




## MEMORANDUM

April 8, 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 on a competitive solicitation strategy including the use of commercial brokers to lease two currently vacant spaces - the Ferry Plaza East Building behind the Ferry Building and a restaurant space in Pier 33 ½ Building

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

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### **EXECUTIVE SUMMARY**

The Port has two vacant properties that are ready to be leased and activated as a key part of the Port's economic recovery initiative to meet strategic objectives. In the months and years to come, Port staff expects other properties will also become available. Rather than issue individual requests for proposals (RFPs), Port staff is seeking Port Commission feedback on: (1) a multi-site offering strategy for operational efficiency and (2) a broker-assisted, competitive solicitation process ("Broker-Assisted-RFP" or "B-RFP"). The B-RFP approach has advantages over the traditional non-broker approach for re-leasing Port's retail spaces, given the current market conditions. It will make the Port competitive with the private sector market, leverage the brokerage community infrastructure including access to pools of local, national, and international prospects to market Port properties for timely re-leasing. Port staff's assessment is that the benefits of the B-RFP approach outweigh its expected costs, as described below.

The traditional RFP ("Traditional RFP" or "T-RFP") approach requires issuing a series of RFPs for one or two vacant spaces one at a time, which may be inefficient for the current situation of multiple vacancies, and lacks access to tenants that rely exclusively

on brokers. Port staff is considering the retail space (previously occupied by the Butterfly restaurant) in Pier 33 ½ and the Ferry Plaza East Building (“FPEB”) as pilot offering under this B-RFP approach. Their respective profiles, site maps, and photos are attached.

With Port Commission feedback, Port staff will seek input from stakeholders, particularly San Francisco Bay Conservation and Development Commission (“BCDC”), Northern Waterfront Advisory Committee (“NAC”), and the Waterfront community to inform this re-leasing in terms of recommended objectives and proposed range of community benefits including equity outcomes and opportunities, among other offering conditions. Thereafter, Port staff will return to the Port Commission to present the proposed offering, recommended objectives and criteria, and minimum economic terms and to seek direction to pursue B-RFP or T-RFP to solicit prospective tenant(s).

This staff report provides detailed information about the proposed offering strategy, highlights, and preview of the spaces to re-lease, the pros and cons of Broker-Assisted versus Traditional RFPs, the proposed next steps to re-lease the spaces, and concludes with requesting Port Commission feedback. A summary outline of this staff report includes the following:

- I. Strategic Plan Alignment
- II. Background
- III. Profile of the Spaces to lease
- IV. Summary Market Conditions and Measures to address the Conditions
- V. Solicitation Strategy
- VI. Benefits Desired of this Offering
- VII. Anticipated Offering Terms
- VIII. Next Steps

## **I. STRATEGIC PLAN ALIGNMENT**

A successful solicitation strategy that considers the profiles of the spaces to be leased and market conditions will support two of the Port’s Strategic Plan objectives:

- *Productivity*: Reactivate Port’s vacant retail spaces in timely manner by attracting tenants to invest in Port property and generate economic benefits for Port, tenants, and stakeholders.
- *Stability*: Maintain the Port’s financial strength by maximizing the value of Port property and increasing economic benefits

## **II. BACKGROUND**

At the February 13 and April 13, 2021 Commission meetings, staff reported on how COVID-19 pandemic has impacted Port due to economic disruptions and recommended measures addressing the impacts. Recently, at the February 22, 2022 Port Commission meeting, staff presented the proposed Port’s *Fiscal Year 2022-23 and*

*2023-24 Biennial Operating and Capital Budgets and the Acceptance and Expenditure of Federal Stimulus*,<sup>1</sup> which includes, among other things, development of a long-term leasing strategy to re-occupy Port properties, particularly restaurants and retail spaces as one of the recommended economic recovery initiatives.

