




## MEMORANDUM

March 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:** Informational presentation to review the Port's Proposed 2022 Federal and State Legislative Priorities

**DIRECTOR'S RECOMMENDATION:** Information Only – No Action Required

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### EXECUTIVE SUMMARY

This report provides an overview of the Port's federal and state legislative priorities for 2022. In 2021, Port staff managed an active legislative advocacy program focused on pursuing state and federal funding relief to mitigate the impacts of the COVID-19 pandemic. In 2022, the primary legislative objective of the Port is to target funding available through the Bipartisan Federal Infrastructure Bill and Governor Gavin Newsom's proposed 2022-23 state budget to rebuild and invest in Port infrastructure.

While the Port is starting to see some signs of economic recovery and activity along the waterfront with the return of cruises and increased foot traffic to restaurants, the full recovery of tourism is anticipated to take as many as five years. The uncertainty of the pandemic's long-term impacts on hospitality, tourism and office rental market pose challenges to the Port's long term economic viability, which will impact the City's recovery. The Port is an economic engine for the City and supports \$4 billion in annual economic output for San Francisco.

The current federal and state administrations present unique, once-in-a-generation opportunities to stabilize operations through funding capital initiatives available to ports.

The Port's legislative agenda for the coming year includes pursuing funding that prioritizes investment that advance maritime business, reduce earthquake and flood risks, and protect key facilities for the public. Further, the Port is developing a strategy for identifying capital projects that meet key Port objectives, including revenue generation and reduction of deferred maintenance, that will compete successfully for federal and state grants. Finally, the Port is procuring the services of a grant writer to support this important effort.

While our priorities are consistently guided by our strategic plan, legislative proposals and actions are fluid and subject to change. This report provides an overview of the Port's state and federal legislative priorities for 2022 in a dynamic and changing context.

## **KEY STATE AND FEDERAL LEGISLATIVE GOALS**

- Leverage federal and state funding for Port priorities and financial stability
- Position Port capital projects to access federal and state infrastructure funding to support economic recovery, resilience, and equity
- Ensure supply chain congestion relief funding for the nation's maritime transportation sector includes support for small ports
- Ensure funding for ports in the state budget remains high, while establishing rules on disbursement that benefit the Port
- Effectively partner with the Army Corps and other federal partners to increase and extend the San Francisco Waterfront Flood Resiliency Study to catalog vulnerabilities, recommend and implement strategies for reducing flood risk
- Monitor the progress of new programs and laws that impact the Port's sidewalk vending permit program

## **STRATEGIC PLAN**

The Port's State and Federal Legislative Program supports the Strategic Plan as follows:

### Economic Recovery, Enterprise Economic Recovery:

*Work with Federal and State delegation in 2022 to secure Federal Infrastructure grants and State funding for targeted capital investments that advance maritime business, reduce earthquake and flood risks, and protect key facilities for the public.*

### Stability:

*By maintaining the Port's financial strength by maximizing the value of Port property and increasing revenue.*

### Sustainability:

*By practicing environmental stewardship to limit climate change, protecting the Bay, and facilitate change to clean fuels for vessels and vehicles.*

### Resiliency:

*By preparing the Port for natural and human made risks and hazards and ensuring safety and security by improving Port preparedness and response.*

## **FEDERAL LEGISLATIVE PROGRAM**

### **1. Infrastructure Investment and Jobs Act**

The Infrastructure Investment and Jobs Act (“IIJA”), also referred to as the Bipartisan Infrastructure Bill, was signed into law by President Biden on November 15, 2021. The IIJA enacts a \$1.2 trillion spending agenda to upgrade outdated roads, bridges, broadband, and transit systems, including ports and waterways. Funding in the bill is disbursed over five years and will go beyond annual baseline appropriations, which includes \$550 billion in new spending.

Port staff have identified several grant programs that provide funding opportunities for the Port. IIJA invests over \$16.7 billion to improve infrastructure at coastal ports, inland ports and waterways, and land ports of entry. The funding falls into several major categories including the America’s Marine Highway program, Land Ports of Entry Modernization and Construction program, Army Corps of Engineers Coastal Navigation program, and the Port Infrastructure Development program (“PDIP”).

PDIP, an existing competitive grant program under the United States Maritime Administration, presents the best funding opportunities for the Port. The Port has applied for funds to improve infrastructure needs in our southern waterfront through PDIP in the past. IIJA significantly expands funding for this program, and expands eligibility to include projects that improve resiliency, address climate change, provide economic vitality, and advance racial equity.

