

1 [Ground Lease for the Retention and Expansion of the San Francisco Wholesale Produce
2 Market]

3 **Resolution 1) authorizing a lease of real property and improvements known as the San**
4 **Francisco Wholesale Produce Market, near 2095 Jerrold Avenue, to the San Francisco**
5 **Market Corporation; 2) adopting findings pursuant to the California Environmental**
6 **Quality Act; 3) adopting findings that the transactions contemplated are consistent**
7 **with the City's General Plan and Eight Priority Policies of the City's Planning Code; and**
8 **4) authorizing the City Administrator, or designee, to execute documents, make certain**
9 **modifications, and take certain actions in furtherance of this resolution.**

10
11 WHEREAS, The San Francisco Wholesale Produce Market ("SFWPM") is an
12 assemblage of dedicated produce and food professionals, co-located at one distribution
13 center along Jerrold Avenue near Highway 280, is the largest facility dedicated to a wholesale
14 marketplace in Northern California, is comprised of approximately 30 produce and food-
15 related businesses, is responsible for the employment of over 650 people in the Production,
16 Distribution and Repair ("PDR") industries, and is committed to being the Bay Area's leading
17 source of produce; and

18 WHEREAS, The SFWPM has operated at its current location since 1963, following
19 passage of a proposition establishing a municipal market, approved by the voters of San
20 Francisco in 1959 which created Section 92.1 of the then-Charter of the City, when produce
21 wholesalers relocated from the area near the current Maritime Plaza and Golden Gateway
22 redevelopment project area in downtown San Francisco; and

23 WHEREAS, The City and County of San Francisco Market Corporation ("CCSFMC"), a
24 California non-profit corporation, was formed for the express purpose of helping the City
25 establish a produce market at its current location; and

1 WHEREAS, The SFWPM currently occupies approximately 350,000 square feet of
2 City-owned warehouse and industrial space under the terms and conditions of a 50-year
3 master lease between the City (as Landlord) and the CCSFMC (as Tenant), set to expire on
4 January 31, 2013; and

5 WHEREAS, The SFWPM delivers significant public benefit to the residents and
6 businesses of San Francisco both for the high-quality PDR jobs its operations provide, and for
7 the important role the market plays in food distribution to the City's many restaurants and
8 grocery stores, which supports San Francisco's reputation as a world class food destination;
9 and

10 WHEREAS, The SFWPM serves as an informal anchor to other PDR activities in the
11 industrial areas of the Bayview district, attracting food-related businesses, such as beverage
12 distribution, seafood wholesale and distribution, and dry goods vendors; and

13 WHEREAS, The City is committed to preserving space for critical industries related to
14 PDR activities in Bayview's industrial district, as demonstrated by recent actions to update the
15 zoning designation of the SFWPM site and surrounding area, with the intent to encourage the
16 introduction, intensification, and protection of a wide range of light and contemporary industrial
17 activities; and

18 WHEREAS, Although there is continuing demand for space in the SFWPM, including
19 expansion needs of existing market occupants that are not currently being met, most of the
20 buildings are nearing the end of their useful life and are in need of significant repair or
21 upgrade; and

22 WHEREAS, The current site and building configuration of the SFWPM pose limitations
23 to addressing evolving food and operational safety issues, more demanding regulatory
24 environment, and long-term growth needs of the market; and
25

1 WHEREAS, The City and CCSFMC desire to enter into a new long-term, mutually-
2 beneficial relationship upon expiration of the current lease, and to retain and make
3 improvements to the SFWPM's facility, furthering the SFWPM's essential future role in the
4 City's food distribution system; and

5 WHEREAS, Pursuant to Administrative Code Chapter 29, the proposed improvements
6 to the SFWPM's facility ("the Project") triggered review by the Board of Supervisors to
7 determine the fiscal feasibility of the Project; and

8 WHEREAS, After reviewing a report on the proposed Project ("the SFWPM Fiscal
9 Responsibility and Feasibility Report") containing information as required by Administrative
10 Code Section 29.3, the Board of Supervisors adopted findings of fiscal feasibility for the
11 Project on November 3, 2009, by enacting Resolution 434-09, on file with the Clerk of the
12 Board of Supervisors in File No. 091112, and

13 WHEREAS, On May 11, 2011 a Draft Initial Study/Mitigated Negative Declaration
14 ("IS/MND") for the Project was prepared and published for public review. The Draft IS/MND
15 was available for public comment until May 31, 2011; and

16 WHEREAS, The City's Planning Department issued a Final Mitigated Negative
17 Declaration ("FMND"), dated July 5, 2011, with respect to the proposed Project, and the
18 CCSFMC has entered into an Agreement to Implement Improvement and Mitigation Measures
19 identified by the Planning Department in the Final Mitigated Negative Declaration. A copy of
20 the FMND is on file with the Clerk of the Board of Supervisors in File No. _____; and

21 WHEREAS, The Planning Department reviewed and considered the Final Mitigated
22 Negative Declaration and found that the contents of said report and the procedures through
23 which the FMND was prepared, publicized, and reviewed complied with the California
24 Environmental Quality Act (California Public Resources Code Sections 21000 et seq.)
25

1 ("CEQA"), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines")
2 and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

3 WHEREAS, The Planning Department found the FMND was adequate, accurate and
4 objective, reflected the independent analysis and judgment of the Department of City
5 Planning, and that the summary of comments and responses contained no significant
6 revisions to the Draft IS/MND, and approved the FMND for the Project in compliance with
7 CEQA, the CEQA Guidelines and Chapter 31; and

8 WHEREAS, The Board of Supervisors has reviewed and considered the FMND for the
9 Project, issued by the Planning Department, and the record as a whole, and finds that there is
10 no substantial evidence that the Project will have a significant effect on the environment with
11 the adoption of the mitigation measures contained in the Mitigation and Monitoring Report
12 ("MMRP") to avoid potentially significant environmental effects associated with the Project,
13 and hereby adopts the FMND; and