Because more Port retail/restaurant spaces may become vacant if current market conditions continue to persist, a leasing strategy using the assistance of the brokerage community is proposed so that multiple, current vacant spaces or spaces that may become vacant in the near-term, could be offered for lease. This strategy will include new leasing incentive concepts and some of those approved under Port Commission Resolution No. 21-16, including (1) rental rate discounts; (2) rent abatement for tenant-funded improvements to Port property; etc.

Between December 1993 and April 2007, Port Commission, under its Resolution No. 93-151, had a policy allowing payment of brokers' commission. In April 2007, the Port Commission, under its Resolution No. 07-29,<sup>2</sup> rescinded this ability to pay brokers' commissions based on the low property vacancy rates at the time and overall healthy market conditions. It was thought then that this rescension would not harm Port's ability to lease space and would benefit the Port by ceasing the payment of brokers' commissions. Understanding the cyclical market, the Resolution provides that Port staff may recommend paying brokers' commissions to aid Port's ability to lease vacant spaces if market conditions change dramatically. We are now in a dramatically changed market conditions, as confirmed by brokers contacted by Port staff and recent news articles, particularly, the San Francisco Business times, with excess supply of spaces and constrained demand as further detailed later in this staff report. Retail, restaurant, and similar public gathering spaces have been particularly hard hit by the COVID-19 pandemic.

### **III. PROFILE OF THE SPACES TO LEASE**

#### ***The Pier 33 ½ Space***

This vacant retail/restaurant space includes approximately 3,500 square feet of floor area with a full kitchen, storage and food preparation area, dining room, and lounge. It is located on the marginal wharf between Piers 33 and 35 with direct views of San Francisco Bay. It is near Alcatraz Landing, which drew over 1.3 million visitors per year prior to the COVID-19 pandemic and near multiple office buildings and residential dwellings. It could accommodate approximately 120 persons seated based on prior restaurant operations in this space. An adjacent area with up to 4,000 sq. ft. ("SF") is also available to rent for storage, trash/recyclables management and deliveries.

The Pier 33 ½ Space has been operated as a restaurant by multiple operators from 1996 through 2017. It's deferred maintenance items and required permits will need to

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<sup>1</sup> February 18, 2022 Staff Report Fiscal Year 2022-23 and 2023-24 Biennial Operating and Capital Budgets and the Acceptance and Expenditure of Federal Stimulus -

[https://sfport.com/files/2022-02/02222022\\_Item%207A%20FY22-23%20and%2023-24%20Biennial%20Operating%20and%20Capital%20Budget%20Action\\_final.pdf](https://sfport.com/files/2022-02/02222022_Item%207A%20FY22-23%20and%2023-24%20Biennial%20Operating%20and%20Capital%20Budget%20Action_final.pdf)

<sup>2</sup> See Resolution here: <https://sfport.com/media/7782>

be addressed. More detail about this space is provided in Attachment A, including a site map and photos.

### ***Ferry Plaza East Building***

FPEB is a prime waterfront, two-story building with approximately 18,312 SF of space offering 360-degree panoramic views of San Francisco Bay, the Bay Bridge, Treasure Island, the city skyline, and much more. It bookends the eastern edge of the Ferry Pier and the internationally recognized Ferry Building at the foot of Market Street/The Embarcadero bookends the western edge of this pier. The building footprint is approximately 10,500 SF. This footprint is a portion of this property 34,659 SF site area on the Ferry Pier.<sup>3</sup>

The building's current floor layout includes about 11,468 SF for dining, bar, and patio space, and 2,368 of kitchen space. Both its interior/exterior should be reconfigured and updated to address barriers to operational success. These include deferred maintenance items and a reconfiguration to allow patrons indoor and outdoor opportunities to enjoy unobstructed 360-degree views of its setting. It is not a contributing resource to The Embarcadero Historic District, so it can be altered to add grand stairs, enhanced elevated outdoor space for dining, ceremonies, celebration, or just taking in the surrounding views. Port staff will work with the selected prospect to amend the existing BCDC permit if required.

