

1 [Java House Café, LLP Lease]
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3 **Resolution approving Port Commission Lease No. 14100 with Java House, LLC, a lease**
4 **with a fifteen (15) year term for certain real property located at Pier 40½ in the City and**
5 **County of San Francisco at rents starting at the higher of \$2,045.00 per month or 7.5%**
6 **of tenant's gross revenues.**
7

8 WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San
9 Francisco Charter Section B3.581 empower the San Francisco Port Commission with the
10 power and duty to use, conduct, operate, maintain, manage, regulate and control the lands
11 within Port Commission jurisdiction; and

12 WHEREAS, Section B 3.581(g) of the Charter of the City and County of San Francisco
13 provides that leases granted and made by the Port Commission should be administered
14 exclusively by the operating forces of the Port Commission; and

15 WHEREAS, The Port Commission and Phillip and Sotiria Papadopoulos, doing
16 business as the Java House Café entered into that certain month-to-month lease No. 11469
17 dated May 5, 1989, for certain real property located at Pier 40½ in the City and County of San
18 Francisco (the "Original Lease"), which Original Lease was approved by the Port Commission
19 on May 23, 1989; and

20 WHEREAS, Phillip and Sotiria Papadopoulos have expanded their family partnership to
21 include their daughter, Maria Papadopoulos-Moustakis, and have organized this new family
22 company as Java House LLC, a limited liability company ("Java House Café") formed under
23 the laws of the State of California; and

24 WHEREAS, The Port Commission adopted the Policy for Leasing Retail Business Sites
25 on April 28, 1993, by Resolution No. 93-52 ("Retail Leasing Policy") pursuant to which direct

MAYOR

1 negotiations for extended lease terms with existing Port tenants are permitted provided that
2 the Port Commission determines that the tenant is in good standing; the tenant is committed
3 to making a significant capital investment supported by a sound business plan which benefits
4 the Port; the tenancy is in the best economic interests of the Port; the tenant is the best
5 economic tenant available; and the tenant is in compliance with the Port's non-discrimination
6 criteria; and

7 WHEREAS, Java House Café is a tenant in good standing; and

8 WHEREAS, Java House Café has a strong record of non-discrimination in both hiring
9 and service and is committed to maintaining a policy of non-discrimination; and

10 WHEREAS, The Java House Café has presented a plan of capital investment
11 supported by a sound business plan warranting an extended term; and

12 WHEREAS, The Java House Café's continued tenancy is in the best economic
13 interests of the Port and is Java House LLC is the best economic tenant available at the
14 existing Java House Café location; and

15 WHEREAS, The San Francisco Planning Department's Major Environmental Analysis
16 Division issued to the Port a General Rule Exclusion, which satisfies environmental review
17 requirements under the California Environmental Quality Act, for Port actions to enter into new
18 leases where there would be a continuation of an existing use with no substantial physical
19 changes to the site or substantial intensification of use; and

20 WHEREAS, The premises occupied by Java House Café is a contributing resource to
21 the Port of San Francisco Embarcadero Historic District, and Java House Café, agrees to
22 lease provisions requiring any ordinary maintenance, repair and interior and exterior
23 alterations to comply with the Secretary of the Interior's Standards for Historic Rehabilitation
24
25

1 and the Port's Historic Preservation Review Guidelines for Pier and Bulkhead Wharf
2 Substructures; and

3 WHEREAS, The Port Commission on May 9, 2006, by Resolution No. 06-36, approved
4 the terms and conditions of the proposed fifteen (15) year term Port Commission Lease No. L-
5 14100 with Java House LLC for certain real property located at Pier 40½ in the City and
6 County of San Francisco with Java House Café ("Lease No. L-14100") at rents starting at the
7 higher of \$2,045 per month or 7.5% of tenant's gross revenues; and

8 WHEREAS, San Francisco Charter Section 9.118 requires Board of Supervisors
9 approval of agreements having a term of ten (10) or more years or having anticipated revenue
10 to the City of One Million Dollars (\$1,000,000.00) or more; and

11 WHEREAS, The policy of the Board of Supervisors, as set forth in Administrative Code
12 Section 2.6-1, is to approve only proposed leases involving property or facilities of the City
13 that have been awarded to the highest responsible bidders in accordance with the competitive
14 bidding procedures, except where impractical or impossible; and

15 WHEREAS, As described herein, Java House Café meets the Port Commission's
16 criteria for direct negotiations as set forth in the Port Commission's Retail Leasing Policy and,
17 therefore, a public competitive bidding process at this time is impractical for a lease
18 opportunity at this location; now, therefore, be it

19 RESOLVED, That the Board of Supervisors hereby finds that competitive bidding for
20 the rights granted pursuant to Lease No. L-14100 is impractical; and, be it

21 FURTHER RESOLVED, That the Board of Supervisors approves the terms and
22 conditions of the proposed Lease No. L-14100 as set forth in the May 6, 2006 Port
23 Commission Staff Memorandum ("Staff Memorandum"), on file with the Clerk of the Board of
24 Supervisors in File No. 071311 ; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
2 Director of the Port (the "Executive Director") to execute Lease No. L-14100, including all
3 exhibits thereto consistent with the terms and conditions set forth in the Staff Memorandum
4 and in a form to be approved by the City Attorney and in form substantially similar to Lease
5 No. L-14100 on file with the Clerk of the Board of Supervisors in File No. .071311; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive
7 Director to execute and enter into any additional documents as he or she deems necessary or
8 appropriate, in consultation with the City Attorney, to consummate the transactions
9 contemplated hereby or to otherwise effectuate the purpose and intent of this resolution, such
10 determination to be conclusively evidenced by the execution and delivery by the Executive
11 Director of any such documents; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors approves, confirms, and ratifies
13 all prior actions taken by the officials, employees and agents of the Port Commission,
14 Planning Commission, or the City with respect to the Lease.



City and County of San Francisco

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

Tails
Resolution

File Number: 071311

Date Passed:

Resolution approving Port Commission Lease No. 14100 with Java House, LLC, a lease with a fifteen (15) year term for certain real property located at Pier 40½ in the City and County of San Francisco at rents starting at the higher of \$2,045.00 per month or 7.5% of tenant's gross revenues.

October 16, 2007 Board of Supervisors — ADOPTED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Chu, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 071311

I hereby certify that the foregoing Resolution was ADOPTED on October 16, 2007 by the Board of Supervisors of the City and County of San Francisco.

10/22/2007

Date Approved

Kay Gulbenkian

Angela Calvillo
Clerk of the Board
[Signature]

Mayor Gavin Newsom