[Port Agreement with the National Park Service and Lease with the Golden Gate National Parks Conservancy - Alcatraz Island Embarkation at Piers 31-33]

Resolution approving a General Agreement between the Port and the National Park Service for a 30-year term with two ten-year options allowing ferry concessioners to use Port Piers 31-33 on The Embarcadero at Bay Street (Site) under lease from the Port as the embarkation to Alcatraz Island and other Golden Gate National Recreation Area sites, and a Lease Agreement with the Golden Gate National Parks Conservancy to develop and operate visitor amenities at the Site for a 30-year term with two ten-year options, to commence upon approval by the Board of Supervisors; affirming the Port Commission’s Public Trust findings; and making findings under the California Environmental Quality Act, and adopting the Mitigation Monitoring and Reporting Program for the Alcatraz Ferry Embarkation Project located at Piers 31-33 on The Embarcadero at Bay Street.

WHEREAS, The Golden Gate National Recreation Area ("GGNRA"), established as a unit of the National Park Service ("NPS") in 1972, encompasses more than 80,000 acres of coastal lands in Marin, San Mateo and San Francisco counties; and

WHEREAS, One of GGNRA's most prominent sites is Alcatraz Island which is historically significant as part of early coastal fortification systems and later as a federal prison; and

WHEREAS, Since 1972, the Port of San Francisco has served as the embarkation point for tourists and local residents visiting Alcatraz Island; and

WHEREAS, NPS is empowered by the federal government to issue a bid prospectus and to select a ferry concessioner through a competitive process; and

WHEREAS, The Port has periodically negotiated leases with ferry concessioners for
locations for embarkation to Alcatraz Island, with the embarkation point moving from Pier 41 to Pier 31½ as different ferry companies with leaseholds along Port property have been selected through the NPS ferry-bid process; and

WHEREAS, The Port and NPS share a common goal of enhancing the Alcatraz visitor experience through significant investments in landside and waterside capital improvements – to improve the ease of movement of the more than 1.5 million visitors each year – and interpretative installations and site amenities including food, retail, and restrooms; and

WHEREAS, Alcatraz Island, access to which is controlled by NPS, is a one-of-a-kind visitor destination, attracting thousands of people each day to the waterfront and providing revenues roughly double the amount the Port would expect for a similar use not associated with Alcatraz Island; and

WHEREAS, NPS determined that a long-term embarkation site is desirable to improve the quality of the visitor experience and in 2008, the Port and GGNRA began discussions about NPS selecting a permanent embarkation point at the Port and entering a direct agreement with the Port that governs the terms by which the embarkation point would be leased to NPS's concessionaires; and

WHEREAS, By entering such a direct agreement for the use of a set embarkation point, NPS, the Port and the public could be spared the disruption of moving the service each time a new concessioner is selected; and

WHEREAS, Port staff, based on site criteria developed in conjunction with NPS staff, identified the following five potential Port properties for a permanent Alcatraz embarkation location: Piers 19½, 29 ½, 31½, 41, and 45 Shed A, as detailed in a December 3, 2009, informational presentation to the Port Commission; and

WHEREAS, NPS completed an Environmental Impact Study under the National Environmental Policy Act which considered the following possible alternative locations: Fort
Mason, Pier 31½, Pier 41 and Pier 43½ and Port staff in coordination with NPS staff identified
Pier 31½ as the preferred Alcatraz embarkation site; and

WHEREAS, Pier 31½ is part of the Northeast Waterfront area, where retail, food and
beverage, and ferry service are allowed uses in such area under the Port’s Waterfront Land
Use Plan; and

WHEREAS, NPS has developed an implementable vision for the project (the “Project”) for Alcatraz ferry service and amenities within the bulkheads and portions of the sheds of
Piers 31 and 33 and the Pier 31 ½ marginal wharf (the “Site”); and

