

1 [Real Property Lease Amendment - Andre Boudin Bakeries, Inc., dba Chowder Hut
2 Restaurant - 2860 Taylor Street, SWL 301 - Minimum Investment for Tenant Improvements -
3 \$900,000]

4 **Resolution approving second amendment to Port Commission Lease L-16997 (“Lease”)**
5 **with Andre Boudin Bakeries, Inc., a California corporation, dba Chowder Hut**
6 **Restaurant, located at 2860 Taylor Street, Seawall Lot (SWL) 301 for approximately**
7 **5,400 square feet of restaurant space that extends the deadline to March 31, 2024,**
8 **changes the scope, and increases the minimum investment required for certain Tenant**
9 **Improvements by \$100,000 from \$800,000 to \$900,000; and to authorize the Port**
10 **Executive Director to enter into amendments or modifications to the Lease that do not**
11 **materially increase the obligations or liabilities to the City and are necessary to**
12 **effectuate the purposes of the Lease or this Resolution.**

13
14 WHEREAS, California Statutes of 1968, Chapter 1333 (the “Burton Act”) and Charter,
15 Section B3.581, give the Port Commission the power and duty to use, conduct, operate,
16 maintain, manage, regulate and control the Port area of the City and County of San Francisco;
17 and

18 WHEREAS, Andre Boudin Bakeries, Inc. (“Boudin”) is a tenant in good standing under
19 its current Lease L-16697, dated September 8, 2020, as amended by that certain First
20 Amendment to Lease, dated December 20, 2021 (collectively, the “Lease”) located at 2860
21 Taylor Street, Seawall Lot (SWL) 301 in Fisherman’s Wharf in the City and County of San
22 Francisco (the “Premises”); and

23 WHEREAS, The Lease requires Boudin to complete certain Tenant Improvements (the
24 “Initial Tenant Improvements”) by no later than January 1, 2023 (“Initial Tenant Improvements”
25

Completion Date”), and requires Tenant to provide a minimum investment of \$800,000 for said improvements; and

WHEREAS, Due to construction delays attributed to the COVID pandemic, the cost of the Initial Tenant Improvements increased from \$800,000 to approximately \$4,500,000 by August 2022; because of the cost increase, the construction of the Initial Tenant Improvements is financially unfeasible; and

WHEREAS, Boudin has revised the scope of work for the Initial Tenant Improvements to reduce the construction costs to an estimated cost of \$1,150,000 and asked the Port for an extension of the Initial Tenant Improvements Completion Date to March 20, 2024; and

WHEREAS, Port Staff negotiated the terms of a Second Amendment with Boudin that requires (a) completion of the a reduced scope for the Initial Tenant Improvements; (b) completion of those improvements by March 31, 2024; and (c) an increase in the minimum cost of the improvements to from \$800,000 to \$900,000 (the proposed “Second Amendment); and

WHEREAS, In April 2023, the Port Commission approved the Second Amendment to Lease with Boudin (Resolution No. 23-19); and

WHEREAS, Charter, Section 9.118, requires Board of Supervisors’ approval of the amendment of any lease which when entered into was for a period of ten or more years or having anticipated revenue to the City of one million dollars or more; now, therefore, be it

RESOLVED, That the Board of Supervisors approves the proposed Second Amendment and authorizes the Executive Director of the Port or her designee to execute such Second Amendment in substantially the same form as the Second Amendment on file with the Clerk of the Board of Supervisors in File No. 230617; and, be it

RESOLVED, That the Board of Supervisors authorizes the Executive Director to enter into any additions, amendments or other modifications to the Lease that the Executive

1 Director, in consultation with the City Attorney, determines, when taken as a whole, to be in
2 the best interest of the Port, do not materially increase the obligations or liabilities of the City
3 or the Port, and are necessary or advisable to complete the transactions which this Resolution
4 contemplates and effectuate the purpose and intent of this Resolution, such determination to
5 be conclusively evidenced by the execution and delivery by the Executive Director of such
6 documents; and, be it

7 RESOLVED, That within thirty (30) days of the Second Amendment being fully
8 executed by all parties, the Port shall provide a copy of the Second Amendment to the Clerk
9 of the Board for inclusion into the official file.