FPEB is readily accessible through all modes of public transportation, MUNI, BART, ferry lines, trolley cars, water taxi, and TNCs (transportation network companies).

While the preferred FPEB use is a unique restaurant with indoor/outdoor areas for eating, drinking, dancing, and small to large group gatherings, it could also be used for assembly & entertainment **or** an entertainment/nightclub venue **or** museum & cultural center. Please refer to FPEB Profile, site map, and photos provided under Attachment B to this staff report for a summary of known challenges.

## **IV. SUMMARY OF RETAIL AND RESTAURANT SPACE MARKET CONDITIONS**

COVID-19 has impacted the San Francisco commercial real estate market in many aspects, including significant declines in office commuters, leisure, business convention, and tourist populations, which in turn has led to reduced occupancy in retail, restaurants, hotel, and downtown offices, according to sources cited in the February 19, 2021 Port staff report<sup>4</sup> and the January 2022 City Controller's Office Economic Report.<sup>5</sup> Due to lack of sufficient patronage and foot traffic, closure mandates, and labor shortages, many retail and restaurant tenants have been forced to

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<sup>3</sup> The site area which includes the primary building footprint is essentially the roof of the ventilation structure for the submerged element of the Bay Area Rapid Transit system tube.

<sup>4</sup> See staff report here: [https://sfport.com/files/2022-02/02232021\\_Item%2011B%20Portfolio%20Management\\_final.pdf](https://sfport.com/files/2022-02/02232021_Item%2011B%20Portfolio%20Management_final.pdf)

<sup>5</sup> Status of the Reopening of the San Francisco Economy, January 2022: [https://sfcontroller.org/sites/default/files/Documents/Economic%20Analysis/Status%20of%20the%20Re-opening%20of%20the%20San%20Francisco%20Economy%20January%202022\\_finalBR.pdf](https://sfcontroller.org/sites/default/files/Documents/Economic%20Analysis/Status%20of%20the%20Re-opening%20of%20the%20San%20Francisco%20Economy%20January%202022_finalBR.pdf)

reduce their operating hours and/or shift their operations to accommodate more delivery or pick-up business. In worse cases, many retailers and restaurateurs have turned to subleasing their space or simply closing, as they lack the business income or capital to pay rent and keep the business open. Please refer to Attachment C to this report for recent reports about retail market trend in San Francisco. Consequently, the commercial real estate market has seen sizable turnover in the restaurant industry and an overall influx of new available spaces, all of which are competing to attract the fewer circling tenants in the marketplace.

Currently, tenants are seeking spaces where they expect sufficient patronage to sustain their constrained operations and some have reduced the overall size of their space to mitigate the operating costs, staffing issues, and the general concerns about the economy. Landlords are offering incentives to lease space during this time, including offering alternative rent schedule for the first year or two of the lease term, rent abatements, tenant improvement allowances or rent credits, and other proactive measures to allow tenants to respond to rapidly changing market conditions.

In February 2021, Port staff presented the Port Commission with an overview of COVID-19 impact on Port Lease Management Portfolio and requested authorization to pursue certain leasing tactics and strategies, including extending tenant improvements (TIs) buildout timeframe to account for longer planning, permitting and construction, offer certain level of rent abatement for new credit-worthy tenants, authorize tiered rents that reflect current market conditions and an eventual recovery,<sup>6</sup> among other items. Considering the current imbalance of supply and demand of retail and restaurant spaces, Port staff is now seeking Port Commission feedback on expanding Port's re-leasing toolbox to include the brokerage community to re-lease Port vacant retail/restaurant spaces. Port Commission, in adopting Resolution No. 07-29<sup>7</sup> in April 2007, had anticipated going back to using brokers to aid Port leasing efforts when the market is experiencing conditions of imbalanced supply and demand of leasable spaces.

