



MEMORANDUM

February 4, 2022

TO: MEMBERS, PORT COMMISSION
Hon. Willie Adams, President
Hon. Doreen Woo Ho, Vice President
Hon. Kimberly Brandon
Hon. John Burton
Hon. Gail Gilman

FROM: Elaine Forbes 
Executive Director

SUBJECT: Request retroactive approval of a Memorandum of Understanding (MOU) with the San Francisco Bay Conservation and Development Commission (BCDC) in an amount not to exceed \$150,000 for staff work on Port amendments to the BCDC San Francisco Waterfront Special Area Plan

DIRECTOR'S RECOMMENDATION: Approve the Attached Resolution No. 22-07

Executive Summary

In support of the work to update the Port's Waterfront Plan, the Planning & Environment Director entered into an agreement (MOU) with the San Francisco Bay Conservation and Development Commission (BCDC) to pay up to \$150,000 in BCDC staff expenses to amend BCDC's San Francisco Waterfront Special Area Plan (Special Area Plan). The Port Executive Director's delegated authority approved by the Port Commission in Resolution 10-60 is \$100,000 and this MOU exceeds that threshold. Port staff seek approval of Resolution 22-07 for retroactive approval of the MOU, included as Attachment 1. With Port Commission approval, Port staff would work with BCDC staff to reissue the MOU for signature by the Port Executive Director.

Strategic Objective

This item supports the goals of the Port's Strategic Plan as follows:

Evolution - To evolve the waterfront to respond to the public and Port needs. Complete the Port's long-term vision for the use of Port lands.

THIS PRINT COVERS CALENDAR ITEM NO. 7B

Project Description

The Port of San Francisco submitted an application to BCDC to (i) amend BCDC's San Francisco Waterfront Special Area Plan (Special Area Plan) and (ii) update the Special Area Plan so that BCDC's policies for the San Francisco waterfront align with new and updated policies in the proposed updated Port Waterfront Plan. The updated Waterfront Plan was developed based on public recommendations from a planning process led by the Waterfront Plan Working Group. In December 2019, the Port Commission endorsed the updated Waterfront Plan which is currently undergoing environmental review.

BCDC's Special Area Plan sets forth BCDC land use, public access, and other requirements for San Francisco waterfront projects. To facilitate waterfront improvements that achieve both agencies' objectives, the Port and BCDC must coordinate consistent and compatible planning policies, including alignment of the BCDC Special Area Plan with the amended Port Waterfront Plan. In November 2018, the Port's Planning & Environment Director signed a MOU for up to \$150,000 to support the BCDC staff work needed to amend the Special Area Plan. The term of the MOU is from July 1, 2018 to December 31, 2022. The MOU allows the Port to pay BCDC for staff time related to review and preparation of amendments to the Special Area Plan. The MOU was amended in June 2021 to update assigned staff and extend the timeframe of work to be performed. The amendment to the MOU is shown in Attachment 2. Work is underway, and the Port has made payments in the amount of \$57,267.30 for staff time to BCDC under this MOU to date.

Port staff recently became aware that it made an administrative error in signing this MOU without first securing Port Commission approval. Port Resolution 10-60 authorizes the Executive Director to award contracts for professional services in an amount not to exceed \$100,000 without Commission approval. The Planning & Environment Director erroneously categorized the work of this MOU as a regulatory expense and regulatory expenses, including permit fees, are paid directly and without a contract. As this MOU is structured as a professional services agreement, Port did not seek approval as required and regrets this administrative error.

Accordingly, Port staff seeks a retroactive Port Commission approval of the BCDC Special Area Plan MOU for work to amend BCDC's Special Area Plan. If approved by the Port Commission, Port staff will work with BCDC to reissue the MOU for signature by the Port Executive Director.

Recommendation

Port staff recommends approval of Resolution 22-07 to approve a reissued MOU.

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Contracts and Procurement Manager

For Katharine Petrucione
Chief Financial Officer

Ming Yeung
Acting Deputy Director of Planning and Environment

Attachment 1: Standard Contract, November 2019

Attachment 2: Standard Contract Amendment, June 2021

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

RESOLUTION NO. 22-07

WHEREAS, The Port seeks to amend the San Francisco Bay Conservation and Development Commission's (BCDC) San Francisco Waterfront Special Area Plan (Special Area Plan) to update and align BCDC and Port policies for the San Francisco waterfront, consistent with the proposed updated Port Waterfront Plan as released in December 2019 following a public planning process led by the Waterfront Plan Working Group, and which is currently undergoing environmental review; and

WHEREAS, In November 2018, the Port Planning & Environment Director signed an agreement (MOU) with BCDC for an amount of up to \$150,000 to pay for BCDC staff expenses to amend the Special Area Plan, which MOU was amended in June 2021 to extend the time period for this BCDC staff work; and

WHEREAS, Port Resolution 10-60 authorizes the Port Executive Director to award contracts for professional services in an amount not to exceed \$100,000 without Commission approval; and

WHEREAS, Because the \$150,000 value of the BCDC MOU exceeds the dollar amount allowed under Resolution 10-60, Port staff seeks retroactive Port Commission approval of this MOU for an amount not to exceed \$150,000; now therefore be it

RESOLVED, That the San Francisco Port Commission hereby authorizes Port staff to execute an MOU with BCDC for staff expenses to amend the BCDC Special Area Plan, for an amount not to exceed \$150,000, as described in the staff report accompanying this Resolution, and be it further

RESOLVED, That the Port Commission authorizes the Executive Director to enter into any additions, amendments or other modifications to the MOU that the Executive Director, in consultation with the City Attorney, determines are in the best interests of the City, do not materially decrease the benefits or otherwise materially increase the obligations or liabilities of the City or Port, and are necessary or advisable to complete the transactions which the MOU contemplates 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 such additions, amendments or other modifications to the MOU.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of February 8, 2022.

Secretary