



**REQUEST FOR PROPOSALS
RESTAURANT LEASE OPPORTUNITY
Pier 33 ½ The Embarcadero at Bay Street**

CITY AND COUNTY OF SAN FRANCISCO

Edwin M. Lee, Mayor

SAN FRANCISCO PORT COMMISSION

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October 12, 2017

Pier 33 ½ Restaurant Lease
SCHEDULE**All times are San Francisco/Pacific Time**

| <u>ACTIVITY</u> | <u>DATE / TIME / LOCATION</u> |
|--|--|
| RFP Release Date: | Thursday, October 12, 2017 |
| Informational Conference and Site Visit: | Wednesday, November 1, 2017 10:00 a.m. Port of San Francisco Pier 1, The Embarcadero San Francisco, CA 94111 |
| Deadline for submission of questions or requests for clarification: | Thursday, November 2, 2017 2:00:00 p.m. |
| Submittal Deadline: | Friday, December 8, 2017 2:00:00 p.m. |
| Submittal Location: | Port of San Francisco Pier 1 The Embarcadero San Francisco, CA 94111 Attn: Sandra Oberle |
| Estimated Port Commission Informational Presentations by Top-Ranking Respondents: | January - February, 2018 |
| Estimated Port Commission Meeting for Award: | February, 2018 |
| Estimated Final Lease Approval by Port Commission: | May, 2018 |
| Estimated Final Lease Approval by Board of Supervisors | July, 2018 |

This schedule is subject to change at the sole discretion of the Port.

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I. THE OPPORTUNITY

The Port of San Francisco (“Port”) is an enterprise department of the City and County of San Francisco (“City”). The five-member Port Commission, appointed by the Mayor and approved by the Board of Supervisors, oversees the operation of the Port’s land and facilities by Port staff. The Port Commission, acting in its proprietary capacity as landlord, has authority to approve a lease with the selected Respondent, subject to approval by the Board of Supervisors.

The Port is soliciting proposals from qualified respondents (“Respondents”) for the development and operation of a restaurant (the “Restaurant”) located at Pier 33 ½, south of Pier 39 and just north of Alcatraz Landing.

The successful Respondent will have demonstrated the ability to finance, design, construct, and operate a restaurant on the site, with the goal of negotiating a lease and related documents for the development and lease of the Restaurant. The Port Commission intends to select a Respondent that can successfully create an establishment that provides the surrounding neighborhood and businesses with an affordable, family friendly, casual dining choice. The Port Commission is committed to the participation of local owners featuring local concepts in its retail opportunities, as well as in the development and operation of these concepts.

II. PORT OVERVIEW

The San Francisco waterfront evokes colorful images for residents and visitors alike – the Ferry Building, AT&T Park – Home of the San Francisco Giants, Fisherman’s Wharf, world class views of and access to San Francisco Bay, the Exploratorium, cruise ships and the Bay Bridge. The waterfront is a “must see” destination for visitors to San Francisco, home to many nearby residents and a center of employment for many businesses.

The Northeast Waterfront has undergone great change in the last 20 years. The striking series of pier and bulkhead buildings provide this area with a unique architectural, historic and maritime industrial character. The evolution of this area has changed the function of the Embarcadero from an industrial service road accessing the piers to a beautified urban boulevard that supports pedestrian, vehicular, bicycle and public transit modes of travel.

Port restaurants feature largely local operators, highlighting fresh ingredients and enticing restaurateurs. In the words of the Port’s Vision, the goal is to “Deliver vibrant and diverse waterfront experiences that enrich the City and San Francisco Bay”. A summary of recent gross sales for Port tenant restaurants located in the Northeastern Waterfront (Piers 1 through 35) is attached as Appendix F.

III. THE RESTAURANT SITE

The Pier 33 ½ Restaurant is located approximately 100 yards north of Alcatraz Landing, where over 1.4 Million people per year embark to/debark from their visit to Alcatraz. The Telegraph Hill neighborhood is nearby, along with offices and businesses. To the north is Pier 35, an active cruise ship terminal and event center, with Pier 39 and Fisherman's Wharf located within approximately one-half mile to the north.

As shown in site plan attached as Appendix A, the Restaurant building is located within the Pier 33 ½ bulkhead space and consists of approximately 4,615 square feet of interior space, including kitchen, dining and support space. There is approximately 2,000 square feet of exterior space available for storage, and refuse/recycling management. The Restaurant was previously operated as Butterfly Restaurant and has been vacant since January 2017.

A facility assessment of the Restaurant space was conducted by a third party and is attached as Appendix D. The information contained in this report is intended to provide information on the condition of the facility and equipment. Respondents should not rely solely on the information contained in this report and should pursue their own due diligence as the successful Respondent, as discussed further in Section VI. The Port will convey the site to the tenant in an "AS IS" condition. It shall be the sole responsibility of the successful Respondent to investigate and determine conditions of the Restaurant space, including but not limited to existing and planned utility connections, and the suitability of such conditions for the improvements to be constructed by the tenant. The information presented in this RFP and in any report or other information provided by the Port is provided solely for the convenience of the interested parties. It is the responsibility of interested parties to assure themselves that the information contained in this RFP or other documents is accurate and complete for its intended purpose. The Port or its advisors provide no representations, assurances, or warranties pertaining to the accuracy of such information.

Also included in Appendix D is the most recent Rapid Structural Assessment Report performed by the Port in September 2016. A link to the construction documents for the existing improvements will be provided when it is available.

IV. SUMMARY OF KEY LEASE TERMS

This Section briefly describes key lease terms sought by the Port. In its submittal, Respondents must indicate acceptance of these key lease terms, and make a lease proposal that is consistent with these key lease terms. The final lease terms will be negotiated with Port staff and are subject to final approval by the San Francisco Port Commission and by the San Francisco Board of Supervisors.

Permitted Use

The permitted use under the lease is the operation of a full service, restaurant open at least six (6) days per week, serving a minimum of lunch and dinner, and includes activities in support of restaurant operations.

Premises

The Restaurant Premises consists of approximately 4,615 square feet of space located at Pier 33 ½, The Embarcadero, San Francisco, California, as shown in the attached Appendix A.

Rent

Monthly rent shall be the greater of base rent or a percentage of gross revenue:

- Minimum monthly base rent per square foot shall be quantified by Respondent in the proposal but in no event shall be less than \$3.50 per square foot monthly escalated annually by 3%.
- Minimum percentage rent based on gross revenue shall be quantified by Respondent in the proposal but in no event shall be less than 7%.
- Port may agree to a rent-free construction period of up to 12 months from the date the lease is fully executed to complete design, permitting and construction conditioned upon Port's review of Respondent's proposed design, permitting and construction schedule.
- Ancillary shed space in Pier 33 may be leased independently at the then current fair market value but in no event shall be less than \$1.65 per square foot escalated annually by 3%.

Term

The initial term for the lease is ten (10) years with an option to extend for an additional five (5) years, exercisable at the Port's sole discretion. The initial term will commence immediately upon full execution of the lease.

Capital Investment

Proposals must include a description of proposed tenant improvements and the anticipated amount of proposed capital investment. The minimum capital investment must be sufficient to complete all improvements and address required code upgrades, ADA requirements, furnishings, fixtures, equipment, etc., and provide an appealing design for the proposed concept.

Utilities

Tenant shall be responsible for cost of installing all utilities including electricity, water, sewer and gas. Tenant shall be responsible for the ongoing monthly cost of its utilities and shall be separately metered.

Parking

There is no parking included in the lease for Restaurant employees or Restaurant patrons.

Customer Service and Operation Plan

Respondents must submit a Customer Service and Operation Plan to address such issues as customer and employee parking management, deliveries, trash handling and hours of operation, which will be incorporated in the lease.

Prohibited Uses

Prohibited uses include night club or entertainment venue use, or any activity that requires an After Hours Permit from the San Francisco Police Department. Other prohibited uses include: a) use of the space for raves, D. J. parties, or other public dances/events that use live or amplified music; b) charging a cover charge or requiring a donation to gain entry to the Restaurant; c) engaging in any activity that is in violation of the Restaurant Rules and Regulations (attached as Appendix C); and (d) off-site sale of alcoholic beverages. Activities managed by an outside promoter are prohibited.

