




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 approval of application of Delegation of Authority to Offer Leasing Incentives set forth in Resolution No. 21-16 to select existing maritime tenants.

DIRECTOR'S RECOMMENDATION: Approve the Attached Resolution No. 22-08

EXECUTIVE SUMMARY

Port staff is seeking authorization to apply the Maritime leasing incentives policy approved by the Port Commission in its meeting of April 13, 2021 (Resolution 21-16) to select existing maritime tenants, in addition to new maritime tenants. The policy governs rental rate discounts for the office components of maritime leases that include office, shed, apron, and/or submerged land uses further described in the Memorandum to the Port Commission dated April 9, 2021. This will make the Port more competitive in retaining and attracting maritime tenants in the current distressed leasing environment.

This staff report includes the following:

- I. Strategic Plan Alignment
- II. Background
- III. Proposed Amendment
- IV. Staff Recommendation

I. STRATEGIC PLAN ALIGNMENT

A successful maritime portfolio management strategy for both new and existing leases will support two Strategic Plan objectives:

Productivity: Attract and retain tenants with leases that require legitimate maritime/marine industrial uses as these tenants provide maritime activity to the Port.

Stability: Maintain the Port's financial strength by maximizing the value of Port maritime property and increasing revenue.

II. BACKGROUND

COVID-19 Rent Relief Program

At the April 9, 2021 Commission meeting, staff reported the status of rent relief and rent repayment and the Commission approved increasing the rent threshold in the Port's mutual termination policy; adding flexibility for specific lease rate terms, and, if requested by a tenant, changes to subleasing requirements regarding subtenant rent provisions; and establishing additional reporting to the Port Commission on leasing, maritime cargo, lease terminations, sales data, accounts receivables and Port's financial position.

Resolution 21-16 was approved by the Commission, allowing staff approval for incentives in leases that are limited to maritime leases which meet specific criteria. However, the incentives only applied to new maritime leases and did not capture the overall intent of both retaining existing tenants and attracting new tenants.

III. PROPOSED APPLICATION

For new maritime leases that include 3 out of 4 of office, shed, apron, and/or submerged land space with a term of at least 1 year, Resolution 21-16 allows Port staff to offer a rental rate for the office portion of a lease with three of the four use types to start at no less than 75% of the applicable FY 2019/2020 parameter office rate for the first year of a new lease and then to increase each subsequent year at 3% per year. Port staff request that the Port Commission adopt a policy (the "Maritime Existing Tenant Discount Policy") that allows Port staff to offer the same discounted rental rate for office space to existing maritime tenants with leases of a remaining or extended term of at least 1 year, which leases are for at least three of the following four property types: office, shed, apron, and/or submerged land. Shed, apron, and submerged land uses would continue to be subject to the currently effective rates for existing maritime tenants.

Maritime Existing Tenant Discount Policy:

For leases with at least one year remaining in the term or in any extension of the term, for leases of three out of the four property types of office, shed, apron, and/or submerged land, Port staff may offer a discounted rate for the office use equal to no less than 75% of the applicable FY 2019/2020 parameter office rate for the first year of a remaining lease term, retroactive to the date of approval of Resolution 21-16, and then to increase the office rent each subsequent year at 3% per year. Shed, apron, and submerged land uses

would continue to be subject to the currently effective rates for existing maritime tenants. Leases renewed or extended after the approval of a parameter rent schedule in 2022 or thereafter will not be eligible for this discounted rate.

- **Table 1** summarizes the request for action before the Port Commission.

TABLE 1 – Port Commission Requested Actions Summary

Policy	Proposed Change
Existing maritime office leases, if leasing 3 out of 4 of office-shed-apron and/or submerged land	<ul style="list-style-type: none"> • Offer office portion of lease with a minimum of three use types to start at no less than 75% of the applicable FY 2019/2020 parameter office rate; then 3% increase each year and make applicable to new and existing maritime/marine industrial use agreements, until the approval of a new parameter rent schedule.

IV. STAFF RECOMMENDATION

Port staff recommend that the Port Commission approve the attached resolution which is summarized in **Table 1** above:

- (A) Subject to the terms and conditions described above, keep the fiscal year 2019/2020 parameter leasing rates and delegated authorities in place and expand staff’s delegated authority to offer for *existing* maritime/marine industrial leases:
 - a. discounted rates for office when the lease covers maritime office, shed, and apron and/or submerged land uses.

