

## MEMORANDUM

April 4, 2019

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Willie Adams, Vice President  
Hon. Gail Gilman  
Hon. Victor Makras  
Hon. Doreen Woo Ho

**FROM:** Elaine Forbes  
Executive Director

**SUBJECT:** Approval of Memorandum of Understanding No. M-16511 with the City's Recreation and Park Department for rent-free use of a Port property consisting of The EcoCenter at Heron's Head Park, located at 32 Jennings Street, at the foot of Cargo Way in Heron's Head Park, for a term of nine (9) years.

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

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### **EXECUTIVE SUMMARY**

The Port of San Francisco (Port) created Heron's Head Park as a fill removal and habitat restoration project in 1999 and constructed additional improvements to the park entrance and parking lot in 2010 (see Exhibit A: Heron's Head Park and EcoCenter Location; Exhibit B: EcoCenter Site Plan). Since its inception, Heron's Head Park has been a beloved refuge for people and wildlife in the largely industrial southern waterfront. The Port has funded environmental education programs and volunteer opportunities at Heron's Head Park for 18 years.

In 2010, non-profit organization and former Port tenant, Literacy for Environmental Justice (LEJ), completed construction of the EcoCenter at Heron's Head Park (EcoCenter). LEJ turned the EcoCenter over to Port ownership in 2013. The EcoCenter is a unique and beautiful facility, designed to serve as a model for green building, sustainable resource use, environmental justice, experiential learning and community engagement for San Francisco's southeastern neighborhoods. The EcoCenter is LEED Platinum certified, featuring a living roof, solar power, rainwater capture, and on-site wastewater treatment and re-use. Its only connection to municipal utilities is the potable water supply.

**THIS PRINT COVERS CALENDAR ITEM NO. 8B**

The non-profit organization bay.org has operated the EcoCenter and provided education and community engagement programs for the past five years under a lease that expires in February 2019. The Port has also been working with the San Francisco Recreation & Parks Department (SFRPD) to provide environmental education, volunteer participation, and youth development programs in Heron's Head Park under a current Interdepartmental Work Order.

Port staff propose to enter into a Memorandum of Understanding (MOU) with SFRPD to expand its role at Heron's Head Park. Under the MOU, RPD would serve as the primary operator of the EcoCenter and continue to provide environmental education and volunteer programs, youth development opportunities, and other public benefits in the EcoCenter as well as in Heron's Head Park.

Port staff presented information about the EcoCenter and the proposed MOU to the Port Commission at its meeting on February 26, 2019. The proposed MOU remains as described at that meeting except that the base term of the MOU is now proposed to be nine (9) years, instead of five years with two 2-year renewal options. This staff report also responds to the Port Commission's questions about Port investment in operation and maintenance at the EcoCenter.

## **STRATEGIC PLAN**

Operation of The EcoCenter fulfills the goals of the Port's Strategic Plan as follows:

### **#3 ENGAGEMENT**

*Increase the public's awareness of the purpose and benefits of Port functions and activities.*

The Port's ENGAGEMENT goal specifically calls us to partner with City departments and others to promote waterfront projects and activities. The Port's public trust mission includes supporting public use of the waterfront for natural habitat protection, fishing, and other water-oriented activities, such as walking along the shoreline and enjoying views and access to the bay. Operation of Heron's Head Park, the outdoor education and volunteer programs, and the EcoCenter are all Port activities that engage the public, support recreational activities, and educate visitors about the Port's efforts to enhance wetland and bay habitat.

### **#4 EQUITY**

*Ensure Port activities advance equity and public benefit and attract a diversity of people to the Waterfront.*

The "EQUITY" goal reflects the Port's efforts to provide public benefit related to its facilities and operations. The EcoCenter was created to be a resource for community use and provide recreation, education, and other public benefits to the southern waterfront community that has historically had less access to such

resources. The EcoCenter attracts a tremendous number and variety of visitors to Heron's Head Park for both education and recreation. The EcoCenter provides an opportunity to house and enrich the Port's environmental education programs at Heron's Head Park, which are offered at low or no cost to schools, community groups, and the general public. The proposed MOU with SFRPD will continue and further enrich the activities at the EcoCenter that focus on serving the surrounding community and promoting equitable access to the recreational and educational opportunities that the EcoCenter offers.

## **SF RECREATION & PARK DEPARTMENT SERVICES**

Since 2010, before the EcoCenter was constructed, the Port has collaborated with the San Francisco Recreation & Park Department (SFRPD) to provide outdoor environmental education and volunteer programs in Heron's Head Park. These programs have engaged over 1,200 participants and provided approximately 3,200 hours of park stewardship each year through the Youth Stewardship and Greenager Programs. SFRPD has had a consistent core of staff leading the programs at Heron's Head Park and at other facilities in the southeast of San Francisco. Consequently, SFRPD staff working at Heron's Head Park have a deep knowledge of the ecology, history, and habitat management needs of the park as well as the history and needs of the community. Much of SFRPD's work at Heron's Head Park has focused on creating leadership opportunities for local youth. SFRPD, through its work at Heron's Head Park in partnership with the Port and through other programs and facilities that it operates in the surrounding community, has developed long-term connections with many community-based organizations serving youth and adults in southeast San Francisco. These connections have and will continue to facilitate partnerships to increase engagement of the community in activities at the EcoCenter.