Sale / Transfer / Refinancing

The Port will participate in the net proceeds the tenant receives from the sale, transfer or refinancing of the Restaurant.

Maintenance/Repairs

During the term of the lease, the tenant shall be responsible for all improvements, maintenance, repairs and operating expenses associated with the Restaurant, including any non-exclusive areas.

Possessory Interest and Other Taxes

The tenant will be required to pay possessory interest taxes on the assessed value of the leasehold interest. Respondents may contact the City Assessor's office for more information on how this tax will be calculated. The tenant also will be required to pay other applicable city taxes, including sales and payroll taxes.

Security Deposit

A security deposit in the form of cash or an irrevocable standby letter of credit in a form and from a financial institution with a local branch as approved by the Port, will be required in an amount equal to three (3) month's base rent in the final year of the initial term. Surety bonds will not be accepted to meet this requirement.

Insurance and Bond Requirements

Throughout the term of the Lease, the Tenant will be required to maintain insurance typical for the construction and operation of a restaurant in amounts and with limits determined appropriate by the Port, the City's Risk Manager, and with carriers acceptable to the Port. Insurance will include, but is not limited to: comprehensive general liability; workers' compensation; property insurance on the Premises; automobile liability; watercraft liability; personal property; business interruption; builder's risk; pollution legal liability; a policy endorsement in a form acceptable to Port; and any other insurance required by law. The Port and City must be named as additional insureds.

The tenant's construction contractor will be required to furnish the Port with a performance and payment bond issued by a responsible surety company licensed to do business in California and satisfactory to the Port or other such instrument. Such bond shall guarantee completion of any improvements proposed to be constructed at the site, in an amount not less than the value of such improvements. The Port will also require a guaranty from the tenant guaranteeing the successful completion of improvements.

Environmental Deposits

The lease will require two additional forms of environmental financial assurance designed to protect the Port and the community from liability arising out of the operation of a retail facility. The amount of any such deposit will be determined based on tenant's proposed operations and history.

Hazardous Materials

During the "due diligence" period, explained further in Section VI, the Respondent may conduct environmental site assessments of the Restaurant. The tenant shall be responsible for the removal or remediation of hazardous materials that are required to be removed or remediated during the term. Requirements for removal and remediation, if any, will be largely depend on the construction plans proposed.

Assignment/Sublease

The Port will have the right to approve any assignment, sublease or transfer of the lease, subject to any participation provisions.

Form of Lease

The successful Respondent will be required to enter into a lease to be negotiated by the Port and Respondent during the period of exclusive negotiations. A copy of the Port's standard form retail lease is attached hereto as Appendix B (the "Form of Lease") as an example. However, the final lease may be substantially different in order to: a) reflect the business terms negotiated between the successful Respondent and the Port; b) incorporate any City requirements adopted after the drafting of the Form of Lease; and c) incorporate any other provisions desired by the Commission or negotiated by the parties.

City Requirements

As shown in the Form of Lease attached as Appendix B, tenant must comply with all City requirements in effect, including without limitation: (1) Non-Discrimination in Contracts and Property Contracts (including providing equal benefits) (SF Admin. Code Section 12B and C); (2) Tropical Hardwood and Virgin Redwood Ban (San Francisco Admin. Code Section 12I); (3) Health Care Accountability Ordinance (San Francisco Admin. Code Section 12Q); (4) MacBride Principles – Northern Ireland (San Francisco Admin. Code Section 12F); (5) Alcohol and Tobacco Products Advertising Ban (San Francisco Admin. Code Section 4.20); (6) San Francisco Integrated Pest Management Program (San Francisco Admin. Code Section 39.1); (7) Prevailing Wages for various trades and activities (San Francisco Admin. Code Sections 6.22(e) and 21C); (8) Local Hiring requirements and Plan (San Francisco Admin. Code Section 6.22(f) and (g)); (9) Graffiti (San Francisco Public Works Code Article 23); (9) Criminal Background (San Francisco Admin. Code Chapter 12T); (10) First Source Hiring (San Francisco Admin. Code §83.1 et.seq) and (11) Limitations on Contributions (San Francisco Campaign and Governmental Conduct Code Section 1.126). The lessee for a restaurant with 50 or more employees will also be required to comply with the Employee Signature Authorization Ordinance (San Francisco Admin. Code Sections 23.50-23.56) which requires employers to enter into a "card check" agreement with a labor union regarding the preference of employees to be represented by a labor union to act as their exclusive bargaining representative.

As part of the RFP package, each Respondent must submit a written acknowledgement in the form attached hereto as Submittal B, stating that it has reviewed, understands, and can comply with the City Requirements set forth in Section 28 of the Form of Lease, and other terms and conditions set forth in Section VIII hereof.

Additional information regarding Contract Monitoring Division (CMD) requirements can be found in the attached memorandum to prospective tenants of the Port, or by calling Finbar Jewel at (415) 274-0511. The Port strongly encourages small, local, woman and minority owned businesses to bid, either as a sole bidder, a joint venture or a member of the development and/or operations team.

Prevailing Wages

Section 23.61 of the City's Administrative Code requires the payment of prevailing wages for certain activities. As detailed by ordinance, both state and City laws require the payment of prevailing wages for certain activities and these apply independently. Under State law, a tenant and its contractors and its subcontractors performing labor in connection with a "public work" as defined under California Labor Code Section 1720 et seq., where the "public work" is paid for in whole or part out of public funds shall: (A) pay workers performing such work not less than the highest prevailing rate of wages, (B) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (C) employ apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "Prevailing Wage Requirements"). Under State law, "public work" includes certain construction, alteration, demolition, installation or repair that is "paid for in whole or part out of public funds." State law defines "paid for in whole or in part out of public funds" very broadly to include the payment of "money or the equivalent of money," and fees, costs, rents, insurance or bond premiums, loans, interest rates or other obligations that would normally be required in the execution of a contract that are paid, reduced, charged at less than fair market value, waived or forgiven.

City law requires a tenant and its contractors and subcontractors to comply with the Prevailing Wage Requirements as if the project is a "public work and improvement" under City and state law, if the work is performed qualifies as "Covered Construction." The Administrative Code defines "Covered Construction" as "Any project for any erection, construction, renovation, alteration, improvement, demolition, excavation, installation, or repair, including tenant improvements, that meets the following requirements: (1) the real property on which the project is located is within the jurisdictional boundaries of the City; (2) the estimated project cost exceeds the Threshold Amount; and (3) the project is performed on (A) any real property sold to the Contracting Party under a City-as-seller contract for Housing Development; or (B) real property leased by the City as a landlord or leased to the City as a tenant, where the construction is performed before or during the term of the lease in accordance with plans, specifications, or criteria approved by the City. The City law applies regardless of whether the project is paid for in whole or part out of public funds, but does include a threshold amount which is currently \$600,000.

City law has provisions requiring certain provisions to be in contracts and tenants to cooperate with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Prevailing Wage Requirements. Additional information regarding the Prevailing Wage Requirements and rates may be obtained by contacting the Office of Labor Standards Enforcement at (415) 554-6292 or www.sfgov.org/olse/mwo.

Local Hiring Policy

To promote the utilization of local residents in construction projects, the City has an additional requirement for local hiring when a tenant is performing tenant improvements of over \$750,000 per building permit. In this case, a tenant must comply with the local hiring provisions of SF Admin Code Section 23.62. For tenant improvements of \$1 million or more per building permit, a tenant is required to have an approved Local Hiring Plan as required by SF Admin Code Section 23.62. The Office of Economic and Workforce Development (OEWD) administers the Local Hiring Policy.

V. SUBMISSION REQUIREMENTS

In order for your Proposal to be deemed responsive to this RFP it must be complete, accurate and contain all of the information requested below. Omission, inaccuracy, misstatement or failure to submit any or all of the items required by this RFP may be cause for rejection of your Proposal.

Required Proposal Content

Six (6) numbered sets of the information requested below shall be submitted to the Port, with the exception of financial capacity materials (Submittal C), two (2) copies of which are to be submitted to the Port under separate cover. In accordance with the Sunshine Ordinance (Section 67.24(e) of the San Francisco Administrative Code), all responses and other communications from interested parties shall be open to inspection by the public upon request, immediately after a contract is awarded. Financial capacity materials submitted by a Respondent will be kept strictly confidential until and unless that Respondent is awarded the opportunity.

