



MEMORANDUM

July 7, 2023

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Willie Adams, Vice President
Hon. Gail Gilman
Hon. Ed Harrington
Hon. Steven Lee

FROM: Elaine Forbes
Executive Director 

SUBJECT: Informational Presentation to Consider and Possible Action to Approve a Resolution Recommending the Board of Supervisors Waive any Applicable Requirements of the Competitive Bidding Process with Respect to the Unsolicited Proposal from Fisherman's Wharf Revitalized LLC for the Leasing and Phased Development of Portions of SWL 300/301 and Pier 45 Sheds A and C in Fisherman's Wharf Generally Located Bayward of Jefferson Street between Taylor Street and Powell Street.

DIRECTOR'S RECOMMENDATION: Adopt the attached Resolution No. 23-37

EXECUTIVE SUMMARY

On February 15, 2023, Port staff received an unsolicited proposal (the "Proposal") to lease and develop portions of SWL 300/301 (sometimes referred to as the Triangle Parking Lot) and Pier 45 Sheds A and C.

In April 2023, the Port Commission approved the updated Waterfront Plan which includes the method and community engagement process to review and consider unsolicited proposals. A draft of the Waterfront Plan which included this community engagement process was published in June 2019 and revised with Port Commission comments on December 2019.

THIS PRINT COVERS CALENDAR ITEM NO. 11B

Consistent with the Port's (draft and final) Waterfront Plan policies on the method to review and consider unsolicited proposals, the Proposal was brought to the Port Commission at the February 28th meeting¹ and subsequently reviewed through a series of community and Port Advisory Group meetings.

At the April 25th Port Commission meeting, Port staff reported out on the stakeholder engagement process.² In response to the dialogue at the hearing, Executive Director Elaine Forbes announced at the May 9th Port Commission meeting that the Port would issue a Request for Information (RFI) to supplement the outreach noted above to seek feedback on whether there is other, comparable development interest in the locations identified in the Proposal.

The Port issued the RFI on May 20, 2023 (see Attachment A). The Port received two letters of interest: a proposal from Dan Giraud, Chairman and CEO of Boudin Bakery (the Boudin Letter, see Attachment B), and a letter from Fisherman's Wharf Revitalized LLC (the FWR Letter, see Attachment C).

This staff report reviews the RFI letters of interest and provides a staff recommendation for the next steps in seeking Board of Supervisors approval for any applicable waivers of the City's competitive solicitation policy to allow for the negotiation of an exclusive negotiation agreement with Fisherman's Wharf Revitalized LLC.

STRATEGIC OBJECTIVE

Advancement of the proposed project would support at least four goals of the Port's Strategic Plan:

Productivity:

Attract and retain tenants to build an economically successful and vibrant waterfront.

Resilience:

Reduce seismic and climate change risks to protect the waterfront

Evolution:

Evolve the waterfront to respond to changing public and Port needs.

Engagement:

Engage constituents and the public on Port functions and activities.

¹ The February 28 staff report can be found here: https://sfport.com/files/2023-02/022323_item_12b_fw_development_proposal_final.pdf

² The April 25 staff report can be found here: https://sfport.com/files/2023-04/042523-10a_fishermans_wharf_development_proposal_-_stakeholder_engagement_process_and_next_steps.pdf

BACKGROUND

On February 15, 2023, the Port received an unsolicited [Proposal](#) for the lease and development of portions of SWL 300/301 (also known as the Fisherman's Wharf Triangle parking lot) and Sheds A and C on Pier 45. The Proposal was submitted by Fisherman's Wharf Revitalized LLC, consisting of Lou Giraudo, Seth Hamalian, and Chris McGarry. The Proposal is for a mixed-use development celebrating, highlighting, and supporting the fishing and seafood industry of Fisherman's Wharf and increasing public access to and enjoyment of the Bay. The Proposal includes an experiential museum, events center, public plaza, expanded limited vehicular access resilient waterfront promenade, a combination winery/brewery/distillery, and short-term vacation rentals.

The Port's Waterfront Plan outlines a public engagement process for unsolicited proposals that is to occur prior to the consideration of a waiver of the City's competitive bidding procedures by the Board of Supervisors. At the February 28, 2023, Port Commission meeting Port staff described, and the Port Commission directed staff to pursue stakeholder engagement as called for under the Waterfront Plan.

