must first determine that BART's CEQA determination  
19 for the barriers is adequate; and the Bay Conservation and Development Commission must  
20 also provide permit approval for the marine barriers; now, therefore, be it  
21

22           RESOLVED, That the Board of Supervisors approves the Cooperative Agreement;  
23 and, be it  
24  
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1           FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive  
2 Director of the Port (the "Executive Director") to execute the Cooperative Agreement in a form  
3 approved by the City Attorney; and, be it

4           FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive  
5 Director to enter into any additions, amendments or other modifications to the Cooperative  
6 Agreement (including, without limitation, preparation and attachment of, or changes to, any or  
7 all of the exhibits and ancillary agreements) that the Executive Director, in consultation with  
8 the City Attorney, determines are in the best interests of the Port and City, do not materially  
9 increase the obligations or liabilities of the Port or City or materially decrease the public  
10 benefits accruing to the Port, and are necessary or advisable to complete the transactions  
11 which the Cooperative Agreement contemplates and there under and effectuates the purpose  
12 and intent of this Resolution, such determination to be conclusively evidenced by the  
13 execution and delivery by the Executive Director of any the Cooperative Agreement, and any  
14 such amendments or modifications thereto.



**City and County of San Francisco**

**Tails  
Resolution**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 110059

**Date Passed:** June 14, 2011

Resolution approving a Cooperative Agreement between the City and County of San Francisco and the San Francisco Bay Area Rapid Transit District (BART), through its Port Commission, authorizing BART to install, use, and maintain security barriers on and under the Ferry Plaza Platform, on the east side of the Ferry Building along the Embarcadero, for a term of 66 years, subject to BART's right to request an extension before the end of the 64th year of the term.

June 13, 2011 City Operations and Neighborhood Services Committee - RECOMMENDED  
AS COMMITTEE REPORT

June 14, 2011 Board of Supervisors - ADOPTED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar,  
Mirkarimi and Wiener

File No. 110059

I hereby certify that the foregoing  
Resolution was ADOPTED on 6/14/2011 by  
the Board of Supervisors of the City and  
County of San Francisco.

Angela Calvillo  
Clerk of the Board

Mayor Edwin Lee

Date Approved