Cover Letter: Each Respondent must submit a letter of introduction and executive summary of the Proposal. The letter must be signed by a person authorized by the proposing firm to obligate the firm to perform the commitments contained in the Proposal. Submission of the letter will constitute a representation by the Respondent that the Respondent is willing and able to perform the commitments contained in the Proposal.

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Statement of Minimum Qualifications (use Submittal A attached): The Statement of Minimum Qualifications is required to establish that the Respondent is responsive and meets the Minimum Qualifications of this RFP as set forth below. The Statement of Minimum Qualifications must be accompanied by the supporting documentation specified in the attached Submittal A, including three (3) reference letters.

The Minimum Qualifications for this Restaurant Opportunity are:

- a. Respondent must have a minimum of five (5) years within the past seven (7) years (“qualifying years”) in the ownership or management of a full service restaurant (“qualifying business”).
- b. Respondent may be a newly formed entity (e.g., limited liability company, joint venture, corporation) provided that such newly formed entity is duly organized and validly existing prior to the Submittal Deadline for this RFP and the Port is satisfied the Respondent is qualified, as follows: each of the principals (e.g., LLC members, joint venture partners, corporation shareholders) who own an aggregate of 51% or more of Respondent must satisfy the minimum qualification requirements. For example, if the newly formed entity is:
 - i. A limited liability company comprised of two members, owning 51% and 49% respectively, the entity will be deemed qualified if the 51% member satisfies the minimum qualification requirements; or
 - ii. A limited liability company comprised of three members, owning 40%, 35% and 25% respectively, the company will be deemed qualified if two of the three members each satisfy the minimum qualification requirements; or
 - iii. Owned 50/50, then each principal must satisfy the minimum qualification requirements.
 - iv. The Port must be satisfied the party(ies) satisfying the minimum qualification requirements will be in control of the proposing entity. Newly formed entities cannot meet this RFP’s minimum qualifications through a sublease agreement.
- c. Respondent’s qualifying business must have achieved minimum gross sales of Two Million Dollars (\$2,000,000) per qualifying year.

- i. For purposes of determining whether a Respondent has the required business experience, Port staff will consider a) the nature of the Respondent's management experience, which is managing the operation of a qualifying business on a full-time basis (i.e. at least 40 hours per week), or b) the nature of the Respondent's ownership of a qualifying business, the level of control exercised by the Respondent and whether the Respondent's ownership interest is active (such as managing general partner) or passive (such as limited partner).

Statement of Ability to Comply with Governmental Requirements (use Submittal B attached):

- a. The successful Respondent will be required to enter into a lease, which sets forth standard terms and conditions of the Port Commission, including those required by applicable local, state, and federal law. The code sections referenced herein, including the San Francisco Charter and the San Francisco Administrative Code, are available online at <http://www.municode.com>.
- b. As part of its Proposal, each Respondent must submit an executed Statement of Ability to Comply with Governmental Requirements demonstrating that it has reviewed and understands the San Francisco ordinances and other governmental provisions referenced in this RFP and the form lease and that there is nothing impeding its ability to comply with such requirements should it be awarded a lease.

Proposal Description (use Submittal C attached):

Respondent must provide information responsive to the Evaluation Criteria set forth in Submittal C, detailing Respondent's concept, design intention and capital investment, experience and financial strength, proposed rent and business plan, and local business participation. **This section shall be no greater than 40 pages.** Respondent is encouraged to include renderings, floor plans, and material samples planned for the development of the Restaurant, as well as the proposed development/construction and operational team.

Information provided must be submitted with the following format, identifying each item by letter and number. A Proposal submitted with incomplete or missing forms, or received after the submittal deadline will be deemed non-responsive and will be rejected. After a Proposal has been submitted, no modifications to the Proposal will be allowed.

A. Proposed Concept (20 points)

- A.1 Describe the Restaurant proposed. Include information on the theme, ambiance, hours of operation, days of operation, menu, and pricing.
- A.2 Describe how the proposed Restaurant will complement the neighborhood and surrounding environment.
- A.3 Include a detailed plan for marketing the restaurant and maximizing sales, revenue and customer satisfaction.
- A.4 Provide a proposed operations plan, including the management and operational structure of the business, and staffing.

B. Design Intention and Capital Investment (20 points)

- B.1 Provide a narrative description of the design concept.
- B.2 Provide conceptual design sketches for improvements, including the interior design, signage, floor plan, front elevation, and images depicting interior and exterior of the Restaurant.
- B.3 Show all pedestrian ingress and egress points, and identify areas for loading and unloading passengers and Restaurant deliveries.
- B.4 Describe the materials to be used and application in the Restaurant design.
- B.5 Describe design compliance with applicable standards for historic preservation.
- B.6 Provide a project schedule for design, permitting and construction.
- B.7 Provide the proposed design and construction team members.
- B.8 Provide the amount of the proposed initial capital investment for improvements.

C. Experience and Financial Strength (20 points)

- C.1 In addition to the information provided in Submittal A, describe the qualifying business, including hours of operation, days of operation, menu, pricing, and photographs.
- C.2 The most recent available credit report and audited financial statements for the past three (3) years of each principal partner and joint venture participant, including statement of changes in financial position and statements of any parent organizations and any materially relevant

subsidiary units, identifying any projects with negative cash flows, any non-performing loans, and the amount of guarantees and/or contingent liabilities.

- C.3 Describe the source of funding for initial Restaurant improvements, including design and construction.
- C.4 Describe sources of working capital to cover operating costs and to adequately maintain operations at a high level from the start up period through seasonal variations in activity.

D. Proposed Rent and Business Plan (25 points)

- D.1 Complete the Financial Pro Forma provided in Submittal D.
- D.2 Complete the Minimum Rent Offer provided in Submittal F.

E. Local Business Participation (15 points)

- E.1 Submit a Community Engagement Plan that demonstrates current and/or planned participation or active involvement with local neighborhoods or interest groups.
- E.2 Submit a Local Business Utilization Plan, identifying Local Business Enterprise (“LBE”) and CMD Certified Small and Local Economically Disadvantaged Business partners, including LBE professional and service providers hired by Respondent for the design, permitting, and construction phase, and/or the Restaurant operations, including maintenance, custodial, marketing, suppliers and vendors.

Financial Pro Forma (use Submittal D attached):

The Financial Pro Forma must be completed and submitted utilizing the format presented in Submittal D showing five years of projected sales, revenue to the Port, expenses, and net income. The Financial Pro Forma should demonstrate an understanding of the proposed lease and will be considered for its reasonableness, the viability of the proposed operation and financial offer, and the ability to fund continuing operations from the cash flow generated by the operation.

Proposal Deposit (use Submittal E attached):

Each Respondent must submit a Proposal Deposit in the Amount of **Five Thousand Dollars (\$5,000.00)**. The Proposal Deposit may be in the form of a cashier’s check to be held by the Port without interest or a letter of credit, a sample of which is included in Submittal E. Proposals that do not include a Cashier’s Check or an **original** Letter of Credit in the amount of Five Thousand

Dollars (\$5,000.00) will be rejected. The Proposal Deposit of an unsuccessful Respondent will be returned within a reasonable period of time following award of the lease or rejection of the Proposal.

The Proposal Deposit must be valid for a minimum of **six (6) months** after the Submittal Deadline.

Upon award by the Port Commission, the successful Respondent will be required to submit an additional **Five Thousand Dollars (\$5,000.00)**, for a total Proposal Deposit of **Ten Thousand Dollars (\$10,000.00)**. The total Proposal Deposit will be a non-refundable fee for a 90-day exclusive negotiation period. With the consent of the Port's Executive Director, the Proposal Deposit may serve as a security deposit for the lease.

Minimum Rent Offer (use Submittal F attached): See Section IV above for a detailed description of the required minimum rent proposal.

Respondent must submit its minimum offer on the form attached as Submittal F, which must be signed by Respondent.

VI. EVALUATION AND AWARD PROCESS

Proposal Evaluation Process

To participate in the RFP process, each Respondent must submit its Proposal prior to the Submittal Deadline at the Submittal Location, as specified in this RFP.