COMMUNITY ENGAGEMENT FEEDBACK

After the February 28th Port Commission meeting the Port hosted three public meetings to solicit feedback regarding the Proposal. The meetings included a March 13th lunchtime meeting held in Fisherman's Wharf, which focused on Fishermen and Fisherwomen and Fish Processing companies; a March 15th evening meeting, which focused on the larger Fisherman's Wharf community, and lastly on March 22nd where the proposal was the focus of the Northern Advisory Committee (NAC) meeting.

The following provides a summary of the key themes Port staff heard from the outreach conducted to date; these are organized into three categories: 1) the Triangle Lot (SWL 300/301); 2) Pier 45, and 3) Other.

Triangle Lot

- Concerns were raised that development on the lot would turn its back on existing Jefferson Street business/activity between Powell and Taylor Streets (south side) and direct visitors to Pier 45
- Observation that the Little Embarcadero will be needed at times for vehicular access for the fishing industry uses on Pier 45
- Whether the Short-Term residential units proposed would violate the 1990 Proposition H, banning hotels within 100' of the waterfront
- The overall reception for the uses of the Triangle Lot was positive

Pier 45

- The fishing industry (Fisherman/woman and fish processing) must be prioritized, without them there is no Fisherman's Wharf
- The visitor attraction to the Wharf is the ability to watch the activity of the fishing industry

- Shed A and the former Shed C area are used for fishing gear storage and staging areas, and parking to support the fishing industry; there is not sufficient space for the fishing industry's storage needs today; this storage is critical to the success of the fishing industry
- The fishing industry in the wharf would benefit from cold storage space on Pier 45
- Concerns were raised about the impacts that the proposed use of Pier 45 may have on the valley, which is already congested by fishing industry uses

Other

- Is it appropriate to consider new development with so many existing vacancies
- Should the sponsors look at the vacant properties on Taylor or Jefferson Streets for the uses proposed on Pier 45
- It is important not to lose the industrial character of the Wharf
- Would the area benefit from an area-wide plan
- Consider activities and uses that focus on the Inner Lagoon – people are interested in the boats
- Open space attracts uses that are problematic (illegal vendors)
- Excitement about the potential for new investment into Fisherman's Wharf

PORT STAFF ANALYSIS OF RFI LETTERS OF INTEREST

By way of background and to address potential confusion, Port staff notes that Lou Giraudo is a member of the Fisherman's Wharf Revitalized LLC group that submitted the Proposal. He is the former operator of the Boudin Flagship restaurant and the Chowder Hut bordering the Triangle parking lot in Fisherman's Wharf, both tenants of the Port (collectively, the "Boudin Restaurants"). Under a corporate restructuring in 2021, Giraudo Bakeries owned by Dan Giraudo, Lou's son, acquired a controlling interest in the Boudin Restaurants. The Boudin Letter was submitted on behalf of the current ownership of the Boudin Restaurants. It is our understanding that Lou Giraudo is no longer affiliated with the Boudin Restaurants.

After reviewing the two letters of interest in response to the RFI, Port staff provides the following observations:

Boudin Letter

Port staff notes that the main body of the Boudin Letter specifies that "it is not principally concerned with actionable [development] proposals for specific locations" but rather asserts that "we at Boudin do NOT support" seeking the waiver that would allow for sole source negotiations regarding the Proposal.

The arguments for its position focus on the impacts of development and the fact that the Proposal would not bring investment for many years in the face of more urgent current needs relating to public safety and current restaurant vacancies. These factors argue against using urgency as "a pretext for relinquishing the benefits of a competitive process for the community." As the Boudin Letter posits, "If the sponsors are uniquely aligned and qualified, then they should be more than willing to see that assumption confirmed in a competitive format."

The Appendix to the Boudin Letter outlines “specific plans we would be interested in participating in should the Waterfront Plan advance under an ENA despite our opposition.” “Locations of Interest” mentioned in the letter include the Triangle Parking Lot and Little Embarcadero / Public Plaza. Specific “Project Visions” mentioned in the letter include a Welcome Center and Plaza space at the Triangle Parking Lot plus the centerpiece for this vision, which is a flexible-use open space for pop-up events and performances, with fewer buildings to allow for more walking paths and views of the Bay. The Appendix closes with a description of the respondent’s team qualifications and financial capacity.

FWR Letter

Fisherman’s Wharf Revitalized LLC submitted a letter in response to the RFI that added more detail on the work it has done and continues to do in furtherance of its initial proposal.

The FWR Letter highlights the fact that the Board of Supervisors’ waiver of the competitive bidding process would be just the first of a series of project definition and approval steps that would all be subject to public engagement and Port Commission review.

