[Lease Agreement Exemption - SkyStar Wheel, LLC]

Resolution exempting from the competitive bidding policy set forth in Administrative Code, Section 2.6-1, the potential lease on a portion of the east end of Sea Wall Lot (SWL) 301, with SkyStar Wheel, LLC, for the continued operation of an observation wheel; and adopting environmental findings under the California Environmental Quality Act.

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

WHEREAS, The Port Commission at its meeting on April 11, 2023, after a public planning process that maximized public participation in public discussions about existing waterfront activities, regulations, challenges, public desires, and needs to incorporate diverse viewpoints and perspectives to develop policy recommendations, adopted an updated Waterfront Plan (the "Waterfront Plan"); and

WHEREAS, The Waterfront Plan included a stakeholder engagement process for waiver of competitive bidding requirements in advance of the submission of such proposals to the Board of Supervisors for consideration of a waiver of the City's competitive bidding policy; and

WHEREAS, In July 2023, the Port was notified of the opportunity to move the SkyStar Wheel (the "Wheel") from Golden Gate Park to Fisherman's Wharf; and

WHEREAS, On November 1, 2023, the Port and SkyStar Wheel, LLC, a Missouri limited liability company ("SkyStar"), entered a six-month License for a portion of SWL 301; and

WHEREAS, SkyStar, approached the Port requesting an 18-month lease (the "Lease") for the portion of SWL 301 upon expiration of the License; and

WHEREAS, The Lease allows a temporary continuation of the existing use of the site, with the same maximum intensity of use, and is therefore within the scope of the project evaluated in Addendum 2; and

WHEREAS, Port staff offered an opportunity for stakeholder feedback at the Fisherman's Wharf Advisory Committee meeting on January 10, 2024, and received favorable feedback on SkyStar's request; and

WHEREAS, Port staff reported the stakeholder engagement feedback at the February 27, 2024, Port Commission meeting; and

WHEREAS, Port staff determined that initiating a competitive bidding process is unlikely to generate a competing investment interest prior to April 30, 2024, when the SkyStar Wheel temporary license expires; and

WHEREAS, Port staff recognize the urgency of providing support to the recovery of Fisherman's Wharf, which has been beset by the pandemic and associated economic downturn, resulting in the closure of many longstanding Port tenants; and

WHEREAS, At its meeting on February 27, 2024, the Port Commission through Resolution No. 24-15 authorized the Port Executive Director or her designee to seek Board of Supervisors authorization to waive the competitive bidding policy set forth in Administrative Code Section 2.6-1 for the potential lease of a portion of SWL 301 to SkyStar; and

WHEREAS, A waiver of the competitive bidding policy will ensure uninterrupted operation of the Wheel and provide a much-needed activation, bringing additional foot traffic to the area to help drive economic recovery to Fisherman's Wharf; and

WHEREAS, According to SkyStar, after three months of reported operating performance, Wheel ridership in December 2023, was 165% more than passenger ridership in December 2022, and 120% more in January 2024, than when the Wheel was in Golden Gate Park; and

WHEREAS, In accordance with the Waterfront Plan stakeholder engagement process for wavier of competitive bidding requirements, based on the lack of meaningful competitors, the Port's interest in maintaining operations and the pending license termination on April 30, 2024, the time and expense in pursuing a competitive process would be impractical and not in either the Port's or public interest; and

WHEREAS, In Resolution No. 24-15, the Port Commission adopted findings, conclusions, and certain mitigation measures (collectively, the "Environmental Findings") under the California Environmental Quality Act (California Public Resources Code, Sections 21000 et seq.,); now, therefore, be it

RESOLVED, The Board of Supervisors adopts the Environmental Findings in Port Commission Resolution 24-15 as its own; and, be it

FURTHER RESOLVED, The Board of Supervisors finds: 1) that competitive bidding procedures would be impractical or impossible due to a likely lack of competition for a short term opportunity to continue operations; 2) the timely and successful execution of the proposed short term lease would help attract visitation to the Port for the benefit of new and old businesses alike; 3) the urgency of providing support to the recovery of Fisherman's Wharf and maintaining uninterrupted operations; and 4) for these reasons, it would be in the public

interest to waive competitive bidding procedures so the Port may enter into a lease with SkyStar Wheel LLC to; and, be it

FURTHER RESOLVED, That the Board of Supervisors waives application of the competitive bidding procedures in Administrative Code, Section 2.6-1 to a short term lease, should the Port Commission and SkyStar Wheel, LLC, agree upon mutually acceptable terms of a lease for a portion of SWL 301, provided, however, that any lease or other agreement shall remain subject to Charter, Section 9.118.