The Port will review each Proposal for an initial determination of responsiveness in an Initial Screening Process. The following elements will be reviewed during the Initial Screening Process: Proposal completeness, compliance with format requirements; and meeting the Minimum Qualifications. Proposals are not scored during the Initial Screening Process. Initial Screening is a pass/fail determination as to whether a Proposal meets the threshold requirements described above. A proposal that fails to meet these requirements will not be eligible for consideration in the Evaluation Process described below. The Port reserves the right to request clarification from a Respondent prior to rejecting a Proposal for failure to meet the Initial Submittal requirements. Clarifications will be limited exchanges between the Port and the Respondent for the purposes of clarifying certain aspects of the Proposal, and will not give the Respondent the opportunity to revise or modify its Proposal. Proposals that meet the Initial Submittal requirements shall continue to the Evaluation Process described below.

At any stage of the process, Port staff and/or Port's consultants, may contact references and industry sources, investigate previous projects and current

commitments, and perform other due diligence in order to confirm the qualifications of the Respondents.

The written submittals will be reviewed and evaluated by a panel selected by Port staff, consisting of up to five individuals with collective experience in managing and selecting public retail opportunities, and which may include: Port staff, public agency representatives with experience in concession or retail lease opportunities, retail operators, real estate professionals with retail expertise (as so constituted, the “Advisory Panel”). In addition, one of the members of the Advisory Panel may be a member of the community such as a member of the North Eastern Waterfront Advisory Group (NEWAG). The Advisory Panel will be advised by Port staff and/or Port’s independent consultants who will independently analyze the business plans, financial submittals and other related financial qualifications of Respondents.

The Advisory Panel will review, evaluate and score all of the written proposals that meet the Initial Submittal requirements. The oral interview will be scored using the scoring criteria shown on Submittal C and is worth up to 100 points.

Oral Interview / Scoring Process

Up to five (5) of the highest ranking, qualified Respondents will be invited to an oral interview with the Advisory Panel. The interview will consist of standard questions asked of each of the invited Respondents. The oral interview will be scored using the scoring criteria shown on Submittal C and is worth up to 100 points.

Respondents that complete the oral interview will be notified of their total combined proposal and oral presentation score, and the three (3) Respondents with the highest total score will be **required** to make a presentation to the Port Commission in a public open session.

Port Commission Presentation

This is expected to be a PowerPoint presentation of no longer than ten (10) minutes. The leadership teams representing the Respondents should be prepared to respond to questions from the Commissioners following their presentations.

Lease Award

Prior to the top three Respondents making their informational presentation at a Port Commission meeting, the Advisory Panel’s total scores will be presented to the Port Commission, which retains the authority to select the successful Proposer. Subsequent to the informational presentation to the Port Commission, Port staff will recommend award of the lease to the Port Commission. The Port Commission, in its sole discretion, will make the final selection to award the opportunity and authorize exclusive negotiations with a selected Respondent and, ultimately, decide whether to enter into a lease and the terms of any lease.

Please note the lease will require approval from the San Francisco Board of Supervisors and the Mayor, each acting in their sole discretion.

Exclusive Negotiations

After the Port Commission makes the final selection of the most qualified Respondent(s), the Port Commission may authorize staff to enter into exclusive negotiations with that Respondent for a period not to exceed ninety (90) days, unless extended in writing by the Port.

During the period of exclusive negotiations, the following events are anticipated to occur:

- Completion of a lease and related documents for the lease and development of the Restaurant site, in a final form approved by the San Francisco City Attorney’s office.
- The selected Respondent will complete its “due diligence” review of the Site, finalize financial projections, and complete preliminary development plans including, but not limited to floor plans, elevations, and renderings for the Site,
- The selected Respondent, with the Port’s cooperation, will complete the project approval processes and any required regulatory review.

Objections to the RFP

Should a prospective Respondent object on any ground to any provision or legal requirement set forth in the RFP (including all Appendices and all Submittals), including but not limited to objections based on allegations that: (i) the RFP is unlawful in whole or in part; (ii) one or more of the requirements of the RFP is onerous, unfair or unclear; (iii) the structure of the RFP does not provide a correct or optimal process for the solicitation of a tenant; (iv) the RFP contains one or more ambiguity, conflict, discrepancy or other error; or (v) the RFP unnecessarily precludes alternatives to the subject opportunity, the prospective Respondent must provide timely written notice of objection as set forth below.

- A. **An objection must be received in writing to the Port no later than 5:00 p.m. on the 14th calendar day after the RFP has been issued.**
- B. The objection shall state the basis for the objection, refer to the specific requirement or portion of the RFP at issue, and shall describe the modification to the RFP sought by the prospective Respondent. The objection shall also include the name, address, telephone number, and email address of the person representing the prospective Respondent.

- C. The Port, at its discretion, may make a determination regarding an objection without requesting further documents or information from the prospective Respondent who submitted the objection. Accordingly, the initial objection must include all grounds of objection and all supporting documentation or evidence reasonably available to the prospective Respondent at the time the objection is submitted. If the prospective Respondent later raises new grounds or evidence that were not included in the initial objection, but which could have been raised at that time, then the Port may not consider such new grounds or new evidence.
- D. Upon receipt of a timely and proper objection, the Port will review the objection and conduct an investigation as it deems appropriate. As part of its investigation, the Port may consider information provided by sources other than the prospective Respondent. At the completion of its investigation, the Port will provide a written determination to the prospective Respondent who submitted the objection. If required, the Port may extend the proposal submittal deadline to allow sufficient time to review and investigate the objection, and issue addenda to incorporate any necessary changes to the RFP.
- E. Objections not received within the time and manner specified will not be considered. A Respondent's failure to provide the Port with a written objection as specified above on or before the time specified above shall constitute a complete and irrevocable waiver of the ground(s) of objection and forfeit the Respondent's right to raise such ground(s) of objection later in the procurement process, in a Government Code Claim, or in other legal proceedings.

A Respondent may not rely on an objection submitted by another Respondent, but must timely pursue its own objection.

Protest of Non-responsiveness

Within five working days of the City's issuance of a notice of non-responsiveness, any firm that has submitted a Proposal and believes that the City has incorrectly determined that its Proposal is non-responsive may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth working day following the City's issuance of the notice.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Respondent, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

Protest of Award

Within five (5) working days of the Port's notice of the most qualified Respondent which would be recommended to the Port Commission for award of a lease, or if there is no such recommendation, within five (5) working days of notice of the Port Commission's final selection of the most qualified Respondent for award of a lease, any Respondent who submitted a responsive proposal that was evaluated during the evaluation process and believes that the Port has unfairly selected another Respondent may submit a written notice of protest.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the Respondent, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the Respondent must specify facts and evidence sufficient for the Port to determine the validity of the protest. All protests must be received by the Port on or before the fifth (5th) working day following the Port's notice. The Respondent submitting the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other Respondents who may be adversely affected by the outcome of the protest.

The Port will provide affected Respondent(s) with five (5) working days from their receipt of the protest to submit a written response to the protest.

The Port, in its discretion, may make a determination regarding a protest without requesting further documents or information from the Respondent who submitted the protest. Accordingly, the initial protest must include all grounds of protest and all supporting documentation or evidence reasonably available to the prospective Respondent at the time the protest is submitted. If the Respondent later raises new grounds or evidence that were not included in the initial protest, but which could have been raised at that time, then the Port may not consider such new grounds or new evidence.

Upon receipt of a timely and proper protest, the Port will review the protest and conduct an investigation as it deems appropriate. As part of its investigation, the Port may consider information provided by sources other than the protesting and affected Respondent(s). The Port may also consider supplemental correspondence or other information relating to the original ground(s) of protest submitted by a protesting Respondent and/or a affected Respondent(s) to the extent the Port determines that such information will assist it in resolving the protest. At the completion of its investigation, the Port will provide a written determination to the Respondent who submitted the protest, with a copy to the affected Respondent(s).

Protests not received within the time and manner specified will not be considered.

A Respondent may not rely on a protest submitted by another Respondent, but must timely pursue its own protest.

