




## MEMORANDUM

November 4, 2022

**TO:** MEMBERS, PORT COMMISSION  
Hon. Willie Adams, President  
Hon. Kimberly Brandon, Vice President  
Hon. John Burton  
Hon. Gail Gilman  
Hon. Steven Lee

**FROM:** Elaine Forbes  
Executive Director 

**SUBJECT:** Request Authorization to expand the Retail Sales Program to include Fish Processing Tenants at Fisherman's Wharf

**DIRECTOR'S RECOMMENDATION:** Approve the Attached Resolution No. 22-60

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### EXECUTIVE SUMMARY

As an enterprise department, the Port relies on revenue generated from use of its property to operate and maintain all 7.5 miles of the waterfront. The Port typically updates its rental rates for its properties annually in order to keep such rental rates at market. Such rates are compiled into the Monthly Rental Rate Schedule (see Exhibit A hereto) for Port Commission and public review and Approval. Port staff is proposing to amend the Parameter Rental Rate Schedule to allow Commercial Fish Processing Tenants at Fisherman's Wharf to conduct the retail sale of Seafood products and Food Grade Flake Ice directly to the public. Since the expansion of the Port's Off the Boat Retail Sales Program to include Dungeness Crab in 2022, the Port has received significant positive feedback from the local community, requesting further expansion of program to increase access to fresh, locally caught seafood products.

### BACKGROUND

Commercial fishing is a defining feature of the Port of San Francisco; the commercial fishing industry is woven into the fabric of the local community. Fisherman's Wharf continues to be home to the largest concentration of fishing industry operations in Northern California. Dating back to 2017, the Port's Retail Fish Sales program has been the result of an on-going series of public meetings, seeking to address the public's

demand for greater access to fresh, locally-sourced seafood products and expand market opportunities for fishers. As a result of these community efforts, the Port Commission authorized Port Staff to establish a retail off-the-boat fish sales program to permit the sale by fishers of their catch directly to the public from their berth at the Wharf. The program began with sales limited to select species including: Salmon, Tuna, Rockfish, Halibut, & certain by-catch. Thanks to strong initial success, the program was expanded to allow off-the-boat sales of Dungeness Crab in 2021.

To further promote local access to fresh seafood products, Port staff proposes to allow fish processing tenants who currently wholesale their products at Fisherman's Wharf to also participate in the retail sales market.

### **PORT'S FISH PROCESSING PORTFOLIO**

The Seafood Processing Center on Pier 45 is the heart of San Francisco's commercial fishing industry with over 30 active seafood processing operations and supporting businesses. Historically limited to wholesale operations, fish processors distributed over 3.5 million pounds of seafood valued at \$11.5 million dollars in 2019 alone. Seafood products are delivered for preparation and consumption throughout the local region, contributing to the City's long-established seafood culinary tradition. The limitation to wholesale sales is included in each tenant lease. Authorizing fish processors, the ability to sell their products directly to consumers would further support that culinary tradition, promote economic recovery from the Covid-19 pandemic, and offer another reason for the public to visit the Wharf.

### **STAFF PROPOSAL FOR COMMENT**

Based on the positive experience with the retail off-the-boat sales program, Port staff recommends the Port Commission consider and provide guidance regarding Port staff's proposal to remove the current prohibition against retail sales of seafood by fish processor tenants and also allow them to sell flake ice to support those sales. Expanding retail sales to the Port's fish processor tenants will greatly increase the local community's access fresh sustainable seafood for consumption and contribute to the Wharf's attractiveness and economic vitality.

As a material condition of the lease, all fish processing tenants are required to comply with the applicable laws and regulations associated with the processing and distribution of seafood products. Fish processors shall be required to obtain all permits and licenses issued by the California Department of Fish and Wildlife for the processing of seafood products, and all relevant health permits associated with retail sales of food products from the San Francisco Department of Public Health. Further, all tenants at the Port of San Francisco are subject to Environment Code Section 1605(a) which prohibits the sale of polystyrene foam products that are not wholly encapsulated or encased within a more durable material.

In line with past Port Commission practice, Port staff recommends the expansion of the retail fish sales program be without additional rent increases or the requirement of participation rent by fish processing tenants. Throughout the Port's history, the Port Commission has waived or amended various standard leasing requirements for agreements concerning fishing operations to ensure a vital industrial base for the associated fishing chain of economics. These Commission policies include the

reduction of insurance requirements for fishing gear storage leases, waiving of wharfage charges for seafood products landed at Port of San Francisco facilities by tenants, and the expansion of standard form fish processing leases to 10-year terms to ensure their economic viability. Waiving the potential revenue from retail fish sales by fish processors is strongly in line with past Port Commission support for the fishing industry's economic health and vitality and the Port's Strategic Goals.