WHEREAS, The Site is currently operated for ferry service to Alcatraz Island with
supporting food and beverage, and the Project would expand existing uses to include a visitor
contact station and ancillary retail uses; and

WHEREAS, NPS has partnered with the Golden Gate National Parks Conservancy
(“Conservancy”), a local nonprofit dedicated to conservation of GGNRA lands through public
education, historic interpretation, public access, and capital improvements, as part of its long-
term plan for an Alcatraz embarkation site; and

WHEREAS, The Conservancy has a proven track-record of developing and operating
memorable and stimulating visitor experiences in nationally- and internationally-renowned
destinations including Alcatraz Island cell house tours and Museum Store, Golden Gate
Bridge Welcome Center, Crissy Field Center, and Lands End Visitor Center, among others; and

WHEREAS, The shared vision of a unified visitor experience - from site entrance and
orientation, to ferry embarkation, to Alcatraz Island and jailhouse – requires specialized
knowledge of and experience in historic interpretation and education; and

WHEREAS, As set forth in Administrative Code, Section 2.6-1, the Board of
Supervisors’ policy is to approve only such proposed leases involving City property or facilities
that departments have awarded to the highest responsible bidder under competitive bidding procedures, except where competitive bidding is impractical or impossible; and

WHEREAS, Development of an embarkation site with a visitor contact station and retail and food and beverage amenities presents an important opportunity to provide public-serving, cultural, historic and other significant public benefits to the people of the City, the entire Bay Area region and beyond, including an opportunity for a significantly improved one-of-a-kind waterfront destination that will achieve public access objectives for the Site while adding an attractive mix of uses and destinations along the waterfront; and

WHEREAS, The achievement of the Port’s goal of retaining the Alcatraz embarkation site and the benefits noted above on Port property requires negotiating directly with NPS and NPS’s selected partner, the Conservancy; and

WHEREAS, NPS and Port staff negotiated, on a sole source basis, a Term Sheet dated July 7, 2016 (the “Term Sheet”), which sets forth the essential terms upon which the Port and NPS would negotiate in good faith to reach agreement (the General Agreement or GA) on the terms for working together to establish the Site as the Alcatraz embarkation site, including the business terms of two leases for Site operation attached to the GA: a form lease to be executed by Port and the NPS-selected concessioner for ferry service and a lease with the Conservancy for a visitor contact station, retail, and food and beverage uses; and

WHEREAS, On July 12, 2016, the Port Commission approved Resolution No. 16-30 endorsing the Term Sheet and authorizing the Executive Director of the Port, to present the Term Sheet to the Board of Supervisors for its endorsement and a determination that the proposed GA and the initial term of the Conservancy Lease are exempt from competitive bidding policy set forth in Administrative Code, Section 2.6-1; and

WHEREAS, On November 29, 2016, the Board of Supervisors adopted Resolution No.497-16 endorsing the Term Sheet and exempting the Project from the competitive bidding
policy set forth in Administrative Code, Section 2.6-1; and

WHEREAS, The Port and NPS have negotiated a final GA regarding the Project and its
associated lease attachments; and

WHEREAS, The GA between the Port and NPS includes the following material terms
as further described in this Resolution and the June 8, 2018, Memorandum to the Port
Commission which is on file with the Clerk of the Board of Supervisors in File No. 180809, and
incorporated herein by this reference (the “Memorandum”): (i) a term of up to 50 years (30
years plus two 10-year options to extend) for the Alcatraz Island ferry embarkation site on
Piers 31, 31½, and 33; (ii) designates the Site as the long-term sole visitor contact station
and ferry embarkation for public access to Alcatraz Island and outlines independent and joint
obligations; (iii) describes capital obligations of the ferry concessioner, the Conservancy, and
the Port, and provides for clarity, cooperation and coordination throughout the term
(iv) provides that NPS is solely responsible for selection of and contracting with operators for
the ferry concession (the “Ferry Concession Contract”) and Port has no role in the selection,
solicitation, and/or award of a contract to a selected operator (a “Ferry Concessioner”); (v)
requires each NPS prospectus for a Ferry Concession Contract to include a form lease (a
“Ferry Concessioner Lease”) prepared and approved by the Port that the Ferry Concessioner
will be required to sign; and (vi) requires Port to enter into a Ferry Concessioner Lease
substantially in the form of the lease attached to the GA with no changes other than (A)
changes agreed to by the Port and NPS in the sole discretion of each; and (B) to add new
Laws and City Requirements effective as of the commencement date of the Ferry
Concessioner Lease that do not conflict with federal law; and