The procedures and time limits set forth in this section are mandatory and are a Respondent's sole and exclusive remedy in protesting a Lease award to another Respondent. Failure to comply with these protest procedures shall constitute a complete and irrevocable waiver of the ground(s) of protest and forfeit the Respondent's right to raise such ground(s) of protest later in the RFP process, in a Government Code Claim, or in other legal proceedings.

Delivery of Objections and Protests

If an objection, protest or response to a protest is mailed, the Respondent or affected Respondent(s) bears the risk of non-delivery within the deadlines specified above. Objections, protests and responses to protests should be transmitted by a means that will objectively establish the date the Port received the objection, protest or response. Objections, protests, notice of protests, and responses to protests made orally (e.g., by telephone) will not be considered. Objections, protests and responses to protests must be delivered to:

Port of San Francisco
Director of Real Estate and Development
Pier 1, The Embarcadero
San Francisco, CA 94111

VII. OTHER TERMS AND CONDITIONS

Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Port of San Francisco does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Wendy Proctor, Port of San Francisco, Pier 1, San Francisco, CA 94111, has been designated to coordinate and carry out the Port's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided thereunder, are available from the ADA Coordinator.

Claims Against the Port

No Respondent will obtain by its response to this RFP, and separately by its response waives, any claim against the Port by reason of any or all of the following: any aspect of this RFP, any part of the selection process, any informalities or defects in the selection process, the rejection of any or all submittals, the acceptance of any submittal, entering into exclusive negotiations, conditioning exclusive negotiations, terminating exclusive negotiations, approval or disapproval of plans or drawings, entering into any transaction documents, the failure to enter into a lease, any statements, representations, acts, or omissions of the Port, the exercise of any discretion set forth in or concerning any of the above, and any other matters arising out of all or any of the above.

Respondent's Duty to Investigate

The Port will convey the Site to the lessee in an "AS IS" condition. It is the sole responsibility of the selected Respondent to investigate and determine the condition of Pier 33 ½ Restaurant site, including existing and planned utility connections, and the suitability of the conditions for any proposed improvements and use.

The information presented in this RFP, and in any report or other information provided by the Port is provided solely for the convenience of the interested parties. It is the responsibility of interested parties to assure themselves that the information contained in this RFP or other documents is accurate and complete. The Port and its advisors provide no representations, assurances, or warranties pertaining to the accuracy of the information. Respondents are responsible for reviewing all portions of this RFP and any other information provided by the Port in relation to this RFP. Respondents are to notify the Port in writing of any ambiguity, discrepancy, omission, or other error in this RFP promptly after discovery, but in no event later than 15 business days before the deadline to submit submittals. An interested party that does not give timely notice to the Port will be deemed to have waived any ambiguity, discrepancy, omission, or other error in this RFP. Modifications and clarifications will be made by addenda as provided below.

Sunshine Ordinance

All communications about this RFP are subject to the San Francisco Sunshine Ordinance and other public records laws. Neither the Port nor the City will be responsible under any circumstances for any damages or losses incurred by a respondent or any other person or entity because of the Port's release of information in response to a public records disclosure request. In accordance with Section 67.24(e)(1) of the San Francisco Administrative Code:

“Contracts, contractors’ bids, responses to requests for submittals and all other records of communications between the Port and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this ordinance requires the disclosure of a private person’s or organization’s net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information covered by this provision will be made available to the public upon request.”

Conditional Nature of Offering

The Port’s issuance of this RFP is not a promise or agreement that the Port will actually enter into any contract. The Port expressly reserves the right at any time to:

1. Waive any technical defect or informality in any submittal or submittal procedure that does not affect or alter the submittal’s substantive provisions;
2. Reject any or all submittals;
3. Suspend any and all aspects of the process indicated in this RFP;
4. Amend this RFP;
5. Terminate this RFP and issue a new request for interest, qualifications or proposals;
6. Request some or all respondents to revise submittals;
7. Select a tenant by any other means;
8. Offer new leasing opportunities in the area at any time;
9. Extend deadlines for accepting submittals, or accept amendments to submittals after expiration of deadlines; or
10. Decide not to pursue this offering.
11. In awarding the opportunity and finalizing any lease, modifying, refining, and otherwise clarifying the permitted uses to reflect the selected proposal, with such changes therein as may be desired provided that such changes will not change the overall substance of the proposal.

The Port’s failure to object to an error, omission, or deviation in any submittal will in no way modify this RFP or excuse respondents from full compliance with the requirements of this RFP.

The Port may modify, clarify, and change this RFP by issuing one or more written addenda. Addenda will be posted on the Port’s website, and notice of the posting will be sent by electronic mail to each party receiving an RFP. The Port will make reasonable efforts to notify interested parties in a timely manner of modifications to this RFP but each respondent assumes the risk of submitting its submittal on time and obtaining all addenda and information issued by the Port.

Therefore, the Port strongly encourages interested parties to register as an interested party and check the Port's web page for this RFP frequently.

Respondent Selection Does Not Guarantee Project Approval

The Port Commission's selection of a respondent and authorization to commence exclusive negotiations may not be construed as an approval of the proposed project. The Port will not enter into any lease for any of the Pier 33 ½ Restaurant project until environmental review under the California Environmental Quality Act ("CEQA") is complete. Changes to the proposed project may occur or be required during the course of public review of the proposed project, during the approval processes that will follow CEQA review, and in response to other City, Port, and public concerns that may arise, and those changes may require additional CEQA review if the changes have not already been analyzed. If a project is found to cause significant adverse impacts, the Port retains absolute discretion to require additional environmental analysis, and to: (1) modify the project to mitigate significant adverse environmental impacts; (2) select feasible alternatives that avoid significant adverse impacts of the proposed project; (3) require the implementation of specific measures to mitigate the significant adverse environmental impacts of the project, as identified upon environmental evaluation in compliance with applicable environmental law; (4) reject the project as proposed if the economic and social benefits do not outweigh otherwise unavoidable significant adverse impacts of the project; or (5) approve the project upon a finding that the economic and social benefits of the project outweigh otherwise unavoidable significant adverse impacts. The Port is issuing this RFP in its capacity as a landowner with a proprietary interest in Pier 33 ½ as a whole, and not as a regulatory agency of the City. The Port's status as an agency of the City will not in any way limit any selected respondent's obligation to obtain requisite approvals from City departments (including the Port), boards, or commissions with jurisdiction over a proposed project. Under the San Francisco Charter, no officer or employee of the City and County of San Francisco, including the Port, has authority to commit the Port to any project until the Port Commission has approved the transaction following completion of CEQA review and, if required, the San Francisco Board of Supervisors has approved the lease.

Financial Obligations

Each Respondent is responsible for all costs incurred in responding to this RFP. The Port has no financial responsibility for any costs incurred by a Respondent in responding to this RFP. The Port will not pay a finder's or broker's fee in connection with this RFP. Respondents will be solely responsible for the payment of all fees to any real estate broker(s) with whom the Respondent has contracted.

Submittals Become Port Property

All submittals submitted will become the property of the Port and may be used by the Port in any way deemed appropriate.

Interpretation

For the purposes of this RFP, the terms “include,” “included” and “including” will be deemed to be followed by the words “without limitation” or “but not limited to,” and, where required by the context, the singular includes the plural and vice versa, and the feminine gender includes the masculine and vice versa. Section and paragraph headings used in this RFP are for reference only and are not to be used to interpret the provisions of this RFP.

Climate Change and Plan for Sea Level Rise

Leasing and occupancy of the Pier 33 ½ Restaurant may result in the improvements being placed at risk as sea levels rise over the next decades. The lease will include current provisions to address future flood mitigation measures, should these be needed to protect the property or public safety. During the term of the proposed lease, there is some risk that: (a) all or a portion of the Premises will be inundated with water due to floods or sea level rise; (b) sea level rise will increase the cost of Substructure repairs and/or prevent or limit the ability to make repairs to the Substructure; and (c) Port cannot guarantee that piers, decks, wharves, and aprons will be suitable for leased occupancy during the entire term of this lease.

