

## MEMORANDUM

June 5, 2014

**TO:** MEMBERS, PORT COMMISSION  
Hon. Leslie Katz, President  
Hon. Willie Adams, Vice President  
Hon. Kimberly Brandon  
Hon. Mel Murphy  
Hon. Doreen Woo Ho

**FROM:** Monique Moyer  
Executive Director

**SUBJECT:** Approval (1) to accept a gift from the James R. Herman Committee known as the James R. Herman Tribute and associated installation costs, subject to Board of Supervisors' approval and (2) of display of gift at the James R. Herman Cruise Terminal at Pier 27

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolution

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### **Executive Summary**

In 1998, the Port Commission adopted a resolution to name any future Cruise Terminal after Port Commissioner James R. Herman ("Commissioner Herman"). The International Longshore and Warehouse Union ("ILWU"), Local 34 Waterfront Division, along with several other ILWU chapters and members, have commissioned a piece of art ("Tribute") to commemorate and describe Commissioner Herman's contributions to labor and the San Francisco waterfront. This group has formed a 501(c) 3 referred to as the James R. Herman Memorial Committee ("Committee"). The Committee proposes to give this Tribute to the Port as an unconditional gift to be a permanent installation for the new James R. Herman Cruise Terminal at Pier 27 ("Terminal").

The Tribute is an interactive audio and visual installation that would be located on a prominent wall opposite the escalator and stairs in the first floor lobby of the Terminal. It will feature images of Commissioner Herman and highlights from Commissioner Herman's speeches.

Port staff presents this Tribute for the Port Commission's consideration and requests Port Commission's acknowledgement and acceptance of the Tribute. Due to its value, the gift of the Tribute and associated installation must be presented to the City and County of San Francisco Board of Supervisors for its approval before the Port can accept it. Thus, Port staff further requests Port Commission approval to allow Port staff

**This Print Covers Calendar Item No. 10A**

to seek Board of Supervisors' approval to accept the Tribute. Upon the Board of Supervisors' acceptance of the Tribute, Port staff will enter into a Gift Agreement (attached as Exhibit A) with the Committee to accept the Tribute. Pursuant to its terms, this agreement provides the Port the latitude to operate and maintain the Tribute at the Port's sole discretion.

## **Background**

Commissioner Herman was a Port Commissioner between 1982 and 1998, and President of the Port Commission in 1991 and 1992, and Vice President of the Port Commission in 1993. Jimmy Herman spent the majority of his career working for the ILWU, Local 34 Waterfront Division. He was a staunch advocate for maritime industries and job creation for San Franciscans, and was active along the San Francisco waterfront outside of his service on the Port Commission. Jimmy Herman was the President of ILWU between 1977 and 1991.

To provide recognition and information about Commissioner Herman's contribution to the waterfront and the City, the Committee has offered the Port an unconditional gift of the Tribute including associated installation costs.

To design the Tribute, the Committee solicited Autodesk, an engineering, design and entertainment software company, to facilitate an artist's selection process. Autodesk sponsors an artist in residence program and works with a national network of artists. Through a competitive process, Floating Point Collective ("Artist") was selected to prepare a tribute concept, and is currently furthering the design to ensure compatibility with the Terminal and associated building code requirements. Floating Point Collective is an art and design collective based in Brooklyn, New York. They create large scale works that embrace new technologies, and constantly seek new forms of expression that resonate with the present and look towards the future. Autodesk has continued to work with the Artist to finalize the Tribute design.

The Tribute is an interactive audio and visual installation. It features an 8 foot high by 14 foot wide wall mounted steel sculpture that references waves on the Bay through its finish and shape. Placed within this steel wave sculpture, there is a touch screen monitor that allows visitors to scroll through images of Commissioner Herman's life. The installation also features a directional sound system that provides Commissioner Herman's speech highlights when visitors approach the front of the Tribute. When a person interacts with the Tribute or is in close proximity, it will animate; text about Commissioner Herman will be projected on the sculpture, and the touch screen will turn on, prompting visitors to interact with it. The concept design for the Tribute with the visual components overlaid is attached as Exhibit B.