WHEREAS, On January 18, 2018, the National Park Service (NPS) released a
prospectus (the “Prospectus”) soliciting proposals to operate Alcatraz passenger ferry service
and associated services within the GGNRA; and
WHEREAS, As set forth in the Prospectus, the term of the new Ferry Concession Contract will be for fifteen (15) years and proposals are due in summer 2018; and

WHEREAS, With input from Port, the International Organization of Masters, Mates, and Pilots (MM&P) and the Inlandboatmen’s Union (IBU), the Department of Labor issued a supplemental wage determination for common labor classifications for a San Francisco passenger ferry operation (e.g. Master Captain, Senior Deckhand/Mate, Deckhand and Able-Bodied Seaman) (the “Supplemental Wage Determination”) to establish minimum wages for employees of the prospective Ferry Concessioner and NPS incorporated the Supplemental Wage Determination into the Prospectus on May 21, 2018; and

WHEREAS, Each Ferry Concessioner will be required to pay monthly Base Rent for its premises, escalated annually; and

WHEREAS, In addition to Base Rent, the Ferry Concessioner shall pay monthly Percentage Rent on the difference between the Gross Revenue minus the NPS Concession Franchise Fee, but only to the extent that such amount exceeds Base Rent; and

WHEREAS, The NPS-selected Initial Ferry Concessioner must complete the following no later than the 5th anniversary date of the Ferry Concessioner Lease: waterside improvements, including new ferry barges, docks and associated infrastructure; Pier 31½ Marginal Wharf deck surface and visitor amenities; Pier 33 Shed visitor restrooms; Pier 31 bulkhead restrooms; interior improvements in the Pier 31 and Pier 33 Sheds; Pier 33 South Bulkhead Building ticketing area improvements; and demolition of a portion of the 2nd floor of the Pier 33 South Bulkhead Building and construction of a mezzanine area (together, the "Embarkation Site Improvements"); and

WHEREAS, Upon completion of the Embarkation Site Improvements the Initial Ferry Concessioner shall be entitled to a rent credit in a maximum amount of $2,520,000 for the Embarkation Site Improvements; and
WHEREAS, Once the Embarkation Site Improvements are completed, certain portions of the property will be turned over to the Conservancy; and

WHEREAS, In addition to excursions to Alcatraz Island, the Initial Ferry Concessioner Lease allows the Initial Ferry Concessioner to conduct “interpretive park cruises” with the following limits: 45,000 passengers in years 1 and 2; 46,125 passengers in year 3; 47,278 passengers in year 4; 48,460 passengers in year 5; and 90,000 passengers annually in year 6 through lease expiration after year 15; any violation of these limits is a material default of the initial Ferry Concessioner Lease and will result in an equivalent reduction of the interpretive cruise passenger limit in the following year; and

WHEREAS, The GA prohibits interpretive park cruises from any subsequent Ferry Concessioner Lease without the prior consent of both the Port and NPS, in each such party’s sole discretion; and

WHEREAS, In acknowledgement of the concerns raised by the City of Sausalito as to a future Fort Baker ferry service, the GA provides that all required environmental and regulatory reviews and approvals will be obtained when a more detailed project description including improvements to the vessel landing facilities at Fort Baker is proposed; and