Seawall Earthquake Vulnerability Study

In 2016, the Port conducted a Seawall Earthquake Vulnerability Study of the Northern Waterfront Seawall, a component of the overall effort to improve resiliency of the waterfront by quantifying risks, prioritizing actions, and executing improvement projects. The Northern Waterfront Seawall (“Seawall”) stabilizes four miles of historic waterfront stretching continuously from Fisherman’s Wharf to Mission Creek. The Seawall Earthquake Study is a high level engineering study that assesses earthquake vulnerability, predicts damage and economic impacts from a range of earthquake events, develops conceptual mitigation alternatives, and makes recommendations for further action and/or study. The Executive Summary Report is attached as Appendix G. Additional information is available at <http://www.sfseawall.com/about>.

Community and Good Neighbor Policies

Tenant shall be required to adhere to all Community and Good Neighbor Policies currently in effect and those that may be enacted in the future. Additional information may be found at <http://sfgov.org/entertainment/codes-and-policies> .

Performance Benchmarks

All documents governing the approval and development of the Restaurant site will contain time and performance benchmarks, including provisions for payment of liquidated damages, with termination for non-performance.

VIII. PROJECT APPROVALS

A restaurant on the site is permissible under the Port's Waterfront Plan, which has been approved by the Port Commission. However, the specific plans for the Restaurant will require various permits and approvals to include approval of signage, and each prospective Respondent is responsible for determining which permits and approvals will be required for the construction and operations proposed at the Site and for obtaining such permits and approvals. All construction permits are obtained through the Port Permit/Engineering Department. The following information is intended to help Respondents in this determination. It is not meant to be an exhaustive summary of all permits which may be required.

Port of San Francisco

Subject to the San Francisco Board of Supervisors' approval, the Port Commission must approve the selected Respondent and must approve the final lease and related documents for the development and lease of the Restaurant. In addition, the Port's building permit department will issue the building permits for the Restaurant. Port Real Estate & Development will oversee management and compliance with the terms of the lease.

Waterfront Land Use Plan

Pier 33 ½ is located in the Northeast Waterfront Area in the Port's Waterfront Land Use Plan ("Waterfront Plan"). The Waterfront Plan identifies the following objectives for the Northeast Waterfront Area:

- Maximize opportunities for the retention of maritime operations.
- Activate this area with an array of uses which establish a daytime and nighttime presence, but are not primarily tourist-oriented.
- Protect and enhance the historic maritime character of the contributing historic resource and the Embarcadero Historic District.

- New development should highlight the location of the area as a gateway to the North Beach and Chinatown neighborhoods to the west, and Fisherman’s Wharf to the north.
- Provide new public access amenities which highlight newly created points of interest.
- Establish high standards in the design of new development that give rise to a new architectural identity for the shoreline north of China Basin Channel.

Historic Preservation Process

Pier 33 ½ is a contributing resource within the Port of San Francisco’s Embarcadero Historic District which is listed on the National Register of Historic Places. As part of the District’s nomination, the Port developed Historic Preservation Review Guidelines (“Guidelines”) to define how the Secretary’s Standards should be interpreted and applied to the repair, maintenance and alteration of pier and bulkhead wharf substructures, including aprons to ensure its responsible management and stewardship. The Guidelines define parameters for the repair, maintenance or alterations to Pier 33 ½’s pile foundations, substructures, deck, aprons and the bulkhead wharf upon which Pier 33 ½ resides. The Port’s Planning staff would determine whether the proposed use and associated alterations are consistent with the Planning Department’s environmental review determination, the Port’s Waterfront Land Use Plan, Secretary’s Standards, Port Historic Preservation Guidelines and applicable design and signage criteria. This historic preservation review will analyze the project’s impact(s) on the contributing resource and its character defining features which include but are not limited to the following:

Exterior

- Neo-classical symmetrical design
- Massive voussoir-lined arch with roll-up doors and a wooden flagpole
- Decorative cornice with dentils
- Clean unobstructed parapet and roof lines
- Minimal historic signage
- Recessed punched window and door openings
- Multi-light wood windows

San Francisco Board of Supervisors

The lease will be subject to Section 9.118 of the San Francisco City Charter, which requires approval by the San Francisco Board of Supervisors for leases of ten years or more or one million dollars or more in total revenue.

Design Review

The design of the project must be reviewed and approved by the Port. In addition, the Port expects to invite and receive comments on the design of the project from the Northeast Waterfront Advisory Group (“NEWAG”). The NEWAG consists of businesspersons, Port tenants and residents of the surrounding community.

Environmental Review

Respondent will be required to submit an Environmental Evaluation application to the San Francisco Planning Department to support any change or intensification of use. Additionally, environmental review may also be required for projects that propose to alter the structure because it is a contributing resource within the Embarcadero Historic District which is listed in the National Register of Historic Places and is officially recognized as an historical resource under the California Environmental Quality Act (CEQA).

All applicable requirements of CEQA must be met before the Port Commission or Board of Supervisors will authorize the project and/or execute a lease. Likewise, CEQA review of the project must be completed prior to the authorization of building permits by the Port for interior or exterior alteration of the structure. As a part of the environmental evaluation the applicant will be responsible to retain a qualified historic preservation architect to prepare an Historic Resource Evaluation Report assessing the impact(s) of the proposed physical changes to the contributing historic resource and its character defining features. Additionally, permits for alteration and construction to the interior and exterior of the contributing historic resource require analysis by Port to determine whether the proposed use and associated alterations are consistent with the Planning Department’s environmental review determination, the Port’s Waterfront Land Use Plan, Secretary’s Standards and applicable Port Design and Signage Criteria.

San Francisco Bay Conservation and Development Commission (“BCDC”)

BCDC is a state agency with jurisdiction over the San Francisco Bay and the first 100 feet inland from its shoreline regulating fill, dredging and changes in use. BCDC regulates new development, as well as improvements and use of Port structures within its jurisdiction to ensure that maximum feasible public access to and along the Bay is provided. Landside uses and structural changes are governed by BCDC’s plans and regulations. For major leases and most renovation of Port structures, BCDC along with its Design Review Board review these projects in conformance with the BCDC San Francisco Bay Plan and the San Francisco Waterfront Special Area Plan and issue a Major Permit with the

tenant and Port as co-applicants. The existing BCDC Permit for the Restaurant site is attached as Appendix E.

Liquor, Food Service and Business Licenses

Respondents should investigate, and will be solely responsible for obtaining, a liquor license(s) from the California Department of Alcoholic Beverage Control and any other required licenses, including but not limited to those from the City's Department of Public Health and Treasurer/Tax Collector.

APPENDIX A

Site Plan

APPENDIX B
Form of Lease

APPENDIX C

Restaurant Rules and Regulations

APPENDIX D

Facility Assessment Report and Rapid Structural Assessment Report

APPENDIX E

BCDC Permit

APPENDIX F

Summary of Gross Sales

APPENDIX G

Executive Summary Report for the Seawall Earthquake Vulnerability Study

SUBMITTAL FORMS

Proposal Checklist

- Submittal A** - Statement of Minimum Qualifications
- Submittal B** - Statement of Ability to Comply with Governmental Requirements
- Submittal C** - Evaluation Criteria
- Submittal D** - Financial Pro Forma
- Submittal E** - Letter of Credit Sample Format
- Submittal F** - Minimum Rent Offer

PROPOSAL CHECKLIST

The following information, forms and documentation must be included in the Proposal.

- Submittal A, Statement of Minimum Qualifications** - Complete and execute the form provided, and include the supporting documentation required.
- Submittal B, Statement of Ability to Comply with Governmental Requirements** – Complete and execute the form provided.
- Submittal C, Evaluation Criteria** – Complete and execute the form provided and submit information responsive to the Evaluation Criteria detailing Respondent's concept, design intention, capital investment, experience and financial strength, proposed rent and business plan and local business participation.
- Submittal D, Financial Pro Forma** – Complete and execute the form provided.
- Submittal E, Sample of Letter of Credit Form** – Submit the required Proposal security using the form provided **OR** provide an original cashier's check made payable to the City of San Francisco.
- Submittal F, Minimum Rent Offer** – Complete and execute the form provided.