## **V. PROPOSED SOLICITATION STRATEGIES**

### ***Description of Broker-Assisted-RFP and its Pros and Cons***

Following Port Commission setting the offerings' objectives and giving direction to staff to pursue finding tenants for these spaces, Port staff, under the B-RFP approach, will take the following key steps to find qualified/capable tenants for these spaces:

1. Seek stakeholders' feedback to inform the offering, proposed objectives, anticipated lease terms, tenant selection criteria, and other applicable policy objectives for the solicitation requirements.

2. Work with the City's Real Estate, a Division of the City Administrator's Office ("RED"), to select a capable brokerage firm approved by the Office of Contract Administration from RED's pre-qualified brokers list to perform a scope of services to

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<sup>6</sup> [https://sfport.com/files/2021-10/Item%2011A%20Portfolio%20Management\\_final.pdf](https://sfport.com/files/2021-10/Item%2011A%20Portfolio%20Management_final.pdf)

<sup>7</sup> Port Commission Resolution No. 07-29 cited earlier

assist finding potential tenants for these spaces. Port staff will work with RED to negotiate recommended brokerage fee or compensation that limits the Port's risk exposure.

3. Review and comment on the broker's proposed plan for the offering, which plan must include Port's policy objectives and requirements, including City ordinances, risk management, and all other required City-lease policies.
4. Work with evaluation team and selected broker to interview broker-recommended prospects that meet the minimum offering terms.
5. Provide updates to NAC and stakeholders and seek necessary feedback.
6. Seek Port Commission authorization to enter an Exclusive Negotiations Agreement to draft a lease.
7. Seek Port Commission approval of proposed lease.
8. Seek Board of Supervisors approval (if required).

#### Pros and Cons of this B-RFP Approach

##### The Pros

This approach enables the Port to:

- Leverage the brokerage firm's ready marketing infrastructure
- Obtain timely market deal points from recent transactions to inform a proposed deal structure reflecting the market, including helping a tenant find a seasoned chef, bar operator, and reservation/event manager that might be available to form the team required to operate the proposed restaurant
- Help the Port close a market deal to reduce the length of vacancy
- Gain access to the pool of local, national, and international prospects, as brokers are a prime source of potential users
- Save time finding appropriate tenants through broker's market reach
- Be aware of recent market transactions and latest deal requirements, during this period of continued market tumult
- Facilitate timely familiarization of prospects with the offering requirements and local market conditions
- Gain access to the broker's established relationships with participants in San Francisco ecosystem of commercial leasing, by assisting prospective respondents with information and connecting potential respondents to local professionals, such as attorneys, architects, entitlement planners, etc., that can help the prospect be in an informed position and able to commit to a lease

##### The Cons of this approach includes:

- Cost of brokerage services

- Requires an additional step of hiring a broker for the offering process

***Description of Traditional-RFP and its Pros and Cons***

Under the T-RFP, Port staff will take the following key steps to achieve a timely, cost-effective, competitive solicitation for qualified and capable tenants for the two vacant retail spaces:

1. Seek stakeholders' feedback to inform the offering, including feedback on the proposed objectives, anticipated lease terms, tenant selection criteria, and the proposed measures and methods to achieve applicable policy objectives to include in the proposed RFP.
2. Draft the proposed RFP and return to the Port Commission to consider and authorize staff to issue the RFP.
3. Advertise and market the RFP through community organizations, trade associations, and posted under [Contract Opportunities](#) on the Port Website and all available media channels, followed with outreach to local business organizations.
4. Work with Port Contract Compliance staff and the evaluation team to complete the review of the proposals received.
5. Provide updates to NAC and stakeholders, and seek necessary feedback.
6. Seek Port Commission consideration and authorization to enter into an ENA to draft a lease.
7. Seek Port Commission approval of proposed lease.
9. Seek Board of Supervisors approval (if required).