Notably, because the prohibition against retail sales is included in each fish processor tenant's lease, Port staff recommend against a "pilot program" or temporary lift of the prohibition because the change will require amending each fish processor's lease. To simplify administration, and based on past retail fish sales successes, Port staff is confident that the Commission can permanently remove the prohibition against retail sales by fish processors. Port staff will monitor retail sales by fish processor tenants and will return to the Commission with an update on all retail fishing sales, including both off the boat sales by fishers and retail sales by fish processing tenants in one year.

## **STRATEGIC PLAN CONFORMITY**

The Retail Fish Sales Program supports three key goals of the Port's Strategic Plan:

- *Engagement*: Promote the richness the Port has to offer through education, marketing, and maintaining strong relationships with Port users and stakeholders.
- *Economic Vitality*: Attract and retain maritime and non-maritime commerce to contribute to the long-term viability of the Port and the City.
- *Environmental Stewardship*: Practice environmental stewardship to limit climate change and protect the bay.

## **NEXT STEPS**

Given the potential for economic opportunity and revitalization at Fisherman's Wharf, Port staff seeks authorization from the Port Commission to expand the retail fish sales program to include the fish processing tenants at Fisherman's Wharf.

Prepared by: Demetri Amaro,  
Maritime Business Development Manager

For: Andre Coleman,  
Deputy Director, Maritime

Dominic Moreno,  
Assistant Deputy Director, Maritime

**ATTACHMENT:**

- Attachment A: Current Monthly Rental Rates Schedule

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

**RESOLUTION NO. 22-60**

WHEREAS, California Statutes of 1968, Chapter 1333, as amended (commonly known as the “Burton Act”), and City Charter Section 3.581, empower the Port Commission with the power and duty to use, conduct, operate, maintain, manage, regulate, and control the Port area of San Francisco; and

WHEREAS, The Burton Act mandates that the Port area be managed to promote its use and development for common law public trust and Burton Act trust purposes, which include fishing and maritime commerce, among other identified uses; and

WHEREAS, The Port Commission delegated authority to Port staff to enter into leases with tenants that will operate fish processing facilities in Sheds B and D of Pier 45 for up to ten years (Port Commission Resolution 94-112), so long as the form of the lease and rental amounts conform to the applicable Monthly Rental Rate Schedule, Monthly Parking Stall Rates, and Special Event Rates (Parameter Rates) as adopted and amended periodically by the Port Commission (Port Commission Resolution 06-23 regarding lease form and Port Commission Resolution 22-41 regarding fiscal year 2022-23 Parameter Rates); and

WHEREAS, Port staff has delegated authority to enter into leases, licenses, and Memorandums of Understanding with rents that conform to the applicable Monthly Rental Rate Schedule, Monthly Parking Stall Rates, and Special Event Rates (Parameter Rates) as adopted and amended periodically by the Port Commission (last amended Resolution No. 22-41 for the fiscal year 2022-23); and

WHEREAS, Tenant fish processors on Port property have historically been authorized to sell seafood to wholesale purchasers but prohibited from offering seafood for retail sales; and

WHEREAS, The Port Commission authorized pilot programs to allow off-the-boat retail sales of specified seafood in 1999 and again in 2017 (Port Commission Resolutions 99-48 and 17-39); and thereafter formalized a permanent retail seafood sales program that includes the retail sales of Dungeness Crab in order to expand economic opportunity for San Francisco’s commercial fishers, increase access to fresh, locally-sourced seafood, and encourage the economic vitality of the Fisherman’s Wharf area (Port Commission Resolutions 21-48 and 22-47); and

WHEREAS, Port staff proposes to further expand retail sales of seafood at Fisherman's Wharf by removing the prohibition against retail sales by fish processing tenants of the Port and authorizing the retail sale of fish, live crab, and flake ice directly to the public in order to develop an additional market for the commercial fishing industry; promote the health and stewardship of fisheries by sustainable harvest; and enhance the experience of visitors to Fisherman's Wharf, as described in greater detail in the Staff Memorandum to which this Resolution is attached; now, therefore be it

RESOLVED, That the Port Commission hereby discontinues the prohibition against retail sales by fish processing tenants and delegates to Port staff the authority, subject to the approval of the City Attorney, to: (a) amend the Monthly Rental Rate Schedule enacted by Port Commission Resolution 22-41 to the extent necessary to facilitate retail sales by fish processing tenants, (b) amend existing leases with fish processing tenants to remove any contractual prohibition against retail sales of seafood and flake ice, (c) to expressly authorize retail sales of seafood and flake ice in future leases with fish processing tenants, and (d) to execute such other contracts and agreements as may be necessary to further the purposes and intents of the authorization and expansion of retail seafood sales as described in the Staff Memorandum to which this Resolution is attached and to further the health, safety, and welfare of the public and the Port; and, be it further

RESOLVED, That the Port Commission authorizes Port staff to promulgate and implement such rules and regulations that are necessary to further the purposes and intents of the authorization and expansion of retail seafood sales as described in the Staff Memorandum to which this Resolution is attached and to further the health, safety, and welfare of the public and the Port.

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

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Secretary