To facilitate the ease of operations among various parties including Port staff, the Terminal operator and special events coordinators, the Artist will create a web portal to enable remote control of the Tribute. In advance of conveying this gift to the Port, the Artist is determining the replacements needed to keep the Tribute functional for a 20 year period. The Artist will provide a maintenance and operation manual that will include information regarding these replacement parts. The Committee will fund these

necessary replacement parts as part of the total project budget along with remote control web maintenance for a 20 year period.

### **Gift Agreement**

The Port and the Committee have negotiated an agreement setting forth the terms under which Port can accept the unconditional gift of the Tribute (“Gift Agreement”) which is attached as Exhibit A. The Gift Agreement will give the Port the following basic rights and privileges: (1) full and complete ownership of the Tribute and absolute discretion over its use, display, placement, removal, and disposition and (2) approval of the content and any content changes. The Gift Agreement contains customary releases and waivers of the Committee’s and Artist’s rights to allow the Port unrestricted use of the Tribute as it deems fit.

### **Gift Acceptance Process**

The Tribute gift has an estimated value of \$250,000. As a gift with a value of over \$10,000, it is subject to acceptance by the Board of Supervisors under Section 10.100-305 of the Administrative Code.

With Port Commission acknowledgement and approval of this gift, Port staff will present it to the Board of Supervisors. With Board of Supervisor’s approval, the Port Executive Director will accept this unconditional gift and enter into the Gift Agreement for the Tribute. Port staff will also comply with all reporting requirements for gifts under applicable City and state laws.

### **Gift Installation**

With City acceptance of this Tribute, the Port can review and approve the Tribute design for installation. Assuming an 85 day installation and fabrication period, Tribute installation is expected this October.

### **Recommendation**

The Tribute is a fitting memorial to Port Commissioner James R. Herman. The Committee has worked hard and generously to arrange for a memorial that benefits both Commissioner Herman and the Port’s new state of the art Terminal. The Committee has non-profit status and will continue to fundraise for Tribute maintenance. The Committee’s current project budget includes a fundraising to purchase replacement parts for a 20 year period for the Tribute as designed and for the current technology in the total project budget. Port staff highly recommends approval of the attached resolution acknowledging the gift and authorizing the Executive Director to seek Board of Supervisor’s gift acceptance and upon such acceptance to enter into a Gift Agreement with the Committee to accept the Tribute.

Prepared by: Kanya Dorland, Waterfront Planner

Prepared for: Byron Rhett, Deputy Director  
Planning and Development

### **ATTACHMENTS:**

Exhibit A - Gift Agreement  
Exhibit B - Concept Design

**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 14-39**

- WHEREAS, In 1998 the Port Commission adopted a resolution to name any future Cruise Terminal on Port property after Port Commissioner James R. Herman, a Port Commissioner from 1982 to 1998 and Port Commission President in 1990 and 1991; and
- WHEREAS, The James R. Herman Memorial Committee (Committee) proposes to give the Port an art piece, known as the James R. Herman Tribute (Tribute), intended for placement within the James R. Herman Cruise Terminal (Cruise Terminal) that recognizes James R. Herman's contributions and work on labor issues within San Francisco and while a member of the Port Commission; and
- WHEREAS, The Committee has agreed to enter into a Gift Agreement with the Port attached hereto for the unconditional donation summarized in this staff report, that gives the Port the following basic rights and privileges: (1) full and complete ownership of the Tribute and absolute discretion over its use, display, placement, removal, and disposition and (2) approval of the content and any content changes; now, therefore be it,
- RESOLVED, That this Port Commission is honored to receive the Committee's offer of the Tribute as a gift as well as the gift of necessary installation and authorizes the Executive Director or her designee to seek Board of Supervisor's acceptance of the gift; and be it further
- RESOLVED, Upon Board of Supervisor's acceptance, the Port Commission authorizes the Executive Director or her designee to enter into an agreement with the Committee, substantially in the form of the Gift Agreement attached to the accompanying staff memorandum, its placement at the Cruise Terminal and to accept this unconditional Tribute, and to allow its placement; and be it further
- RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the Gift Agreement that the Executive Director, in consultation with the City Attorney, determines are in the best interest of the Port, do not materially increase the obligations or liabilities of the Port or materially decrease the public benefits accruing to the Port, and are necessary and advisable to complete the transaction 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 documents; and be it further

RESOLVED, that the Port Commission directs the Executive Director or her designee to report the gift of the Tribute as required by applicable City and state laws.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of June 10, 2014.***

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Secretary

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