WHEREAS, Port and NPS agree that, in order to enhance the visitor experience, NPS selected the Conservancy to provide the interpretive retail and food and beverage services and other public amenities at the Site and as described above; and

WHEREAS, Port has negotiated a lease with the Conservancy requiring initial site improvements and the operation of visitor amenities including a visitor contact station and café consistent with the GA for a 30-year term with two 10-year options; and

WHEREAS, The current exemption from the City’s competitive bidding policy under Board of Supervisors Resolution No. 497-16 covers only the initial thirty (30) year term of the Conservancy Lease, and Port proposes to extend the exemption for the proposed two 10-year
option periods because it will provide for continuing capital improvements to and will continue
to provide a cohesive visitor experience to the Site; and

WHEREAS, Under the Conservancy Lease, the Conservancy will be required to pay
monthly Base Rent, escalated annually, and in addition to Base Rent, the Conservancy shall
pay monthly Percentage Rent on the amount by which Gross Revenues exceed Base Rent
with other material business terms are set forth in the Memorandum; and

WHEREAS, The Conservancy shall construct improvements including the build-out of
the Pier 31 bulkhead cafe and in a later phase the Pier 33 visitor contact station/interpretive
retail center (together, the "Conservancy's Initial Tenant Improvements"); and

WHEREAS, The Conservancy must complete the Conservancy's Initial Tenant
Improvements no later than the first anniversary of each of the two phases, and upon
completion the Conservancy shall be entitled to a rent credit of $554,000 for the Initial Tenant
Improvements as further described in the Memorandum; and

WHEREAS, The entire Site is subject to the common law public trust for commerce,
navigation and fisheries and the Burton Act statutory trust (collectively, the "Public Trust"); and

WHEREAS, Use of Public Trust lands is generally limited to maritime commerce,
navigation, fisheries, water-oriented recreation, including commercial facilities that must be
located on or adjacent to water, and environmental stewardship and recreation, such as
natural resource protection, wildlife habitat and study, and facilities for fishing, swimming, and
boating; and

WHEREAS, Ancillary or incidental uses that promote Public Trust uses or
accommodate public enjoyment of Public Trust lands such as hotels, restaurants, and visitor-
serving retail are also permitted on Public Trust lands; and

WHEREAS, The Project has been planned and designed to provide multiple Public
Trust benefits delivered via development and use of the Site as a long-term home for Alcatraz
ferry and other maritime excursions, with various visitor-serving amenities including public
access space and uses, an interpretive retail center and a restaurant/café serving Alcatraz
ferry passengers as well as the general public; and

WHEREAS, A Preliminary Mitigated Negative Declaration (PMND) for the Project was
prepared and published for public review on December 6, 2017; and

WHEREAS, On December 27, 2017, an appeal of the decision to issue the Final
Mitigated Negative Declaration (FMND) was filed by the City of Sausalito within the 30-day
public review period; and

WHEREAS, The Planning Department prepared responses to Sausalito’s
comments, made minor revisions to the PMND and on February 22, 2018, the Planning
Commission held a public hearing on the PMND and after consideration of the points raised
by the appellant, both in writing and at the February 22, 2018, hearing, found that the contents
of the PMND and the procedures through which the PMND was prepared, publicized, and
reviewed complied with the California Environmental Quality Act (California Public Resources
Code, Sections 21000 et seq.) (CEQA), 14 California Code of Regulations, Sections 15000 et
seq. (the “CEQA Guidelines”) and Chapter 31 of the San Francisco Administrative Code
(“Chapter 31”) and finalized the PMND (the Final MND); and

WHEREAS, The Planning Commission found the Final MND was adequate, accurate
and objective, reflected the independent analysis and judgment of the Department of City
Planning and the Planning Commission, and reaffirmed its conclusion that the Project could
not have a significant effect upon the environment; and

WHEREAS, On February 23, 2018, the Environmental Review Officer signed the Final
MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31; and