With the expiration of the bay.org lease, Port Staff proposes to enter into a MOU with SFRPD to operate the EcoCenter on the terms described below. SFRPD proposes to leverage its expertise, tenure in the community, and existing partnerships to expand on programming at the EcoCenter. SFRPD proposes to operate the EcoCenter, as it does at many of its other recreation centers and clubhouses, on a "hub and spoke" model, wherein SFRPD works with numerous local organizations to provide the resources and programming most relevant to the community that each facility serves.

During the past five years that bay.org has operated the EcoCenter, SFRPD and bay.org staff have regularly collaborated to offer programs that used both the EcoCenter and the outdoor environment of Heron's Head Park to complement and enrich the education and recreation programs that each offers. Similarly, SFRPD has collaborated with the Wilderness Arts and Literacy Collaborative (WALC), a program of Downtown Alternative High School for over 15 years. For the past seven years, SFRPD has based its work with WALC at Heron's Head Park, leading a series of educational field trips on watersheds, wetlands and environmental Justice each year. WALC culminates each of its sessions by having youth participants lead their final exhibition at which they showcase their acquired knowledge and skills. In another partnership, with Jewish

Vocation Services (JVS), SFRPD and JVS youth workers have used Heron's Head Park as their home base. SFRPD provides training and work experiences in the park to build students' confidence and ability in basic project planning, implementation, restoration, and leading volunteers. SFRPD hopes to continue such partnerships to expand educational programming and promote the EcoCenter as a community resource.

The collaborative work of the Port and SFRPD at the EcoCenter serves the public trust by attracting visitors to the waterfront, educating and engaging the public in protecting the natural resources at Heron's Head Park, and raising awareness about the waterfront's public benefits and vital ecological functions. SFRPD has and will continue to provide detailed reporting to the Port about programming and public participation at Heron's Head Park and the EcoCenter, supporting accountability and documenting services and benefits provided relative to cost to the public trust. The resources of the park and the EcoCenter are provided free to the public, consistent with the goal of promoting equitable access to waterfront recreation and natural areas. Subject to the considerable restrictions on use and other conditions of the proposed agreement between the Port and SFRPD, the EcoCenter offers no significant opportunity to generate revenue. As reflected in prior resolutions of the Port Commission for similar recreational facilities, the EcoCenter MOU is trust consistent and supports the trust such that Port investment and waiver of rent is warranted.

### **TERMS OF PROPOSED RPD MEMORANDUM OF UNDERSTANDING**

The proposed Port-SFRPD MOU includes the following terms:

**Permitted Use.** The EcoCenter will be used primarily for education and public access with a focus on green building, sustainability, and San Francisco Bay habitats. The EcoCenter must be open for free public access at least five days per week, including at least one weekend day. SFRPD currently proposes to staff the building both weekend days. The EcoCenter will also be used for community meetings and assembly space for purposes related to its educational and public benefit mission. Subject to prior consent by the Port, SFRPD may hold a limited number of events to support fundraising for operation and programming of the EcoCenter.

SFRPD will develop an "*Operations and Program Plan*" that describes its proposed use of the EcoCenter and how it will fulfill the goals for the EcoCenter as an educational and community resource. The Operations and Program will describe SFRPD's goals for programming at the EcoCenter and will keep records regarding programming and report annually to the Port.

**Prohibited Uses.** The following are prohibited:

- Use of the premises for overnight stays, sleeping, or for personal living quarters, except as approved in writing by the Port;
- Activities that would prevent or impede public access to the non-exclusive license area;
- Any activity that requires an After Hours Permit from the San Francisco Police Department or Entertainment Commission;

- Parties or events that use any amplified music, or any live music that can be heard 120 feet or more from the building to avoid impact to wildlife and/or neighbors;
- Parties or events requiring an entry fee sponsored by entities other than the tenant except as approved in writing by the Port; and
- Retail sales other than branded items or other park-related items sold as part of the tenant's fundraising activities except as approved in writing by the Port.

**Term.** Port staff recommends a nine-year term. The Port would retain the right to terminate the MOU with 120 days' notice in the event of default by SFRPD.

**Use Fee.** The primary purpose of the EcoCenter is to serve the community by promoting public access for education and recreation, providing high-quality, readily accessible programming, and supporting stewardship of the building and the park. The proposed uses of the EcoCenter are limited and offer no significant opportunity to generate revenue. The proposed MOU specifies that the EcoCenter be open to the public and programs be offered free to the public, for which expense is to be borne by SFRPD. Considering the expense of operating the EcoCenter and the benefit to the Port, staff recommends that the MOU not include any use fee.