Submittal A
STATEMENT OF MINIMUM QUALIFICATIONS

Lease Name: Pier 33 ½ Restaurant Lease

A. IDENTITY OF PROPOSING ENTITY

1. Name and contact details of Respondent exactly as it is to appear in the Lease:

Address: _____

Contact Name and Title: _____

Phone No: _____ Fax No: _____

Email: _____

2. The Respondent, if selected, intends to carry on the business as:

- Individual Partnership Joint Venture
 Limited Liability Company Corporation Other (attach explanation)

3. If the Respondent is a Partnership or Joint Venture , attach an executed copy of the Partnership Agreement or Joint Venture Agreement, and answer the following:

Note: If the Respondent is a corporation or limited liability company that meets the Minimum Qualifications and intends to partner or joint venture with a small business, an executed letter of intent **and** copy of the agreement to be executed upon award is sufficient. Partners must be willing to execute the Lease awarded to the Respondent.

(a) Name, address, and share of each partner of the Joint Venture or Partnership:

| <u>Name</u> | <u>Address</u> | <u>Share</u> |
|-------------|----------------|--------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

- (b) Date of Organization (MM/YY): _____
- (c) General or Limited Partnership (if applicable): _____
- (d) State of Formation: _____
- (e) Registered California? (Y/N) _____ If so, when (MM/YY) _____

4. If the Respondent is a Corporation or Limited Liability Company, attach a copy of the Respondent's Certificate of Good Standing from the State of California (or state of formation), and answer the following:

- (a) When incorporated/formed (MM/YY) _____
- (b) In what state/country _____
- (c) Authorized to do business in California? (Y/N) ____ If so, when? (MM/YY) _____
- (d) Name, address, experience in the business, and amount of stock/membership interests held by the following officers. If the officer titles presented below do not exist within your organization, list officers of similar functions and include their actual title with their names:

| Officer | Name | Address | Percent of Stock or Interests |
|----------------|------|---------|-------------------------------|
| President | | | |
| Vice President | | | |
| Secretary | | | |
| Treasurer | | | |
| Other | | | |

- (e) Name, address and shares of stock/membership interests held by other “principal” stockholders or members: (A “principal” stockholder or member is defined as a stockholder or member who holds 10% or more of the outstanding stock or membership interests of the corporation or limited liability company.)

| Name | Address | Percent of Stock/ Membership Interest |
|------|---------|---|
| | | |
| | | |
| | | |
| | | |
| | | |

5. Local Business Participation

Identify local business participation if applicable.

| Name | Percent of Ownership or Identify as Sublessee | Identify any/all certifications (SBA, LBE, DBE, etc.) |
|------|--|--|
| | | |
| | | |

6. Summary of Experience

Each Respondent must complete the table below with the information necessary to determine if it meets the minimum qualification requirements. Respondent may also submit a narrative response that describes in detail how the Respondent meets the minimum qualification requirements, limited to five (5), double sided pages. **Please follow the same format set forth below for your response.**

a.

| | Year 1 20__ | Year 2 20__ | Year 3 20__ |
|------------------|----------------|----------------|----------------|
| Concept Name | | | |
| Address/Location | | | |
| Sales | | | |
| Owner/Entity | | | |

- b. Supporting Documentation: Each Respondent must submit the following information and documentation which supports its qualifications:

- i. Provide the total number of years the Respondent has owned or managed its qualifying business.
- ii. Provide information sufficient to show that the qualifying business specializes in the concept by summarizing the product categories or items, relative to the concept. Items listed must be reflective of the Use and Operational Requirements of the Lease as attached to this RFP document.

Acceptable forms of information will include, but not be limited to sales reports, narrative description, store layout maps with product categories identified and accompanying photos or any other information that will indicate that the qualifying business specializes in the proposed concept.

- iii. Provide evidence of ownership or management experience for each of the qualifying years, which evidence must be reasonably satisfactory to the Port Commission.

Consider submitting one or more of the following items:

Ownership

- Organizational documents, such as joint venture/partnership agreement, corporate articles/bylaws, share certificates
- Financial Statements of Respondent
- Tax Returns of Respondent

Management

- Management charts
- W-2 forms
- Business cards
- Confirmation letter from employer

- iv. Provide evidence that the qualifying business generated the minimum gross revenue per qualifying year. Attach audited financial statements for each qualifying year. Audited financial statements may include balance sheets and income statements that were prepared and attested to by a Certified Public Accountant (CPA).

If audited financial statements are not available, submit tax statements prepared by a CPA, along with unaudited financial statements for each qualifying year. Include a detailed breakdown showing which of Respondent's facilities meet the gross revenue requirement for each qualifying year.

- v. State if Respondent has ever operated under another name and/or ownership structure.

7. Financial Summary

Relative to your business operations, please answer "Yes" or "No" to the following questions. The following questions pertain to all leases and subleases that you hold or have held in the past five years. Please provide an explanation for those questions in which you responded with "Yes."

In the past five (5) calendar years:

| Question | Answer |
|---|--------|
| 1. Have you received a letter/notice (e.g. Notice of Default) from the landlord requesting that you remedy/cure any type of default under the lease (e.g., non-payment of rent, maintenance)? | |
| 2. Have you received a letter/notice demanding that you "Pay or Quit" the premises for non-payment of rent? | |
| 3. Have you filed for bankruptcy? | |
| 4. Have you terminated a lease before the expiration of the lease term? | |
| 5. Have you been or are you currently on a "payment plan" to pay past due rent or fees that are owed to the landlord? | |

8. References

Please provide a minimum of three (3) reference letters from non-affiliated organizations on their company letterhead. Each reference letter must have been dated within the past twelve (12) months and must include information directly related to Respondent's management or ownership experience in the qualifying business.

9. Affirmative Statement of Accuracy

The undersigned represent and warrant to the Port Commission as follows: (a) the undersigned person(s) are authorized representatives of Respondent; (b) the person(s) signing below is authorized by Respondent to obligate the Respondent to perform the commitments contained in the Proposal; (c) all information submitted by Respondent in the Proposal is complete, accurate, and truthful; and (d) submission of this Proposal constitutes a representation by the Respondent that it is willing and able to perform the commitments contained in this Proposal. (Note: If Respondent is a joint venture or partnership, all joint venturers or partners must sign; if Respondent is a corporation, at least Respondent's President and Secretary must sign; if Respondent is a limited liability company, at least Respondent's manager or managing member must sign.)

_____ Title _____
Printed Name: _____

_____ Title _____
Printed Name: _____

_____ Title: _____
Printed Name: _____

Date: _____

Submittal B
STATEMENT OF ABILITY TO COMPLY WITH GOVERNMENTAL
REQUIREMENTS

Proposing Entity: _____

Lease Name: **Pier 33 ½ Restaurant Lease**

- 1) The undersigned are authorized representatives of Respondent.
- 2) The undersigned has reviewed the applicable City ordinances and other governmental requirements applicable to this Restaurant Opportunity (“**Governmental Requirements**”), including those described in this RFP and the Lease.
- 3) Respondent is ready, willing, and able to comply with all Governmental Requirements.

_____ Title _____

Printed Name: _____

_____ Title _____

Printed Name: _____

_____ Title: _____

Printed Name: _____

Date: _____

| |
|--|
| Submittal C EVALUATION CRITERIA |
|--|

Proposing Entity: _____

Lease Name: **Pier 33 ½ Restaurant Lease**

Submittal C will consist of the Respondent’s response to the Evaluation Criteria below, as explained in Section V of the RFP. A thorough discussion/demonstration of all points below must be included in the Proposal with the exception of the Financial Pro Forma and the Minimum Rent Offer, which will be submitted using a separate submittal form.