Given the Biden Administration’s focus on the supply chain crisis, the PDIP Notice of Funding Opportunity (NOFO) is one of the first funding opportunities issued. During the next five years, \$450 million will be made available annually through the program. Port staff have identified a number of eligible projects in the southern waterfront, such as berthing and fendering improvements at Pier 80, replacement of the roadway along Amador Street, and piling and fendering improvements at Piers 94-96. These projects align with the evaluation criteria outlined in the NOFO. In the next several weeks, Port staff will evaluate projects in order to submit the most competitive grant proposal this year and build a five-year proposal plan that results in improved Port infrastructure to increase revenues, improve communities and build a more resilient waterfront.

Additional programs including the Rebuilding American Infrastructure with Sustainability and Equity (“RAISE”) offer funding opportunities to support planning and construction for surface transportation projects. The Surface Transportation Block Grant Program also supports electric vehicle charging infrastructure and installation, which Port staff is evaluating for the southern waterfront to decrease the pollution.

Port staff is tracking federal NOFOs and assessing grant opportunities in the southern waterfront that invest in maritime operations, enhance the green technology, and continue to advance racial equity. These projects align with our capital project needs.

## **2. Build Back Better Framework**

The Build Back Better Act was introduced alongside the IIJA as a \$3.5 trillion reconciliation package that included provisions related to climate change and social policy. The bill was reduced to \$2.2 trillion as a compromise measure and passed the House of Representatives in November 2021. Subsequently the bill lost support from two prominent Senate members in December, effectively killing the bill. Discussions and strategies on how to salvage the climate change portions of the bill are ongoing in the House of Representatives Natural Resources Committee.

Port staff continue to monitor developments related to the Build Back Better framework. Build Back Better provides \$555 billion for clean energy and climate change solutions that may benefit the Port of San Francisco.

## **3. Water Resource Development Act (“WRDA”) 2022**

In 2020, Port staff worked with Speaker Nancy Pelosi’s Office to successfully amend the Water Resources Development Act of 2020 to modify how seismic benefits are considered by the Army Corps of Engineers (“USACE”) when determining project eligibility and funding levels. The amendment ensures that Port projects are able to compete equitably for federal funding by requiring USACE to take account of the higher costs of building flood risk reduction projects in earthquake prone areas like San Francisco.

While the intent of the changes in WRDA 2020 was to impact all flood risk management projects, a legal interpretation by USACE legal counsel of the WRDA 2020 text, limited its scope to riverine flood risk management projects. Port staff are working with Speaker Pelosi’s Office to clarify the language through a legislative amendment in WRDA 2022 to impact flood risk management projects in both riverine and coastal projects.

## **STATE LEGISLATIVE PROGRAM**

The 2022 California State legislative session began its second year of the two-year legislative cycle on January 3, 2022. The Legislature will focus on COVID-19 response, climate change, housing and homelessness, and how to spend a \$45.7 billion surplus resulting from tax revenue and federal funding support.

There are currently four vacant Assembly seats including Assembly District 17 which covers the entire jurisdiction of the Port. A general election is scheduled for April 9, 2022 to determine a replacement to finish the term of former Assembly District 17 representative David Chiu. That election will be followed by a primary in June and

general election in November to elect a new representative to the seat beginning in January 2023.

The deadline to introduce new bills was February 18, 2021. Port staff are monitoring the following state legislative, budgetary, and regulatory initiatives.

## **1. Fiscal Year 2022/23 State Budget**

On January 10, 2022, Governor Gavin Newsom announced the FY 2022-23 budget for the state of California. The proposed budget includes a \$2.3 billion investment to supply chain resilience and port infrastructure. One billion two hundred million is dedicated to port projects that increase goods movement capacity and presents opportunities for the Port's southern waterfront, particularly when coupled with available federal funds.

State funding is designed to invest in port-specific high priority projects that increase goods movement capacity and achieve the following goals:

- Reduce greenhouse gas emissions
- Promote transportation equity
- Maintain, enhance, and modernize multimodal freight transportation systems
- Grow economic competitiveness of the California freight sector
- Improve system resilience by addressing infrastructure vulnerabilities associated with climate change and natural disasters

The majority of the funding available through this initiative is slated for large container ports such as Oakland, Los Angeles, and Long Beach. To respond, the Port of San Francisco is working with the Port of San Diego and others to ensure funding for ports remains high, while establishing rules on disbursement that would benefit small, medium, and large-sized ports. California ports have different business lines and strengths; together California ports are a foundational economic engine for the State.

Port staff continue to work with and leverage the support of the Port Commission, California Association of Port Authorities, our state advocate, Mayor London Breed's Office, the San Francisco state delegation and the Governor's administration to maintain on going communication to highlight the critical need for infrastructure investments along our waterfront. Projects highlighted include Pier 80 improvements, Mission Bay Ferry Landing, and Pier 94 piling and fendering improvements.