Like the Boudin Letter, the FWR Letter notes the current “exigent circumstances” in Fisherman’s Wharf but instead identifies its proposal as a means to counteract these circumstances by creating a “living exhibition platform that celebrates and supports commercial fishing and promotes access to and awareness of that vibrant industry.”

The FWR Letter adds more detail on continuing stakeholder and investor dialogues as well as the projected rough order of magnitude cost of the investment (approximately \$350 million) and the financial and development capacity of the team to deliver a project on that scale.

PORT STAFF RFI CONCLUSIONS

In consideration of the Port Commission hearings, stakeholder engagement, and RFI response summarized above, Port staff has assembled the following conclusions. First, Port staff agrees that Fisherman’s Wharf demands urgent action. But that urgency is not just limited to the current business climate and the challenge of retail storefront vacancies and street conditions. There is also the urgency imposed by seismic and sea level rise risks, and the challenge of retaining visitor attractiveness before, during, and after the upgrades we know are needed to protect the neighborhood.

From the near-term perspective, at its last two meetings, the Port Commission has received information and approval items regarding several actions that are intended to address the conditions in the neighborhood, most notably including:

- A \$2 million Port grant to the Fisherman’s Wharf Community Benefits District to facilitate special event activations, perform beautification activities and deploy ambassadors to create a more inviting atmosphere.

- A new competitive solicitation process for re-tenanting retail storefronts using brokers, which Port staff will couple with a previously approved Administrative Code waiver that allows the Port to more easily deploy stimulus funds as grants to new tenants to reduce the financial barrier of required tenant improvements.
- An effort to double the size of the Port's full-time SFPD detail, to better engage with Port challenges including criminal activity associated with street vending in Fisherman's Wharf, which is anticipated to be complete by the end of July.

Port staff will continue to evaluate ways to address these near-term headwinds; the actions noted above are not a complete solution but represent tangible steps to making Fisherman's Wharf more inviting to residents and visitors. That said, for Port staff the Proposal represents not a distraction from these efforts but rather an opportunity to bring further investment to build from the near-term strategies and reinforce the history and connection to fishing that created the attraction of the Wharf in an organic way over the years.

It is clear to Port staff that a failure to treat both near- and longer-term challenges with urgency will reduce the chances of addressing either set of challenges. The near-term investments in Fisherman's Wharf are unlikely to create durable improvements without a plan to re-energize the area to provide new ways to experience the fishing industry while addressing resilience challenges. On the other hand, pursuing the longer-term vision without attempting to improve current conditions could result in the loss of the special ingredients that have made Fisherman's Wharf such a beloved destination over the decades before the new investments can deliver on their efforts.

Applying that thinking to the Proposal, it seems likely that the successful execution of the investments would help attract visitation to the Port for the benefit of new and old businesses alike. But equally importantly, the Proposal presents a significant opportunity to pair the new attractions with needed seismic and flood protection improvements that will safeguard Fisherman's Wharf as a destination into the future.

In closing, Port staff recommends that the Port Commission adopt the attached Resolution because the response to the RFI does not indicate that there is competing investment interest that would justify the time that a competitive selection process would require.

EXCLUSIVE NEGOTIATING AGREEMENT

Depending on the feedback received from the Port Commission on July 11 and, if the Board of Supervisors approves any applicable waiver of the City's competitive solicitation procedures, Port staff would then be authorized to negotiate an Exclusive Negotiating Agreement (ENA).

The ENA will set forth the process, terms, and conditions upon which the Port and Fisherman's Wharf Revitalized LLC will negotiate terms for the disposition of the sites and the development and operation of the proposed project and more specifically, seek to award the opportunity by completing and entering into a written disposition and

development agreement, a long-term ground lease and other related agreements and documents required for the proposed project.

The ENA will address topics including but not limited to the following:

1. The requirement to develop a Diversity Equity and Inclusion Plan accompanying all phases of the project;
2. A fishing industry support plan (access to pier, gear storage, among others);
3. A design strategy for the public realm of the site;
4. An approach for resilience upgrades required for Pier 45 and Little Embarcadero;
5. A financial structure to feasibly deliver the project and provide financial return for the Port;
6. Details for the museum and public-oriented uses on Pier 45;
7. A transportation and parking strategy for tenants, workers, and the public;
8. Regulatory strategy for proposed short-term rentals; and
9. A project phasing plan and necessary coordination with future resilience capital projects and potential maintenance or modification of other Port properties in the vicinity.