14 WHEREAS, The Board of Supervisors hereby adopts the FMND and its MMRP for this
15 Project, which are incorporated by reference as though fully set forth herein. All required
16 mitigation measures identified in the IS/MND and contained in the MMRP are included as
17 conditions of approval; and

18 WHEREAS, The Board of Supervisors further finds that since the FMND was finalized,
19 there have been no substantial project changes and no substantial changes in project
20 circumstances that would require major revisions to the FMND due to the involvement of new
21 significant environmental effects or an increase in the severity of previously identified
22 significant impacts, and there is no new information of substantial importance that would
23 change the conclusions set forth in the FMND; and

24 WHEREAS, On September 6, 2011, the City Planning Department found that the
25 actions related to the Project, as contemplated in the Lease, were consistent with the City's

1 General Plan, and with the Eight Priority Policies of City Planning Code Section 101.1. A
2 copy of this letter is on file with the Clerk of the Board of Supervisors in File No. _____, and
3 is incorporated by reference as though fully set herein. The Board adopts these findings as its
4 own; now, therefore, be it

5 RESOLVED, That in accordance with the recommendation of the Director of Property,
6 the City Administrator and Director of Property are hereby authorized to take all actions on
7 behalf of the City and County of San Francisco, as landlord, to lease warehouse and industrial
8 space, collectively known as the SFWPM and located near 2095 Jerrold Avenue, to the San
9 Francisco Market Corporation ("SFMC"), as Tenant. A copy of the lease is on file with the
10 Clerk of the Board of Supervisors in File No. _____, and is hereby declared to be a part of
11 this resolution as if set forth fully herein; and, be it

12 FURTHER RESOLVED, That the Lease for the SFWPM shall be for the term of
13 approximately sixty (60) years beginning on the commencement date, as defined in the
14 Lease, and terminating on January 31, 2073; and, be it

15 FURTHER RESOLVED, That the Lease for the SFWPM shall be subject to the
16 completion of a vacation of certain portions of rights of way and jurisdictional transfer of said
17 lands to Department of Real Estate as outlined in the Lease and as submitted to the Board of
18 Supervisors under companion legislation; and, be it

19 FURTHER RESOLVED, That the Lease shall facilitate the improvement and expansion
20 of the SFWPM to include an adjoining currently City-owned parcel of land known as 901
21 Rankin Street; and, be it

22 FURTHER RESOLVED, That the Lease shall include a Scope of Development and
23 Schedule of Performance to hold Tenant accountable for delivering a renewed facility within a
24 reasonable schedule and budget; and, be it

1 FURTHER RESOLVED, That the Lease shall allow Tenant to accrue revenues and
2 secure financing to facilitate phased improvements of the facility, with a revenue stream
3 accruing to the City's General Fund upon successful completion of said improvements and
4 establishment of adequate funding of capital, operating and maintenance reserves; and, be it

5 FURTHER RESOLVED, That the City shall have significant input and approval rights
6 with respect to facility's renewal project, including budget and construction reviews; and be it

7 FURTHER RESOLVED, That the Lease shall have a Leasing Schedule to ensure a fair
8 and equitable application of market rates for spaces offered to Sub-Tenants with City review
9 and input upon any requested deviations from a baseline Leasing Schedule; and, be it

10 FURTHER RESOLVED, That the Lease shall include a lease clause, indemnifying,
11 holding harmless, and defending Landlord and its agents from and against any and all losses
12 imposed upon or incurred by or asserted against any such indemnified party, the premises or
13 City's interest therein, arising in connection with Tenant's use or operation of the premises,
14 including without limitation, the occurrence or existence of any of the following: i) any
15 accident, injury to or death of persons or loss of or damage to property occurring on the
16 premises or any part thereof; ii) any accident, injury to or death of person or loss of or damage
17 to property occurring near or around the premises which is caused directly or indirectly by
18 Tenant or any of Tenant's agents, invitees or subtenants; iii) any use, non-use, possession,
19 occupation, operation, maintenance, management or condition of the premises, or any part
20 thereof; iv) any use, non-use, possession, occupation, operation, maintenance, management
21 or condition of property near or around the premises by Tenant or any of Tenant's agents,
22 invitees or subtenants; v) any latent, design, construction or structural defect relating to the
23 project and any subsequent improvements constructed by or on behalf of Tenant, and any
24 other matters relating to the condition of the premises caused by Tenant or any of its agents,
25 invitees or subtenants; vi) any failure on the part of Tenant or its agents, invitees or

1 subtenants, as applicable, to perform or comply with any of the terms of this Lease or with
2 applicable laws, rules or regulations, or permits; vii) performance of any labor or services or
3 the furnishing of any materials or other property in respect of the premises or any part thereof
4 by Tenant or any of its agents, invitees or subtenants; and viii) any civil rights actions with
5 respect to the property due to Tenant's operation of the premises other any in accordance
6 with this Lease; and, be it

7 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City
8 with respect to such Lease is hereby approved, confirmed and ratified; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors authorizes the City
10 Administrator or Director of Property to enter into any amendments or modifications to the
11 Lease (including, without limitation, the exhibits) that the City Administrator or Director of
12 Property determines, in consultation with the City Attorney, are in the best interest of the City,
13 do not materially increase the obligations or liabilities of the City, are necessary or advisable
14 to effectuate the purposes of the Lease or this resolution, and are in compliance with all
15 applicable laws, including the City Charter.

16
17
18 Recommended:

19
20 _____
21 John Updike, Acting Director of Property

22
23
24 _____
25 Naomi M. Kelly, City Administrator