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

RESOLUTION NO. 22-08

- WHEREAS, Charter Section B3.581 empowers the Port Commission with the authority and duty to use, conduct, operate, maintain, manage, regulate and control the lands within Port jurisdiction; and
- WHEREAS, By Resolution No. 93-127, adopted September 8, 1993, and as amended thereafter, the Port Commission authorized the Executive Director to approve and execute certain transactional documents such as leases and licenses that conform to all parameters set forth in by the Port Commission (the “delegated authority”); and
- WHEREAS, Port staff has delegated authority to enter into leases, licenses, and Memoranda of Understanding with rents that conform to the applicable Monthly Rental Rate Schedule, Parking Stall Rate Schedule, and Special Event and Filming Rate Schedule as most recently established by the Port Commission effective August 1, 2019 by Resolution No. 19-24 for the fiscal year 2019/2020, collectively with the delegated authorities, the “parameter rent schedule”; and
- WHEREAS, On February 26, 2020, Mayor London Breed issued the Proclamation by the Mayor Declaring the Existence of a Local Emergency (the "Mayor's Emergency Declaration") under Sections 8550 et seq. of the Government Code, Section 3.100(13) of the San Francisco Charter, and Chapter 7 of the San Francisco Administrative Code, establishing the existence of an emergency within the City and County of San Francisco (the “City”) due to the ongoing spread of COVID-19; and
- WHEREAS, On March 16, 2020, the City Health Officer issued an Order (the “March 16 Order”) directing all residents to remain at their place of residence, except to conduct Essential Activities, Essential Businesses, and Essential Government Functions (as defined in the March 16 Order); and
- WHEREAS, Since that time, the Mayor and the Health Officer have regularly updated these orders in order to protect public health and re-open the economy; and
- WHEREAS, In response to these emergency measures and the severe impacts on Port’s tenants, the Port has provided several relief measures including a Broad-Based Rent Deferral Program (Resolution 20-18), an Opt-In Extended Deferral Program (Resolution 20-30), a Rent Forgiveness Program (Resolutions 20-41 and 20-55), a Rent Repayment Program (Resolution 20-56) and the Port Shared Spaces Program (See Resolution 20-50); and
- WHEREAS, In early 2021, Port staff engaged the assistance of a team of real estate economists and commercial brokers to review market conditions and advise

the Port on possible portfolio management strategies including changes to the parameter rent schedule; and

WHEREAS, Based on its review of the third party analysis and the existing delegated authorities, Port staff recommended to the Port Commission in their meeting of April 13, 2021 that additional delegated authorities with respect to (among others): (1) rental rate discounts for the office components of maritime leases that include office, shed, and apron uses and/or submerged lands as further described in the Memorandum to the Port Commission dated April 9, 2021, would make the Port more competitive in attracting and retaining maritime tenants in the current distressed leasing environment, and

WHEREAS, Port staff has determined that the FY2019/2020 parameter rent schedule, including the expanded delegated authorities recommended by Port staff, continues to represent the fair market value rent as defined in Section 23.2 of the San Francisco Administrative Code (“Market Rent”) and shall mean the most probable rent that real property should bring in a competitive and open market reflecting all conditions and restrictions of the property agreement; now therefore be it

RESOLVED, That the Port Commission approves a policy (the “Maritime Existing Tenant Discount Policy”), in the form attached hereto as Exhibit A, authorizing programs allowing for rental rate discounts for the office components of existing maritime leases that include 3 out of 4 office, shed, apron and/or submerged lands for legitimate maritime/industrial marine uses, and delegates to Port staff the authority to enter into lease, license and MOU extensions, renewals, and/or amendments; and that such terms are equivalent to “Market Rent” as defined in Section 23.2 of the San Francisco Administrative Code; and be it further

RESOLVED, That Port staff shall provide the Port Commission, within thirty days following each calendar month, a summary of lease, license, and Memoranda of Understanding extensions, renewals, and/or amendments entered into which implement the Maritime Existing Tenant Discount Policy.

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

Secretary

Exhibit A
Maritime Existing Tenant Discount Policy

For leases with at least one year remaining in the term or in any extension of the term, for leases of three out of the four property types of office, shed, apron, and/or submerged land, Port staff may offer a discounted rate for the office use equal to no less than 75% of the applicable FY 2019/2020 parameter office rate for the first year of a remaining lease term, retroactive to the date of approval of Resolution 21-16, and then to increase the office rent each subsequent year at 3% per year. Shed, apron, and submerged land uses would continue to be subject to the currently effective rates for existing maritime tenants. Leases renewed or extended after the approval of a parameter rent schedule in 2022 or thereafter will not be eligible for this discounted rate.