***Pros and Cons of this T-RFP Approach***

The Pros of this approach includes:

- No broker's fee or commissions to address.
- A potential upfront time saving by foregoing broker selection process

***The Cons of this approach includes:***

- Lacks access to Broker's marketing reach
- May turn-off prospective tenants who do not want to invest more time than they think is necessary prior to being screened for selection
- Some consider this process to be invasive, requiring prospective tenants to discuss their concepts, business strategies, etc.
- Some prospects prefer going through a broker to avoid taking time away from their main business to work on an RFP

- Tenant and broker's concerns about the upfront costs to understand the RFP, finding information about how the property fit within their investment objectives, and the amount of time involved in understanding the lengthy RFP requirements.
- T-RFP has resulted in mixed outcomes in the last 6 years. Port utilized the T-RFP for retail/ restaurant spaces at Piers 33 ½ (Butterfly), Pier 29, and Pier 38 (Carmen's space) and none resulted in a tenant.

**Conclusion: Use Broker-Assisted RFP**

Port staff recommends that for the purpose of competitively soliciting these two properties, the Broker-Assisted-RFP is more advantageous than the Traditional-RFP. This approach will enable the Port to leverage a brokerage firm's toolkit. B-RFP benefits outweigh its expected cost, and it is consistent with the Port Commission prior direction to Port staff to conduct outreach to the Broker community when large vacancies occur. T-RFP approach works well during normal economic times when there is ample demand and there are no reasons for restaurant tenants to hesitate about deploying capital. It does require issuing series of RFPs, which may, or may not, be efficient for the multiple restaurant space vacancies. This T-RFP approach sometimes work for certain small spaces during periods of high tenant demand and limits supply. It will be a challenge for FPEB because of its size and scale and prospects may not want to spend the time and resources to address its unique challenges as they need to investigate issues/challenges so they can submit a viable proposal – a broker can help here. The Port may have to provide a longer-time period to submit a proposal or provide for possible accommodation to address issues a prospect may discovered that may materially impact their proposal timing.

Both strategies discussed above are consistent with the Port Commission Retail Leasing Policy that requires retail leasing opportunities to be offered through a competitive public solicitation and any lease with a term more than ten (10) years and/or having anticipated revenue to the Port of one million dollars or more requires approval by the Board of Supervisors.

**VI. BENEFITS DESIRED FOR THIS OFFERING**

Based upon the Port policies and economic recovery initiatives, and the existing conditions of these two spaces, Port staff will be recommending the following as economic benefits desired from this proposed offering:

- Provide economic benefits to the Port in the form of lease revenues and public benefits for both spaces
- Renovate and activate FPEB to complement the Ferry Building's offerings
- Attract local, regional, and state residents, out-of-state and international visitors to FPEB and the Ferry Plaza with a focus on activating the Plaza's eastern edge
- Enhance the day, evening, and night activities of Ferry Pier eastern edge



- Provide enhanced opportunity for people to view the many vista points in and around the Bay
- Provide diversity, equity, and inclusion and local business participation benefits

**VII. ANTICIPATED OFFERING TERMS**

**1. Respondents proposed design to address the following:**

For Pier 33 ½ Space:

- Reconfigure the interior space as necessary for the anticipated operations
- Address BCDC permit conditions if required

For FPEB:

- Consider changes to the building to maximize views from indoor and outdoor spaces to the plaza, the Bay, Treasure Island, and Bay Bridge
- Improve the appearance of the building in a manner that is compatible with the historic Ferry Building and make other improvements to increase functionality and appeal
- Consider changes to the building that relate to and improve (a) its adjacent public spaces including the plaza to the west and (b) its connection to the public promenade along the south edge of the pier

**2. Permitted Use:**

For Pier 33 ½ Space:

A unique restaurant for eating and drinking; fine to casual dining, recognizing adjacency to existing nearby Port tenants (including Queen’s Louisiana Po-Boy Café).

For FPEB:

- A unique restaurant with indoor/outdoor areas for eating, drinking, dancing, and small to large group gatherings
- Assembly & entertainment (*activity that attracts wide diversity of people, uses that benefit from views and can activate the pier edge*)
- Entertainment/nightclub venue
- Museum & cultural, artist/designers (*these also are public-oriented uses but may not draw as many or as diverse mix of visitors/users*)

**3. Term for the two spaces:** Term to be determined based on the capital investment, but most likely will be 5- to 10-year initial term, with option to extend as negotiated. Provide for buildout time to account for required planning and permitting periods.