Proposals and oral interviews will be evaluated on the criteria below and scored according to the point scale shown.

| Evaluation Criteria | Weight |
|---|----------------------|
| <p>A Proposed Concept</p> <ul style="list-style-type: none"> • Overall appeal of proposed concept to Northern Waterfront residents, visitors and businesses. (10 points) • Respondent’s plan for marketing the restaurant and maximizing sales, revenue and customer satisfaction. (5 points) • Proposed operations plan, including hours of operation and menu. (5 points) | <p>20 points</p> |
| <p>B Design Intention and Capital Investment</p> <ul style="list-style-type: none"> • Overall appeal, interior design, signage, floor plan, front elevation and images depicting interior and exterior. (10 points) • Amount of initial capital investment. (10 points) | <p>20 points</p> |
| <p>C Experience and Financial Strength</p> <ul style="list-style-type: none"> • Documented experience operating a full service, sit down restaurant along with annual gross revenue for the latest 3 years of operation. (10 points) • Source of funds for initial capital investment (cash, loan types, etc.). (10 points) | <p>20 points</p> |
| <p>D Proposed Rent and Business Plan</p> <ul style="list-style-type: none"> • Financial pro forma with projected sales, revenue to the Port, expenses and net income, with a demonstrated ability to fund continuing operations from the cash flow generated by the operation. (10 points) • Proposed base rent. (5 points) • Proposed percentage rent. (10 points) | <p>25 points</p> |

| Evaluation Criteria | | Weight |
|------------------------------|---|------------|
| E | Local Business Participation <ul style="list-style-type: none"> Respondent's Community Engagement Plan. (5 points) Respondents's Local Business Utilization Plan. (10 points) | 15 points |
| Total Possible Points | | 100 |

The undersigned are authorized representatives of Respondent.

_____ Title _____

Printed Name: _____

_____ Title _____

Printed Name: _____

Submittal D
FINANCIAL PRO FORMA

Proposing Entity _____

Lease Name _____

Sq. Ft. _____

| | YEAR 1 | | YEAR 2 | | YEAR 3 | | YEAR 4 | | YEAR 5 | | Total | |
|---|--------|------------|--------|------------|--------|------------|--------|------------|--------|------------|-------|------------|
| | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales |
| GROSS RECEIPTS (SALES): Sales & percentage rent by category: | | | | | | | | | | | | |
| a) | | | | | | | | | | | | |
| b) | | | | | | | | | | | | |
| c) | | | | | | | | | | | | |
| Total Gross Receipts | | | | | | | | | | | | |
| OPERATING EXPENSES | | | | | | | | | | | | |
| Cost of Goods Sold | | | | | | | | | | | | |
| Payroll | | | | | | | | | | | | |
| Payroll taxes & employee benefits | | | | | | | | | | | | |
| RENT: Minimum Base Rent | | | | | | | | | | | | |
| Percentage Rent | | | | | | | | | | | | |
| Franchise or license fees | | | | | | | | | | | | |

| | YEAR 1 | | YEAR 2 | | YEAR 3 | | YEAR 4 | | YEAR 5 | | Total | |
|---|--------|------------|--------|------------|--------|------------|--------|------------|--------|------------|-------|------------|
| | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales |
| Repairs & maintenance | | | | | | | | | | | | |
| Depreciation | | | | | | | | | | | | |
| Office, storage & distribution expenses | | | | | | | | | | | | |
| Utilities | | | | | | | | | | | | |
| Insurance | | | | | | | | | | | | |
| Credit card fees | | | | | | | | | | | | |
| Licenses & permits | | | | | | | | | | | | |
| Administrative & general | | | | | | | | | | | | |
| Other operating expenses: | | | | | | | | | | | | |
| | | | | | | | | | | | | |
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| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| | | | | | | | | | | | | |
| Total Operating Expenses | | | | | | | | | | | | |

| | YEAR 1 | | YEAR 2 | | YEAR 3 | | YEAR 4 | | YEAR 5 | | Total | |
|---|--------|------------|--------|------------|--------|------------|--------|------------|--------|------------|-------|------------|
| | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales | (\$) | % of sales |
| EBITDA (Earnings before in taxes, depreciation, and amortization) | | | | | | | | | | | | |
| Annual Gross Sales / sq. ft. | | | | | | | | | | | | |
| Annual percentage change i gross sales from prior year | | | | | | | | | | | | |

_____ Title _____

Printed Name: _____

_____ Title _____

Printed Name: _____

LETTER OF CREDIT SAMPLE FORMAT

FORM OF LETTER OF CREDIT

[Name of Financial Institution]
Irrevocable Standby
Letter of Credit

No. _____
Issuance Date: _____
Expiration Date: _____
Applicant: _____

Beneficiary:
City and County of San Francisco, operating by and through
the San Francisco Port Commission
Pier 1
San Francisco, CA 94111

Ladies/Gentlemen:

We hereby establish our Irrevocable Standby Letter of Credit in your favor for the account of the above referenced Applicant in the amount of _____ U.S. Dollars (\$ _____) available for payment at sight by your draft drawn on us when accompanied by the following documents:

1. An original copy of this Irrevocable Standby Letter of Credit.
2. Beneficiary's dated statement purportedly signed by an authorized signatory or agent reading: "This draw in the amount of _____ U.S. Dollars (\$ _____) under your Irrevocable Standby Letter of Credit No. _____ represents funds due and owing to us pursuant to the terms of that certain license by and between City and County of San Francisco, operating by and through the San Francisco Port Commission, as owner, and _____, as licensee, and/or any amendment to the license or any other agreement between such parties related to the license."

It is a condition of this Irrevocable Standby Letter of Credit that it will be considered automatically renewed for a one year period upon the expiration date set forth above and upon each anniversary of such date, unless at least 60 days

prior to such expiration date or applicable anniversary thereof, we notify you in writing, by certified mail return receipt requested or by recognized overnight courier service, that we elect not to so renew this Irrevocable Standby Letter of Credit. A copy of any such notice shall also be sent, in the same manner, to: Port of San Francisco, Pier 1, San Francisco, CA 94111, Attention: General Counsel. In addition to the foregoing, we understand and agree that you shall be entitled to draw upon this Irrevocable Standby Letter of Credit in accordance with 1 and 2 above in the event that we elect not to renew this Irrevocable Standby Letter of Credit and, in addition, you provide us with a dated statement purportedly signed by an authorized signatory or agent of Beneficiary stating that the Applicant has failed to provide you with an acceptable substitute irrevocable standby letter of credit in accordance with the terms of the above referenced license. We further acknowledge and agree that: (a) upon receipt of the documentation required herein, we will honor your draws against this Irrevocable Standby Letter of Credit without inquiry into the accuracy of Beneficiary's signed statement and regardless of whether Applicant disputes the content of such statement; (b) this Irrevocable Standby Letter of Credit shall permit partial draws and, in the event you elect to draw upon less than the full stated amount hereof, the stated amount of this Irrevocable Standby Letter of Credit shall be automatically reduced by the amount of such partial draw; and (c) you shall be entitled to transfer your interest in this Irrevocable Standby Letter of Credit from time to time and more than one time without our approval and without charge. In the event of a transfer, we reserve the right to require reasonable evidence of such transfer as a condition to any draw hereunder.

This Irrevocable Standby Letter of Credit shall be governed by the laws of the State of California.

This Irrevocable Standby Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 revision) ICC Publication No. 500.

We hereby engage with you to honor drafts and documents drawn under and in compliance with the terms of this Irrevocable Standby Letter of Credit.

All communications to us with respect to this Irrevocable Standby Letter of Credit must be addressed to our office located at _____, San Francisco, CA 941__ to the attention of

_____.

Very truly yours,

[name]

[title]

MINIMUM RENT OFFER

Lease Name: Pier 33 1/2 Restaurant Lease

Proposing Entity:

Address:

Phone No.: **Fax No.:**

This proposal is being submitted in response to the Request for Proposals for the above-referenced Lease, which is incorporated in this RFP by reference. Defined terms below shall have the meanings given them in the Request for Proposals.

Minimum Base Rent Offer. The proposed amount for the first lease year's Minimum Base Rent Offer is _____ Dollars (\$ _____ per square foot per month (amount must equal or exceed the Minimum Base Rent).

Percentage Rent Offer. The proposed amount for the Percentage Rent Offer is _____ Percent _____ % of gross revenue due per month (amount must equal or exceed the Minimum Percentage Rent).

The undersigned represent and warrant to the Port Commission as follows: (a) the undersigned person(s) are authorized representatives of Respondent; (b) all information submitted by Respondent in the proposal is complete, accurate and truthful. (Note: If Respondent is a joint venture or partnership, all joint venturers or partners must sign; if Respondent is a corporation, at least Respondent's President and Secretary must sign; if Respondent is a limited liability company, at least Respondent's manager or managing member must sign.)

_____ Title _____

Printed Name: _____

_____ Title _____

Printed Name: _____

_____ Title: _____

Printed Name: _____

Date: _____