## **2. American Rescue Plan Funding Tranche Two**

In May 2021, Governor Newsom announced a one-time \$250 million allocation from the Federal American Rescue Plan Act of 2021 ("APRA") to California's ports to mitigate negative impacts resulting from the COVID-19 pandemic. The 2021-22 state budget appropriated \$250 million for ports to the California State Lands Commission.

Last December, the State Lands Commission awarded the Port \$56.6 million dollars in ARPA funding to avoid layoffs, support operational investments, and restore funding for expenses delayed, deferred, or cut due to the COVID-19 pandemic. The first tranche of funding covered losses incurred during calendar year 2020.

On March 7, 2022, applications are due to the State Lands Commission for the second tranche of available funding covering revenue lost in 2021. On April 26, 2022, the State Lands Commission will distribute the remaining \$115 million in ARPA funds. Port staff is currently analyzing lost revenue for calendar year 2021 and will submit a funding request for tranche two up to \$58.8 million.

Port staff will continue to work with State Lands Commission staff to ensure the approval and disbursement of tranche two funding is actualized.

### **3. State Lands Transfer of Parcel**

The City and County of San Francisco, through the Real Estate Department, is requesting to purchase 2.6 acres of Port property to develop a new training facility for the San Francisco Fire Department. The current training facility on Treasure Island will not be available after 2025.

In addition to Port Commission and Board of Supervisors approval, the transaction requires approval by the State Lands Commission and the California state legislature. Port staff working with the State Lands Commission, Mayor's Office, Real Estate Department, and Fire Department drafted state legislation that, if enacted, will:

- Lift the public trust and Burton Act obligations on Port property
- Delegate authority to State Lands Commission to approve the sale of Port property to the City for the training facility
- Ensure fair market value is paid by the City to the Port for uses benefitting public access and enjoyment of the waterfront

On February 18, 2022, Assemblymember Phil Ting introduced the legislation to be heard during the 2022 legislative session. Port staff will work with City departments and the Mayor's Office to ensure passage of the bill.

### **4. Sidewalk Vending Legislation**

On February 10, 2022, Senator Lena Gonzalez introduced Senate Bill 972 ("SB 972") to remove barriers for sidewalk vendors accessing food vending permits. SB 972 deletes provisions of the California Retail Food Code that require sidewalk vendors to purchase certain permits and vending equipment. Currently state requirements are a barrier for sidewalk food vendors to obtain permits and if adopted, the Port will likely see an increase in sidewalk food vendor permit requests. The de-regulation of sidewalk vending will continue to pose unforeseen issues for local municipalities and the Port.

Similar to SB 946, the Safe Sidewalk Vending Act of 2018, the goal of this new law is to expand entrepreneurship opportunities by creating achievable, fair, and practical public health and safety standards. Port staff will monitor and track developments related to SB 972.

Concurrently, Port staff is working with the Mayor's Office and City departments to transition the Port's newly created sidewalk vendor permit program to a new City-wide program managed by San Francisco Public Works. That ordinance is scheduled to be considered by the Board of Supervisors on March 14, 2022.

Port staff will continue to provide support in the form of lessons learned and best practices to assist with the development of the new City-wide program.

## **NEXT STEPS**

As the Port implements innovative economic strategies to ensure we are a financially sound, economically vibrant, safe, an equitable and resilient waterfront, leveraging once-in lifetime infrastructure stimulus dollars is imperative.

Last year legislative advocacy allowed us to secure APRA funds that let us re-think and unlock innovative economic strategies. The ARPA funding prevented layoffs, restored cuts, and evolved projects and programs that were deferred. It has provided a two-year reprieve from the very grim financial outlook we faced.

This year, we can leverage state and federal funding to drive economic vitality to Piers 80-96; invest in the properties, such as the Backlands, to increase lease-ability, and capture new sources of funding for resilient projects. Moreover, we can plan for the next five years of federal funding and investigate opportunities to maximize cargo opportunities at the deep-water cargo terminals, expand the Port's water transit system and identify maritime opportunities for revitalizing select parcels at the Shipyard.

Much of the state and federal dollars are targeted to address supply chain issues and support the improvement of the movement of goods and services, however, there are immediate and long-term infrastructure funding strategies for the Port. Much like ARPA, Port staff will deftly analyze and identify all opportunities and leverage our lobbying partners, including the Port Commission, to drive resources to projects. Matching federal and state dollars to our current investments in capital and resiliency projects will catapult the Port's ability to generate revenue and serve the public.

Port staff will return to the Port Commission in the fourth quarter of 2022 to provide an update on the Port's federal and state legislative program.

Prepared by: Boris Delepine, Legislative Affairs Manager  
Deirdre Hussey, Director of External Affairs