**4. Rent:** Greater of minimum base rent or percentage of gross revenue.

- Minimum base rent per square foot based on tiered system reflective of market conditions, and other factors.
- Minimum percentage rent based on gross revenue over certain thresholds.
- Rent abatement for credit worthy tenant based on capital investment subject to recapture provisions including TI construction completion.

**5. Potential tenant improvement allowance.**

**6. Minimum Capital Investment:** The minimum capital investment sufficient to address interior/exterior reconfiguration/alterations, required code upgrades, Americans with Disabilities Act (“ADA”) requirements, furnishings, fixtures, equipment, etc., and provide an appealing design for the proposed concept.

**7. Experience:** Documented experience successfully operating the restaurant type or use program for a minimum of five years full time during the last seven years. Newly formed entities, such as a joint venture or partnership, are acceptable so long as principals who own an aggregate of 51% or more of the entity meet the minimum experience requirement.

**8. Pandemic or Economic Disruption Provisions.** In addition to force majeure provisions, flexibility will be permitted to allow day and hours of operation to flex with governmental mandates in response to public health emergencies.

**9. Selection Process.** For the B-RFP: Port staff will recommend establishing a panel to (a) review the broker’s recommended candidates and investigate their financial capacity, past projects, and proposals, and (b) interview the candidates to get clarifications to better understanding their proposals. Broker’s recommendation will be based on the offering requirements, including minimum qualifications and a proposal that meeting Port’s objectives. Port staff will make informational presentation on the proposals to the Port Commission and stakeholders and then return to the Port Commission with a ranking or a recommendation of the most qualified prospect.

For the T-RFP: Port staff will recommend establishing a panel to review and rank the respondents based on the evaluation of the proposals submitted in response to the RFP. The evaluation will include investigation of the prospects’ financial capability, past projects and performance, and response to oral interviews and other pertinent factors, all as specified as evaluation criteria.

Port staff will most likely recommend the following draft criteria for evaluating the proposals:

**Proposed Concept**

- Overall appeal of proposer’s concept to meet Port objectives

- Proposer’s plan for marketing to increase patronage and drive sales/revenues
- Proposed operations plan, including hours of operation, menu, pricing, staffing, sourcing of product and services and how to maintain customer satisfaction

**Proposed Design and Capital Investment**

- Overall appeal, interior design, exterior design if applicable, signage, floor plan, front elevation, and images depicting interior and exterior
- Capital investment plan, including sources of capital funding

**Experience and Financial Strength**

- Documented experience operating the type of operation proposed
- Annual gross revenue for calendar years 2018 through 2020 of operation
- Balance Sheet and Credit Rating

**Proposed Rent and Business Plan**

- Proposed base rent
- Proposed percentage rent
- Five-year financial pro forma with projected sales, revenue to the Port, expenses, and net income, with a demonstrated ability to fund continuing operations from the cash flow generated by the operation

**Local Business Participation and Diversity Equity Inclusion Program**

Proposed plan to meet Port’s LBE and Diversity Equity Inclusion goals

**VIII. NEXT STEPS**

Port staff requests Port Commission’s feedback to allow Port staff to seek stakeholders’ and community input to inform the proposed re-leasing in terms of recommended objectives, economic objectives, proposed range of community benefits including diversity equity inclusion opportunities, among other offering conditions. Shortly thereafter, Port staff will return to the Port Commission to present the proposed offering’s recommended objectives and terms and to seek direction to pursue B-RFP or T-RFP to solicit prospective tenant(s).

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Attachments:

- A. Pier 33 ½ Space Profile, Site Map and Photos
- B. FPEB Profile, Site Map, and Photos
- C. Recent Reports on San Francisco Recent Retail Market Trend