**Maintenance/Repairs.** During the term of the MOU the Port will be responsible for routine building operations and maintenance, including maintaining and monitoring the energy, water and wastewater systems, reporting on system functions as required by regulations, and repairing building components as-needed due to normal wear and tear. SFRPD will be responsible for providing timely notification to the Port when building systems appear in need of maintenance or repair outside of the Port's existing routine preventative maintenance schedule (for example, leaks around doors or windows, audible pump failure, notifications from automated alarms), and weeding, watering, and replacing plants in the non-exclusive license area. SFRPD will also be responsible for telephone, internet, and security alarm service. At the expiration or termination of the MOU, SFRPD shall surrender the Premises to Port in at least as good condition as when received (other than normal wear and tear) and shall repair any damage to the Premises caused by negligence of RPD.

The Port spends an average of \$27,500/year on Maintenance Division labor (primarily plumbers, some electrician time), materials, and equipment (i.e. pumps, batteries) for the EcoCenter. The Port also spends an average of \$42,000/year on specialty contractors. Contracted services include laboratory analysis of treated wastewater, monthly inspection and reporting to the Department of Public Health by a licensed engineer with specific qualifications in wastewater treatment, and semi-annual servicing of the wastewater treatment system by a manufacturer's-certified maintenance technician. Funds for these activities are allocated in the Port's operating budget (for Maintenance Division staff, materials, and equipment) and an annually appropriated programmatic project (for the contracted laboratory and professional services). Additionally, the Port proposes to fund a one-time work order to RPD in Fiscal Year 2019-2020 to support hiring of RPD staff to provide recreation and environmental programming at the EcoCenter.

**Insurance.** SFRPD will provide insurance coverage acceptable to the Port and the City Risk Manager.

**Standard Provisions.** RPD would be responsible for damage caused by the negligence of RPD, including the failure to supervise its agents or invitees, and the MOU will contain other current standard MOU provisions including protection from claims and damages and insurance by operators. For the proposed EcoCenter MOU, SFRPD will not be allowed to assign its interest and responsibilities in the EcoCenter to other parties.

### **RECOMMENDATION**

Staff believes that SFRPD will provide staffing, continuity, depth and breadth of programming, and organizational infrastructure dedicated to community engagement that will best activate the EcoCenter. Port staff recommends that the Port Commission approve the attached Resolution and authorize the Executive Director to execute the Memorandum of Understanding No. M-M-16511 between the Port of San Francisco and the San Francisco Recreation and Park Department for the premises and terms described herein.

Prepared by: Carol Bach  
Environmental Affairs Manager

For: Diane Oshima, Deputy Director  
Planning & Environment Division

#### Attachments:

- A. Location Map
- B. Site Layout
- C. Memorandum of Understanding between the Port and the San Francisco Recreation and Park Department

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

**RESOLUTION NO. 19-12**

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate and control Port area of the City and County of San Francisco; and
- WHEREAS, since 2010, the Port has supported environmental education and community engagement programs at Heron’s Head Park through partnership with the San Francisco Recreation and Park Department (“SFRPD”), and at The EcoCenter in Heron’s Head Park through partnerships with other entities; and
- WHEREAS, Lease L-15771 with The Aquarium of the Bay Foundation (“bay.org”) expired February 28, 2019; and
- WHEREAS, Port and SFRPD staff have negotiated a Memorandum of Understanding (“MOU”) through which SFRPD would serve as the primary operator of the EcoCenter, expand on its existing programming in Heron’s Head Park, and provide new community engagement opportunities at the EcoCenter; and
- WHEREAS, On February 26, 2019 Port staff presented background information about development of the EcoCenter, the Port’s existing partnership with SFRPD, and the proposed MOU, including rent-free use of the EcoCenter for public benefit programming to the Port Commission; and
- WHEREAS, On March 21, 2019 the Recreation and Parks Commission authorized the proposed MOU with the Port; and
- WHEREAS, the permitted uses in the MOU are a continuation of the existing uses and are therefore a not a project pursuant to the California Environmental Quality Act; and
- WHEREAS, the permitted use of the EcoCenter is trust consistent and supports the trust such that Port investment and waiver of rent is warranted; now therefore be it
- RESOLVED, that the Port Commission hereby approves MOU No. M-16511 with SFRPD on the terms described in the February 22, 2019 Memorandum to the Port Commission with subsequent revisions noted in the April 4, 2019 Memorandum to the Port Commission and authorizes the Executive Director or her designee to execute the MOU and all other appropriate documentation that in consultation with the City Attorney, she determines necessary or appropriate to implement this Resolution,

in such form as approved by the City Attorney's office, such determination to be conclusively evidenced by the execution and delivery by the Executive Director, or her designee, of such documents, 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 to be in the best interest of the Port, do not materially increase the obligations or liabilities of the Port, and are necessary or advisable to complete the transactions which this Resolution 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 documents.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of April 9, 2019***

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Secretary