PROPOSED NEXT STEPS & RECOMMENDATION

Subject to Port Commission feedback, Port staff's recommendation is for the Port Commission to adopt the attached Resolution. If so adopted, Port staff will work in consultation with the City Attorney's Office to seek any applicable Board of Supervisors waivers required by the City's competitive solicitation procedures prior to entering into negotiations towards an exclusive negotiation agreement addressing the issues set forth above.

Prepared by Michael Martin, Assistant Port Director

Attachment A - Request for Information

Attachment B - Boudin Letter

Attachment C - FWR Letter

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

RESOLUTION NO. 23-37

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate, and control the Port area of the City and County of San Francisco; and
- WHEREAS, At its meeting on April 11, 2023, after a public planning process that maximized public participation in public discussions about existing waterfront activities, regulations, challenges, public desires, and needs to incorporate diverse viewpoints and perspectives to develop policy recommendations, the Port Commission adopted an updated Waterfront Plan (the “Waterfront Plan”); and
- WHEREAS, The Waterfront Plan included a stakeholder engagement process for unsolicited development proposals, in advance of the submission of such proposals to the Board of Supervisors for consideration of a waiver of the City’s competitive solicitation policy; and
- WHEREAS, On February 15, 2023, the Port received an unsolicited proposal (the “Proposal”) to lease and develop portions of Seawall Lot 300/301 and Pier 45 from Fisherman’s Wharf Revitalized LLC, whose members include Lou Giraudo, Seth Hamalian, and Chris McGarry; and
- WHEREAS, The Proposal contemplates a mixed-use development celebrating, highlighting, and supporting the fishing and seafood industry of Fisherman’s Wharf and increasing public access to and enjoyment of the Bay; and
- WHEREAS, At its meeting on February 28, 2023, the Port Commission directed staff to pursue a stakeholder process to elicit public feedback on the Proposal prior to its submittal to the Board of Supervisors; and
- WHEREAS, Port staff offered opportunities for stakeholder feedback at two-hybrid (in-person and virtual) meetings in Fisherman’s Wharf and one virtual meeting of the Port’s Northern Advisory Committee; and
- WHEREAS, Port staff reported out on the stakeholder engagement feedback at the April 25, 2023 Port Commission meeting; and
- WHEREAS, At the May 9, 2023, Port Commission meeting Executive Director Elaine Forbes announced that as an additional measure of due diligence the Port would issue a Request for Information seeking feedback regarding interest in developing the areas identified in the Proposal (the “RFI”); and

- WHEREAS, The Port issued the RFI on May 20, 2023 and received two letters, which were summarized by Port staff at the July 11, 2023 Port Commission meeting; and
- WHEREAS, The Port received no other letters or responses to the RFI, indicating limited interest in potential bids if the areas identified in the Proposal were made the subject of a competitive solicitation for a development partner; and
- WHEREAS, The Port recognizes the urgency of providing support to the recovery of Fisherman’s Wharf, which has been beset by headwinds of the pandemic and associated economic downturn, resulting in the closure of many longstanding Port tenants; and
- WHEREAS, If approved after appropriate environmental and regulatory review and lease negotiations, the project described under the Proposal provides the opportunity to build economic momentum from the Port’s current investments in the recovery of the Fisherman’s Wharf portfolio, to elevate the fishing industry and history of the Wharf, and to provide a significant private capital investment into a more resilient shoreline; and
- WHEREAS, In accordance with Chapter 23 of the Administrative Code, the Board of Supervisors can waive competitive solicitation upon finding that the competitive process is impractical, impossible or not in the public interest; and
- WHEREAS, The lack of development interest in any response to the RFI, indicates that the time and expense in pursuing a competitive process would be impractical and not in either the Port’s or public interest; and now, therefore, be it
- RESOLVED, In consideration of the results of the stakeholder outreach summarized above, the Port Commission recommends that Port staff, in consultation with the City Attorney’s Office, seek Board of Supervisors approval to waive any applicable requirements of the City’s policy regarding competitive bidding for development opportunities with respect to the unsolicited proposal to lease and develop portions of Seawall Lots 300/301 and Pier 45 submitted by Fisherman’s Wharf Revitalized LLC on February 15, 2023; and
- RESOLVED, The Port Commission directs Port staff, in consultation with the City Attorney’s Office, to submit legislation for consideration by the Board of Supervisors approving any applicable waiver of the City’s competitive bidding process and to commence negotiations of an exclusive negotiating agreement with the goal of returning to the Port Commission for consideration of that agreement at the earliest practicable date.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of July 11, 2023.

Secretary