WHEREAS, The Planning Commission Secretary, Jonas Ionin, is the custodian of
records at 1650 Mission Street, Fourth Floor, San Francisco, California; and
WHEREAS, The Final MND and the Mitigation Monitoring and Reporting Program (MMRP) prepared by Port staff has been made available to the public, the Port Commission and the Board of Supervisors for their review and action and which is on file with the Clerk of the Board of Supervisors in File No. 180809, and incorporated herein by this reference; and

WHEREAS, On June 25, 2018, the Port Commission, by Resolution No. 18-39, found that the Final MND is adequate for its use as the decision-making body for the Project, that there is no substantial evidence that the Project could have a significant effect on the environment with the adoption of the measures contained in the MMRP to avoid potentially significant environmental effects associated with the Project, adopted the Final MND and the MMRP and found that all required mitigation measures identified in the Final MND and contained in the MMRP will be included in the Port’s Leases; now, therefore, be it

RESOLVED, That the Board of Supervisors has reviewed and considered the Final MND and the record as a whole, finds that the Final MND is adequate for its use as the decision-making body for the Project, that there is no substantial evidence that the Project could have a significant effect on the environment with the adoption of the measures contained in the MMRP to avoid potentially significant environmental effects associated with the Project; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby adopts the MMRP on file with the Clerk of the Board of Supervisors in File No. 180809 and finds that all required mitigation measures identified in the Final MND and contained in the MMRP will be included as conditions to the lease between the Port and each successive Ferry Concessioner and the Port and the Conservancy; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby adopts the Port Commission’s Public Trust findings as its own, and finds that this Resolution is consistent with the common law public trust doctrine and the Burton Act; and, be it
FURTHER RESOLVED, That the Board of Supervisors approves the General Agreement with the National Park Service and the Conservancy Lease and exempts the entire term of the Conservancy Lease from the competitive bidding policy set forth in Administrative Code, Section 2.6-1; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive Director of the Port or her designed (the "Executive Director") to execute the General Agreement and the Conservancy Lease in a form approved by the City Attorney and substantially in the form on file with the Clerk of the Board of Supervisors in File No. 180809; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Executive Director to enter into any additions, amendments, or other modifications to the General Agreement or Conservancy Lease (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits and ancillary agreements) that the Executive Director, in consultation with the City Attorney, determines, when taken as whole, to be in the best interest of the Port, do not materially increase obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the General Agreement and Conservancy Lease contemplate and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Executive Director of any such amendments; and, be it

FURTHER RESOLVED, That within thirty (30) days of the General Agreement and Conservancy Lease being fully executed by all parties the Port shall provide copies of the General Agreement and Conservancy Lease to the Clerk of the Board for inclusion into the official file.
File Number: 180809

Resolution approving a General Agreement between the Port and the National Park Service for a 30-year term with two ten-year options allowing ferry concessioners to use Port Piers 31-33 on The Embarcadero at Bay Street (Site) under lease from the Port as the embarkation to Alcatraz Island and other Golden Gate National Recreation Area sites, and a Lease Agreement with the Golden Gate National Parks Conservancy to develop and operate visitor amenities at the Site for a 30-year term with two ten-year options, to commence upon approval by the Board of Supervisors; affirming the Port Commission’s Public Trust findings; and making findings under the California Environmental Quality Act, and adopting the Mitigation Monitoring and Reporting Program for the Alcatraz Ferry Embarkation Project located at Piers 31-33 on The Embarcadero at Bay Street.

September 13, 2018 Budget and Finance Committee - RECOMMENDED

September 25, 2018 Board of Supervisors - ADOPTED

Ayes: 10 - Brown, Cohen, Fewer, Kim, Mandelman, Peskin, Ronen, Safai, Stefani and Tang
Excused: 1 - Yee

File No. 180809

I hereby certify that the foregoing Resolution was ADOPTED on 9/25/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved 10/5/18