

1 [Memorandum of Understanding - 34th America's Cup]

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3 **Resolution approving a Memorandum of Understanding between the City Controller**
4 **and the Port Commission regarding the 34th America's Cup under Charter**
5 **Section B7.320.**

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7 WHEREAS, The Board of Supervisors finds as follows:

8 (a) In February 2010, BMW Oracle Racing, sailing for the Golden Gate Yacht Club
9 (together with their successors, the "Team"), won the 33rd America's Cup in Valencia, Spain;
10 and,

11 (b) The Team, as Defender of the America's Cup, has the right and duty to organize
12 the 34th America's Cup (the "Event"), and has formed the 34th America's Cup Event Authority,
13 LLC (the "Event Authority") to organize the Event; and,

14 (c) The Team selected San Francisco as the host city for the Event on December 31,
15 2010; and,

16 (d) Hosting the 34th America's Cup in San Francisco would generate significant public
17 benefits for the City including: (i) the repair, improvement, and productive reuse of certain
18 City piers along the City's central waterfront that are currently in a state of disrepair; (ii) the
19 generation of significant new jobs and economic development in a very short period of time,
20 including over 9,000 jobs and more than \$1.4 billion of new economic activity, as projected in
21 an economic impact analysis completed by the Bay Area Council Economic Institute and
22 Beacon Economics; and (iii) substantially increased public access to the waterfront, new
23 opportunities for people to view and enjoy the San Francisco Bay, and an extraordinary
24 showcase for the Bay to the world; and,

1 (e) An America's Cup Organizing Committee (the "ACOC"), an independent not-for-
2 profit corporation, has been established and includes civic and corporate leaders from
3 throughout the Bay Area, California, and the nation, as well as a bipartisan honorary
4 committee including elected and appointed representatives from our local, state, and federal
5 governments; and,

6 (f) On December 14, 2010, the Board of Supervisors approved a Host City and Venue
7 Agreement, which the Event Authority executed and returned to the City on January 4, 2011
8 (the "Host Agreement"), by Resolution 585-10 (File No. 101259) under which the City will
9 provide the Event Authority with venues for 34th America's Cup facilities on property under the
10 jurisdiction of the Port Commission rent-free and perform certain infrastructure improvements
11 to prepare the Port properties for the 34th America's Cup, which creates race-related, net
12 short-term rent reductions to the Port and reductions in the Port's revenue bond capacity; and,

13 (h) By Resolution 585-10, the Board of Supervisors also acknowledged financial
14 impacts to the Port of hosting the 34th America's Cup and found a range of potential solutions,
15 including using San Francisco Charter Section B7.320 to offset race-related, net short-term
16 rent reductions to the Port, the Mayor and the San Francisco Board of Supervisors found the
17 34th America's Cup project to be fiscally feasible and responsible under San Francisco
18 Administrative Code Chapter 29; and,

19 (i) The City Controller and the Port Commission have negotiated terms of a proposed
20 Memorandum of Understanding, a copy of which is on file with the Clerk of the Board in File
21 No. 101564 and incorporated as if set forth in full in this Resolution, that provides the process
22 by which the City will offset the Port's lost rent and incurred race-related costs in connection
23 with the Host Agreement; and,

24 (j) Under San Francisco Charter Section B7.320, the Mayor may submit to the Board of
25 Supervisors a memorandum of understanding between the Port Commission between the

1 Port Commission and another department of the City, approved by the Port Commission by
2 resolution, that requires the department to transfer funds to the Port Commission; and,

3 RESOLVED, That the City has begun environmental review of the 34th America's Cup
4 under the California Environmental Quality Act ("CEQA") and nothing in this Resolution
5 implements any approvals or facilities for the Event, or grants any entitlements to the Event
6 Authority, nor does adoption of this Resolution foreclose the possibility of considering
7 alternatives to the proposal, mitigation measures or deciding not to grant entitlement or
8 approve or implement any actions to construct necessary amenities for the Event after
9 appropriate environmental review under CEQA is complete, and while the Memorandum of
10 Understanding implements certain obligations of the City under the Host Agreement, it does
11 not approve or finalize all of the material terms and conditions of the project; and, be it

12 FURTHER RESOLVED, That Board of Supervisors hereby approves and authorizes
13 the City Controller to enter into the Memorandum of Understanding with the Port Commission
14 regarding the 34th America's Cup and, if the Port incurs race-related costs in connection with
15 the Host Agreement, to transfer funds on the terms provided in the Memorandum of
16 Understanding; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and urges
18 the Mayor, Director of the Office of Economic and Workforce Development, and other City
19 officials with jurisdiction over the specific contractual and leasing subject matter, including the
20 City Controller and the Executive Director of the Port over Port matters, to take such steps
21 and enter into any additions, amendments or other modifications to the Memorandum of
22 Understanding as they, in consultation with the City Attorney, determine are in the best
23 interests of the City, do not materially increase the obligations or liabilities of the City and are
24 necessary or advisable to effectuate the purpose and intent of this Resolution, and further
25 ratifies such actions that the Mayor, Director of the Office of Economic and Workforce

1 Development, City Controller, Port Director, or other City official may undertake within the
2 scope of this authority before final adoption of this Resolution.

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City and County of San Francisco
Tails
Resolution

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

File Number: 101564

Date Passed: March 22, 2011

Resolution approving a Memorandum of Understanding between the City Controller and the Port Commission regarding the 34th America's Cup under Charter Section B7.320.

March 16, 2011 Budget and Finance Sub-Committee - RECOMMENDED

March 22, 2011 Board of Supervisors - ADOPTED

Ayes: 10 - Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

Excused: 1 - Avalos

File No. 101564

I hereby certify that the foregoing Resolution was ADOPTED on 3/22/2011 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Edwin Lee

Date Approved